

P96000037465

Steven Carlyle Cronig & Associates, P.A.  
ATTORNEYS AT LAW

Monday, December 14, 1998

Secretary of State of Florida  
Division of Corporations  
Amendments Section  
409 East Gaines Street  
Tallahassee, Florida 32399

Federal Express / Tuesday Delivery

RE: Certificate and Articles of Merger / Fitness Enterprises, Inc. (#V-11015) and FEI  
Hollywood, Inc. (#P96000057465)

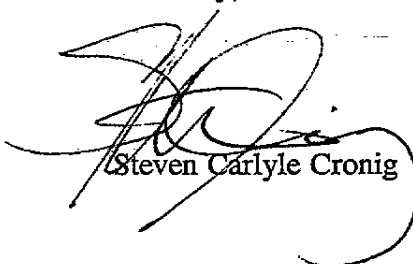
Gentlemen:

300002713033--2  
-12/15/98--01068--006  
\*\*\*\*\*87.50 \*\*\*\*\*43.75

Enclosed is the Certificate and Articles for the merger of Fitness Enterprises, Inc. into FEI Hollywood, Inc., to which is attached the Agreement and Plan of Merger. **The surviving corporation will be FEI Hollywood, Inc.** Also enclosed is this firm's check in the sum of \$87.50, representing the filing fees for the two corporations, \$8.75 for a certified copy of the filing and \$8.75 for a certificate of merger.

Please file these documents at the earliest opportunity. Thank you for your consideration in this matter. If you have any questions or problems, please call me.

Sincerely,

  
Steven Carlyle Cronig

cc: Dan Critchett

Merger  
12/15/98

ARTICLES OF MERGER  
Merger Sheet

---

MERGING:

FITNESS ENTERPRISES, INC., a Florida corporation, document number  
V11015

INTO

**FEI HOLLYWOOD, INC.**, a Florida corporation, P96000057465

File date: December 15, 1998

Corporate Specialist: Karen Gibson

**Certificate and Articles of Merger  
of  
Fitness Enterprises, Inc.  
a Florida corporation  
into  
FEI Hollywood, Inc.  
a Florida corporation**

**FILED**  
98 DEC 15 AM 9:09  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act, Fitness Enterprises, Inc., Florida Secretary of State's Document #V11015, United States Taxpayer Identification Number 65-030-9230, ("Fitness") and FEI Hollywood, Inc., Florida Secretary of State's Document #P96000057465, United States Taxpayer Identification Number 65-068-0498, ("FEI") hereby adopt the following Certificate and Articles of Merger for the purpose of merging Fitness into FEI (the "Merger"):

1. Fitness shall be merged with and into FEI, and FEI shall be the surviving corporation of the Merger, pursuant to the Agreement and Plan of Merger dated as of January 15, 1998, attached hereto as Exhibit "A" and incorporated herein by this reference (the "Plan of Merger").

2. The name of the surviving corporation shall be FEI Hollywood, Inc.

3. The effective time and date of the Merger shall be 2:00 P.M. (Eastern Standard Time) on January 15, 1998.

4. The Plan of Merger was approved, adopted, certified, executed and acknowledged by unanimous written consent in lieu of a special meeting by the sole shareholder and member of the Board of Directors of Fitness in accordance with Section 607.1105 of the Florida Business Corporation Act.

5. The Plan of Merger was approved, adopted, certified, executed and acknowledged by unanimous written consent in lieu of a special meeting by the sole shareholder and member of the Board of Directors of FEI in accordance with Section 607.1105 of the Florida Business Corporation Act.

6. The Articles of Incorporation of FEI shall be the Articles of incorporation of the surviving corporation.

7. Pursuant to the Agreement of Merger, all of the issued and outstanding shares of capital stock of Fitness shall be converted into a like number of shares of capital stock of FEI and all of the issued and outstanding shares of capital stock of Fitness shall be canceled.

8. The executed Agreement of Merger is on file at the principal place of business of FEI, the address of which is 770 Palm Bay Lane, Suite 5-H, Miami, Florida 33138.

9. A copy of the Agreement of Merger will be furnished by FEI on request and without cost, to any shareholder of Fitness or FEI.

IN WITNESS WHEREOF, these Certificate and Articles of Merger have been executed on behalf of Fitness and FEI by Daniel Critchett as the sole shareholder, director and officer of both corporations on December 9, 1998.

FITNESS ENTERPRISES, INC.  
a Florida corporation

By:   
Daniel Critchett, President

(Corporate Seal)

FEI HOLLYWOOD, INC.  
a Florida corporation

By:   
Daniel Critchett, President

(Corporate Seal)

C:\Data\corporation\Merger\FEI Hollywood, Certificate of Merger

**AGREEMENT AND PLAN OF MERGER**

**BY AND BETWEEN**

**FITNESS ENTERPRISES, INC.**

**AND**

**FEI HOLLYWOOD, INC.**

**as of**

**January 15, 1998**

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is dated as of January 15, 1998, by and between **Fitness Enterprises, Inc.**, a Florida corporation ("Fitness"), **FEI Hollywood, Inc.**, a Florida corporation ("FEI"), pursuant to the provisions of Florida Statutes §607.1101. This Agreement also is joined in by **Daniel Critchett**, as the sole shareholder, director and officer of both companies ("Critchett").

### RECITALS:

Critchett owns one hundred percent (100%) of the issued and outstanding shares of Common Stock of Fitness.

Critchett owns one hundred percent (100%) of the issued and outstanding shares of Common Stock of FEI.

Fitness, FEI and Critchett desire to adopt a Plan of Merger whereby, pursuant to such Plan, one hundred percent (100%) of the issued stock of Fitness will be exchanged for stock of FEI whereby the outstanding shares of Fitness will be converted into shares of stock of FEI with the result that Fitness will merge into FEI with FEI as the surviving corporation (hereinafter sometimes called the "Surviving Corporation"), and Fitness shall cease to exist as a separate entity.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and the benefits to be derived from and in reliance upon the representations and warranties and provisions contained herein, the parties hereto covenant and agree as follows:

### SECTION 1. THE MERGER.

**1.1. The Merger and Certain Effects.** At the Effective Time (as defined in Section 1.4 hereof), Fitness shall be merged into FEI (the "Merger"). FEI shall continue as the surviving corporation of the Merger, and the separate corporate existence and identity of Fitness shall cease. FEI shall have vested in it and possess all the rights, privileges, powers, franchises, properties and assets, of a public as well as of a private nature, of Fitness, and FEI shall be subject to all the debts, liabilities, obligations, restrictions, disabilities and duties of Fitness. The rights, privileges, powers, franchises, properties and assets, of a public as well as of a private nature, of Fitness and all debts, liabilities, or obligations, restrictions, disabilities and duties of Fitness shall continue

unaffected and unimpaired by the Merger, and the title to any real estate, or any interest therein, vested by deed or otherwise in Fitness, shall be vested in FEI and shall not revert or in any way be impaired by reason of the Merger.

**1.2. Approval by Sole Shareholder, Director and Officer.** This Agreement has been approved by Critchett as the sole shareholder, director and officer of both Fitness and FEI. No other person's approval is required to effect this Merger.

**1.3. Closing Date.** For purposes of this Agreement, the Closing Date shall be January 15, 1998.

**1.4. Effective Time.** As soon as practicable after the satisfaction or waiver of all conditions to the Merger, Articles of Merger shall be filed and recorded in accordance with the Florida Business Corporation Act. The Merger shall be effective as of January 15, 1998 ("the Effective Time").

**1.5 Tax Returns.** To the extent permitted by law, Fitness and FEI shall file consolidated federal and state tax returns for tax year 1998, up to and including the Effective Time.

## **SECTION 2. ARTICLES OF INCORPORATION; BY-LAWS; BOARD OF DIRECTORS; OFFICERS.**

**2.1. Articles of Incorporation.** From and after the Effective Time, the Articles of Incorporation of FEI, as in effect immediately prior to the Effective Time, shall continue in full force and effect as the Articles of Incorporation of the Surviving Corporation, until amended from time to time as provided therein or by law.

**2.2. By-Laws.** The By-Laws of FEI, as in effect immediately prior to the Effective Time, shall be the By-Laws of the Surviving Corporation unless and until the same shall thereafter be amended or repealed as provided by law, by the Articles of Incorporation of the Surviving Corporation or by such By-Laws.

**2.3. Directors.** From and after the Effective Time, the Board of Directors of the Surviving Corporation shall consist of Daniel Critchett, until his successor is elected and is qualified or until his earlier death, resignation or removal.

**2.4. Officers.** From and after the Effective Time, Daniel Critchett shall hold the offices of President, Treasurer and Secretary of the Surviving Corporation, until his successor is appointed and qualified or until his earlier death, resignation or removal.

### **SECTION 3. TREATMENT OF AND PAYMENT FOR SHARES.**

**3.1. Record Date.** The Board of Directors of Fitness will close the stock transfer books of Fitness as of the Closing Date (the "Record Date").

**3.2. Treatment of Shares.** At the Effective Time:

(a) Each share of Common Stock of FEI which is issued and outstanding immediately prior to the Effective Time shall continue to be outstanding at and after the Effective Time as one validly issued, fully paid and nonassessable share of capital stock of the Surviving Corporation.

(b) Each Fitness Share which is issued and outstanding as of the Record Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into one validly issued, fully paid and nonassessable share of capital stock of the Surviving Corporation.

(c) Each Fitness Share held in the treasury of Fitness as of the Record Date shall, by virtue of the Merger, cease to exist and be canceled without any payment or consideration therefor.

### **SECTION 4. MISCELLANEOUS.**

**4.1. Governing Law.** This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Florida without regard to principles of conflicts of laws to the extent that such principles would require the application of the laws of any jurisdiction other than the State of Florida.

**4.2. No Assignment; Successors and Assigns.** No part of this Agreement or any rights, duties or obligations described herein shall be assigned or delegated without the express written consent of the parties hereto, which consent shall not be unreasonably withheld. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, are binding upon and are enforceable by and against the parties and their respective legal representatives, successors and permitted assigns.

**4.3. Interpretation.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.



**4.4. Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party to this Agreement, upon any breach or default of another party under this Agreement, shall impair any such right, power or remedy of such party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereunder occurring; nor shall any waiver of any single breach or default theretofore or thereafter occurring act as a waiver of any other breach or default under this Agreement. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. Except as otherwise provided herein, all remedies, either under this Agreement, or by law or otherwise afforded to any party, shall be cumulative and not alternative.

**4.5. Counterparts.** This Agreement may be executed in any number of counterparts, each of which may be executed by less than all of the parties, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument.

**4.6. Severability.** If any provision of this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible. If any provision of this Agreement may be construed in two or more ways, one of which would render the provision invalid or otherwise voidable or unenforceable and another of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

**4.7. Rules of Construction.** In this Agreement, unless the context otherwise requires, words in the singular include the plural and in the plural include the singular, and words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

**4.8. Entire Agreement.** This Agreement constitutes the full and entire understanding and agreement among the parties with regard to the subject matter hereof and supersedes all prior negotiations, understandings and representations, both written and oral, if any, made by and among such parties.

Fitness Enterprises, Inc.  
a Florida corporation

FEI Hollywood, Inc.  
a Florida corporation

By: \_\_\_\_\_

Daniel Critchett, President

(Corporate Seal)

By: \_\_\_\_\_

Daniel Critchett, President

(Corporate Seal)

JOINDER BY SOLE SHAREHOLDER  
DIRECTOR AND OFFICER

The undersigned, Daniel Critchett, hereby joins in that Agreement and Plan of Merger of Fitness Enterprises, Inc. and FEI Hollywood, Inc. dated as of January 15, 1998. As the sole shareholder of both corporations, the undersigned hereby approves the Agreement and Plan of Merger and agrees to surrender one hundred percent of his shares of stock in Fitness Enterprises, Inc. in exchange for an equal number of shares of stock of FEI Hollywood, Inc.

\_\_\_\_\_  
Daniel Critchett, Individually

Date: 12-9

Plan of Merger

C:\Data\corporation\Merger\FEI Hollywood, Plan of Merger

Page 5

STEVEN CARLYLE CRONIG & ASSOCIATES, P.A.

301 Courvoisier Centre, 501 Brickell Key Drive, Miami, Florida 33131 Telephone (305) 371.0077 Telefacsimile (305) 371.7877