

P95000059957

CAPITOL SERVICES d/b/a  
PARALEGAL & ATTORNEY SERVICE BUREAU, INC.

(Requestor's Name)

1406 Hays Street, Suite 2

(Address)

Tallahassee, FL 32301 (904) 656-3992

(City, State, Zip)

(Phone #)

FILED  
99 JUN -3 AM 11:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

OFFICE USE ONLY

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-06/02/99--01058--023

\*\*\*\*\*78.75 \*\*\*\*\*78.75

**CORPORATION NAME(S) & DOCUMENT NUMBER(S) (if known):**

1. Beach Communications Group, Inc P95-59957  
(Corporation Name) (Document #)

2. \_\_\_\_\_  
(Corporation Name) (Document #)

3. \_\_\_\_\_  
(Corporation Name) (Document #)

4. \_\_\_\_\_  
(Corporation Name) (Document #)

☒ Walk in

☒ Pick up time 6/2

☒ Certified Copy

☐ Mail out

☐ Will wait

☐ Photocopy

☐ Certificate of Status

| NEW FILINGS              |                   |
|--------------------------|-------------------|
| <input type="checkbox"/> | Profit            |
| <input type="checkbox"/> | NonProfit         |
| <input type="checkbox"/> | Limited Liability |
| <input type="checkbox"/> | Domestication     |
| <input type="checkbox"/> | Other             |

| AMENDMENTS                          |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Amendment                             |
| <input type="checkbox"/>            | Resignation of R.A., Officer/Director |
| <input type="checkbox"/>            | Change of Registered Agent            |
| <input type="checkbox"/>            | Dissolution/Withdrawal                |
| <input checked="" type="checkbox"/> | Merger                                |

| OTHER FILINGS            |                  |
|--------------------------|------------------|
| <input type="checkbox"/> | Annual Report    |
| <input type="checkbox"/> | Fictitious Name  |
| <input type="checkbox"/> | Name Reservation |

| REGISTRATION/<br>QUALIFICATION |                     |
|--------------------------------|---------------------|
| <input type="checkbox"/>       | Foreign             |
| <input type="checkbox"/>       | Limited Partnership |
| <input type="checkbox"/>       | Reinstatement       |
| <input type="checkbox"/>       | Trademark           |

*Merger*  
G. COULLETTE JUN 03 1999

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99 JUN -2 AM 11:08  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

Examiner's Initials

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

BEACH COMMUNICATIONS GROUP, INC., a Florida corporation,  
P95000059957

INTO

**HITTHEBEACH.COM, INC.**, a Delaware corporation not qualified in Florida

File date: June 2, 1999, effective June 2, 1999

Corporate Specialist: Cheryl Coulliette



*Resubmit*

FLORIDA DEPARTMENT OF STATE

Katherine Harris  
Secretary of State

June 2, 1999

*Please back file*

CAPITOL SERVICES

TALLAHASSEE, FL

SUBJECT: BEACH COMMUNICATIONS GROUP, INC.  
Ref. Number: P95000059957

We have received your document for BEACH COMMUNICATIONS GROUP, INC. and check(s) totaling \$78.75. However, the enclosed document has not been filed and is being returned to you for the following reason(s):

We need to have original signatures on your document before filing.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6903.

Cheryl Coulliette  
Document Specialist

Letter Number: 599A00029980

RECEIVED  
199 JUN -3 AM 11:09  
DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

## ARTICLES OF MERGER

The following articles of merger are being submitted in accordance with sections(s) 607.1108, 608.4382 and/or 620.203, Florida Statutes.

FILED  
99 JUN -3 AM 11:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**First:** The exact name, street address of its principal office, jurisdiction and entity type for each merging party are as follows:

**Name and Street Address**

**Jurisdiction**

**Entity Type**

Beach Communications Group, Inc.  
3299 Clint Moore Road, Suite 101  
Boca Raton, Florida 334996

Florida

For profit corporation

Florida Document/Registration Number: P95000059957 FEI Number: 65-0629734

**Second:** The exact name, street address of its principal office, jurisdiction and entity type of the surviving party are as follows:

**Name and Street Address**

**Jurisdiction**

**Entity Type**

hitthebeach.com, inc  
110 Post Road

Delaware

For profit corporation

Darien, Connecticut 06880

Florida Document/Registration Number: Not Applicable FEI Number: 06-1545653

**Third:** The attached Plan of Merger meets the requirements of section(s) 607.1108, 608.438, 617.1103 and/or 620.201, Florida Statutes, and was approved by each domestic corporation, limited liability company, partnership and/or limited partnership that is a party to the merger in accordance with Chapters 607, 617, 608 and/or 620, Florida Statutes.

**Fourth:** The attached Plan of Merger was approved by the other business entity that is a party to the merger in accordance with the laws of the state of Delaware.

**Fifth:** The surviving entity, which was not incorporated, organized or otherwise formed under the laws of the state of Florida, hereby appoints the Florida Secretary of State as its agent for substitute service of process pursuant to Chapter 48, Florida Statutes, in any proceeding to enforce any obligation or rights of any dissenting shareholders, partners and/or members of each domestic corporation, partnership, limited partnership and/or limited liability company that is a party to the merger.

**Sixth:** The surviving entity, which was not incorporated, organized or otherwise formed under the laws of the state of Florida, agrees to pay the dissenting shareholders, partners, and/or members of each domestic corporation, partnership, limited partnership and/or limited liability

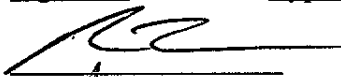
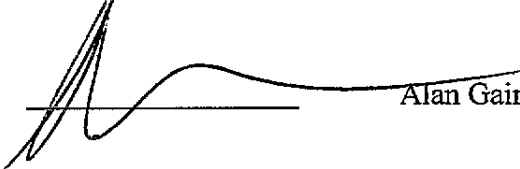
- company that is a party to the merger the amount, if any, to which they are entitled under section(s) 607.1302, 620.205 and/or 608.4384, Florida Statutes.

**Seventh:** The merger is permitted under the respective laws of all applicable jurisdictions and is not prohibited by the agreement of any partnership or limited partnership or the regulations or articles of organization of any limited liability company that is a party to the merger.

**Eighth:** The merger shall become effective as of the date the Articles of Merger are filed with the Florida Department of State.

**Tenth:** The Articles of Merger comply and were executed in accordance with the laws of each party's applicable jurisdiction.

**Eleventh:** Signatures for each corporation:

| <u>Name of Corporation</u>          | <u>Signature</u>  | <u>Typed or Printed Name of Individual and Title</u> |
|-------------------------------------|---|--|
| Beach Communications<br>Group, Inc. |    | Ronald T. Dubin, President                           |
| hitthebeach.com, inc.               |  | Alan Gaines, President                               |

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER ("Merger Agreement"), dated as of April 23, 1999, among BEACH COMMUNICATIONS GROUP, INC., a Florida corporation ("Beach"), and HITTHEBEACH.COM, INC., a newly-formed Delaware corporation and a wholly-owned subsidiary of Beach ("Merger Sub").

### RECITALS

WHEREAS, the parties wish to provide for the merger (the "Merger") of Beach with and into Merger Sub, whereby it is contemplated that each issued and outstanding share of Beach's common stock, \$1.00 par value ("Beach Common"), will be converted, without any action by the holder thereof, into one share of common stock, \$.01 par value ("Sub Common"), of Merger Sub, in accordance with the terms set forth in this Merger Agreement; and

WHEREAS, the parties hereto desire to set forth certain covenants and agreements made by Beach to Merger Sub, and by Merger Sub to Beach, and the conditions precedent to the consummation of the Merger; and

WHEREAS, the Boards of Directors of Beach and Merger Sub have approved and adopted this Merger Agreement and the Merger as a plan of reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code");

NOW, THEREFORE, in consideration of the premises and of the mutual provisions, agreements and covenants herein contained, Beach and Merger Sub hereby agree as follows:

### ARTICLE 1

#### THE MERGER

1.1 At the Effective Time (as hereinafter defined) of the Merger, Beach shall be merged with and into Merger Sub, which shall be the surviving corporation (hereinafter sometimes called the "Surviving Corporation").

1.2 All shares of Merger Sub capital stock, if any, that are owned directly or indirectly by Beach shall be canceled without any action on the part of the holder of such shares, and no stock of Merger Sub or other consideration shall be delivered in exchange therefor.

1.3 Shares of Beach Common issued and outstanding immediately prior to the Effective Time shall be converted at the Effective Time into one share of Sub Common.

1.4 If any holders of Beach Common elect to exercise rights of appraisal under Section 607.1302 of the Florida Business Corporation Act (the "FBCA"), Beach shall give Merger Sub Notice thereof and Merger Sub shall have the right to participate in all negotiations and proceedings with respect to any such exercise. If any dissenting holder of Beach Common shall fail to perfect or shall have effectively withdrawn or lost any right to appraisal that such holder may have, the shares of Beach Common held by such holder shall be thereupon treated as though such shares of Beach Common had been converted into securities of Merger Sub pursuant to Section 1.3 hereof.

1.5 At the Effective Time, each outstanding stock option, convertible debenture, warrant or any other right to acquire shares of Beach Common outstanding immediately prior to the Effective Time shall be converted into a stock option, convertible debenture, warrant or other right to acquire the shares of Sub Common, giving the holder the same rights with respect to the same number of shares of Sub Common that the holder had with respect to Beach Common under such outstanding stock option, convertible debenture, security, warrant or other right.

1.6 At the Effective Time, each outstanding share of Beach Common held as treasury stock by Beach shall automatically, and without any action by Beach or Merger Sub, be converted into one share of Sub Common.

1.7 Each outstanding certificate which immediately prior to the Effective Time represented shares of Beach Common or warrants to purchase Beach Stock shall be deemed for all purposes to evidence ownership of an equal number of shares of Sub Common or warrants to purchase Sub Common, respectively. No exchange of such certificates will be required in order to evidence such ownership.

1.8 Unless otherwise provided for by the parties to this Merger Agreement, upon and after the Effective Time of the Merger, the Surviving Corporation shall possess all the rights, privileges, powers and franchises, and be subject to all the restrictions, disabilities and duties, of Beach; and all rights, privileges, powers and franchises of Beach, and all property, real, personal and mixed, and all debts due to Beach shall be vested in and be the property of the Surviving Corporation; and

all debts, liabilities and duties of Beach shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

## ARTICLE 2

### EFFECTIVE TIME

2.1 Subsequent to the execution of this Merger Agreement, Beach shall submit this Merger Agreement to its stockholders for their approval pursuant to the applicable provisions of the FBCA.

2.2 Following the approval of the Merger by the stockholders of Beach and upon fulfillment or waiver of the conditions specified in Section 5.1 hereof, and provided that this Merger Agreement has not been terminated and abandoned pursuant to Section 5.2 hereof, the parties will cause a Certificate of Merger to be executed, acknowledged and filed with the Secretary of State of the State of Delaware as provided in Section 251 of the Delaware General Corporation Law (the "DGCL") and a copy of the Certificate of Merger, certified by the Secretary of State of the State of Delaware, to be recorded thereafter in the Office of the Recorder of New Castle County in the State of Delaware, all in accordance with the provisions of Section 103 of the DGCL. A Certificate of Merger shall also be executed, acknowledged and filed with the Secretary of State of the State of Florida in accordance with the provisions of Section 607.1105 of the FBCA.

2.3 The Merger shall become effective immediately upon the filing of the Certificate of Merger with the Secretaries of State of the States of Delaware and Florida (the date and time of such filing being herein sometimes referred to as the "Effective Time").

## ARTICLE 3

### COVENANTS AND AGREEMENTS

3.1 Beach shall: (i) present this Merger Agreement for adoption or rejection by either a vote of the stockholders of Beach at a Special Meeting (the "Meeting") of Stockholders of Beach or, alternatively, by written consent as permitted by Section 607.0704 of the FBCA; (ii) furnish to such holders such documents and information in connection therewith as is required by law; (iii) recommend approval of this Merger Agreement by such holders; and (iv) as sole stockholder of Merger Sub, vote all

shares of Sub Common owned by it to approve this Merger Agreement.

3.2 Merger Sub shall not, prior to the Effective Time, without obtaining the written consent of Beach, permit any change in the Certificate of Incorporation of Merger Sub or its capital stock.

3.3 Merger Sub as the Surviving Corporation shall be liable for all the obligations of Beach outstanding as of the Effective Time and hereby expressly assumes all such obligations as of the Effective Time.

#### ARTICLE 4

##### CERTIFICATE OF INCORPORATION, BYLAWS AND BOARD OF DIRECTORS OF SURVIVING CORPORATION

4.1 The Certificate of Incorporation of Merger Sub as constituted at the Effective Time shall thereafter be the Certificate of Incorporation of the Surviving Corporation, until it shall be amended as provided by law.

4.2 The Bylaws of Merger Sub as constituted at the Effective Time shall thereafter be the Bylaws of the Surviving Corporation, until they shall be amended.

4.3 From and after the Effective Time the members of the Board of Directors of the Surviving Corporation shall consist of those persons serving as directors of Beach immediately prior to the Effective Time, to hold office until the expiration of their current terms and the election and due qualification of their successors, or their prior resignation, removal or death.

4.5 From and after the Effective Time the officers of the Surviving Corporation shall consist of those persons serving as officers of Beach immediately prior to the Effective Time, and in their respective positions, to hold office until their successors are duly selected and qualified, or their prior resignation, removal or death.

## ARTICLE 5

### CONDITIONS, AMENDMENTS, TERMINATION AND MISCELLANEOUS.

5.1 The respective obligations of Merger Sub and Beach to consummate the Merger contemplated by this Merger Agreement are subject to condition that the stockholders of Beach shall have adopted and approved this Merger Agreement.

5.2 This Merger Agreement may be terminated and the Merger may be terminated and abandoned for any reason by resolution adopted by either of the respective Boards of Directors of Merger Sub and Beach at any time prior to the Effective Time, even though this Merger Agreement shall have been approved by the stockholders of either or both of Merger Sub and Beach.

5.3 Each party hereto agrees that it will execute and deliver or cause to be executed and delivered all such further assignments, assurances or other instruments, and shall take or cause to be taken all such further actions as may be necessary or desirable to consummate the Merger provided for herein and the other transactions contemplated by this Merger Agreement.


5.4 This Merger Agreement shall be construed under and in accordance with the laws of the State of Delaware.

5.5 This Merger Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

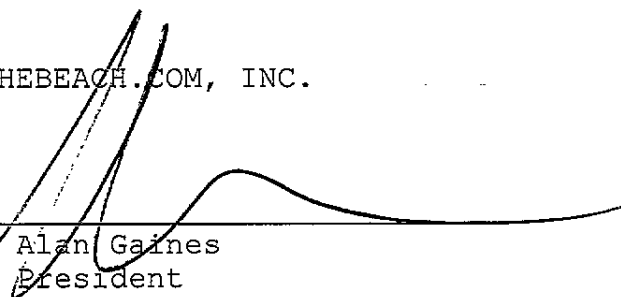
5.6 This Merger Agreement may be executed in separate counterparts, each of which, when so executed, shall be deemed to be an original, and all such counterparts when taken together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Beach and Merger Sub have caused this Agreement to be duly signed all as of the date first written.

BEACH COMMUNICATIONS GROUP, INC.

By:   
\_\_\_\_\_  
Ronald T. Dubin  
President

HITTHEBEACH.COM, INC.

By:   
\_\_\_\_\_  
Alan Gaines  
President