



07-02-1998

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07-21-1998



100770664

R SHEET

Please record the attached original

To the Honorable Commission documents or copy thereof.

MED 7-2-98

1. Name of conveying party(ies):

Southcorp Water Heaters USA, Inc.

- Individual(s) Association
- General Partnership Limited Partnership
- Corporation-State of
- Other _____

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other _____

Execution Date: December 19, 1996

2. Name and address of receiving party(ies):

American Water Heater Company
100 Galleria Parkway, Suite 900
Atlanta, GA 30339

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State of Nevada
- Other _____

If assignee is not domiciled in the U.S, a domestic representative designation is attached: Yes No

(Designations must be a separate document from Assignment)

Additional name(s) and address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Registration No.(s)
1,681,092

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Austin R. Miller
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41) \$40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit Account No. 13-3405
(Attach duplicate copy of this page if paying by deposit account)

07/17/1998 JSHADAZZ 00000149 1681092

FC:481

40.00 GP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Austin R. Miller

Name of Person Signing

Austin R. Miller June 30, 1998

Signature

Date

Total number of pages including cover sheet, attachments and document: 15

FILED
THE OFFICE OF THE
SECRETARY OF STATE OF
STATE OF NEVADA

ARTICLES OF MERGER OF

12/24/96
2:24

AMERICAN WATER HEATERS-WEST, INC., A NEVADA CORPORATION

DEC 24 1996

CE 17854-96

AND

David Keller
-41 KELLER, SECRETARY

AMERICAN WATER HEATER COMPANY, A NEVADA CORPORATION

FILED
STATE OF WASHINGTON

APR 16 1997

RALPH MUNHO
SECRETARY OF STATE

To the Secretary of State
State of Nevada

Pursuant to the provisions of Chapter 92A, Nevada Revised Statutes, the two domestic corporations herein named do hereby submit the following Articles of Merger.

1. Annexed hereto and made a part hereof is the Agreement and Plan of Merger for merging American Water Heaters-West, Inc., a Nevada corporation (the "Company"), with and into American Water Heater Company, a Nevada corporation ("American Water Heater").

2. The Plan and Agreement of Merger was approved and adopted by unanimous written consent of the boards of directors and stockholders of (i) the Company, dated December 19, 1996 and (ii) American Water Heater, dated December 19, 1996.

3. The merger herein provided for shall become effective in the State of Nevada on December 31, 1996.

Signed on December 19 1996.

American Water Heaters-West, Inc.,
a Nevada corporation

By: Robert W. Trudeau
Robert W. Trudeau
Its: President

By: Edward T. Hackney
Edward T. Hackney
Its: Secretary

American Water Heater Company,
a Nevada corporation

By: Robert W. Trudeau
Robert W. Trudeau
Its: President

By: Edward T. Hackney
Edward T. Hackney
Its: Secretary

STATE OF TENNESSEE)
) SS:
COUNTY OF Washington)

On December 14, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of American Water Heaters - West, Inc., a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

Robert F. James
Notary Public

My commission expires 02/22/98

STATE OF TENNESSEE)
) SS:
COUNTY OF Washington)

On December 14, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of American Water Heater Company, a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

Robert F. James
Notary Public

My commission expires 02/22/98

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is entered into as of December 19, 1996 by American Water Heaters-West, Inc., a Nevada corporation, 500 Princeton Road, Johnson City, Tennessee 37601 (the "Company"), and American Water Heater Company, a Nevada corporation, 500 Princeton Road, Johnson City, Tennessee 37601 ("AWHC").

WHEREAS, Southcorp Investments USA, Inc., a Nevada corporation ("Southcorp Investments"), owns all of the issued and outstanding capital stock of the Company and all of the issued and outstanding capital stock of AWHC, thereby making both the Company and AWHC wholly-owned subsidiaries of Southcorp Investments;

WHEREAS, the respective Boards of Directors and sole shareholders of the Company and of AWHC have resolved that the Company be merged under and pursuant to the Nevada General Corporation Law ("NGCL") into a single corporation existing under the laws of the State of Nevada, to wit, AWHC, which shall be the surviving corporation (such corporation in its capacity as 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)(F) of the Internal Revenue Code of 1986, as amended;

WHEREAS, the Company has 2,500 authorized shares of common stock, no par value, 100 of which are issued and outstanding;

WHEREAS, AWHC has 1,000 authorized shares of common stock, \$100.00 par value, 10 of which are issued and outstanding;

NOW THEREFORE, the parties to this Agreement hereby agree as follows:

1. **The Merger.** Upon the terms and subject to the conditions hereby, and in accordance with the NGCL, the Company shall be merged with and into AWHC (the "Merger"). Following the Merger, AWHC shall continue as the surviving corporation under the name American Water Heater Company and the separate corporate existence of the Company shall cease.

2. **Status and Conversion of Securities.** The mode of carrying the Merger into effect and the manner and basis of converting the shares of the Company are as follows:

(a) **Company Common Stock.** Each share of Company common stock which shall be issued and outstanding immediately before the Effective Time (as hereinafter defined) shall, by virtue of the Merger and without any action, be cancelled.

(b) **AWHC Common Stock Held by Southcorp Investments.** All issued and outstanding shares of AWHC common stock held by Southcorp Investments immediately before the Effective Time shall remain unchanged by virtue of the Merger.

3. **Effective Time.** The Merger shall become effective after filing Articles of Merger with the Secretary of State of Nevada ("Articles of Merger") and at such time as stated in the Articles of Merger ("Effective Time").

4. **Articles of Incorporation and By-Laws.** Upon consummation of the Merger at the Effective Time, the Articles of Incorporation and By-Laws of AWHC in effect immediately prior to the Effective Time shall thereafter continue in full force and effect as the Articles of Incorporation and By-Laws of the Surviving Corporation, until amended or repealed as provided therein or by law.

5. **Officers and Directors.** The officers and directors of the Surviving Corporation shall be the corresponding officers and directors of AWHC immediately prior to the Effective Time.

6. **Filing.** As soon as practicable, the parties hereto shall cause to be executed in the manner required by the NGCL and delivered to the Secretary of State of Nevada such documents as shall effect the Merger under the laws of the State of Nevada, and the parties shall cause to be performed all necessary acts within the State of Nevada and elsewhere to effect the Merger. The Boards of Directors and the proper officers of the Company and AWHC are hereby authorized, empowered and directed to do any and all acts and things, and to make, execute, deliver, file and record any and all instruments, papers and documents which shall be or become necessary, proper or convenient to carry out or put into effect any of the provisions of this Agreement and Plan of Merger or of the Merger.

IN WITNESS WHEREOF, each of the parties has caused this Agreement and Plan of Merger to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

AMERICAN WATER HEATERS-WEST, INC.
a Nevada corporation

By: Robert W. Trudeau
Its: President

Attest:

By: Edward T. Haskins
Its: Secretary

AMERICAN WATER HEATER COMPANY,
a Nevada corporation

By: Robert W. Trudeau
Its: President

Attest:

By: Edward T. Haskins
Its: Secretary

4 ATTORNEYS

12/24/96

2:24

FILED
IN THE OFFICE OF THE
SECRETARY OF STATE OF
STATE OF NEVADA
C 8470-89
DEC 24 1996

ARTICLES OF MERGER OF

SOUTHCORP WATER HEATERS USA, INC., A PENNSYLVANIA CORPORATION

Dean Hill
ATTORNEY, SECRETARY OF STATE

AND

AMERICAN WATER HEATERS-WEST, INC., A NEVADA CORPORATION

To the Secretary of State
State of Nevada

Pursuant to the provisions of Chapter 92A, Nevada Revised Statutes, the domestic corporation and the foreign corporation herein named do hereby submit the following Articles of Merger.

1. Annexed hereto and made a part hereof is the Agreement and Plan of Merger for merging Southcorp Water Heaters USA, Inc., a Pennsylvania corporation (the "Company"), with and into American Water Heaters-West, Inc., a Nevada corporation ("American Water Heaters").

2. The Plan and Agreement of Merger was approved and adopted by unanimous written consent of (i) the board of directors and shareholder of the Company, dated December 19, 1996, and (ii) the board of directors and stockholder of American Water Heaters, dated December 19, 1996.

3. The merger herein provided for shall become effective in the State of Nevada on December 31, 1996.

Signed on December 19, 1996.

Southcorp Water Heaters-USA, Inc., a Pennsylvania corporation

By: Robert W. Trudear

Its: President

By: Edward T. Hackney
Edward T. Hackney

Its: Secretary

American Water Heaters-West, Inc., a Nevada corporation

By: Robert W. Trudear

Its: President

By: Edward T. Hackney
Edward T. Hackney

Its: Secretary

STATE OF GEORGIA)
) SS:
COUNTY OF COBB)

On December 19, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Edward T. Hackney, Secretary of Southcorp Water Heaters USA, Inc., a Nevada corporation, and _____, President of Southcorp Water Heaters USA, Inc., an a Nevada corporation, personally known to me to be the persons whose names are subscribed to the above instrument in the said capacities, who acknowledged that they executed the said instrument.

Deborah D. Sutton
Notary Public Notary Public, DeKalb County, Georgia.
My Commission Expires August 10, 1999.

STATE OF GEORGIA)
) SS:
COUNTY OF COBB)

On December 19, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Edward T. Hackney, Secretary of American Water Heaters-West, Inc., a Nevada corporation, and _____, President of American Water Heaters-West, Inc., a Nevada corporation, personally known to me to be the persons whose names are subscribed to the above instrument in the said capacities, who acknowledged that they executed the said instrument.

Deborah D. Sutton
Notary Public Notary Public, DeKalb County, Georgia.
My Commission Expires August 10, 1999.

STATE OF TENNESSEE)

COUNTY OF Washington)

) SS:

On December 16, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of Southcorp Water Heaters USA, Inc., a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

Judith A. James

Notary Public

My commission expires: 04/20/98

STATE OF TENNESSEE)

COUNTY OF Washington)

) SS:

On December 16, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of American Water Heaters - West, Inc., a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

Judith A. James

Notary Public

My commission expires: 04/20/98

TRADEMARK

REEL: 1755 FRAME: 0867

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is entered into as of December 19, 1996 by Southcorp Water Heaters USA, Inc., a Pennsylvania corporation, 500 Princeton Road, Johnson City, Tennessee 37601 (the "Company"), and American Water Heaters-West, Inc., a Nevada corporation, 500 Princeton Road, Johnson City, Tennessee 37601, a wholly-owned subsidiary of the Company ("American Water Heaters").

WHEREAS, Southcorp Investments USA, Inc., a Nevada corporation, owns all of the issued and outstanding capital stock of the Company, and the Company owns all of the issued and outstanding capital stock of American Water Heaters;

WHEREAS, the respective Boards of Directors and sole shareholders of the Company and American Water Heaters have resolved that the Company be merged under and pursuant to the Nevada General Corporation Law ("NGCL") and the Pennsylvania Business Corporation Law ("PBCL") into a single corporation existing under the laws of the State of Nevada, to wit, American Water Heaters, which shall be the surviving corporation (such corporation in its capacity as 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)(F) of the Internal Revenue Code of 1986, as amended;

WHEREAS, the Company has 1,000 authorized shares of common stock, no par value, 1,000 of which are issued and outstanding;

WHEREAS, American Water Heaters has 2,500 authorized shares of common stock, no par value, 100 of which are issued and outstanding;

NOW THEREFORE, the parties to this Agreement hereby agree as follows:

1. **The Merger.** Upon the terms and subject to the conditions hereby, and in accordance with the NGCL and the PBCL, the Company shall be merged with and into American Water Heaters (the "Merger"). Following the Merger, American Water Heaters shall continue as the surviving corporation under the name American Water Heaters-West, Inc. and the separate corporate existence of the Company shall cease.

2. **Status and Conversion of Securities.** The manner and basis of converting the shares of capital stock of the Company and the nature and amount of securities of American Water Heaters that the holder of shares of Company common stock is to receive in exchange for such shares are as follows:

- (a) Company Common Stock. Each share of Company common stock which shall be issued and outstanding immediately before the Effective Time (as hereinafter defined) shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Time into one tenth (1/10) fully paid share of American Water Heaters common stock, and outstanding certificates representing shares of Company common stock shall thereafter represent shares of American Water Heaters common stock in proportion to such conversion ratio. Such certificates may, but need not be, exchanged by the holder thereof after the Effective Time for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.
- (b) American Water Heaters Common Stock Held by the Company. All issued and outstanding shares of American Water Heaters common stock held by the Company immediately before the Effective Time shall, by virtue of the Merger and at the Effective Time, cease to exist and certificates representing such shares shall be cancelled.

3. Effective Time. The Merger shall become effective after filing Articles of Merger with the Secretary of State of Nevada ("Articles of Merger") and at such time as stated in the Articles of Merger ("Effective Time").

4. Articles of Incorporation and By-Laws. Upon consummation of the Merger at the Effective Time, the Articles of Incorporation and By-Laws of American Water Heaters in effect immediately prior to the Effective Time shall thereafter continue in full force and effect as the Articles of Incorporation and By-Laws of the Surviving Corporation, until amended or repealed as provided therein or by law.

5. Officers and Directors. The officers and directors of the Surviving Corporation shall be the corresponding officers and directors of American Water Heaters immediately prior to the Effective Time.

6. Filing. As soon as practicable, the parties hereto shall cause to be executed in the manner required by the NGCL and the PBCL and delivered to the respective Secretaries of State of Nevada and Pennsylvania such documents as shall effect the Merger under the laws of the State of Nevada and the State of Pennsylvania, and the parties shall cause to be performed all necessary acts within the State of Pennsylvania and the State of Nevada and elsewhere to effect the Merger. The Boards of Directors and the proper officers of the Company and American Water Heaters are hereby authorized, empowered and directed to do any and all acts and things, and to make, execute, deliver, file and record any and all instruments, papers and documents which shall be or become necessary, proper or convenient to carry out or put into effect any of the provisions of this Agreement and Plan of Merger or of the Merger.

IN WITNESS WHEREOF, each of the parties has caused this Agreement and Plan of Merger to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

SOUTHCORP WATER HEATERS USA, INC.
a Pennsylvania corporation

By: Robert W. Truehan
Its: President

Attest:

By: Edward T. Haskins
Its: Secretary

AMERICAN WATER HEATERS-WEST, INC.,
a Nevada corporation

By: Robert W. Truehan
Its: President

Attest:

By: Edward T. Haskins
Its: Secretary

RECORDED
INDEXED
SERIALIZED
FILED
JUL 2 1998
FBI - PHOENIX