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AUTHORIZATION : Patricia Piguit

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ORDER DATE : October 2, 1998

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CUSTOMER NO: 4302355

CUSTOMER: Ralph D. Mosley, Legal Asst
Tenzer Greenblatt, L.l.p.
15th Floor
405 Lexington Avenue
New York, NY 10174

RECEIVED
98 OCT -5 PM 1:53
DIVISION OF CORPORATION

200002655872--4

DOMESTIC AMENDMENT FILING

NAME: SOUTH PORTFOLIO INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XX PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Robert Maxwell

EXAMINER'S INITIALS: CC

FILED
98 OCT -5 PM 3:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

10-6-98

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF**

SOUTH PORTFOLIO INC.

(present name)

Pursuant to the provisions of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:

FIRST: Amendment(s) adopted: *(indicate article number(s) being amended, added or deleted)*

New Articles 12 and 13 added. SEE ATTACHMENT A

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98 OCT -5 PM 3:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SECOND: If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows:

THIRD: The date of each amendment's adoption: 10/1/98

FOURTH: Adoption of Amendment(s) (CHECK ONE)


- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. *The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):*

"The number of votes cast for the amendment(s) was/were sufficient for approval by _____ voting group."

- ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 2nd day of October, 19 98

Signature


(By the Chairman or Vice Chairman of the Board of Directors, President or other officer if adopted by the shareholders)

OR

(By a director if adopted by the directors)

OR

(By an incorporator if adopted by the incorporators)

David Luski

Typed or printed name

Vice President

Title

ATTACHMENT A

ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
SOUTH PORTFOLIO INC.

12. Independent Director. The Corporation shall at all times have at least one Independent Director (as defined below), and the Corporation shall be without authority to take the actions specified herein as requiring a vote of the Independent Director absent the currently effective appointment of such Independent Director.

As referred to herein, an "Independent Director" shall mean a director of the Corporation who is not at the time of appointment and has not been at any time during the preceding five (5) years: (i) a stockholder, director, officer, employee, member or partner of the Corporation or Sun Pointe Bay LLC (the "LLC") (collectively, the "Transaction Parties"), or any affiliate of any of them; (ii) a customer, supplier or other person who derives more than 10% of its purchases or revenues from its activities with the Transaction Parties or any affiliate of any of them (iii) a person controlling or under common control with any such stockholder, director, officer, employee, member, partner, customer, supplier or other person; or (iv) a member of the immediate family of any such stockholder, director, officer, employee, member, partner, customer, supplier or other person. As used herein, the following terms shall have the following meanings: "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise; "person" means a natural person, corporation or other entity, government, or political subdivision, agency, or instrumentality of a government; and an "affiliate" of a person is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified. Notwithstanding the foregoing, (i) an indirect membership interest in the LLC or of any affiliate thereof by any person through a mutual fund or similar diversified investment pool shall not, by itself, disqualify such person from being an Independent Director unless such person maintains direct or indirect control of the investment decisions of such mutual fund or similar diversified investment pool, and (ii) an Independent Director may serve in similar capacities for other "special purpose" corporations formed by the LLC or any affiliate thereof so long as they are each a Non-Consolidatable Entity. Non-Consolidatable Entity means an entity with respect to which nationally recognized bankruptcy counsel has delivered its opinion to the effect that such entity's "estate", as defined

under Section 541(a) of the United States Bankruptcy Code, would not be substantially consolidated with the "estate" of the LLC in a bankruptcy proceeding involving the LLC.

With the consent of 100 percent of the initial holders of shares of the Corporation, which consent the initial holders of shares believe to be in the best interest of the initial holders of shares and the Corporation, the Independent Director shall not, with regard to any action to be taken under or in connection with Article 13 hereof, owe a fiduciary duty or other obligation to the initial holders of shares nor to any successor holders of shares (except as may specifically be required by the statutory law of any applicable jurisdiction), and every holder of shares, including each successor holder of shares, shall consent to the foregoing by virtue of such holder of share's purchase of shares of capital stock of the Corporation, no further act or deed of any holder of shares being required to evidence such consent. Instead the fiduciary duty and other obligations of the Independent Director with regard to such action under or in connection with Article 13 hereof shall be owed to the Corporation itself and the Corporation's creditors.

No Independent Director shall be a trustee in bankruptcy for the LLC or any of its affiliates.

The Independent Director may not be removed unless (i) for cause and (ii) his or her successor has been elected.

13. The following provisions shall regulate the internal affairs of the Corporation:

a. Separateness Provisions. Notwithstanding any of the provisions of the Articles or any of the provisions of the Operating Agreement of the LLC (the "Agreement") and any provisions of law that otherwise so empower the Corporation or the LLC, until such time as that certain loan (the "Loan") between the LLC and Atlas Financial LLC ("Lender") is paid in full or otherwise satisfied (unless permitted or consented to by the holder of the Loan or under the loan documents executed in connection with the Loan, hereinafter, the "Loan Documents"), the Corporation shall cause the LLC to conduct its business and operations in accordance with the following provisions:

(i) the LLC will not assume liability for the debts of any other person, and the LLC will not hold itself out as being liable for the debts of any other person;

(ii) the LLC shall pay its own liabilities out of its own funds;

(iii) the LLC shall not guarantee the debt or the performance of any obligation of any of its Members or any other person. The LLC will not pledge any of the LLC's assets for the

benefit of any of its Members or any other person, and no person shall pledge its assets for the benefit of the LLC;

(iv) the LLC shall conduct its affairs strictly in accordance with the Agreement and shall observe all necessary, appropriate and customary limited liability company formalities, including, but not limited to, maintaining accurate and separate books, records and accounts (including, but not limited to, transaction accounts with any affiliate of the LLC);

(v) the books, records, financial statements and accounts of the LLC will at all times be maintained separate from those of any other person;

(vi) the LLC will hold itself out to creditors and the public as a legal entity separate and distinct from any other entity, will not hold itself out to the public or to any of its individual creditors as being a unified entity with assets and liabilities in common with any other person, and will not fail to correct any known misunderstanding regarding its separate identity;

(vii) the LLC will not commingle its assets or funds with those of any other person and will hold its own assets in its own name;

(viii) the LLC shall conduct its own business in its own name;

(ix) the LLC shall maintain its books, records, resolutions and agreements as official records;

(x) the LLC shall maintain adequate capital in light of contemplated business operations;

(xi) the LLC shall maintain an arms-length relationship with affiliates;

(xii) the LLC shall pay the salaries of its own employees and maintain a sufficient number of employees in light of contemplated business operations;

(xiii) the LLC shall not acquire obligations or securities of affiliates;

(xiv) the LLC shall not make loans to any other person or entity;

(xv) the LLC shall allocate fairly and reasonably any overhead for shared office space; and

(xvi) the LLC shall use separate stationary, invoices and checks.

b. Restricted Actions. Until such time as the Loan is paid in full or otherwise satisfied (unless permitted or consented to by the holder of the Loan or under the provisions of the Loan Documents), the Corporation shall not have the right to take any of the following actions, and shall not allow the LLC to take any of the following actions, without the unanimous consent of the members of the Board of Directors:

(i) subject to Section 6.3 of the Agreement, borrow money from third parties (other than from members of the LLC ("Members") on any unsecured basis and subordinated to the Loan) on behalf of the Corporation or the LLC other than in the ordinary course of business, or grant consensual liens on the Corporation's or the LLC's property; except, however, that the Members are hereby authorized to secure financing for the LLC pursuant to the terms of the Loan and other indebtedness expressly permitted herein and to grant a mortgage, lien or liens on the LLC's property to secure such indebtedness;

(ii) dissolve or liquidate the Corporation or the LLC;

(iii) sell or lease (other than for occupancy), or otherwise dispose of all or substantially all of the assets of the Corporation or the LLC;

(iv) file a voluntary petition or otherwise initiate proceedings to have the Corporation or the LLC adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Corporation or the LLC, or file a petition seeking or consenting to reorganization, adjustment, winding up, dissolution, composition, liquidation or relief of the Corporation or the LLC as debtor under the applicable federal or state law relating to bankruptcy, insolvency or other relief for debtors with respect to the Corporation or the LLC; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, liquidator (or other similar official) of the Corporation or the LLC or of all or any substantial part of the properties and assets of the Corporation or the LLC, or make any general assignment for the benefit of creditors of the Corporation or the LLC, or admit in writing the inability of the Corporation or the LLC to pay its debts generally as they become due, take any action with the purpose of causing the Corporation or the LLC to become insolvent, or declare or effect a moratorium on the Corporation or the LLC debt or take any action in furtherance of any such action;

(v) amend, modify or alter the Articles or the Agreement in any material respect;

(vi) merge or consolidate with any other entity nor propose, advocate or consent to the consolidation of the assets of the Corporation or the LLC with any other entity, whether by plan of reorganization or otherwise, but to vigorously oppose any effort by any other party to obtain such merger or consolidation of assets;

(vii) do any act in contravention of the Articles or the Agreement;

(viii) do any act which would make it impossible to carry on the ordinary business of the Corporation or the LLC, except as otherwise provided in the Articles and the Agreement;

(ix) possess the Property, as such term is defined in the Agreement, or assign rights in the Property for other than an LLC purpose;

(x) engage in transactions with affiliates, which are not at arms-length; or

(x) withdrawal of the Corporation as a special independent member.

c. Restriction of Indebtedness. Until such time as the Loan is paid in full or otherwise satisfied, the Corporation shall not allow the LLC, without the unanimous consent of the members of the Board of Directors and, except as provided in Section 6.3 of the Agreement, the unanimous consent of the Members of the LLC, to obtain or have any secured loan or any other loan except the Loan, unsecured borrowings made in the ordinary course of business and any other loans which are permitted to be obtained under the Loan Documents.

d. Subordination of Indemnification Obligations. Until such time as the Loan is paid in full or otherwise satisfied, the LLC's obligation, if any, to indemnify its Members is fully subordinated to the Loan and the Loan Documents and must not constitute a claim against it in the event that cash flow in excess of amounts necessary to pay Lender, or their successors or assigns, is insufficient to pay such obligations.

e. Interest of Creditors. Until such time as the Loan is paid in full or otherwise satisfied, the Corporation is to consider the interest of the LLC's creditors in connection with all LLC actions.