


STATE OF ALABAMA)

COUNTY OF SHELBY)


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Shelby Cnty Judge of Probate, AL
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CERTIFICATE OF FORMATION

OF

ALABAMA FAMILY BUSINESS INSTITUTE

Pursuant to the provisions of the Alabama Business and Nonprofit Entity Code, § 10A-1-1.01 et seq., Code of Alabama, 1975 (the "Entity Code"), including Title 10A, Chapter 3, the Alabama Nonprofit Corporation Law (the "Law"), the undersigned hereby files this Domestic Nonprofit Corporation Certificate of Formation.

ARTICLE I

NAME

The name of the Corporation shall be Alabama Family Business Institute.

ARTICLE II

PERIOD OF DURATION

The period of duration of the Corporation is perpetual, unless it is dissolved and its affairs wound up in accordance with the Entity Code, or as provided in the bylaws of the Corporation.

ARTICLE III

PURPOSE(S)

The Corporation is organized exclusively for educational and charitable purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under §501(c)(3) of the Internal Revenue Code of 1986, as amended, or its successor. To that end, the following provisions shall apply:

(a) The corporation shall receive and administer funds for such charitable and educational purposes with a specific emphasis on the educational purpose to provide the community of family-owned businesses, entities and individuals, a forum to promote an exchange of ideas, growth and development, and educational resources to serve and educate family-owned businesses in Alabama. All activities will be within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, or its successor. The corporation shall also receive and administer funds for such charitable and educational purposes, all for the public by bequest, devise, gift, purchase, or lease, either absolutely or in trust for such objects and purposes or any of them, any property, real, personal or mixed, without limitation as to amount of value, except

such limitations, if any, as may be imposed by law; to sell, convey, and dispose of any such property and to invest and reinvest the principal thereof, and to deal with and expend the income therefrom for any of the before-mentioned purposes, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is received; to receive any property, real, personal mixed, in trust, under the terms of any will, deed of trust, or other trust instrument for the foregoing purposes or any of them, and in administering the same to carry out the directions, and exercise the powers contained in the trust instrument under which the property is received, including the expenditure of the principal as well as the income, for one or more of such purposes, if authorized or directed in the trust instrument under which it is received, but no gift, bequest or devise of any such property shall be received and accepted if it be conditioned or limited in such manner as shall require the disposition of the income or its principal to any person or organization other than an "exempt organization" or for other than "exempt purposes" within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterward amended, or as shall in the opinion of the Board of Directors, jeopardize the federal income tax exemption of the Corporation pursuant to §501(c)(3) of the Internal Revenue Code of 1986, as now in force or later amended; to receive, take title to, hold, and use the proceeds and income of stocks, bonds, obligations, or other securities of any corporation or corporations, domestic or foreign, but only for the foregoing purposes, or some of them; and, in general, to exercise any, all and every power for which a non-profit corporation organized under the applicable provisions of the Alabama Nonprofit Corporation Act for scientific, educational, and charitable purposes all for the public welfare, can be authorized to exercise, but only to the extent the exercise of such powers are in furtherance of exempt purposes.

(b) No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, including members, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these Articles. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation (except that, if the Corporation so elects, it may make such expenditures in conformity with §501(h) of the Internal Revenue Code) and the Corporation shall not participate in or intervene in (including publishing or distribution of statements) any political campaign on behalf of, or in opposition to, any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from Federal Income Tax under §501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

(c) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the Corporation to tax under §4942 of the Internal Revenue Code of 1986, as amended, or its successor.

(d) The Corporation shall not engage in any act of self-dealing as defined in §4941(d) of the Internal Revenue Code of 1986, as amended, or its successor.

(e) The Corporation shall not retain any excess business holdings as defined in §4943(c) of the Internal Revenue Code of 1986, as amended, or its successor.

(f) The Corporation shall not make any investments in such manner as to subject it to tax under §4944 of the Internal Revenue code of 1986, as amended, or its successor.

(g) The Corporation shall not make any taxable expenditures as defined in §4945(d) of the Internal Revenue Code of 1986, as amended, or its successor.

(h) No gift or grant will be accepted if it contains major conditions which would restrict or violate any of the charitable or educational purposes or if it would require serving a private as opposed to public interest.

(i) To do all and everything necessary, suitable and proper for the accomplishment of any of the purposes or the attainment of any of the objects or the furtherance of any of the powers earlier set forth, either alone or in association with other corporations, firms, or individuals, and to do every other act or acts, thing or things, incidental or appurtenant to or growing out of or connected with the aforesaid objects or purposes of any part or parts thereof, provided the same are not inconsistent with the laws under which this corporation is organized.

ARTICLE IV **MEMBERS**

Pursuant to § 10A-3-2.01, Code of Alabama, 1975, the corporation has no members, as set forth in this article.

ARTICLE V **LOCATION AND MAILING ADDRESS** **OF INITIAL REGISTERED OFFICE AND** **NAME OF INITIAL REGISTERED AGENT**

The location and mailing address of the initial registered office of the Corporation shall be:

Alabama Family Business Institute
1121 Riverchase Office Road
Birmingham, Alabama 35244

The name of the Corporation's initial registered agent at said address shall be Donald W. Murphy, Jr.



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ARTICLE VI
NUMBER OF DIRECTORS AND NAMES
AND ADDRESSES OF INITIAL BOARD

(a) The initial Board of Directors shall consist of three (3) Directors. The names and mailing addresses of the persons who are to serve as Directors until the first annual election of directors or until their successors are duly chosen and qualified, are as follows:

| <u>NAME</u> | <u>MAILING ADDRESS</u> |
|--------------------------|---|
| Donald W Murphy, Jr. | 1121 Riverchase Office Road Birmingham, Alabama 35244 |
| Merrill E. Johnston, Jr. | 1121 Riverchase Office Road Birmingham, Alabama 35244 |
| Cynthia A. Hudson | 4245 Balmoral Drive, Suite 303 Huntsville, Alabama 35801 |

(b) All corporate powers of the Corporation shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of a Board of Directors, consisting of at least three individuals. All of the powers and duties conferred or imposed on a board of directors by the Entity Code and the Law shall be exercised or performed by the Board of Directors. The exact number of individuals serving on the Board of Directors, the qualifications for Directors, the terms each shall serve, and the grounds and procedures for removal of each, shall be fixed by the Bylaws of the Corporation. At or before each annual meeting of the Directors, they shall appoint such Directors to manage the affairs of the Corporation for the ensuing year or until their successors are duly appointed, qualified and elected as provided for in the Bylaws.

(c) The Board of Directors of the Corporation shall adopt Bylaws governing the conduct of the business and affairs of the Corporation. The power to alter, amend, or repeal the Bylaws of the Corporation shall be vested in the Board of Directors.

ARTICLE VII
NAME AND ADDRESS OF INCORPORATOR

The name and address of the person creating the Corporation is as follows:

| <u>NAME</u> | <u>MAILING ADDRESS</u> |
|-----------------|---|
| Steven N. Smith | Steven N. Smith, P.C. 1121 Riverchase Office Road Birmingham, Alabama 35244 |

ARTICLE VIII
DISTRIBUTION OF ASSETS ON DISSOLUTION OR FINAL LIQUIDATION

In the event of the liquidation or dissolution of the corporation, whether voluntary or involuntary, no person or firm shall be entitled to any distribution or division of its remaining property or its proceeds, and after the payment, satisfaction and discharge of all liabilities and obligations, all of the corporation's residual or remaining assets and property of every nature and description, whatsoever, not held upon a condition requiring return, transfer or conveyance, shall be applied and distributed pursuant to § 10A-3-7.01 et. seq., Code of Alabama, 1975, and in such manner or to such organization or organizations organized and operated exclusively for charitable, religious, scientific, educational, or such other exempt purposes as shall at the time qualify as an exempt organization or organizations under §501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law).

ARTICLE IX
AMENDMENT, FUNDAMENTAL CORPORATE CHANGE

These Articles of Incorporation may not be amended, nor may the Corporation adopt a plan of merger, consolidation, or dissolution, without the affirmative votes of not less than two thirds of the whole Board of Directors. Further, the Corporation may not sell, lease, exchange, mortgage, pledge, or otherwise dispose of all or substantially all of its property without the affirmative votes of not less than two thirds of the whole Board of Directors.

ARTICLE X
LIABILITY

Pursuant to § 10A-20-16.01, et seq., Code of Alabama, 1975, all noncompensated officers of the Corporation shall be immune from suit and not subject to civil liability arising from the conduct of the affairs of the Corporation except when the act or omission of such officer, which gives rise to a cause of action, amounts to willful or wanton misconduct or fraud, or gross negligence. For purposes of the foregoing sentence, the term "officer" shall include the Corporation's officers, directors, trustees, and the members of any other governing body of the Corporation.

Pursuant to § 6-5-336, Code of Alabama, 1975, all volunteers shall be immune from civil liability on the basis of any act or omission of such volunteer resulting in damage or injury if both (a) the volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the Corporation, and (b) the damage or injury was not caused by willful or wanton misconduct by such volunteer. For purposes of the foregoing sentence, the term

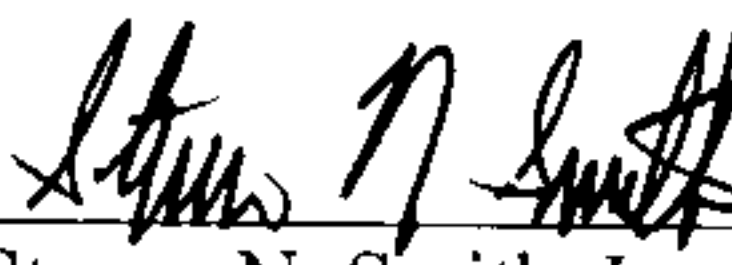
“volunteer” shall include all persons performing services for the Corporation without compensation (other than reimbursement for actual expenses incurred), and such term shall include a volunteer serving as a director, officer, trustee, or direct service volunteer.

ARTICLE XI
OTHER PROVISIONS

(a) The Corporation shall have such powers as are prescribed by the Alabama Non-Profit Corporation Act as contained and set forth in Section 10-3A-1, et seq., Code of Alabama of 1975, as amended, and may perform any acts permitted thereby.

(b) Notwithstanding any other provision of these Articles, this organization shall not carry on any other activities not permitted to be carried on by an organization exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or its successor.

IN WITNESS THEREOF, the undersigned incorporator executes this Certificate of Formation on this the 31st day of October, 2017.


Steven N. Smith, Incorporator

THIS INSTRUMENT WAS PREPARED BY:
Steven N. Smith
Steven N. Smith, P.C.
1121 Riverchase Office Road
Birmingham, AL 35244



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John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

Alabama Family Business Institute

This name reservation is for the exclusive use of Don Murphy, 1121 Riverchase Office Road, Birmingham, AL 35244 for a period of one year beginning September 30, 2016 and expiring September 30, 2018



RES737122

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.

September 27, 2017

Date

John H. Merrill

Secretary of State