

08-26-2002

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Form PTO-1594  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)  
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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 8-26-02  
TJ McCabe & Associates, Inc.,  
a Maryland corporation  
 Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation-State  
 Other \_\_\_\_\_  
Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies)  
Name: McCabe & Associates, Inc.  
Internal Address: 4th Floor  
Street Address: 9861 Broken Land Pkwy.  
City: Columbia State: MD Zip: 21046  
 Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State Delaware  
 Other \_\_\_\_\_  
If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)  
Additional name(s) & address(es) attached?  Yes  No

3. Nature of conveyance:  
 Assignment                               Merger  
 Security Agreement                       Change of Name  
 Other \_\_\_\_\_  
Execution Date: February 3, 1999

4. Application number(s) or registration number(s):  
A. Trademark Application No.(s)  
B. Trademark Registration No.(s)  
1687651  
Additional number(s) attached  Yes  No

6. Total number of applications and registrations involved: 1

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: Mary Dalton Baril  
Internal Address: McGuire Woods LLP  
901 East Cary Street  
Richmond, VA 23219  
Street Address: 901 East Cary Street  
City: Richmond State: VA Zip: 23219

7. Total fee (37 CFR 3.41).....\$ 40.00  
 Enclosed  
 Authorized to be charged to deposit account  
8. Deposit account number:  
13-0437  
(Attach duplicate copy of this page if paying by deposit account)

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.*  
Mary Dalton Baril                      Mary Baril                      8/16/02  
Name of Person Signing                      Signature                      Date  
Total number of pages including cover sheet, attachments, and document: 14

08/27/2002 LMJELLER 00000096 1687651

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Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patent & Trademarks, Box Assignments  
Washington, D.C. 20231

TRADEMARK  
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# ARTICLES OF MERGER

## MERGING

T.J. McCABE & ASSOCIATES, INC.  
(a corporation of the State of Maryland)

## INTO

McCABE & ASSOCIATES, INC.  
(a corporation of the State of Delaware)

**FIRST:** McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Delaware Corporation"), and T.J. McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Maryland (the "Maryland Corporation"), agree that said Maryland Corporation shall be merged with and into said Delaware Corporation (the "Merger"). The terms and conditions of the Merger and the mode of carrying the same into effect are as herein set forth in these Articles of Merger.

**SECOND:** McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Delaware, shall survive the Merger and shall continue under the name McCabe & Associates, Inc.

**THIRD:** The parties to these Articles of Merger are McCabe & Associates, Inc., a corporation organized on the 3rd day of April, 1998, under the General Corporation Law of the State of Delaware, and T.J. McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Maryland.

**FOURTH:** No amendments to the charter of the surviving corporation are to be effected as part of the Merger.

**FIFTH:** The total number of shares of stock of all classes which said Maryland Corporation has authority to issue is forty million (40,000,000) shares of common stock of no par value per share.

The total number of share of stock of all classes which said Delaware Corporation has authority to issue is fifty-one million (51,000,000) shares, divided into fifty million (50,000,000) shares of common stock of the par value of \$.01 per share, of the aggregate par value of \$500,000, and one million (1,000,000) shares of preferred stock of the par value of \$.01 per share, of the aggregate par value of \$10,000. The aggregate par value of all shares of all classes is \$510,000.

**SIXTH:** The manner and basis of converting or exchanging issued stock of the merged corporation into different stock or other consideration and the manner of

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dealing with any issued stock of the merged corporation not to be so converted or exchanged shall be as follows:

(a) Each share of common stock, no par value per share, of the Maryland Corporation ("Maryland Common Stock") that is issued and outstanding (other than shares of Maryland Common Stock, if any, held in the treasury of the Maryland Corporation) at the time on which the Merger shall become effective (the "Effective Time") shall, by virtue of the Merger and without further action, cease to exist and shall be converted into one-eighth of one share of the common stock, \$.01 par value per share, of the Delaware Corporation ("Delaware Common Stock"). No fractional shares of Delaware Common Stock shall be issued.

(b) Each share of Maryland Common Stock, if any, that shall then be held in the treasury of the Maryland Corporation on the effective date of the Merger shall, by virtue of the Merger and without further action, cease to exist and all certificates representing such shares shall be cancelled.

(c) Each share of Delaware Common Stock issued and outstanding in the name of the Maryland Corporation immediately prior to the effective time of the Merger shall be cancelled and retired and resume the status of authorized and unissued shares of Delaware Common Stock, and no shares of Delaware Common Stock or other securities of the Delaware Corporation shall be issued in respect thereof.

(d) After the Effective Time of the Merger, each holder of an outstanding certificate representing shares of Maryland Common Stock shall be entitled upon surrender of such certificate to the Delaware Corporation to receive certificates for the number of shares of Delaware Common Stock on the basis provided herein. Until so surrendered, the certificates representing outstanding shares of the capital stock of the Maryland Corporation to be converted into the capital stock of the Delaware Corporation as provided herein shall be treated by the Delaware Corporation for all corporate purposes as evidencing the ownership of shares of the Delaware Corporation.

**SEVENTH:** The principal office of the Maryland Corporation is located in the County of Howard, State of Maryland. The principal office of the Delaware Corporation is located in the County of Howard, State of Maryland.

None of the corporations party to these Articles of Merger owns property the title to which could be affected by the recording of an instrument among the Land Records.

**EIGHTH:** The location of the principal office of the surviving corporation in

the State of Delaware, the state of its incorporation is c/o Corporation Trust Center, 09 Orange Street, Wilmington, Delaware 19801, and the name and post office address of a resident agent of said surviving corporation in Maryland is Phillip Arrai, c/o McCabe & Associates, Inc., Twin Knolls Professional Park, 5501 Twin Knolls Road, Columbia, Maryland 21045.

**NINTH:** The terms and conditions of the Merger as set forth in these Articles of Merger were advised, authorized and approved by the Maryland Corporation, in the manner and by the vote required by its charter and the laws of Maryland. The manner in which the Merger was approved is as follows:

The Merger was duly approved by the Board of Directors of the Maryland Corporation, by the adoption at a meeting duly held on April 3, 1998, in the manner and by the vote required by law, of a resolution declaring that the Merger herein proposed was advisable substantially upon the terms and conditions set forth in these Articles of Merger. The Merger was duly approved by the stockholders of the Maryland Corporation by the affirmative vote of not less than two-thirds of all the votes entitled to be cast on the motion at a special meeting of the stockholders held on April 21, 1998.

**TENTH:** The terms and conditions of the Merger as set forth in these Articles of Merger were duly advised, authorized and approved by the Delaware Corporation in the manner and by the vote required by the laws of the State of Delaware and by the charter of the said corporation. The manner in which the Merger was approved is as follows:

Under Section 252 of the General Corporation Law of the State of Delaware (the "DGCL"), a corporation incorporated in the State of Delaware may merge or consolidate with a corporation incorporated in any state of the United States other than Delaware. The Merger was duly approved by the Board of Directors of the Delaware Corporation, by the adoption at a meeting duly held on April 3, 1998, in the manner and by the vote required by law, of a resolution declaring that the Merger herein proposed was advisable substantially upon the terms and conditions set forth in these Articles of Merger. The Merger was duly approved by the stockholder of the Delaware Corporation by the affirmative vote required by the laws of the State of Delaware.


**ELEVENTH:** The Certificate of Incorporation and By-laws of the Delaware Corporation as in effect immediately prior to the effectiveness of the Merger shall

continue in full force and effect as the Certificate of Incorporation and By-laws of the surviving corporation.

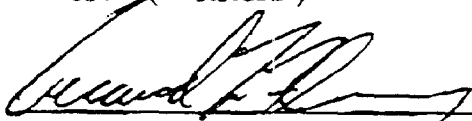
**TWELFTH:** The officers and directors of the Delaware Corporation immediately prior to the effectiveness of the Merger shall continue as the officers and directors of the surviving corporation.

IN WITNESS WHEREOF, the Maryland Corporation and the Delaware Corporation, the corporations parties to the Merger, have caused these Articles of Merger to be signed in their respective corporate names and on their behalf by their respective presidents or vice-presidents and witnessed or attested by their respective secretaries or assistant secretaries, as of the \_\_\_\_\_ day of \_\_\_\_\_, 1998.


T.J. McCABE & ASSOCIATES, INC.,  
a Maryland corporation

By:   
Phillip D. Carrai  
President

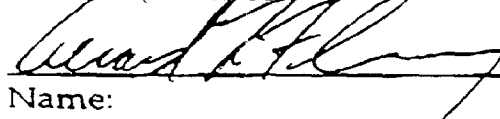
Attest: (Witness:)

  
Name:  
Secretary (or Assistant Secretary)

McCABE & ASSOCIATES, INC.,  
a Delaware corporation


By:   
Phillip D. Carrai  
President

Attest: (Witness:)

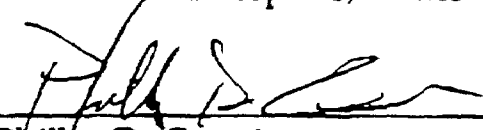
  
Name:  
Secretary (or Assistant Secretary)

THE UNDERSIGNED, President of T.J. McCabe & Associates, Inc., a Maryland

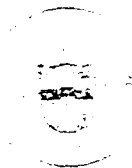
corporation, who executed on behalf of said corporation the foregoing Articles of Merger, of which this certificate is made a part, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Articles of Merger to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein with respect to the approval thereof are true in all material respects, under the penalties of perjury.


  
\_\_\_\_\_  
Phillip D. Carrai

THE UNDERSIGNED, President of McCabe & Associates, Inc., a Delaware corporation, who executed on behalf of said corporation the foregoing Articles of Merger, of which this certificate is made a part, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Articles of Merger to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein with respect to the approval thereof are true in all material respects, under the penalties of perjury.

  
\_\_\_\_\_  
Phillip D. Carrai

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AGREEMENT OF MERGER, WHICH MERGES: "T.J. MCCABE & ASSOCIATES, INC.", A MARYLAND CORPORATION, WITH AND INTO "MCCABE & ASSOCIATES, INC." UNDER THE NAME OF "MCCABE & ASSOCIATES, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRD DAY OF FEBRUARY, A.D. 1999, AT 10 O'CLOCK A.M.



  
\_\_\_\_\_  
Edward J. Freel, Secretary of State

2874547 8100M

991176536

AUTHENTICATION 9724403

DATE 05-04-99

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## AGREEMENT AND PLAN OF MERGER

**AGREEMENT AND PLAN OF MERGER**, dated this 3<sup>rd</sup> day of February, 1999 pursuant to Section 3-102 of the Maryland General Corporation Law and Section 252 of the General Corporation Law of Delaware, between T.J. McCabe & Associates, Inc., a Maryland corporation having its principal place of business at 5501 Twin Knolls Road, Suite 111, Columbia, Maryland 21045 (the "Company"), and McCabe & Associates, Inc., a Delaware corporation incorporated in Delaware on April 3, 1998 and having its principal place of business at 5501 Twin Knolls Road, Suite 111, Columbia, Maryland 21045 (the "Surviving Company").

### WITNESSETH:

WHEREAS, the Company is a corporation duly organized and existing under the laws of the State of Maryland and is authorized to issue 40,000,000 shares of Common Stock, no par value per share (representing aggregated stated capital of \$10,032), of which 35,433,333 shares are issued and outstanding as of the date hereof;

WHEREAS, the Surviving Company is a corporation duly organized and existing under the laws of the State of Delaware and the total number of shares of all classes of stock which the Surviving Company shall have authority to issue is 51,000,000 shares, consisting of 50,000,000 shares of Common Stock, \$.01 par value per share ("Common Stock"), of which 1,000 shares are issued and outstanding as of the date hereof and 1,000,000 shares of Preferred Stock, \$.01 par value per share (for an aggregate par value of \$510,000), of which no shares are issued and outstanding as of the date hereof;

WHEREAS, the Company desires to merge itself into the Surviving Company;

WHEREAS, the Surviving Company desires that the Company be merged into it; and

WHEREAS, the Boards of Directors of the Company and the Surviving Company desire that the merger provided for herein be a tax-free reorganization pursuant to Section 368(a) of the Internal Revenue Code of 1986, as amended, and have adopted resolutions approving this Agreement and Plan of Merger;

NOW THEREFORE, in consideration of the foregoing premises and the undertakings herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:



1. Merger. The Company shall be merged into the Surviving Company pursuant to Section 3-102 of the Maryland General Corporation Law and Section 252 of the General Corporation Law of Delaware. The Surviving Company shall survive the merger herein contemplated and shall continue to be governed by the laws of the State of Delaware. The separate corporate existence of the Company shall cease forthwith upon the Effective Date (as defined below). The merger of the Company into the Surviving Company shall herein be referred to as the "Merger."

2. Stockholder Approval. The Merger was duly approved by the stockholders of the Company and the stockholder of the Surviving Company by the votes required by the laws of the States of Maryland and Delaware, respectively.

3. Effective Date. The Merger shall be effective upon both (i) the filing of this Agreement and Plan of Merger or a Certificate of Merger with the Secretary of State of the State of Delaware and (ii) the filing of Articles of Merger with the State Department of Assessments and Taxation of the State of Maryland, which filings shall be made as soon as practicable after all required stockholder approvals have been obtained. The time of such effectiveness shall herein be referred to as the "Effective Date."

4. Common Stock of the Company and the Surviving Company.

(a) On the Effective Date, by virtue of the Merger and without any action on the part of the holders thereof, each share of Common Stock of the Company issued and outstanding immediately prior thereto shall cease to exist and shall be changed and converted into one-eighth of one fully paid and non-assessable share of the Common Stock, par value \$.01 per share, of the Surviving Company.

(b) Each share of the Surviving Company issued and outstanding in the name of the Company immediately prior to the Effective Date shall be cancelled and retired and resume the status of authorized but unissued shares of Surviving Company Common Stock, and no shares of Surviving Company Common Stock or other securities of Surviving Company shall be issued in respect hereof.

5. Stock Certificates. After the Effective Date, each holder of an outstanding certificate representing shares of Common Stock of the Company shall surrender the same to the Surviving Company and each holder shall be entitled on such surrender to receive certificates for the number of shares of Surviving Company stock on the basis provided for herein. Until so surrendered, all of the outstanding certificates which prior to that time represented shares of the Stock of the Company shall be deemed for all purposes to evidence ownership of and to represent the shares of the Surviving Company into which the shares of the Company represented by such certificates have been converted as herein provided. The registered owner on the books and records of the Surviving Company or its transfer agent of a such

outstanding stock certificate shall, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Company or its transfer agent, have and be entitled to exercise any voting and other rights with respect to and to receive any dividend and other distributions upon the shares of the Surviving Company evidenced by such outstanding certificate as above provided.

6. Succession. On the Effective Date, the Surviving Company shall succeed to all of the rights, privileges, debts, liabilities, powers and property of the Company in the manner of and as more fully set forth in Section 259 of the General Corporation Law of Delaware. Without limiting the foregoing, upon the Effective Date, all property, rights, privileges, franchises, patents, trademarks, licenses, registrations, and other assets of every kind and description of the Company shall be transferred to, vested in and devolved upon the Surviving Company without further act or deed and all property, rights, and every other interest of the Company and the Surviving Company shall be as effectively the property of the Surviving Company as they were of the Company and the Surviving Company, respectively. All rights of creditors of the Company and all liens upon any property of the Company shall be preserved unimpaired, and all debts, liabilities and duties of the Company shall attach to the Surviving Company and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

7. Certificate of Incorporation and By-Laws. The Certificate of Incorporation of the Surviving Company in effect on the Effective Date shall continue to be the Certificate of Incorporation of the Surviving Company until further amended in accordance with the provisions thereof and applicable law. The By-Laws of the Surviving Company in effect on the Effective Date shall continue to be the By-Laws of the Surviving Company until amended in accordance with the provisions thereof and applicable law.

8. Directors and Officers. The members of the Board of Directors and the officers of the Surviving Company on the Effective Date shall continue in office until the expiration of their respective terms of office and until their successors have been elected and qualified.

9. Further Assurances. From time to time, as and when required by the Surviving Company or by its successors and assigns, there shall be executed and delivered on behalf of the Company such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other action, as shall be appropriate or necessary in order to vest or perfect in or to confirm of record or otherwise in the Surviving Company the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of the Company, and otherwise to carry out the purposes of this Agreement and Plan of Merger, and the officers and directors of the Company are fully authorized in the

name and on behalf of the Company or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

10. Abandonment. At any time prior to the Effective Date, this Agreement and Plan of Merger may be terminated and the Merger may be abandoned by the Board of Directors of either the Company or the Surviving Company or both, notwithstanding approval of this Agreement and Plan of Merger by the stockholders of the Company or the Surviving Company.

11. Amendment. This Agreement and Plan of Merger may be amended by the Boards of Directors of the Company and the Surviving Company at any time prior to the Effective Date, provided that an amendment made subsequent to the approval of this Agreement and Plan of Merger by the stockholders of the Surviving Company or the Company shall not (1) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such corporation, (2) alter or change any term of the Certificate of Incorporation of the Surviving Company to be effected by the Merger or (3) alter or change any of the terms and conditions of this Agreement and Plan of Merger if such alteration or change would adversely affect the holders of any class or series of the stock of such corporation.

12. Governing Law. This Agreement and Plan of Merger and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of Delaware.

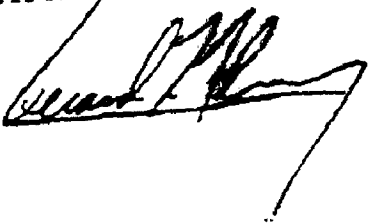
13. Counterparts. In order to facilitate the filing and recording of this Agreement and Plan of Merger, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

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


T.J. MCCABE & ASSOCIATES, INC.

By:   
Name: Phillip D. Carrai  
Title: President

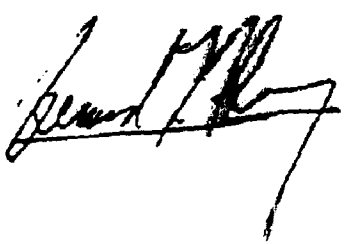
ATTEST:



MCCABE & ASSOCIATES, INC.


By:   
Name: Phillip D. Carrai  
Title: President

ATTEST:




I, Phillip D. Carrai, President of T.J. McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Maryland, hereby certify that the Agreement and Plan of Merger to which this certificate is attached, after having been first duly signed on behalf of said corporation and having been signed on behalf of McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Delaware, was duly submitted to the shareholders of T.J. McCabe & Associates, Inc. pursuant to Section 3-105 of the Maryland General Corporation Law and that the Agreement and Plan of Merger was approved by the affirmative vote of stockholders representing at least a majority of the outstanding stock of said corporation entitled to vote thereon.

WITNESS my hand on this 3<sup>rd</sup> day of February, 1999.

  
\_\_\_\_\_  
President  
Phillip D. Carrai

I, Phillip D. Carrai, President of McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certify that the Agreement and Plan of Merger to which this certificate is attached has been duly signed on behalf of said corporation and has been signed on behalf of T.J. McCabe & Associates, Inc., a corporation organized and existing under the laws of the State of Maryland.

WITNESS my hand on this 3<sup>rd</sup> day of February, 1999.

  
\_\_\_\_\_  
President  
Phillip D. Carrai

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In Re Trademark Registration:

Mark: M & McCABE ASSOCIATES and design  
Registration No.: 1,687,651  
Registered: May 19, 1992

**AFFIDAVIT**

A Combined Declaration of Use and Application for Renewal was filed with the Patent and Trademark Office for the registration for M & McCABE ASSOCIATES and design on March 18, 2002. An office action dated May 20, 2002 was issued in response to this filing. The ownership of the registration is at issue.

The facts are as follows:

1. The application for the mark M & McCABE ASSOCIATES and design was filed on October 10, 1990 and the mark was registered in the name of McCabe and Associates, Inc., a Maryland corporation.
2. At the time the application was filed in 1990. The applicant's name was misstated. The correct name was TJ McCabe & Associates, Inc., a Maryland corporation.
3. Subsequently, on February 3, 1999, TJ McCabe & Associates, Inc. (Maryland corporation) was merged into McCabe & Associates, Inc., a Delaware corporation formed in 1998.
4. Copies of the Articles of Merger were filed with the Patent and Trademark Office's branch on August \_\_, 2002. A copy of that filing is attached as Exhibit A.
5. The owner name in which this mark was registered was incorrect and the application should have been filed in the name of TJ McCabe & Associates, Inc., a Maryland corporation. The application was mistakenly filed in the name of McCabe & Associates, a Maryland corporation.

I respectfully request that the Combined Declaration of Use and Application for Renewal filed for the mark M & McCabe Associates and design be accepted and that the owner's name and citizenship be corrected to McCabe & Associates, Inc., a Delaware corporation.

McCabe & Associates, Inc.

By: Christine McBeald  
Name: Christine McBeald  
Title: Legal Department  
Date: August 22, 2002