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LAW OFFICE  
EDWARD H. GILBERT  
PROFESSIONAL ASSOCIATION

5100 TOWN CENTER CIRCLE  
SUITE 330  
BOCA RATON, FLORIDA 33486

TELEPHONE (561) 361-9300  
TELEFAX (561) 361-9369  
E-MAIL ehgilbert@aol.com

December 29, 1999

VIA FEDERAL EXPRESS

Florida Department of State  
Division of Corporations  
409 East Gaines Street  
Tallahassee, Florida 32399

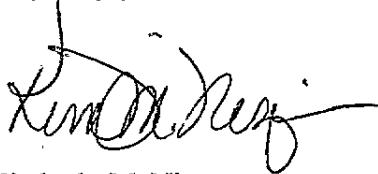
FILED  
99 DEC 30 PM 1:01  
TALLAHASSEE, FLORIDA

Re: David S. Spector's One on One Fitness, Inc. (the "Corporation")

Dear Sirs:

Enclosed please find the original and one copy of the Certificate of Merger (the "Merger Certificate") relating to the above referenced Corporation along with our check in the amount of \$82.75 representing the appropriate filing fee and certified copy fee. Please return a certified copy of the Merger Certificate to my office in the enclosed self-addressed stamped envelope. If you have any questions please call me.

Very truly yours,



Kimberly M. Nizer  
Legal Assistant

Enclosures

ext 213  
Lynn Benson

Merger  
1-12-00  
BKS

EFFECTIVE DATE  
1-1-2000

900003085069-8  
-12/30/99-01084-020  
\*\*\*\*\*82.75 \*\*\*\*\*78.75

**FILED**

99 DEC 30 PM 1:01

CLERK OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF MERGER**  
Merger Sheet

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MERGING:

DAVE SPECTOR ONE ON ONE, INC., a New York corporation not qualified in  
Florida

INTO

**DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC.**, a Florida entity,  
P98000066917

File date: December 30, 1999

Corporate Specialist: Doug Spitler

**FILED**

**CERTIFICATE OF MERGER OF  
DAVID SPECTOR ONE ON ONE, INC. AND  
DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC. INTO  
DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC.  
UNDER SECTION 904 OF NEW YORK BUSINESS CORPORATION LAW AND  
SECTION 607.1105 OF THE FLORIDA BUSINESS CORPORATION ACT**

99 DEC 30 PM 1:01

CLERK OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of § 904 of New York Business Corporation Law ("NYBCL") and § 607.1105 of the Florida Business Corporation Act (the "FBCA"), and for the purpose of effecting the merger (the "Merger") of DAVE SPECTOR ONE ON ONE, INC., a corporation duly organized and existing under the laws of the State of New York ("Fitness New York"), and DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC., a corporation duly organized and existing under the laws of the State of Florida ("Fitness Florida"), into DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC. (the "Surviving Corporation"), Fitness New York and Fitness Florida have adopted this Certificate of Merger (the "Articles") as follows:

1. Dave Spector One On One, Inc. was incorporated under the laws of the State of New York on December 29, 1988.
2. David S. Spector's One On One Fitness, Inc. was incorporated under the laws of the State of Florida on July 30, 1998.
3. The plan of merger between Fitness New York and Fitness Florida is set forth in the Agreement and Plan of Merger dated December 15, 1999 (the "Agreement"), attached hereto as Exhibit A and incorporated herein by reference as fully set forth therein.
4. The executed Agreement is on file at the office of the Surviving Corporation located at 21212 St. Andrews Boulevard, Suite 20, Boca Raton, Florida 33433, Attn.: David S. Spector, President.
5. A copy of the Agreement will be furnished by the Surviving Corporation, on request and without cost, to any shareholder of either Fitness New York or Fitness Florida.
6. The Agreement was unanimously approved and adopted by Written Consent by the shareholders of Fitness New York on December 15, 1999.
7. The Agreement was unanimously approved and adopted by Written Consent by the shareholders of Fitness Florida on December 15, 1999.
8. The Merger shall become effective on January 1, 2000 (the "Effective Time").

**EFFECTIVE DATE**

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*(Signatures appear next page)*

IN WITNESS WHEREOF, the parties have executed the Articles this 15th day of December, 1999.

DAVE SPECTOR ONE ON ONE, INC., a  
New York corporation

By: David S. Spector  
David S. Spector, President

DAVID S. SPECTOR'S ONE ON ONE  
FITNESS, INC., a Florida corporation

By: David S. Spector  
David S. Spector, President

**EXHIBIT A**  
**AGREEMENT AND PLAN OF MERGER**

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") is entered into as of this 15th day of December, 1999 by and between DAVE SPECTOR ONE ON ONE, INC., a corporation duly organized and existing under the laws of the State of New York ("Fitness New York"), and DAVID S. SPECTOR'S ONE ON ONE FITNESS, INC., a corporation duly organized and existing under the laws of the State of Florida ("Fitness Florida").

### W I T N E S S E T H:

WHEREAS, the respective boards of directors of Fitness New York and Fitness Florida have approved and have declared advisable the merger of Fitness New York with and into Fitness Florida (the "Merger") upon the terms and subject to the conditions set forth herein whereby each issued and outstanding share of the Common Stock of Fitness New York (the "Fitness New York Common Stock") not owned directly by Fitness New York will be converted into the right to receive one thousand (1,000) shares of the Common Stock of Fitness Florida (the "Fitness Florida Common Stock") as more particularly set forth herein; and

WHEREAS, the parties desire to prescribe various conditions to the Merger;

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, the parties hereby agree as follows:

#### 1. The Merger.

1.1. The Merger. Upon the terms and subject to the conditions set forth in this Agreement and in accordance with provisions of the Florida Business Corporation Act ("FBCA") and New York Business Corporation Law ("NYBCL"), Fitness New York shall be merged with and into Fitness Florida at the Effective Time as hereinafter defined. Following the Effective Time, the separate corporate existence of Fitness New York shall cease and Fitness Florida shall be the surviving corporation (the "Surviving Corporation") and shall succeed to and assume all the rights and obligations of Fitness New York in accordance with the FBCA.

1.2. Closing. The closing of the Merger (the "Closing") will take place at the offices of Edward H. Gilbert, P.A., 5100 Town Center Circle, Boca Raton, Florida 33486 commencing at 10:00 a.m. on December 15, 1999 (the "Closing Date").

1.3. Effective Time. Subject to the provisions of this Agreement, as soon as is practicable on or after the Closing Date, the parties shall file articles of merger or other appropriate documents (in any such case, the "Articles of Merger") executed in accordance with the relevant provisions of the FBCA and NYBCL and shall make all such other filings or recordings as are required under the FBCA and NYBCL. The Merger shall become effective at such time as Fitness New York and Fitness Florida shall agree and specify in the Articles of Merger (hereinafter the "Effective Time").

1.4. Effects of the Merger. The Merger shall have the effects as set forth in the applicable provisions of the FBCA.

1.5. Articles of Incorporation and Bylaws.

(a) The articles of incorporation of Fitness Florida as in effect immediately prior to the execution of this Agreement shall be the articles of incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable law.

(b) The bylaws of Fitness Florida as in effect immediately prior to the execution of this Agreement shall be the bylaws of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable law.

1.6. Directors and Officers. The directors of Fitness Florida at the Effective Time shall be the directors of the Surviving Corporation until their respective successors are duly elected and qualified, and the officers of Fitness Florida at the Effective Time shall be the officers of the Surviving Corporation until their respective successors are duly elected and qualified.

2. Effects of the Merger on the Stock of the Constituent Corporations.

2.1. Stock. The designation and number of outstanding shares of each class and series of stock of Fitness New York and Fitness Florida are as follows:

	Class of Stock	Number of Authorized Shares	Number of Shares Issued and Outstanding	Are Shares Entitled to Vote?	Are Shares Entitled to Vote as Class?
Fitness New York	Common	200, no par value	10	Yes	N/A
Fitness Florida	Common	50,000, par value \$0.0001	10,000	Yes	N/A

2.2. Effect on Stock. As of the Effective Time, by virtue of the Merger and without any action on the part of Fitness New York or Fitness Florida or the holders of any securities of Fitness New York or Fitness Florida:

(a) Cancellation of Fitness New York-Owned Stock. Each share of Fitness New York Common Stock that is owned directly by Fitness New York shall automatically be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(b) Conversion of Fitness New York Common Stock. Each issued and outstanding share of Fitness New York Common Stock (other than shares to be cancelled in accordance with Paragraph 2.2.(a)) shall be converted into and represent one thousand (1,000) validly issued, fully paid and nonassessable share, \$.0001 par value, of Fitness Florida Common Stock (the "Merger Consideration"). As of the Effective Time, all such shares of Fitness New York Common Stock shall no longer be outstanding and shall automatically be cancelled and retired and shall cease to exist, and each holder of a certificate or certificates which immediately prior to the Effective Time represented outstanding shares of Fitness New York Common Stock

(the "Certificates") shall cease to have any rights with respect thereto, except the right to receive certificates representing the number of whole shares of Fitness Florida Common Stock into which such shares have been converted.

2.3. Exchange of Certificates.

(a) Exchange Fund. As of the Effective Time, Fitness Florida shall set aside, for the benefit of the holders of shares of Fitness New York Common Stock, Certificates representing the number of whole shares of Fitness Florida Common Stock issuable in exchange for outstanding shares of Fitness New York Common Stock pursuant to Paragraph 2.2 (the "Exchange Fund") for exchange in accordance with this Paragraph 2.

(b) Exchange Procedures. Promptly after the Effective Time, but in any event no later than five (5) business days thereafter, Fitness Florida shall mail to each holder of record of a Certificate whose shares were converted into the Merger Consideration pursuant to Paragraph 2.2:

(1) a letter of transmittal which shall specify that delivery shall be effected and the risk of loss and title to the Certificates shall pass only upon delivery of the Certificates to Fitness Florida, which delivery shall be in such form and have such other customary provisions as Fitness Florida may reasonably specify; and

(2) instructions for use in effecting the surrender of the Certificates in exchange for the Merger Consideration.

Upon surrender of a Certificate for cancellation to Fitness Florida, together with such letter of transmittal, duly executed, and such other documents as Fitness Florida may reasonably require, the holder of such Certificate shall be entitled to receive in exchange therefor a Fitness Florida Certificate representing the proper number of whole shares of Fitness Florida Common Stock that such holder has the right to receive pursuant to the provisions of this Paragraph 2, and the Certificate so surrendered shall forthwith be cancelled. In the event of a transfer of ownership of Fitness New York Common Stock that is not registered in the transfer records of Fitness New York, a Fitness Florida Certificate representing the proper number of shares of Fitness Florida Common Stock may be issued to a person other than the person in whose name the Certificate so surrendered is registered if such Certificate shall be properly endorsed or otherwise be in proper form for transfer, and the person requesting such issuance shall pay any transfer or other nonincome taxes required by reason of the issuance of shares of Fitness Florida to a person other than the registered holder of such Certificate or establish to the satisfaction of Fitness Florida that such tax has been paid or is not applicable. Until surrendered as contemplated by this Paragraph 2.3, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender Fitness Florida Certificates representing the number of whole shares of Fitness Florida Common Stock into which the shares of Fitness New York Common Stock formerly represented by such Certificate have been converted.

(c) Distributions With Respect to Unexchanged Shares. No dividends or other distributions with respect to Fitness Florida Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Fitness Florida Common Stock represented thereby, and all such dividends and other distributions shall be paid to Fitness Florida and shall be included in the Exchange Fund until the surrender of such Certificate in each case in accordance with this Paragraph 2. Subject to the



effect of applicable escheat or similar laws, following any surrender of any such Certificate, there shall be paid to the holder of the Fitness Florida Certificate representing whole shares of Fitness Florida Common Stock issued in exchange therefor, without interest:

(1) At the time of such surrender, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Fitness Florida Common Stock; and

(2) At the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of Fitness Florida Common Stock.

Fitness Florida shall make available cash for these purposes.

(d) No Further Ownership Rights in Fitness New York Common Stock. All shares of Fitness Florida Common Stock issued upon the surrender for exchange of Certificates in accordance with the terms of this Paragraph 2 shall be deemed to have been issued in full satisfaction of all rights pertaining to the shares of Fitness New York Common Stock theretofore represented by such Certificates; subject, however, to the Surviving Corporation's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been authorized or made by Fitness New York on such shares of Fitness New York Common Stock that remain unpaid at the Effective Time, and there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of Fitness New York Common Stock that were outstanding immediately prior to the Effective Time. If after the Effective Time Certificates are presented to the Surviving Corporation for any reason, they shall be cancelled and exchanged as provided in this Paragraph 2, except as otherwise provided by law.

(e) No Liability. Neither Fitness Florida nor Fitness New York shall be liable to any person in respect of any shares of Fitness Florida Common Stock (or dividends or distributions with respect thereto) or cash from the Exchange Fund in each case delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificate shall not have been surrendered prior to seven (7) years after the Effective Time (or immediately prior to such earlier date on which any Merger Consideration or any dividends or distributions payable to the holder of such Certificate would otherwise escheat to or become the property of any governmental body or authority), any such Merger Consideration or dividends or distributions in respect of such Certificate shall, to the extent permitted by applicable law, become the property of the Surviving Corporation, free and clear of all claims or interest of any person previously entitled thereto.

(f) Lost Certificates. If any Certificate shall have been lost, stolen or destroyed, and if required by the Surviving Corporation, the posting by such person of a bond in such reasonable amount as the Surviving Corporation may direct as indemnity against any claim that may be made against it with respect to such Certificate, Fitness Florida will issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration, and if applicable, any unpaid dividends and distributions on shares of Fitness Florida Common Stock deliverable in respect thereof pursuant to this Agreement.

If to Fitness New York: 21212 St. Andrews Boulevard, Suite 20  
Boca Raton, Florida 33433  
Attn.: David S. Spector, President

If to Fitness Florida: 21212 St. Andrews Boulevard, Suite 20  
Boca Raton, Florida 33433  
Attn.: David S. Spector, President

or to such other address, or the attention of such other party, as the parties shall advise the other by notice given in conformity herewith.

4.8. Service of Process. The Surviving Corporation irrevocably appoints the Secretary of State of New York as its agent to accept service of process in any suit or other proceedings and shall instruct same to mail such service to 21212 St. Andrews Boulevard, Suite 20, Boca Raton, Florida 33433, Attn.: David S. Spector, President, or to such other address or to the attention of such other party as the Surviving Corporation shall advise the Secretary of State of New York at any time or from time to time.

4.9. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida, without giving effect to conflicts of law.

4.10. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

4.11. Expenses Each party shall bear its own expenses in connection with this Agreement and the transactions contemplated hereby except that Fitness New York shall reimburse Fitness Florida for one half of the legal fees and related costs incurred thereby in connection with such matters.

4.12. Assignments. This Agreement may not be assigned by either party.

4.13. Facsimile Signatures. Facsimile signatures on counterparts of this Agreement are hereby authorized and shall be acknowledged as if such facsimile signatures were an original execution, and this agreement shall be deemed as executed when an executed facsimile hereof is transmitted by a party to any other party.

4.14. Litigation, Jurisdiction and Venue. In the event any action, suit or proceeding is instituted as a result of this Agreement, the prevailing party in such action, suit or proceeding shall be entitled to receive reimbursement of the costs of such action, suit or proceeding at all levels, including reasonable attorneys' fees. Further, in the event of the institution of any such action, suit or proceeding, each of the parties hereto hereby consents to the exclusive jurisdiction and venue of the courts of the State of Florida located in Palm Beach County, Florida and the United States District Court in and for the Southern District of Florida with respect to any matter relating to this Agreement and the performance of the parties' obligations hereunder and each of the parties hereto hereby further consents to the personal jurisdiction of such courts. Any action suit or proceeding brought by or on behalf of either of the parties hereto relating to such matters shall be commenced, pursued, defended and resolved only in such courts and any appropriate appellate court having jurisdiction to hear an appeal from any judgment entered in such courts. The parties hereby agree that service of process may be made in any manner permitted by the rules of such courts and the laws of the State of Florida.

3. Conditions to the Merger. The respective obligations of each party to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following conditions:

3.1. The holders of the issued and outstanding shares of Fitness New York Common Stock shall have duly approved the Merger in the manner required by applicable law.

3.2. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or enforced by any court or other tribunal or governmental body or authority that prohibits the consummation of the Merger substantially on the terms contemplated hereby. In the event any order, decree or injunction shall have been issued, each party shall use its reasonable efforts to remove any such order, decree or injunction.

4. Miscellaneous.

4.1. Benefit. This Agreement shall enure to the benefit to the parties thereto and their respective successors and assigns.

4.2. Entire Agreement. This Agreement, including all schedules and other instruments or documents referred to herein or delivered pursuant hereto which form a part hereof, contains the entire understanding of the parties hereto in respect of the subject matter contained herein. There are no representations, warranties, promises, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements, whether written or oral, between the parties with respect to the subject matter hereof. This Agreement may be amended only by a written agreement duly executed by the parties hereto. Any condition to a particular party's obligations hereunder may be waived in writing by such party.

4.3. Headings. The headings contained in this Agreement have been inserted for convenience and reference purposes only and shall not affect the meaning or interpretation hereof in any manner whatsoever.

4.4. Severability. If any of the terms, provisions or conditions contained in this Agreement shall be declared to be invalid or void in any judicial proceeding, this Agreement shall be honored and enforced to the extent of its validity, and those provisions not declared invalid shall remain in full force and effect.

4.5. Remedies. In the event of a breach or threatened breach by either party of its obligations hereunder, each party acknowledges that the other party may not have an adequate remedy at law and shall be entitled to such equitable and injunctive relief as may be available to restrain the other party from any violation of such obligations. Nothing herein shall be construed as prohibiting either party from pursuing any other remedies available for such breach or threatened breach, including the recovery of damages.

4.6. Exhibits and Schedules. All exhibits and schedules hereto shall be deemed to be a part hereof.

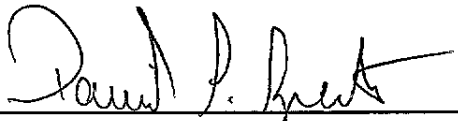
4.7. Notices. All notices, requests, demands and other communications required or permitted to be given hereunder shall be deemed given when actually received or on the following business day when sent by a recognized overnight delivery service (e.g., Federal Express) for next business day delivery addressed to each of the parties as follows:

4.15. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context otherwise requires. The word "including" shall mean including without limitation.


*{signatures appear on the next page}*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

DAVID SPECTOR'S ONE ON ONE, INC.

By:   
David S. Spector, President

DAVID S. SPECTOR'S ONE ON ONE  
FITNESS, INC.

By:   
David S. Spector, President

**CERTIFICATE**

THE UNDERSIGNED, David S. Spector, as Secretary of Dave Spector One On One, Inc. (the "Corporation"), a corporation organized and existing under the laws of the State of New York, does hereby certify that by Written Action of Shareholders in Lieu of a Special Meeting ("Written Action"), the foregoing Agreement and Plan of Merger (the "Agreement") between the Corporation and David S. Spector's One On One Fitness, Inc., a corporation organized and existing under the laws of the State of Florida, was duly adopted and approved by more than fifty percent (50%) of the issued and outstanding shares of common stock entitled to vote of the Corporation, which shares were properly represented and voted. There were no shares of preferred stock outstanding.

DAVE SPECTOR ONE ON ONE, INC., a  
corporation organized and existing under the  
laws of the State of New York


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

David S. Spector, Secretary

**CERTIFICATE**

THE UNDERSIGNED, David S. Spector, as Secretary of David S. Spector's One On One Fitness, Inc. (the "Corporation"), a corporation organized and existing under the laws of the State of Florida, does hereby certify that by Written Action of Shareholders in Lieu of a Special Meeting ("Written Action"), the foregoing Agreement and Plan of Merger (the "Agreement") between the Corporation and Dave Spector One On One, Inc., a corporation organized and existing under the laws of the State of New York, was duly adopted and approved by more than fifty percent (50%) of the issued and outstanding shares of common stock entitled to vote of the Corporation, which shares were properly represented and voted. There were no shares of preferred stock outstanding.

DAVID S. SPECTOR'S ONE ON ONE  
FITNESS, INC., a corporation organized and  
existing under the laws of the State of Florida

By:   
David S. Spector, Secretary