

P970000035012

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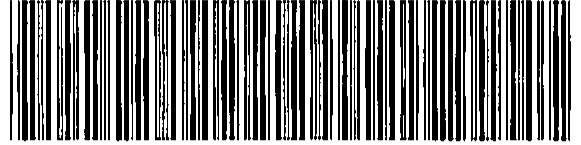
(Business Entity Name)

(Document Number)

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ALBANY, NY

Merger/CC

JAN 04 2019  
ALBRITTON

## COVER LETTER

**TO:** Amendment Section  
Division of Corporations

**SUBJECT:** Atlantic Beach Diner, Inc.

\_\_\_\_\_  
Name of Surviving Corporation

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Alex C. Najarian, Esq.

\_\_\_\_\_  
Contact Person

The Corneal Law Firm

\_\_\_\_\_  
Firm/Company

509 Anastasia Blvd.

\_\_\_\_\_  
Address

St. Augustine, FL 32080

\_\_\_\_\_  
City/State and Zip Code

alex@corneallaw.com

\_\_\_\_\_  
E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Alex C. Najarian, Esq.

\_\_\_\_\_  
Name of Contact Person

At ( 904 ) 547-9637

\_\_\_\_\_  
Area Code & Daytime Telephone Number

☐ Certified copy (optional) \$8.75 (Please send an additional copy of your document if a certified copy is requested)

**STREET ADDRESS:**

Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, Florida 32301

**MAILING ADDRESS:**

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, Florida 32314

# **ARTICLES OF MERGER**

**(Profit Corporations)**

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

**First:** The name and jurisdiction of the **surviving** corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Atlantic Beach Diner, Inc.	Florida	P97000035012

**Second:** The name and jurisdiction of each **merging** corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Atlantic Diner, Inc.	Florida	P03000093066

**Third:** The Plan of Merger is attached.

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

**OR** \_\_\_\_/\_\_\_\_/\_\_\_\_ (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days after merger file date.)

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

**Fifth:** Adoption of Merger by **surviving** corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on December 18, 2018.

The Plan of Merger was adopted by the board of directors of the surviving corporation on \_\_\_\_\_ and shareholder approval was not required.

**Sixth:** Adoption of Merger by **merging** corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on December 18, 2018.

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on \_\_\_\_\_ and shareholder approval was not required.

*(Attach additional sheets if necessary)*

**Seventh: SIGNATURES FOR EACH CORPORATION**

Name of Corporation

Signature of an Officer or Director

Typed or Printed Name of Individual & Title

Atlantic Beach Diner, Inc.

May 1966

Barry L. Adeeb, Director

Atlantic Diner, Inc.

Med. (Ref)

Barry L. Adeeb, Director/President

Atlantic Diner, Inc.

Reynolds D. Gordon

REPAIRED S. JORDAN DU  
Jordan S. Repard, Director

~~Jordan S. Repard~~, Director

## **AGREEMENT AND PLAN OF MERGER**

This AGREEMENT AND PLAN OF MERGER (the "Agreement") is made and entered into as of this 18<sup>th</sup> day of December 2018, by and between Atlantic Beach Diner, Inc., a Florida for-profit corporation ("ABD") and Atlantic Diner, Inc., a Florida for profit corporation ("Atlantic Diner").

### **RECITALS**

WHEREAS, Atlantic Beach Diner, Inc. ("ABD") is a for-profit corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, Atlantic Diner, Inc. ("Atlantic Diner") is a for-profit corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, the Board of Directors of ABD and the Board of Directors of Atlantic Diner deem it advisable to merge Atlantic Diner with and into ABD so that ABD is the surviving corporation on the terms provided herein (the "Merger").

NOW THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I** **MERGER**

1.1 ***The Merger.*** This Agreement is a Plan of Merger pursuant to Section 607.1105, et seq., Florida Statutes. After satisfaction or, to the extent permitted hereunder, waiver of all conditions to the Merger, and subject to the applicable provisions of the Florida Business Corporation Act (the "Act"), including without limitation Section 607.1105, et seq., Florida Statutes, Atlantic Diner will merge with and into ABD and ABD shall file Articles of Merger executed by both parties with the Secretary of State of the State of Florida in accordance with the provisions of the Act and shall make all other filings or recordings required by Florida law in connection with the Merger. The Merger shall become effective as of 5:00 p.m. on December 18<sup>th</sup>, 2018 or, if later, the date upon which Articles of Merger are filed with the Secretary of State of the State of Florida (the "Effective Time"). Upon the Effective Time, the separate corporate existence of Atlantic Diner shall cease and ABD shall be the surviving corporation (the "Surviving Corporation"). Atlantic Beach Diner, Inc. and Atlantic Diner, Inc., collectively, shall be referred to herein as the "Constituent Corporation".

1.2 ***Conditions to the Merger.*** The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver (except as provided in this Agreement) of the following conditions:

(a) This Agreement shall have been adopted by the Board of Directors of ABD, in accordance with the requirements of the Act and the Articles of Incorporation and bylaws of ABD;

(b) This Agreement shall have been adopted by the shareholders of ABD, in accordance with the requirements of the Act and the Articles of Incorporation and bylaws of ABD;

(c) This Agreement shall have been adopted by the Board of Directors of Atlantic Diner, in accordance with the requirements of the Act and the Articles of Incorporation and bylaws of Atlantic Diner;

(d) This Agreement shall have been adopted by the shareholders of Atlantic Diner, in accordance with the requirements of the Act and the Articles of Incorporation and bylaws of Atlantic Diner; and

(e) All consents or approvals required to be obtained by either party to consummate the transactions contemplated hereunder shall have been obtained.

1.3 ***Effect of Merger.*** At the Effective Time, the Surviving Corporation shall continue its corporate existence as a Florida for profit corporation. The Surviving Corporation shall possess and retain every interest in all assets and property of every description of each of the Constituent Corporations. The rights, privileges and immunities, powers, franchises and authority of the Constituent Corporations shall be vested in the Surviving Corporation without further act or deed, subject, however, to the limitations on the powers of ABD imposed by its Articles of Incorporation, its bylaws, and Florida law. The title to and any interest in all real and personal property vested in any of the Constituent Corporations shall not revert or in any way be impaired by reason of the Merger. All obligations belonging to or due to each of the Constituent Corporations shall be vested in the Surviving Corporation without further act or deed, and the Surviving Corporation shall be liable for all obligations of each of the Constituent Corporations existing as of the Effective Time.

1.4 ***Articles of Incorporation and Bylaws.*** The Articles of Incorporation, and Bylaws of ABD in effect immediately prior to the Effective Time shall continue to be the Articles of Incorporation, and Bylaws of the Surviving Corporation from and after the Effective Time.

1.5 ***Directors and Officers of the Surviving Corporation.*** The directors and officers of Atlantic Diner in effect immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation immediately following the Merger.

1.6 ***Conversion of Ownership Interests.*** The ownership interests of the owners of the Surviving Corporation shall be equivalent to the ownership interests of the owners of Atlantic Diner in effect immediately prior to the Effective Time.

**ARTICLE III**  
**REPRESENTATIONS AND WARRANTIES**

3.1 ***Representations and Warranties of ABD.*** ABD hereby represents and warrants to Atlantic Diner that the following statements are true and correct as of the date of this Agreement:

(a) ABD is a for profit corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida and has all the requisite power and authority to own, lease and operate its properties and assets and to carry on its business as it is now being conducted.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, or notice to, (i) any governmental authority, or (ii) any other person or organization is necessary or required to be made or obtained by ABD to enable ABD to lawfully execute and deliver, enter into, and perform its obligations under this Agreement or to consummate the Merger, except for the filing of the Articles of Merger with the Secretary of State of the State of Florida.

(c) This Agreement has been duly executed and delivered by ABD. This Agreement is a valid and binding obligation of ABD, enforceable against ABD in accordance with its terms.

(d) Neither the execution and delivery of this Agreement by ABD, nor the consummation of the Merger, shall conflict with, result in a breach or violation of (with or without notice or lapse of time, or both), or constitute a default under: (i) any provision of the articles of incorporation or bylaws of ABD, each as currently in effect or (ii) any law, rule, or order applicable to ABD, or any of its assets or properties in any material respect.

3.2 ***Representations and Warranties of the Atlantic Diner.*** Atlantic Diner hereby represents and warrants to ABD that the following statements are true and correct as of the date of this Agreement:

(a) Atlantic Diner is a for profit corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida and has all the requisite power and authority to own, lease and operate its properties and assets and to carry on its business as it is now being conducted.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, or notice to, (i) any governmental authority, or (ii) any other person or organization is necessary or required to be made or obtained by Atlantic Diner to enable Atlantic Diner to lawfully execute and deliver, enter into, and perform its obligations under

this Agreement or to consummate the Merger, except for the filing of the Articles of Merger with the Secretary of State of the State of Florida.

(c) This Agreement has been duly executed and delivered by Atlantic Diner. This Agreement is a valid and binding obligation of Atlantic Diner, enforceable against Atlantic Diner in accordance with its terms.

(d) Neither the execution and delivery of this Agreement by Atlantic Diner, nor the consummation of the Merger, shall conflict with, result in a breach or violation of (with or without notice or lapse of time, or both), or constitute a default, or require the consent, release, waiver or approval of, or notice to, any third party, under: (i) any provision of the articles of incorporation and bylaws of Atlantic Diner, each as currently in effect; (ii) any law, rule or order applicable to Atlantic Diner, or any of its assets or properties in any material respect; or (iii) any contract or agreement to which Atlantic Diner is a party or by which it is bound or to which any of its assets is subject.

#### **ARTICLE IV** **TERMINATION**

At any time prior to the Effective Time, this Agreement may be terminated and the Merger abandoned for any reason whatsoever by the Board of Directors of ABD or the Board of Directors of Atlantic Diner, notwithstanding the adoption of this Agreement by the shareholders of ABD or the shareholders of Atlantic Diner. The procedure for abandoning this Agreement shall be the adoption of a resolution to abandon the Merger by the Board of Directors of ABD or the Board of Directors of Atlantic Diner followed by written notice to the president of the other corporation party to the Merger.

#### **ARTICLE V** **FURTHER ASSURANCES**

If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any further assignment, conveyance or assurance in law or any other acts are necessary or desirable to (i) vest, perfect or confirm in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of Atlantic Diner acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger, or (ii) otherwise carry out the purposes of this Agreement, Atlantic Diner and its proper officers shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and possession of such rights, properties or assets in the Surviving Corporation and otherwise carry out the purposes of this Agreement; and the officers and directors of the Surviving Corporation are fully authorized in the name of Atlantic Diner or otherwise to take any and all such action.



**ARTICLE VI**  
**MISCELLANEOUS**

6.1       ***Amendment.*** At any time prior to the Effective Time, this Agreement may be amended, modified or supplemented by the Board of Directors of ABD and the Board of Directors of Atlantic Diner, whether before or after the adoption of this Agreement by the shareholders of ABD and the shareholders of Atlantic Diner; provided, however, that after any such adoption, there shall not be made any amendment that by law requires the further approval by such shareholders of ABD or Atlantic Diner without such further approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of ABD and Atlantic Diner.

6.2       ***No Waivers.*** No failure or delay by any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

6.3       ***Assignment; Third Party Beneficiaries.*** Neither this Agreement, nor any right, interest or obligation hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is not intended to confer any rights or benefits upon any person other than the parties hereto.

6.4       ***Governing Law.*** This Agreement shall in all respects be construed, interpreted and enforced in accordance with and pursuant to the laws of the State of Florida.

6.5       ***Counterparts.*** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.6       ***Entire Agreement.*** This Agreement and the documents referred to herein are intended by the parties as a final expression of their agreement with respect to the subject matter hereof and are intended as a complete and exclusive statement of the terms and conditions of that agreement, and there are not other agreements or understandings, written or oral, among the parties, relating to the subject matter hereof. This Agreement supersedes all prior agreements and understandings, written or oral, among the parties with respect to the subject matter hereof.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement as of the day and year first stated above.

**ATLANTIC BEACH DINER, INC. ("ABD")**

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

Name: Barry L. Adceeb

Title: Director

**ATLANTIC DINER, INC. ("Atlantic Diner")**

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

Name: Barry L. Adceeb

Title: Director/President

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

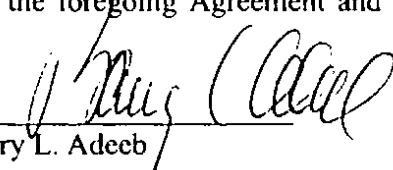
Name: ~~Jordan S. Repard~~ REPPARD S. JORDAN

Title: Director

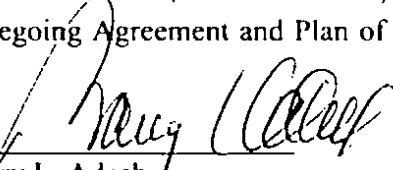
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## CERTIFICATIONS

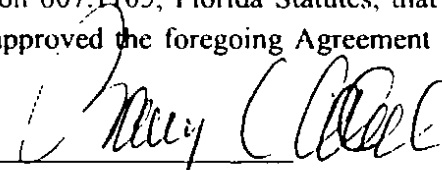
The undersigned, being the Director of Atlantic Beach Diner, Inc., a Florida for profit corporation ("ABD"), does hereby certify pursuant to Section 607.1105, Florida Statutes, that the Board of Directors of ABD duly adopted and approved the foregoing Agreement and Plan of Merger effective as of December 18<sup>th</sup>, 2018.

By:   
Name: Barry L. Adeeb  
Title: Director  
Dated: December 18<sup>th</sup>, 2018

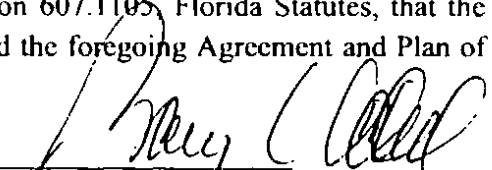
The undersigned, being the Director of Atlantic Beach Diner, Inc., a Florida for profit corporation ("ABD"), does hereby certify pursuant to Section 607.1105, Florida Statutes, that the shareholders of ABD duly adopted and approved the foregoing Agreement and Plan of Merger effective as of December 18<sup>th</sup>, 2018.

By:   
Name: Barry L. Adeeb  
Title: Director  
Dated: December 18<sup>th</sup>, 2018

The undersigned, being the Director of Atlantic Diner, Inc., a Florida for profit corporation ("Atlantic Diner"), does hereby certify pursuant to Section 607.1105, Florida Statutes, that the Board of Directors of Atlantic Diner duly adopted and approved the foregoing Agreement and Plan of Merger effective as of December 18<sup>th</sup>, 2018.

By:   
Name: Barry L. Adeeb  
Title: Director  
Dated: December 18<sup>th</sup>, 2018

The undersigned, being the Secretary of Atlantic Diner, Inc., a Florida for profit corporation ("Atlantic Diner"), does hereby certify pursuant to Section 607.1105, Florida Statutes, that the shareholders of Atlantic Diner duly adopted and approved the foregoing Agreement and Plan of Merger effective as of December 18<sup>th</sup>, 2018.

By:   
Name: Barry L. Adeeb  
Title: Director  
Dated: December 18<sup>th</sup>, 2018