

P960000 36909

MARKS & CHONG, P.A.

ATTORNEYS AND COUNSELORS AT LAW

605 East Robinson Street, Suite 510

Orlando, Florida 32801

Telephone 407-872-3161

Facsimile 407-872-3211

Stephen C. L. Chong

Thomas D. Marks

August 30, 2000

VIA FEDERAL EXPRESS

Florida Department of State
Division of Corporations
409 East Gaines St.
Tallahassee, FL 32301

200003378952--8
-09/18/00--01050--002
*****27.00 *****27.00

200003378952--8
-08/31/00--01076--003
*****51.75 *****51.75

Re: Meyers, Bongirno & Craig merger with Myers/Schmalenberger Incorporated

Dear Sir or Madam:

Enclosed please find the original and one copy of Articles of Merger for filing in your office. Also enclosed is a check for \$51.75 to cover the filing fee of \$35.00 and \$16.75 for a certified copy of the Articles of Merger. Once the Articles have been filed, please return the certified copy to me in the envelope provided.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Stephen C. L. Chong

SCLC/pp
cc: Mr. Greg Meyer

BACK

FILED
00 AUG 31 PM 12:11
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Merger
DB
9-18

MARKS & CHONG, P.A.

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605 East Robinson Street, Suite 510

Orlando, Florida 32801

Telephone 407-872-3161

Facsimile 407-872-3211

Stephen C. L. Chong

Thomas D. Marks

September 15, 2000

VIA FEDERAL EXPRESS

Attn: Ms. Karen Gibson
Florida Department of State
Division of Corporations
409 East Gaines St.
Tallahassee, FL 32301

Re: Meyers, Bongirno & Craig merger with Myers/Schmalenberger Incorporated

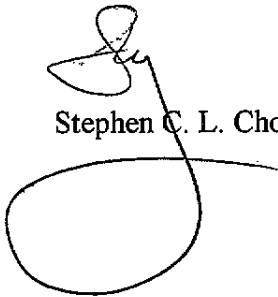
Dear Karen:

Pursuant to our telephone conversation on September 15, 2000, we resubmit page 1 of the Articles of Merger and direct your attention to the revision of the first sentence of Article V. However as we stated, the Articles of Merger we submitted were inappropriately rejected since the date of adoption was included, the Articles were executed by the Presidents of each corporation, and the reference in Section 101(b) of the Plan should not have prevented the filing of the Articles. We therefore request that the filing date reflect our earlier submission.

Also enclosed is a check for \$27 to cover any remaining balance for the certified copy. Kindly return the certified copy to us by Federal Express.

If you have any questions, please do not hesitate to contact us.

Sincerely,


Stephen C. L. Chong

SCLC/pp
cc: Mr. Greg Meyer



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

September 14, 2000

STEPHEN C.L. CHONG
MARKS & CHONG, P.A.
605 EAST ROBINSON ST., SUITE 510
ORLANDO, FL 32801

SUBJECT: MEYER, BONGIRNO & CRAIG, INC.
Ref. Number: P96000036909

We have received your document for MEYER, BONGIRNO & CRAIG, INC. and your check(s) totaling \$51.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

For each corporation, the document must contain the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

The merger or share exchange should be signed by the chairman or vice chairman of the board of directors, the president or any other officer for each corporation involved in the merger or share exchange.

THE STATEMENT IN THE PLAN OF MERGER 1.01B IS CONFUSING SINCE THE SURVIVING CORPORATION IS NOT QUALIFIED IN FLORIDA. PERHAPS THIS SECTION IS NOT NEEDED.

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) 487-6880.

Karen Gibson
Corporate Specialist

Letter Number: 600A00048768

ARTICLES OF MERGER
Merger Sheet

MERGING:

MEYER, BONGIRNO & CRAIG, INC., a Florida corporation, document number
P96000036909

INTO

MYERS/SCHMALENBERGER INCORPORATED. an Ohio corporation not
qualified in Florida

File date: August 31, 2000

Corporate Specialist: Karen Gibson

ARTICLES OF MERGER

The undersigned corporations, Meyer, Bongirno & Craig, Inc., a Florida corporation, and Myers/Schmalenberger Incorporated, an Ohio corporation, hereby adopt these Articles of Merger and agree and certify as follows:

ARTICLE I

The name of the surviving corporation shall be Myers/Schmalenberger Incorporated, an Ohio corporation.

ARTICLE II

Meyer, Bongirno & Craig, Inc. shall be merged into the surviving corporation mentioned in Article I.

ARTICLE III

The effective date of the merger shall be the date of filing of these Articles.

ARTICLE IV

The principal office of the corporation will be 462 South Ludlow Alley, Columbus, Ohio 43215 with an address in Florida at 222 South New York Avenue, Winter Park, Florida 32789.

ARTICLE V

The plan of merger was adopted by the shareholders of Meyer, Bongirno & Craig, Inc. and Myers/Schmalenberger Incorporated on June 8, 2000. A copy of the plan is attached hereto as Exhibit "A" and incorporated herein by reference.

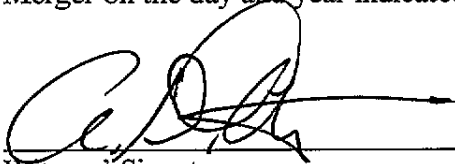
ARTICLE VI

The surviving corporation shall do business in the State of Florida as Meyer Bongirno MSI with Gregory A. Meyer serving as its resident agent for the State of Florida.

FILED
08 AUG 31 PM 12:11
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

IN WITNESS WHEREOF, the undersigned corporations execute these Articles of

Merger on the day and year indicated below:



Witness' Signature
ARTHUR D. ESTEBAN

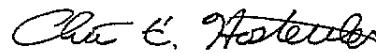
Witness' Printed Name

Meyer, Bongirno & Craig, Inc.

By: 

Gregory A. Meyer, President

Date: 8-22-00



Witness' Signature
Chris E. Hostettler

Witness' Printed Name

Myers/Schmalenberger Incorporated

By: 

Keith A. Myers, President

Date: 8-28-00

**PLAN AND AGREEMENT OF REORGANIZATION
BY MERGER OF
MEYER, BONGIRNO & CRAIG, INC.
WITH AND INTO
MYERS/SCHMALENBERGER INCORPORATED**

This is a Plan and Agreement of Merger between **MEYER, BONGIRNO & CRAIG, INC.**, a corporation formed and existing under the laws of the State of Florida (sometimes called "MBC" or "Merging Corporation") and **MYERS/SCHMALENBERGER INCORPORATED**, a corporation formed and existing under the laws of the State of Ohio (sometimes called "MSI" or "the Surviving Corporation").

ARTICLE 1. PLAN OF MERGER

Plan Adopted

- 1.01 A plan of merger of the Merging Corporation and the Surviving Corporation is adopted as follows:
- a. The Merging Corporation shall be merged with and into the Surviving Corporation to be incorporated under and governed by the laws of the State of Ohio.
 - b. The name of the Surviving Corporation shall be MYERS/SCHMALENBERGER INCORPORATED. However, the Corporation shall conduct business in the State of Florida under the trade name of MEYER, BONGIRNO & CRAIG, INC. To facilitate the registration of the name, the shareholders of Meyer, Bongirno & Craig, Inc., do hereby consent to the use of that name and agree to the execution of any documents necessary for the registration of that name in the State of Florida.
 - c. When this Agreement shall become effective, the separate corporate existence of the Merging Corporation shall cease, and the Surviving Corporation shall succeed without other transfer, to all the rights and property of the Merging Corporation and shall be subject to all the debts and liabilities of the Merging Corporation in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens on the property of each constituent corporation shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the merger.
 - d. The Surviving Corporation will carry on business with the assets of the Merging Corporation, as well as with its own assets.
 - e. The shareholders of the Merging Corporation will surrender all of their shares in the manner set forth below.



- f. In exchange for the shares of the Merging Corporation surrendered by its shareholders, the Surviving Corporation will issue and transfer to these shareholders, on the basis set forth in Article 4 below, shares of its common, no par voting stock.
- g. The shareholders of the Surviving Corporation will retain their shares as shares of the Surviving Corporation.
- h. The Articles of Incorporation of the Surviving Corporation, as existing on the effective date of the merger, shall continue in full force as the Articles of Incorporation of the Surviving Corporation until altered, amended, or repealed as provided in the Articles or as provided by law

Merging Corporation

- 1.02 The effective date of the merger shall be the later of July 1, 2000, or the date of the filing of the Certificate of Merger with the Secretary of State of Ohio.
- 1.03 Each of the constituent corporations shall execute the Certificate of Merger in accordance with the attached forms provided by the Secretary of State of Ohio.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES OF CONSTITUENT CORPORATIONS

- 2.01 As a material inducement to the Surviving Corporation to execute this Agreement and perform its obligations under this Agreement, the Merging Corporation represents and warrants to the Surviving Corporation as follows:
 - a. The Merging Corporation is a corporation duly organized, validly incorporated, and in good standing under the laws of the State of Florida, with corporate power and authority to own property and carry on its business as it is now being conducted. It is not required to be qualified as a foreign corporation to transact business in any other jurisdiction.
 - b. The Merging Corporation has 1,000 authorized common shares, each having a par value of \$1.00 of which 500 shares are validly issued and outstanding to the following shareholders, and which shares are fully paid and non-assessable
 - i. Gregory A. Meyer 250
 - ii. Keith Bongirno 250

The foregoing shares constitute all of the issued and outstanding shares of MBC. There are no outstanding subscriptions, options, warrants, pre-emptive rights, convertible or any other types of securities outstanding, or any agreements or commitments of any character obligating MBC to issue any shares, redeem or sell any of its shares.

- c. The Merging Corporation has furnished the Surviving Corporation with its balance sheet as of December 31, 1999 and the related statement of income for the twelve (12) months then ended and an interim unaudited balance sheet as of March 31, 2000, and related statement of income for the same period. These financial statements (1) are in accordance with the books and records of the Merging Corporation; (2) fairly present its financial condition as of those dates and the results of its operations as of and for the periods specified, all prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior accounting periods; and (3) contain and reflect, in accordance with generally accepted accounting principles consistently applied, reserves for all liabilities, losses, and costs in excess of expected receipts and all discounts and refunds for services and products already rendered or sold that are reasonably anticipated and based on events or circumstances in existence or likely to occur in the future with regard to any of its contracts or commitments. Specifically, but not by way of limitation, the balance sheet discloses, in accordance with generally accepted accounting principles, all of the debts, liabilities, and obligations of any nature (whether absolute, accrued, contingent, or otherwise, and whether due or to become due) of the Merging Corporation at the Balance Sheet Date, and includes appropriate reserves for all taxes and other liabilities accrued or due at the date but not yet payable.
- d. This Agreement is legally binding upon MBC and the consummation of the transactions contemplated hereby in accordance with the terms hereof, does not require the consent of any third party. Execution of this Agreement and consummation of the transactions will not result in any default or acceleration under any agreement, mortgage, lease, order, judgment, injunction, arbitration award, decree or government pronouncement by which MBC is bound.
- e. As of the date of the last financial statement, MBC did not have any liabilities whether absolute, accrued, contingent or otherwise that were not disclosed thereon and to its knowledge, there was no basis upon which any person could assert a liability which was not disclosed on the last financial statement. Since the date of the last financial statement, MBC has not incurred any liabilities not in the ordinary course of business and there is presently no basis upon which a person could assert such a liability nor has any person asserted the existence of such a liability.
- f. **Contracts** - MBC has provided to MSI information pertaining to all contracts of any type, including insurance policies, performance bonds and employee benefit plans to which it is a party ("Contracts") and except for such Contracts, it is not a party to any other written or oral agreements. The Contracts are in full force and effect and to the best of its knowledge, MBC and the other parties thereto have timely performed all of the obligations required to be performed by them thereunder and are not in default thereof. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will constitute a default under any of the Contracts.
- g. **Employment Matters** - All of MBC's employees are employed at will and their employment may be terminated by the corporation without liability, assuming the


termination is not for a reason prohibited by law, except for accrued compensation and benefits not paid as of the termination date. The employee benefit plans (as such term is defined in Section 3(3) of ERISA) maintained or sponsored by it are in compliance in all material respects with the applicable provisions of ERISA and the regulations promulgated thereunder as presently applied, and have so complied during all prior periods during which such provisions were applicable. With respect to any such employee benefit plans maintained by it or to which it was obligated to contribute funds (or any other plan or individual arrangement which may not be subject to ERISA), it has (i) made all contributions required of it by law (including, without limitation, ERISA) or contract; and (ii) is and has been in compliance with the material terms and provisions of all such employee benefit plans, or individual employee benefit arrangements to which it is or was a party.

- h. **Labor Relations** - To the best of its knowledge, MBC has complied with all laws, rules and regulations relating to the employment of labor.
- i. **Disclosure** - MBC has disclosed to MSI all facts material to its business, assets, operations, financial condition, and prospects. There is no matter known to it not disclosed to MSI which may have, or is having, a material adverse impact upon MBC and its business. The information contained in any documents or exhibits is complete and accurate and no representation or warranty made herein or therein contains or will contain any untrue statement or will omit to state a fact necessary to make the representations contained therein not misleading.

The Surviving Corporation

2.02. As a material inducement to the Merging Corporation to execute this Agreement and perform its obligations under this Agreement, the Surviving Corporation represents and warrants to the Merging Corporation as follows:

- a. The Surviving Corporation is a corporation duly organized, validly incorporated and in good standing under the laws of the State of Ohio, with corporate power and authority to own property and carry on its business as is now being conducted. It is qualified to transact business in the State of Ohio and will become qualified to transact business as a foreign corporation and in good standing with the State of Florida or other jurisdictions in which its principle properties are located and business is transacted.
- b. The Surviving Corporation has 750 authorized common shares without par value, of which 100 are outstanding to the following shareholders:
 - i. Keith Myers 45 shares
 - ii. Tim Schmalenberger 45 shares
 - iii. Kerry M. Reeds 5 shares
 - iv. Karen J. McCoy 5 shares

-  c. Myers/Schmalenberger Incorporated shall provide to MBC the same information and make all of the representations and warranties that are required of MBC in the foregoing Section 2.01(b) through (i).

ARTICLE 3. COVENANTS, ACTIONS, AND OBLIGATIONS BEFORE THE EFFECTIVE DATE

Interim Conduct of Business; Limitations

- 3.01. Except as limited by this Section 3.01, pending consummation of the merger, each of the constituent corporations will carry on its business in substantially the same manner as before and will use its best efforts to maintain its business organization intact, to retain its present employees, and to maintain its relationships with suppliers and other business contacts. Except with the prior consent in writing of the Surviving Corporation, pending consummation of the merger, the Merging Corporation shall not:
- a. Declare or pay any dividend or make any other distribution on its shares.
 - b. Create or issue any indebtedness for borrowed money.
 - c. Enter into any transaction other than those involved in carrying on its ordinary course of business.

Submission to Shareholders and Filing

- 3.02. This Agreement shall be submitted separately to the shareholders and directors of the constituent corporations in the manner provided by the laws of the State of Ohio and the State of Florida as required for approval.

Conditions Precedent to Obligations of Merging Corporation

- 3.03. Except as may be expressly waived in writing by the Merging Corporation, all of its obligations under this Agreement are subject to the satisfaction, before or on the Effective Date, of each of the following conditions by the Surviving Corporation:
- a. The representations and warranties made by the Surviving Corporation to the Merging Corporation in Article 2 of this Agreement and in any document delivered pursuant to this Agreement shall be deemed to have been made again on the Effective Date and shall then be true and correct in all material respects. If the Surviving Corporation shall have discovered any material error, misstatement, or omission in those representations and warranties on or before the Effective Date, it shall report that discovery immediately to the Merging Corporation and shall either correct the error, misstatement, or omission or obtain a written waiver from the Merging Corporation.

- b. The Surviving Corporation shall have performed and complied with all agreements and conditions required by this Agreement to be performed and complied with by it before or on the Effective Date.
- c. The Surviving Corporation shall have delivered to the Merging Corporation an opinion of Robins Preston Beckett Graff & Gugle Co., L.P.A., counsel for the Surviving Corporation, dated the Effective Date, to the effect that:
 - i. The Surviving Corporation is a corporation duly organized, validly incorporated, and in good standing under the laws of Ohio, with full corporate power to carry on the business in which it is engaged, and is legally qualified to do business as a foreign corporation in good standing in each jurisdiction where failure to qualify would materially and adversely affect its business or properties. The Surviving Corporation has no subsidiaries.
 - ii. The execution, delivery, and performance of this Agreement by the Surviving Corporation has been duly authorized and approved by the requisite corporate action.
 - iii. This Agreement and the instruments delivered to the Merging Corporation under this Agreement have been duly and validly executed and delivered by the Surviving Corporation and constitute the valid and binding obligations of the Surviving Corporation, enforceable in accordance with their terms except as limited by the laws of bankruptcy and insolvency.
- d. The Surviving Corporation shall have delivered to the Merging Corporation a certificate dated the Effective Date executed in its corporate name by its President or any Vice President, certifying the satisfaction of the conditions specified in Subparagraphs (a) and (b) of this Section 3.03.
- e. No action or proceeding by any governmental body or agency shall have been threatened, asserted, or instituted to restrain or prohibit the carrying out of the transactions contemplated by this Agreement.
- f. All corporate and other proceedings and action taken in connection with the transactions contemplated by this Agreement and all certificates, opinions, agreements, instruments, and documents shall be satisfactory in form and substance to counsel for the Merging Corporation.
- g. Each shareholder of MSI shall have delivered an agreement to the Merging Corporation containing the indemnity language and other provisions prescribed in Section 7.02 of this Agreement.

Conditions Precedent to Obligations of Surviving Corporation

3.04 Except as may be expressly waived in writing by the Surviving Corporation, all of its obligations under this Agreement are subject to the satisfaction, before or on the Effective Date, of each of the following conditions by the Merging Corporation.:

- a. The representations and warranties made by the Merging Corporation to the Surviving Corporation in Article 2 of this Agreement and in any document delivered pursuant to this Agreement shall be deemed to have been made again on the Effective Date and shall then be true and correct. If the Merging Corporation shall have discovered any material error, misstatement, or omission in those representations and warranties on or before the Effective Date, it shall report that discovery immediately to the Surviving Corporation and shall either correct the error, misstatement, or omission or obtain a written waiver from the Surviving Corporation.
- b. The Merging Corporation shall have performed and complied with all agreements or conditions required by this Agreement to be performed and complied with by it before or on the Effective Date.
- c. The Merging Corporation shall have delivered to the Surviving Corporation an opinion of Marks & Chong, P.A., counsel for the Merging Corporation, dated the Effective Date, to the effect that:
 - i. The Merging Corporation is a corporation duly organized, validly incorporated, and in good standing under the laws of the State of Florida, with full corporate power to carry on the business in which it is engaged, and is legally qualified to do business as a foreign corporation in good standing in each jurisdiction where failure to qualify would materially and adversely affect its business or properties. The Merging Corporation has no subsidiaries.
 - ii. The execution, delivery, and performance of this Agreement by the Merging Corporation has been duly authorized and approved by the requisite corporate action.
 - iii. This Agreement and the instruments delivered to the Surviving Corporation under this Agreement have been duly and validly executed and delivered by the Merging Corporation and constitute the valid and binding obligations of the Merging Corporation, enforceable in accordance with their terms except as limited by the laws of bankruptcy and insolvency.
- d. The Merging Corporation shall have delivered to the Surviving Corporation a certificate, dated the Effective Date, executed in its corporate name by its President and Secretary and certifying the satisfactions of the conditions specified in subparagraphs a and b.

- e. No action or proceeding by any governmental body or agency shall have been threatened, asserted, or instituted to restrain or prohibit the carrying out of the transactions contemplated by this Agreement.
- f. All corporate and other proceedings and action taken in connection with the transactions contemplated by this Agreement and all certificates, opinions, agreements, instruments, and documents shall be satisfactory in form and substance to counsel for the Merging Corporation.
- g. Each shareholder of the Merging Corporation shall have delivered an agreement to the Surviving Corporation containing the indemnity language and other provisions prescribed in Section 7.02 of this Agreement.

ARTICLE 4. MANNER OF CONVERTING SHARES

Manner

- 4.01. The holders of shares of the Merging Corporation shall surrender their shares to the secretary of the Surviving Corporation promptly after the Effective Date in exchange for shares of the Surviving Corporation to which they are entitled under this Article 4.
- 4.02. The shareholders of the Merging Corporation shall be entitled to receive the number of shares determined by the application of the attached formula to the financial figures which exist as of June 30, 2000, and as will be determined by the CFO of the Surviving Corporation.

ARTICLE 5. DIRECTORS AND OFFICERS

Directors and Officers of Surviving Corporation

- 5.01. On the Effective Date, the names of the Directors and principal officers of the Surviving Corporation who shall hold office until the next annual meeting of the shareholders of the Surviving Corporation or until their respective successors have been elected or appointed and qualified are:
 - a. Directors: Greg A. Meyer
Keith J. Bongirno
Keith A. Myers
Timothy S. Schmalenberger
Karen J. McCoy
Kerry M. Reeds

- b. Officers:
- | | |
|------------------|---------------------------|
| President: | Timothy S. Schmalenberger |
| Vice Presidents: | Keith A. Myers |
| | Keith J. Bongimo |
| | Greg A. Meyer |
| | Kerry M. Reeds |
| Secretary: | Karen J. McCoy |
| Treasurer: | Chris E. Hostettler |

ARTICLE 6. ARTICLES AND REGULATIONS

Articles of Surviving Corporation

- 6.01. The Articles of Incorporation of the Surviving Corporation, existing on the Effective Date of the merger, shall continue in full force as the Articles of Incorporation of the Surviving Corporation until altered, amended, or repealed as provided in the Articles or as provided by law.

ARTICLE 7. NATURE AND SURVIVAL OF WARRANTIES, MUTUAL INDEMNIFICATION

Nature and Survival of Representations and Warranties

- 7.01. All statements contained in any memorandum, certificate, letter, document or other instrument delivered by or on behalf of the Merging Corporation, or by or on behalf of the Surviving Corporation, pursuant to this Agreement shall be deemed representations and warranties made by the respective parties to each other under this Agreement. The covenants, representations, and warranties of the parties shall survive for a period of three years after the Effective Date. No inspection, examination, or audit made on behalf of the parties shall act as a waiver of any representation or warranty made under this Agreement.

Mutual Indemnification

- 7.02. Both MBC and MSI agree that on or before the Effective Date, it shall obtain from its respective shareholders, an agreement under which each of the shareholders shall indemnify and hold harmless the other shareholders and their corporation against and in respect of all damages (as defined in this paragraph) in excess of Five Thousand Dollars (\$5,000) in the aggregate. Damages, as used in this paragraph, shall include any claim, action, demand, loss, cost, expense, liability, penalty, and other damage, including without limitation, counsel fees and other costs and expenses incurred in investigating, in attempting to avoid damages or to oppose the imposition of damages, or in enforcing this indemnity, resulting to either corporation from (a) any inaccurate representation made by or on behalf of the corporation or its shareholders in or pursuant to this Agreement; (b) breach of any of the warranties made by or on behalf of the corporation or the shareholders in or pursuant to this Agreement; (c) breach or default in the performance by the respective corporation of any of the obligations to be performed by it under this Agreement; or (d) breach or default in the performance by

the shareholders of any of the obligations to be performed by them under any agreement delivered to them by the other corporation pursuant to this Agreement. The shareholders shall reimburse the Surviving Corporation on demand for any payment made to or for any loss suffered by the Surviving Corporation at any time after the Effective Date, based on the judgment of any court of competent jurisdiction or pursuant to a bona fide compromise or settlement of claims, demands, or actions, in respect of any damages specified by the foregoing indemnity. The shareholders shall satisfy their obligations to the surviving corporation by the payment of cash on demand. The shareholders shall have the opportunity to defend any claim, action, or demand asserted against the surviving Corporation for which it claims indemnify against the shareholders; provided that (a) the defense is conducted by reputable counsel approved by the surviving Corporation, which approval shall not be unreasonably withheld; (b) the defense is expressly assumed in writing within ten (10) days after written notice of the claim, action, or demand is given to the shareholders; and (c) counsel for the Surviving Corporation may participate at all times and in all proceedings (formal and informal) relating to the defense, compromise, and settlement of the claim, action, or demand, at the expense of the Surviving Corporation.

ARTICLE 8. TERMINATION

Circumstances

- 8.01. This Agreement may be terminated and the merger may be abandoned at any time before the Effective Date notwithstanding the approval of the shareholders of either of the constituent corporations.
- a. By mutual consent of the Boards of Directors of the constituent corporations.
 - b. At the election of the Board of Directors of either constituent corporation if:
 - i. Failure by all of the shareholders of either constituent corporation, or both, to approve the merger.
 - ii. Any material litigation or proceeding shall be instituted or threatened against either constituent corporation, or any of its assets, that in the opinion of either Board of Directors renders the merger inadvisable or undesirable.
 - iii. Any legislation shall be enacted that, in the opinion of either Board of Directors, renders the merger inadvisable or undesirable.
 - iv. Between the date of this Agreement and the Effective Date, there shall have been in the opinion of either Board of Directors, any materially adverse change in the business or condition, financial or otherwise, of either constituent corporation.

ARTICLE 9. INTERPRETATION AND ENFORCEMENT

Further Assurances

- 9.01. The Merging Corporation agrees that it will execute and deliver or cause to be executed and delivered, as and when requested by the Surviving Corporation or by its successors or assigns, all deeds and other instruments. The Merging Corporation further agrees to take or cause to be taken any further or other actions as the Surviving Corporation may deem necessary or desirable to vest in, to perfect in, or to conform of record or otherwise to the Surviving Corporation title to and possession of all the property, rights, privileges, powers, and franchises referred to in Article 1 of this Agreement, and otherwise to carry out the intent and purposes of this Agreement.

Notices

- 9.02. Any notice or other communication required or permitted under this Agreement shall be properly given when deposited with the United States Postal Service for transmittal by certified or registered mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed as follows:
- a. In the case of the Merging Corporation, to:

or to such other person or address as the Merging Corporation may request in writing.
 - b. In the case of the Surviving Corporation, to:

Or to such other person or address as the Surviving Corporation may request in writing.

Entire Agreement; Counterparts

- 9.03. This Agreement and the exhibits to this Agreement contain the entire agreement between the parties with regard to the contemplated transaction. This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed one original.

Controlling Law

- 9.04. The validity, interpretation, and performance of this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, this Agreement was executed on this 8th day of June, 2000.

MEYER, BONGIRNO & CRAIG, INC.

By: _____

Its: _____

MYERS/SCHMALENBERGER INCORPORATED

By: _____

Its: _____

EXHIBIT 4.02

Myers Schmalenberger, Inc. (MSI) / Meyer, Bongiorno Craig, Inc. (MBC) Stock Exchange Ratio

The Stock Exchange Ratio used to determine the proportion of stock allocated to MSI and MBC in the merged entity is calculated as follows:

MSI Stock Exchange Ratio = MSI Stock Value / (MSI Stock Value + MBC Stock Value)

MBC Stock Exchange Ratio = MBC Stock Value / (MBC Stock Value + MSI Stock Value)

MSI Stock Value:

MSI Internal Formula Value x Weighting Factor
+ MSI WAGR Value x Weighting Factor
+ MSI WAE Value x Weighting Factor
Total is divided by the sum of the three Weighting Factors

MBC Stock Value:

MBC Internal Formula Value x Weighting Factor
+ MBC WAGR Value x Weighting Factor
+ MBC WAE Value x Weighting Factor
Total is divided by the sum of the three Weighting Factors

Weighting Factors are calculated as follows:

MSI or MBC Internal Formula Value Weighting = 1.0x

MSI or MBC WAGR Value Weighting = (MSI Internal Formula Value + MBC Internal Formula Value) / (MSI WAGR Value + MBC WAGR Value)

MSI or MBC WAE Value Weighting = (MSI Internal Formula Value + MBC Internal Formula Value) / (MSI WAE Value + MBC WAE Value)

Valuation Formulas to be applied to both companies as of the Valuation Date:

Internal Formula Value

Current stockholders equity position as of valuation date
+ One year of weighted average earnings *
Total of these values equals the Internal Formula valuation

*One year of weighted average earnings is calculated as follows:

Net profit for the consecutive twelve month period ending on the valuation date times a factor of four (4)
+ Net profit for the consecutive twelve month period ending 1 year prior to the valuation date times a factor of three (3)
+ Net profit for the consecutive twelve month period ending 2 years prior to the valuation date times a factor of two (2)
+ Net profit for the consecutive twelve month period ending 3 years prior to the valuation date times a factor of one (1)
Total of these four values is divided by a factor of ten (10) to arrive at weighted average earnings per the Internal Formula

WAGR Value is value based on Weighted Average Gross Revenues (WAGR)

WAGR Value = WAGR times a factor of 0.5

WAGR is calculated as follows:

Gross revenues for the consecutive twelve month period ending on the valuation date times a factor of three (3)
+ Gross revenues for the consecutive twelve month period ending 1 year prior to the valuation date times a factor of two (2)
+ Gross revenues for the consecutive twelve month period ending 2 years prior to the valuation date times a factor of one (1)
Total of these three values is divided by a factor of six (6) to arrive at WAGR

WAE Value is value based on Weighted Average Earnings (WAE)

WAE Value = WAE times a factor of 5.0

WAE is calculated as follows:

Net profit for the consecutive twelve month period ending on the valuation date times a factor of three (3)
+ Net profit for the consecutive twelve month period ending 1 year prior to the valuation date times a factor of two (2)
+ Net profit for the consecutive twelve month period ending 2 years prior to the valuation date times a factor of one (1)
Total of these three values is divided by a factor of six (6) to arrive at WAE

Myers Schmalenberger, Inc. (MSI) / Meyer, Bongiorno Craig, Inc. (MBC)
Stock Exchange Ratio

Sample Exchange Ratio Calculation (for illustrative purposes only-not based on actual figures):

<u>Valuation Method</u>	<u>MSI</u>	<u>MSI %</u>	<u>MBC</u>	<u>MBC %</u>	<u>Total Value</u>	<u>Weighting Factor</u>	<u>Weighted Sum</u>
Internal Formula	90	0.9000	10	0.1000	100	1	100
WAGR Value Factor @ 0.5	120	0.8000	30	0.2000	150	0.667	100
WAE Value Factor @ 5.0	75	0.9375	5	0.0625	80	1.25	100
Stock Value	85.43		12.43		102.86	2.917	
Stock Exchange Ratio		1.225		1.200			

Note 1: All financial statements used in these calculations are to be prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP). The "Valuation Date" for the purposes of the Stock Exchange Ratio is the effective date of the merger.

Note 2: To provide assurances to the MSI or MBC shareholders of the integrity of the financial information used to calculate the Stock Exchange Ratio as of the Valuation Date, a "Look-back" calculation will be performed in December, 2000. The "Look-back" calculation will calculate the Stock Exchange Ratio as of the Valuation Date providing for any material adjustments to the financial statements of MSI or MBC which may have come to light since the original Stock Exchange Ratio calculation was performed.

By way of further explanation, it is possible that any number of financial adjustments may appear after the Stock Exchange Ratio is calculated initially. These adjustments could include, but are not limited, to the following:

- Payroll accruals
- Misc. liabilities/promissory notes or other accruals/obligations
- Depreciation/amortization entries
- Accounts receivable write-offs or bad debt recognition
- Other material balance sheet or income statement adjustments

Should the "Look-back" calculation result in a change to the Stock Exchange Ratio, then the shares originally allocated to the shareholders will be re-allocated accordingly. The re-allocation of shares will occur retroactively to the effective date of the merger.