

F990000005194

TRANSMITTAL LETTER

To: Qualification/Tax Lien Section
Division of Corporations

SUBJECT: BAGBY & RUSSELL ELECTRIC COMPANY, INC.

(Name of corporation - must include suffix)

Dear Sir or Madam:

800002982608--0

-09/09/99--01063--008

*****78.75 *****78.75

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida", "Certificate of Existence", and check are submitted to register the above referenced foreign corporation to transact business in Florida.

800002982608--0

-10/08/99--01045--001

***1965.00 ***1500.00

Please return all correspondence concerning this matter to the following:

Pearl L. Walker

(Name of Person)

Bagby & Russell Electric Company, Inc.

(Firm/Company)

513 Beltline Hwy N.

(Address)

Mobile, AL 36608

(City/State/Zip)

\$ 1965.00

Should you need to call someone concerning this matter, please call:

Pearl L. Walker

at (334) 344-5987

(Name of Person)

(Area Code & Daytime Telephone Number)

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99 OCT -6 AM 11:15
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STREET ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
409 E. Gaines St.
Tallahassee, FL 32399

MAILING ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Enclosed is a check for the following amount:

☐ \$70.00 Filing Fee

☒ \$78.75 Filing Fee &
Certificate of Status

☐ \$78.75 Filing Fee &
Certified Copy

☐ \$87.50 Filing Fee,
Certificate of Status &
Certified Copy

W99-21100
#465.00-AR
#1500.00-Penalty

JB
10-8-99

JAMES L. PERMUTT
KARL B. FRIEDMAN
JACK E. HELD
HAROLD L. APOLINSKY
JOSEPH S. BLUESTEIN
RICHARD COHN
J. MASON DAVIS, JR.
JULIAN D. BUTLER
EDWARD M. FRIEND, III
C. LEE REEVES
ROBERT E. SASSER
STEPHEN R. WINDOM
RICHARD H. SFORZINI, JR.
JERRY E. HELD
MAURICE L. SHEVIN
JOE H. RITCH
GEORGE W. ROYER, JR.
DAVID M. WOOLDRIDGE
RODNEY A. MAX
MELINDA M. MATHEWS
SHIRLEY M. JUSTICE
JACK B. LEVY
STEVEN A. BRICKMAN
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JUDITH F. TODD
RODGER G. STEAKLEY
JOHN R. CHILES
DALE B. STONE
JEFF KOHN

CHARLES R. DRIGGARS
M. DONALD DAVIS, JR.
KAYE K. HOUSER
TIMOTHY A. BUSH
T. JULIAN MOTES
GREGGORY M. DEITSCH
JOSEPH T. RITCHEY
DONALD M. WRIGHT
DANIEL J. BURNICK
JOHN N. RANDOLPH
ROONEY E. NOLEN
JOHNNIE F. VANN
ROBERT R. BAUGH
JOHN P. BURBACH
J. RUSHTON MCLEES
CHRISTINE SAMPSON HINSON
MICHAEL A. YOUNGPETER
THOMAS A. ANSLEY
FRANCES HEIDT
FERN SINGER
GARY S. SCHIFF
BRADLEY J. SKLAR
CHARLES A. STEWART, III
J. LANCE WEBSTER
THOMAS G. TUTTEN, JR.
C. RANDAL JOHNSON
CANDACE L. VOGT
STEPHEN B. PORTERFIELD
DAVID W. LONG
JUNE WANG

SIROTE & PERMUTT

A PROFESSIONAL CORPORATION

One St. Louis Centre/Suite 1000
Mobile, Alabama 36602

Reply to:

Post Office Drawer 2025
Mobile, Alabama 36652-2025
Telephone (334) 432-1671
Facsimile (334) 434-0196

Writer's direct dial numbers

(334) 434-0130

Writer's Direct e-mail Address:

imotes@sirote.com

September 29, 1999

FRED L. COFFEY, JR.
J. JEFFERY RICH
JAMES S. WILLIAMS
SAMUEL M. HILL
GAIL WASHINGTON
O. BARTLEY LOFTIN, III
MELISSA W. LARSEN
J. SCOTT SAMS
REBECCA WRIGHT PRITCHETT
GEORGE A. SMITH, II
KENNETH J. RIEMER
SARAH WRIGHT RUFFNER
LAURA MORRISON SCHIELE
TAMARA A. STIDHAM
E. BARRY JOHNSON
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BRIAN P. STRENGTH
OF COUNSEL
MARIA B. CAMPBELL
RUSSELL CARTER GACHE
ELIZABETH H. HUTCHINS
STUART LEACH
DOROTHY WELLS LITTLETON
MAYER U. NEWFIELD
LENORA WALKER PATE
SANDRA L. VINIK
PROF. JOSEPH W. BLACKBURN
SCHOLAR IN RESIDENCE
MORRIS K. SIROTE (1909-1994)
E.M. FRIEND, JR. (1912-1995)
WILLIAM G. WEST, JR. (1922-1975)

RECEIVED

Mr. Gerry York, Esq.
Office of the Secretary
General Counsel
Capital Building, lower level
Tallahassee, Florida 32399

Re: Bagby & Russell Electric Co., Inc.

Dear Mr. York:

Enclosed please find the affidavit of Franklin D. Russell. This affidavit was prepared in response to the letter from the Florida Department of State ("Department") dated September 14, 1999 asserting that Bagby & Russell Electric Co., Inc. ("Bagby") owes penalties and fees amounting to \$13,621.25 for its failure to obtain a certificate of authority prior to transacting business in the State of Florida.

The Department asserts that Bagby's initial date of transacting business in Florida is January 8, 1987. As evidenced by Mr. Russell's affidavit, however, Bagby did not transact any business in Florida until 1996. Accordingly, we ask for the removal of any and all penalties and fees accruing prior to 1996.

In addition, we submit that the amount of penalties and fees accruing since 1996 should also be reduced. The Florida statute¹ that authorizes the imposition of these penalties and fees provides that a corporation shall be liable for a civil penalty "of not less than \$500 or more than \$1,000" for each year or part thereof that it transacts business in the State of Florida without having first obtained a certificate of authority. Thus, the Department has, within its discretion, a \$500 range within which to set the amount of the annual penalty.

It appears that Bagby is being penalized at the maximum amount allowable by law. Yet, except for its failure to obtain a certificate of authority, Bagby has complied with all other procedural rules and

¹ FLA. STAT. § 607.1502.

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Law Offices and Mediation Centers

2222 Arlington Avenue South
Birmingham, Alabama 35205
(205) 933-7111

200 Clinton Avenue, N.W.
Huntsville, Alabama 35801
(256) 536-1711

One Commerce Street/Suite 700
Montgomery, Alabama 36104
(334) 261-3400

Mr. Franklin D. Russell
September 29, 1999
Page 2

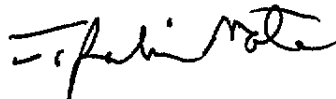
regulations associated with doing business in the State of Florida. For example, Bagby has filed annual Florida income tax returns, paid applicable Florida payroll taxes (i.e., SUI), paid applicable license renewal fees to the State of Florida, and applied for and received all necessary permits from the State of Florida to operate therein. Notwithstanding Bagby's numerous contacts with the State of Florida, the Department, and all other Florida officials for that matter, have failed to notify Bagby of its failure to obtain a certificate of authority until now.

It is apparent that Bagby's failure to obtain a certificate of authority was simply inadvertent, and not intentional or malicious. Again, Bagby has taken all other steps necessary to comply with Florida procedural rules and regulations (e.g., income tax returns, license renewals, permits, etc.). Accordingly, we ask that you reduce the annual penalty from \$1000 to \$500.

Please recalculate the amount of annual report fees and penalty fees in accordance with the above. Thank you for considering Bagby's extenuating circumstances in this matter.

We will look forward to hearing from you.

Sincerely,



T. Julian Motes
FOR THE FIRM

TJM/lbg
Enclosure

cc: Shirley M. Justice, Esq.

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99 OCT -6 AM 11:15
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

AFFIDAVIT OF FRANKLIN D. RUSSELL

STATE OF ALABAMA)

COUNTY OF MOBILE)

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TALLAHASSEE, FLORIDA

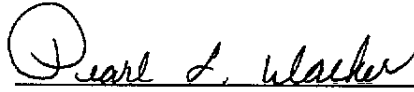
Before me, the undersigned Notary Public in and for said State and County, personally appeared Franklin D. Russell, who being by me first duly sworn, on oath deposes and says as follows:

1. My name is Franklin D. Russell, and I am over the age of twenty-one (21) years. I serve as President of Bagby & Russell Electric Co., Inc. ("Bagby") and have held this position for several years. In such capacity, I have custody and access to the records of Bagby, including those records pertaining to Bagby's operations in different states, and have personal knowledge of the matters hereinafter set forth.
2. Based on my review of the applicable business records, in addition to my personal knowledge of the geographic location of Bagby's operations, I attest that Bagby transacted no business in the State of Florida until 1996.
3. The facts stated in this affidavit are true and correct. In verification of the truth of said facts and truth of this affidavit, my signature is subscribed hereto.
4. Further, Affiant sayeth not.



Franklin D. Russell
President
Bagby & Russell Electric Co., Inc.

SWORN TO AND SUBSCRIBED before me on this the 28th day of September, 1999.


NOTARY PUBLIC

My Commission Expires: MY COMMISSION EXPIRES FEB. 22, 2003

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

September 14, 1999

PEARL L. WALKER
BAGBY AND RUSSELL ELECTRIC COMPANY, INC.
513 BELTLINE HWY. N.
MOBILE, AL 36608

SUBJECT: BAGBY AND RUSSELL ELECTRIC COMPANY, INC.
Ref. Number: W99000021100

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

99 OCT -6 AM 11:15

FILED

We have received your document for BAGBY AND RUSSELL ELECTRIC COMPANY, INC. and your check(s) totaling \$78.75. However, the document has not been filed and is being retained in this office for the following:

Based upon information provided by the Florida Department of Revenue, pursuant to section 213.053(14), Florida Statutes, it appears that BAGBY AND RUSSELL ELECTRIC COMPANY, INC. has transacted business in Florida prior to submitting an "Application for Authority to Transact Business in Florida". The information received from the Florida Department of Revenue indicates January 8, 1987, as the initial date of transacting business in the State of Florida. Please contact this office concerning the date first transacted business in Florida.

Pursuant to section 607.1502(4), Florida Statutes, this office collects a civil penalty of \$1000 for each year this entity transacted business in Florida prior to qualification and the appropriate charter tax and annual report fees that would have been due this office had the corporation qualified the year it began operations in this state. Please complete the enclosed form INHSE37 and contact this office for the charter tax due. The amount entitled this office in annual report fees and penalty fees is \$13,621.25.

If you have any questions concerning the filing of your document, please call (850) 487-6025.

Trevor Brumbley
Document Specialist

Letter Number: 599A00045196



FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State
OFFICE OF THE GENERAL COUNSEL

F A C S I M I L E T R A N S M I T T A L

TO FAX NUMBER: (334) 434-0196

Please deliver the following pages to:

NAME: T. Julian Motes

COMPANY: Bagby & Russell Electric Company, Inc.

CITY/STATE: Mobile, Alabama

**SENDER: Gerard T. York, Esq.,
Assistant General Counsel**

DATE/TIME: 10/05/99 8:19 AM

NUMBER OF PAGES (including transmittal sheet):2

FROM FAX: 850/922-5763 (Suncom 292-5763)

COMMENTS: This communication is in response to your letter of September 29, 1999 regarding annual report fees and statutory penalties assessed against Bagby & Russell Electric Co., Inc. ("Bagby") under section 607.1502(4), Florida Statutes, and our subsequent conversation.

If Bagby has transacted business in Florida since 1996, then an amount of \$3465 in penalties and annual report fees is now due. To avoid litigation, we would offer to settle the issue of foreign non-qualified penalties from Bagby for the sum of \$1965, reflecting annual report fees from 1996 of \$ 465 and penalties from 1996 of \$1500 assessed at the statutory minimum of \$500 per year.

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TALLAHASSEE, FLORIDA

Upon receipt of a check for \$1965 amount payable to the Department of State, Division of Corporations, I will instruct the Division of Corporations to issue Bagby a Certificate of Authority to transact business in Florida. Please mail the check to this attorney at: Office of General Counsel, LL-10, The Capitol, Tallahassee, Florida 32399-0250. Please do not hesitate to contact me should you have any questions.

If there are any problems in receiving this transmission, call Jane at 850/414-5536 or Suncom 994-5536.

LL-10 • THE CAPITOL • TALLAHASSEE, FLORIDA 32399-0250

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA



Department of State

Memorandum Office of the General Counsel

TO: File

FROM: Gerard York, Assistant General Counsel

DATE: October 6, 1999

RE: Bagby and Russell Electric Co., Inc.

Based on my review of the file and the payments received from the corporation, it is my recommendation that this file be closed. Corporation has paid outstanding report fees from 1996 of \$465.00 and foreign non-qualified penalties of \$ 1500.00 assessed at the statutory minimum of \$500 per year and wishes to be qualified to do business in the State of Florida. Accordingly, it is recommended corporation be issued a certificate of authority.

/gty

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT
BUSINESS IN FLORIDA**

*IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO
REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.*

1. BAGBY and RUSSELL ELECTRIC COMPANY, INC.
(Name of corporation; must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)

2. ALABAMA 3. 63-0942738
(State or country under the law of which it is incorporated) (FEI number, if applicable)

4. 1/8/87 5. _____
(Date of incorporation) (Duration: Year corp. will cease to exist or "perpetual")

6. _____
(Date first transacted business in Florida.) (SEE SECTIONS 607.1501, 607.1502 and 817.155, F.S.)

7. 513 Beltline Hwy N.
Mobile, AL 36608
(Current mailing address)

8. Electrical Contractor
(Purpose(s) of corporation authorized in home state or country to be carried out in state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box or Mail Drop Box NOT acceptable)

Name: Thomas Edward Raines

~~XXXX~~ Address: 3732 Raines Street

Pensacola, Florida, 32514
(Zip code)

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Thomas E. Raines
(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors: (Street address **ONLY** - P.O. Box **NOT** acceptable)

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TALLAHASSEE, FLORIDA

A. DIRECTORS (Street address only - P.O. Box NOT acceptable)

Chairman: Franklin D. Russell ALSO CEO OF COMPANY

Address: 5551 James Madison Drive S.

Mobile, AL 36693

Vice Chairman: Richard A. Russell ALSO PRESIDENT OF COMPANY

Address: 9320 Talking Leaves Lane

Mobile, AL 36695

Director: James Larry Smith ALSO VICE PRESIDENT OF COMPANY

Address: 102 President Jefferson Drive

Dauphin Island, AL 36528

Director: Pearl L. Walker ALSO SECRETARY/TREASURER OF COMPANY

Address: 7720 Clifton Way

Mobile, AL 36619

B. OFFICERS (Street address only - P.O. Box NOT acceptable)

President: ALL OF THE ABOVE BOARD OF DIRECTORS ARE ALSO OFFICERS FOR COMPANY

Address: _____

Vice President: Albert C. Hensley

Address: 2730 Williedee Cr. N.

Semmes, AL 36575

Secretary: _____

Address: _____

Treasurer: _____

Address: _____

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TALLAHASSEE, FLORIDA

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13. Franklin D. Russell
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)

14. Franklin D. Russell CEO

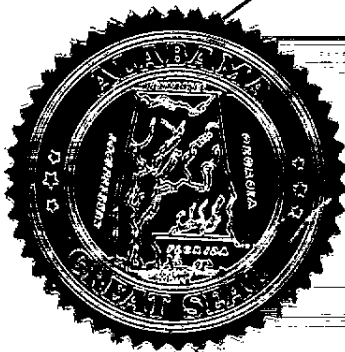
(Typed or printed name and capacity of person signing application)

STATE OF ALABAMA

I, Jim Bennett, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

the domestic corporation records on file in this office disclose that Bagby and Russell Electric Company, Inc. incorporated in Mobile County, Mobile, Alabama on January 8, 1987. I further certify that the records do not disclose that said Bagby and Russell Electric Company, Inc. has been dissolved.

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA



In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

August 5, 1999

Date

Jim Bennett

Jim Bennett

Secretary of State