

V32005



THE UNITED STATES  
CORPORATION  
COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 082193 7145809

AUTHORIZATION :

*Patricia Pigato*

COST LIMIT : \$ 70.00

FILED  
98 DEC 30 PM 1:52  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ORDER DATE : December 29, 1998

ORDER TIME : 9:43 AM

ORDER NO. : 082193-010

700002726087--9

CUSTOMER NO: 7145809

CUSTOMER: David A. Chenkin, Esq  
David A. Chenkin, Esq., P.A.  
Suite 208  
8551 West Sunrise Boulevard  
Fort Lauderdale, FL 33322

ARTICLES OF MERGER

THE HAIRWEAR COMPANY, INC.

INTO

MARLENE D'ARCY, INC.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

\_\_\_\_ CERTIFIED COPY  
XX \_\_\_\_\_ PLAIN STAMPED COPY

CONTACT PERSON: Karen B. Rozar

EXAMINER'S INITIALS: \_\_\_\_\_

*Mergin*

VS DEC 31 1998

*File  
2nd*

ARTICLES OF MERGER  
Merger Sheet

MERGING:

THE HAIRWEAR COMPANY, INC., a Florida corporation, V54729

INTO

**MARLENE D'ARCY, INC.**, a Florida corporation, V32005.

File date: December 30, 1998

Corporate Specialist: Velma Shepard

Account number: 072100000032

Account charged: 70.00

**ARTICLES OF MERGER OF  
THE HAIRWEAR COMPANY, INC.,**  
a Florida Corporation,  
with and into  
**MARLENE D'ARCY, INC.,**  
a Florida Corporation

FILED  
98 DEC 30 PM 1:52  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

THE UNDERSIGNED CORPORATIONS do hereby execute the following Articles of Merger pursuant to Section 607. 1101 et seq. of the Florida Business Corporation Act for the purpose of merging THE HAIRWEAR COMPANY, INC., a Florida corporation, with and into MARLENE D'ARCY, INC., a Florida corporation.

1. The Name of each of the undersigned Corporations and the State in which each is incorporated are as follows:

**NAME OF CORPORATION**

**STATE OF INCORPORATION**

THE HAIRWEAR COMPANY, INC.  
MARLENE D'ARCY, INC.

- Florida  
Florida

2. The name which the Surviving Corporation is to have after the merger will be "MARLENE D'ARCY, INC."

3. The merger is permitted under the laws of the State of Florida. THE HAIRWEAR COMPANY, INC., a Florida corporation, and MARLENE D'ARCY, INC., a Florida corporation, have complied with the applicable provisions of the laws of the State of Florida.

4. The Agreement of Merger and Plan of Reorganization of THE HAIRWEAR COMPANY, INC., a Florida corporation and MARLENE D'ARCY, INC., a Florida corporation is set forth on Exhibit "A" attached hereto and incorporated herein by reference.

5. The Unanimous Board of Directors and all of the Shareholders of MARLENE D'ARCY, INC., a Florida Corporation, the Surviving Corporation in the merger, approved and adopted the Agreement and Plan of Reorganization by written consent on December 21, 1998. The Agreement of Merger and Plan of Reorganization was also approved and adopted by the

unanimous Board of Directors and all of the Shareholders of THE HAIRWEAR COMPANY, INC. on the same date.

6. The number of shares outstanding and the number of shares of each Corporation entitled to vote on the Agreement and Plan of Reorganization were as follows:

NAME OF CORPORATION	# OF SHARES OUTSTANDING	# OF SHARES ENTITLED TO VOTE
MARLENE D'ARCY, INC., a Florida Corporation	100	100
THE HAIRWEAR COMPANY, INC., a Florida Corporation	100	100

7. The number of shares voted for and against the approval and adoption of the Agreement and Plan of Merger were as follows:

NAME OF CORPORATION	TOTAL SHARES VOTED FOR	TOTAL SHARES VOTED AGAINST
MARLENE D'ARCY, INC., a Florida Corporation	100	None
THE HAIRWEAR COMPANY, INC. a Florida Corporation	100	None

8. The Charter of MARLENE D'ARCY INC. , a Florida Corporation, will not be amended in conjunction with this merger.

9. The Articles of Merger and the Agreement of Merger and Plan of Reorganization incorporated herein by reference shall be effective at 11:59 P.M. on December 21, 1998 pursuant to Section 607.1101 et. seq., of the Florida Business Corporation Act, and the merger therein contemplated shall be deemed to be completed and consummated at said time.

IN WITNESS WHEREOF, these Articles of Merger have been signed by the President and Secretary of MARLENE D'ARCY, INC. a Florida Corporation, and by the President and

Secretary of THE HAIR WEAR COMPANY, INC. a Florida Corporation, each thereunto duly authorized, as of the 21<sup>st</sup> day of December, 1998.

WITNESS:

James Lindsay Perreth  
Sec.

THE HAIR WEAR COMPANY,  
INC., a Florida Corporation

BY: Richard Nicolo  
Richard Nicolo<sup>President</sup>

James Lindsay Perreth  
Sec.

MARLENE D'ARCY, INC. a  
Florida Corporation

BY: Richard Nicolo  
Richard Nicolo<sup>President</sup>

**AGREEMENT OF MERGER  
AND  
PLAN OF REORGANIZATION**

THIS AGREEMENT OF MERGER AND PLAN OF REORGANIZATION is dated the 21<sup>st</sup> day of December, 1998 by and between THE HAIRWEAR COMPANY, INC., a Florida Corporation (hereinafter called "HAIRWEAR"), and MARLENE D'ARCY, INC., a Florida Corporation, (hereinafter called "D'ARCEY").

**RECITALS:**

WHEREAS, the Boards of Directors of HAIRWEAR and D'ARCY have resolved that HAIRWEAR be merged pursuant to the Business Corporation Laws of the State of Florida into a single corporation existing under the laws of the State of Florida, to wit, MARLENE D'ARCY, INC., which shall be the surviving corporation (such corporation in its capacity as such surviving corporation being sometimes referred to herein as the "Surviving Corporation") in a transaction qualifying as a reorganization within the meaning of Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended ("IRC"); and

WHEREAS, the authorized capital stock of HAIRWEAR consists of 500 shares of common stock with a par value of \$1.00 per share (hereinafter called "HAIRWEAR Common Stock"), of which 100 shares are issued and outstanding; and

WHEREAS, the authorized capital stock of D'ARCY consists of 500 shares of Common stock with a par value of \$1.00 per share (hereinafter called "D'ARCY Common Stock"), of which 10 shares are issued and outstanding; and

WHEREAS, the respective Unanimous Boards of Directors and all Shareholders of HAIRWEAR and D'ARCY have approved the merger upon the terms and conditions hereinafter set forth and have approved this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, provisions, and covenants herein contained, the Parties hereto hereby agree in accordance with the Business Corporation Laws of the State of Florida that HAIRWEAR shall be, at the Effective Date (as hereinafter defined), merged (hereinafter called the "Merger") into a single Corporation existing under the laws of the State of Florida, to wit, MARLENE D'ARCY, INC., which shall be the Surviving Corporation, and the Parties hereto adopt and agree to the following agreements, terms, and conditions relating to the Merger and the mode of carrying the same into effect.

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by such reference.



2. **Stockholder's Meetings; Filings: Effects of Merger.**

- 2.1 **Stockholders' Meeting .** HAIRWEAR and D'ARCY shall each call a meeting of its stockholders to be held in accordance with the Business Corporation Law of the State of Florida at the earliest practicable date, upon due notice thereof to its stockholders to consider and vote upon, among other matters, adoption of this Agreement.
- 2.2 **Action by the Parties.** On or before December 21, 1998, HAIRWEAR and D'ARCY shall adopt this Agreement in accordance with the Business Corporation Law of the State of Florida.
- 2.3 **Filing of Certificate of Merger; Effective Date.** If (a) this Agreement is adopted by the stockholders of HAIRWEAR and D'ARCY in accordance with the Business Corporation Law of the State of Florida, and (b) this Agreement is not thereafter, and has not theretofore, been terminated or abandoned as permitted by the provisions hereof, then Articles of Merger shall be filed and recorded in accordance with the Business Corporation Law of the State of Florida. Such filings shall be made on the same day. The Merger shall become effective at 11:59 P.M. on the calendar day following the date of such filing in Florida, which date and time are herein referred to as the "Effective Date".
- 2.4 **Certain Effects of Merger.** On the Effective Date, the separate existence of HAIRWEAR shall cease, and shall be merged into D'ARCY which, as the Surviving Corporation, shall possess all the rights, privileges, powers, and franchises, of a public as well as of a private nature, and be subject to all the restrictions, disabilities and duties of HAIRWEAR; and all and singular, the rights, privileges, powers, and franchises of HAIRWEAR, and all property, real, personal, and mixed, and all debts due to HAIRWEAR on whatever account, as well for stock subscriptions and all other things in action or belonging to HAIRWEAR, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of HAIRWEAR, and the title to any real estate vested by deed or otherwise, under the laws of Florida or any other jurisdiction in HAIRWEAR shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of HAIRWEAR shall be preserved unimpaired, and all debts, liabilities and duties of HAIRWEAR shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it. At any time, or from time to time, after the Effective Date, the last acting officers of HAIRWEAR or the corresponding officers of the Surviving Corporation, may, in the name of HAIRWEAR, execute and deliver all such proper deeds, assignments, and other

instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to best, perfect, or confirm in the Surviving Corporation title to and possession of all HAIRWEAR property, rights, privileges, powers, franchises, immunities, and interests and otherwise to carry out the purposes of this Agreement.

**3. Name of Surviving Corporation; Certificate of Incorporation; By-Laws.**

**3.1 Name of Surviving Corporation.** The name of the Surviving Corporation from and after the Effective Date shall MARLENE D'ARCY, INC.

**3.2 Certificate of Incorporation.** The Certificate of Incorporation of D'ARCY as in effect on the date hereof shall from and after the Effective Date, be and continue to be, the Certificate of Incorporation of the Surviving Corporation until changed or amended as provided by law.

**3.3 By-Laws.** The By-Laws of D'ARCY as in effect immediately before the Effective Date, shall from and after the Effective Date be, and continue to be the By-Laws of the Surviving Corporation until amended as provided therein.

**4. Status and Conversion of Securities.** The manner and basis of converting the shares of the capital stock of HAIRWEAR and the nature and amount of securities of D'ARCY which the holders of shares of HAIRWEAR Common Stock are to receive in exchange for such shares are as follows:

**4.1 HAIRWEAR Common Stock.** Each one share of HAIRWEAR Common Stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one (1) fully paid share of D'ARCY Common Stock. Such certificates may, but need not be, exchanged by the holders thereof after the merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

**5. Termination/Abandonment of Merger.** This Agreement of Merger may be terminated and the proposed Merger abandoned at any time before the Effective Date of the Merger, and whether before or after approval of this Agreement of Merger by the shareholders of HAIRWEAR, if the Board of Directors of HAIRWEAR or of the Surviving Corporation duly adopt a resolution abandoning this Agreement of Merger.



6. **Miscellaneous Provisions.**

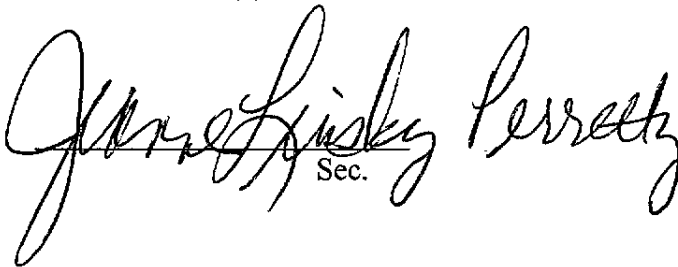
- 6.1. **Notices.** All notices required or permitted to be given under the terms of this Agreement shall be in writing. Notices may be personally delivered to a Party or may be mailed to a party. Notices are deemed given when received by the Party being noticed. However, if a notice is mailed to a Party by certified mail, return receipt requested, proper postage prepaid, in an envelope addressed to the address of the Party as same may be designated by a Party by giving notice thereof to all other Parties, then such notice shall be deemed given on the date that it is turned over to the custody of the United States Postal Service.
- 6.2. **Further Assurances.** All Parties shall execute and deliver such other instruments and do such other acts as may be necessary to carry out the intent and purposes of this Agreement.
- 6.3. **Gender.** Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.
- 6.4. **Counterparts.** This Agreement may be executed in any number of counterparts. All executed counterparts shall constitute one agreement notwithstanding that all signatories are not signatories to the original or the same counterpart.
- 6.5. **Captions.** The captions contained in this Agreement are inserted only as a matter of convenience and in no way defines limit, extend or prescribe the scope of this Agreement or the intent of any provision hereof.
- 6.6. **Completeness and Modification.** This Agreement constitutes the entire understanding among the Parties concerning the subject matter hereof and it supersedes all prior or contemporaneous agreements or understandings. No waiver or modification of the terms hereof shall be valid unless in writing signed by the Party or Parties to be charged and only to the extent therein set forth. No covenant, representation or condition not expressed in this Agreement shall offset or be effective to interpret, change or restrict the express provisions of this Agreement.
- 6.7. **Severability.** The invalidity in whole or in part of any covenant, promise or undertaking, or any section, subsection, paragraph, sentence, clause, phrase or words or of any provision of this Agreement shall not affect the validity of the remaining portions thereof.
- 6.8. **Governing Law/Venue/Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The

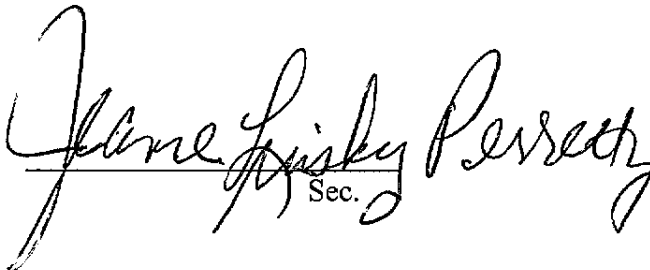
Parties hereto agree that all actions and proceedings relating directly or indirectly hereto shall be litigated in any state court located in Broward County, Florida, and the Parties hereby expressly consent to the jurisdiction of any such courts and to venue therein and consent to service of process in any such action or proceeding by certified or registered mailing of the summons and complaint therein directed to the Parties at their respective addresses set forth in this Agreement.

- 6.9 **Construction.** Each Party has reviewed this Agreement and the rule of construction that ambiguities are to be resolved against the Party drafting this Agreement shall not apply.
- 6.10 **Binding Effect.** This Agreement shall be binding upon the heirs, personal representatives, guardians, legal representatives, administrators, assigns and successors.
- 6.11 **Attorney's Fees.** In the event of any litigation arising out of this Agreement, the prevailing Party shall be entitled to court costs and reasonable attorney's fees at the trial and at the appellate levels.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date referenced above.

WITNESS:

  
Sec.

  
Sec.

THE HAIRWEAR COMPANY,  
INC., a Florida Corporation

BY: \_\_\_\_\_  
President

MARLENE D'ARCY, INC. a  
Florida Corporation

BY: \_\_\_\_\_  
President