

**As amended by majority vote of Directors at Board meeting of 2/10/2010.**

**BYLAWS OF**  
**WEST SIDE THEATRE FOUNDATION,**  
**a California Nonprofit Public Benefit Corporation**

**ARTICLE I**

**NAME**

The name of this corporation is West Side Theatre Foundation.

**ARTICLE II**

**PRINCIPAL OFFICE**

Section 2.01. Principal Address. The principal office of the Corporation for its transaction of business is located at 1331 Main Street, Newman, California, 95360.

Section 2.02. Change of Address. The Board of Directors is hereby granted full power and authority to change the principal office of the Corporation from one location to another within the state of California. Any such change shall be noted by the Secretary in these Bylaws, but shall not be considered an amendment to these Bylaws. In no event shall the corporation change the address of its principal office to a location more than twenty-five (25) miles of the main post office of Newman, California.

**ARTICLE III**

**PURPOSE**

The purpose of this corporation is to own or lease, renovate and operate a theater and/or other performing arts facilities for the presentation of events, including plays, concerts, lectures, and other artistic presentations, and to promote the development of the arts and cultural activities on said west side through various means, including by operating internet websites and by fully qualifying and serving as a "public telecommunications entity" within the intent of 47 U.S.C. Section 397(12) and by operating nonprofit radio station(s) for the benefit and education of the citizens of the

west side of Stanislaus County and Merced County with programming to include programs of educational merit such as those concerned with scientific, cultural, historical, and humane studies; adult education, distance learning, programs in support of K-12 and higher education; programs incident to for-credit instruction and general interest programs.

#### **ARTICLE IV**

##### **CONSTRUCTION AND DEFINITIONS**

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term “person” includes both a legal entity and a natural person.

#### **ARTICLE V**

##### **DEDICATION OF ASSETS**

This corporation’s assets are irrevocably dedicated to public benefits purposes. No part of the net earnings, properties or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed to a nonprofit fund, foundation or corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

#### **ARTICLE VI**

##### **MEMBERS**

Section 6.01. Members Prohibited. The Corporation shall not have any members.

Section 6.02. Effect of Prohibition. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board of Directors.

## **ARTICLE VII**

### **DIRECTORS**

Section 7.01. General Powers. Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to any limitations of the articles of incorporation or bylaws regarding actions that require approval of the board members, the corporation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the board.

Section 7.02. Number. The Corporation shall have not less than seven (7) nor more than thirteen (13) Directors, as may be determined by the Board of Directors from time to time; PROVIDED, HOWEVER, that the corporation shall at all times have an odd number of directors. The Directors shall be known as the Board of Directors.

Section 7.03. Qualifications. The Directors of the Corporation shall be residents of the United States of America.

Section 7.04. Restrictions on Interested Persons as Directors. No more than forty-nine percent (49%) of the persons serving on the board may be "interested persons." An interested person is (a) any person compensated by the corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; (b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, or mother-in-law of such person. However any violation of this paragraph shall not affect the validity or enforceability of transactions entered into by the corporation.

Section 7.05. Nomination. Any person qualified to be a Director under Section 7.02 of these bylaws may be nominated by the method of nomination authorized by the

Board or by any other method authorized by law.

Section 7.06. Election. The Directors shall be elected at each annual meeting of the Board of Directors as prescribed by Section 7.08 of these bylaws. The candidates receiving the highest number of votes, up to the number of Directors to be elected, are elected. Directors shall be eligible for reelection without limitation on the number of terms they may serve, provided they continue to meet the qualifications required by Section 7.02 of these bylaws.

Section 7.07. Vacancies.

(a) Events Causing Vacancies on Board. A Vacancy or vacancies on the board of directors shall occur in the event of (a) the death, removal or resignation of any director; (b) the declaration by resolution of the board of a vacancy in the office of a director who has been convicted of a felony, declared of unsound mind by a court order, or found by final order or judgment of any court to have breached a duty under California Nonprofit Public Benefit Corporation Law, Chapter 2, Article 3; (c) the vote of the majority of the directors to remove the director(s); (d) the increase of the authorized number of directors; or (3) the failure of the directors, at any meeting at which any director or directors are to be elected, to elect the number of directors required to be elected at such meeting.

(b) Resignation of Directors. Except as provided below, any director may resign by giving written notice to the chairman of the board, if any, or to the president or the secretary of the board. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to be come effective. If a director's resignation is effective at a later time, the board may elect a successor to take office as of the date when the resignation becomes effective.

Except on notice to the California Attorney General, no director may resign if the corporation would be left without a duly elected director or directors.

(c) Removal of Directors. Any director may be removed, with our without cause, by the vote of the majority of the members of the entire board of directors at a special meeting called for that purpose, or at a regular meeting, provided that notice

of that meeting and the removal questions are given as provided in Section 7.08(e). Any vacancy caused by the removal of a director shall be filled at any annual or special meeting of the board.

Any director who does not attend three (3) successive board meetings will automatically be removed from the board without board resolution unless (a) the director requests a leave of absence for a limited period of time, and the leave is approved by the directors at a regular or special meeting (if such leave is granted, the number of board members will be reduced by one (1) in determining whether a quorum is or is not present), (b) the director suffers from an illness or disability that prevents him or her from attending meetings and the board by resolution waives the automatic removal procedure of this subsection, (c) the board by resolution of the majority of the board members must agree before a director who has missed three (3) meetings may be reinstated; or (d) the director notifies his/her fellow board members of their inability to attend a forthcoming board meeting 48 hours in advance of the meeting by e-mailing [bod@westsidetheatre.org](mailto:bod@westsidetheatre.org) and/or calling 209.862.4490.

(e) No Vacancy on Reduction of Number of Directors. Any reduction of the authorized number of directors shall not result in any director's being removed before his or her term of office expires.

Section 7.08. Meetings of Board of Directors.

(a) Place of Board Meetings. Meetings of the board shall be held at any time and place within or outside California that has been designated by resolution of the board or in the notice of the meeting, or, if not so designated, at the principal office of the corporation.

(b) Meetings by Telephone or Other Telecommunications Equipment. Any board meeting may be held by conference telephone, video screen communication or other communications equipment. Participation in a meeting under this Section shall constitute presence in person at the meeting if both of the following apply:

(i) Each member of the board participating in the meeting can communicate concurrently with all other members.

(ii) Each member of the board is provided the means of participating in all matters before the board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(c) Annual Meetings. The board of directors shall meet at least annually, at a time and place determined by the board.

(d) Special Meetings. Special meetings of the board of directors for any purpose may be called at any time by the chairman of the board, if any, the president or any vice president, the secretary, or any two (2) directors.

(e) Notice of Annual and Special Meetings. Notice of the time and place of special meetings shall be given to each director by (a) personal delivery of written notice; (b) first-class mail, postage prepaid; (c) telephone, including a voice messaging system or other system or technology designed to record and communicate messages, or be electronic transmission, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; (d) facsimile; (e) electronic mail; or (f) other electronic means. All such notices shall be given or sent to the director's address or telephone number as shown on the corporation's records.

Notices sent by first-class mail shall be deposited in the United States mail at least seven (7) days before the time set for the meeting. Notices given by personal delivery, telephone or electronic transmission shall be delivered, telephoned or sent, respectively, at least seventy-two (72) hours before the time set for the meeting.

The notice shall state the time of the meeting and the place, if the place is other than the corporation's principal office. The notice need not specify the purpose of the meeting.

(f) Quorum. A majority of the authorized number of directors shall constitute a quorum for the transaction of any business except adjournment. Every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be an act of the board, subject to the more stringent

provisions of the California Nonprofit Public Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common directorships; (c) creation of and appointments to committees of the board, and (d) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of some directors from that meeting, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

(g) Conduct of Meetings Meetings shall be governed by Roberts' Rules of Order or The Modern Rules of Order, as may be determined by the board from time to time, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, with the Articles of Incorporation of this corporation or with provisions of law.

(h) Waiver of Notice. Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and who, before or at the beginning of the meeting, does not protest the lack of notice to him or her.

(i) Notice of Adjourned Meeting. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than twenty-four (24) hours. If the original meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

Section 7.09. Action Without a Meeting. Any action that the board of directors is required or permitted to take may be taken without a meeting if all board members consent in writing to the action; provided, however, that the consent of any director who has a material financial interest in a transaction to which the corporation is a party and who is an “interested director” as defined in Corporations Code §5233 shall be not be required for approval of that transaction. Such action by written consent shall have the same force and effect as any other validly approved action of the board. All such consents shall be filed with the minutes of the proceedings of the board.

Section 7.10. Compensation and Reimbursement. Directors may receive such compensation, if any, for their services as directors or officers, and such reimbursement of expenses, as the board may establish by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted.

Section 7.11. Committees of Board of Directors.

(a) Creation and Powers of Committees. The board, by resolution adopted by a majority of the directors then in office, may create one or more committees, each consisting of two (2) or more directors and, if any, other interested parties, to serve at the pleasure of the board. There shall be at least two (2) directors or their alternates at convened committee meetings. Appointments to committees of the board shall be by majority vote of the directors then in office. The board may appoint one (1) or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee shall have all the authority of the board, to the extent provided in the board resolution, except that no committee may do the following:

(i) Take any final action on any matter that, under the California Nonprofit Corporation Law, also required the approval of the members or the approval of a majority of the board members;

(ii) Fill vacancies on the board or any committee of the board;



(iii) Fix compensation of the directors for serving on the board or on any committee;

(iv) Amend or repeal bylaws or adopt new bylaws;

(v) Amend or repeal any resolution of the board that by its express terms is not so amendable or repealable;

(vi) Create any other committees of the board or appoint the members of the committees of the board; or

(vii) Expend corporate funds to support a nominee for director if more people have been nominated for director than can be elected.

(b) Meetings and Actions of Committees. Meetings and actions of committees of the board shall be governed by, held and taken under the provisions of these bylaws concerning meetings and other board actions, except that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by board resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The board may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the board has not adopted rules, the committee may do so.

## **ARTICLE VIII**

### **OFFICERS OF THE CORPORATION**

Section 8.01. Offices Held. The officers of the corporation shall be a president, a secretary and a chief financial officer. The corporation, at the board's discretion, may also have an executive director, chairman of the board, a fund raiser chairperson, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed by the board.

Any number of offices may be held by the same person, except that neither the

secretary nor the chief financial officer may serve concurrently as either the president or the chairman of the board.

Section 8.02. Election of Officers. The officers of this corporation, except any appointed under Section 8.03 of these bylaws, shall be chosen by the board and shall serve at the pleasure of the board, subject to the rights of any officer under any employment contract.

Section 8.03. Appointment of Other Officers. The board may appoint and authorize the chairman of the board, the president or another officer to appoint any other officers that the corporation may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the bylaws or established by the board.

Section 8.04. Removal of Officers. Without prejudice to the rights of any officer under an employment contract, the board may remove any officer with or without cause. An officer who was not chosen by the board may be removed by any other officer on whom the board confers the power of removal.

Section 8.05. Resignation of Officers. Any officer may resign at any time by giving written notice to the board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the corporation under any contract to which the officer is a party.

Section 8.06. Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for normal appointments to that office; provided, however, that vacancies need not be filled on an annual basis.

Section 8.07. Responsibilities of Officers.

(a) Chairman of the Board. If a chairman of the board of directors is

elected, he or she shall preside at board meetings and shall exercise and perform such other powers and duties as the board may assign from time to time. If there is no president, the chairman of the board shall also be the chief executive officer and shall have the powers and duties of the president of the corporation set forth in these bylaws.

(b) President. Subject to such supervisory powers as the board may give to the chairman of the board, if any, and subject to the control of the board, the president shall be the general manager of the corporation and shall supervise, direct and control the corporation's activities, affairs and officers. In the absence of the chairman of the board, or if none, the president shall preside at all board meetings. The president shall have such other powers and duties as the board or the bylaws may require.

(c) Vice Presidents. If the president is absent or disabled, the vice presidents, if any, in order of their rank as fixed by the board, or, if not ranked, a vice president designated by the board, shall perform all duties of the president. When so acting, a vice president shall have all powers of and be subject to all restrictions on the president. The vice presidents shall have such other powers and perform such other duties as the board or the bylaws may require.

(d) Secretary. The secretary shall keep or cause to be kept, at the corporation's principal office or such other place as the board may direct, a book of minutes of all meetings, proceedings, and actions of the board and of committees of the board. The minutes of the meetings shall include the time and place that the meeting was held; whether the meeting was annual, general or special, and, if special, how authorized; the notice given; and the names of the persons present at board and committee meetings.

The secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and bylaws, as amended to date.

The secretary shall give, or cause to be given, notice of all meetings of the board and of committees of the board that these bylaws require to be given. The secretary shall keep the corporate seal, if any, in safe custody and shall have such other powers and

perform such other duties as the board or the bylaws may require.

(e) Chief Financial Officer. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The chief financial officer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these bylaws, or by the board. The books of account shall be open to inspection by any director at all reasonable times.

The chief financial officer shall (i) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the board may designate; (ii) disburse the corporation's funds as the board may order; (iii) render to the president, chairman of the board, in any, and the board, when requested, an account of all transactions as chief financial officer and of the financial condition of the corporation; and (iv) have such other powers and perform such other duties as the board or the bylaws may require.

No bond shall be required of the Chief Financial Officer.

## **ARTICLE IX**

### **CONTRACTS WITH DIRECTORS**

No director of this corporation nor any other corporation, firm, association, or other entity in which one or more of this corporation's directors are directors or have a material financial interest, shall be interested, directly or indirectly, in any contract or transaction with this corporation, unless (a) the material facts regarding that director's financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and noted in the minutes, or are known to all members of the board prior to the board's consideration of such contract or transaction; (b) such contract or transaction is authorized in good faith by a majority of the board by a vote sufficient for that purpose without counting the votes of

the interested directors; (c) before authorizing or approving the transaction, the board considers and in good faith decides after reasonable investigation that the corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (d) the corporation for its own benefit enters into the transaction, which is fair and reasonable to the corporation at the time the transaction is entered into.

This Section does not apply to a transaction that is part of an educational or charitable program of this corporation if it is (a) approved or authorized by the corporation in good faith and without unjustified favoritism and (b) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefitted by the educational or charitable program of this corporation.

## **ARTICLE X**

### **LOANS TO DIRECTORS AND OFFICERS**

This corporation shall not lend any money or property to or guarantee the obligation of any director or officer without the approval of the California Attorney General; provided, however, that the corporation may advance money to a director or officer of the corporation for expenses reasonably anticipated to be incurred in the performance of his or her duties if that director or officer would be entitled to reimbursement for such expenses by the corporation.

## **ARTICLE XI**

### **INDEMNIFICATION**

To the fullest extent permitted by law, this corporation shall indemnify its directors, officers, employees, and other persons described in Corporations Code §5238(a), including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any “proceeding,” as that term is used in that section, and

including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. “Expenses,” as used in this bylaw, shall have the same meaning as in that section of the Corporations Code.

On written request to the board by any person seeking indemnification under Corporations Code §5238(b) or §5238(c), the board shall promptly decide under Corporations Code §5238(e) whether the applicable standard of conduct set forth in Corporations Code §5238(b) or §5238(c) has been met and, if so, the board shall authorize indemnification.

To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under this Article XI in defending any proceeding covered by this Article XI of these bylaws shall be advance by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

## **ARTICLE XII**

### **INSURANCE**

This corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees and other agents, to cover any liability asserted against or incurred by any officer, director, employee or agent in such capacity or arising from the officer’s, director’s, employee’s, or agent’s status as such.

## **ARTICLE XIII**

### **MAINTENANCE OF CORPORATE RECORDS**

This corporation shall keep the following:

- (a) Adequate and correct books and records of account;
- (b) Minutes of the proceedings of its members, board and committees of the board; and
- (c) A record of each member's name and address.

The minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the two.

#### **ARTICLE XIV**

##### **DIRECTORS' RIGHT TO INSPECT**

Every director shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

#### **ARTICLE XV**

##### **REQUIRED REPORTS**

Section 15.01. Annual Report. The board shall cause an annual report to be sent to the directors within one hundred twenty (120) days after the end of the corporation's fiscal year. That report shall contain the following information, in appropriate detail:

- (a) The assets and liabilities, including trust funds, of the corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds;
- (c) The corporation's revenue or receipts, both unrestricted and restricted to particular purposes;

(d) The corporation's expenses or disbursements for both general and restricted purposes;

(e) Any information required by Section 15.02 of these bylaws; and

(f) An independent accountants' report or, if none, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

This requirement of an annual report shall not apply if the corporation receives less than Twenty-five Thousand and no/100 Dollars (\$25,000.00) in gross receipts during the fiscal year; provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all directors who request it in writing. If the board approves, the corporation may send the report and any accompanying material sent pursuant to this section by electronic transmission.

Section 15.02. Annual Statement of Certain Transactions and Indemnifications.  
As part of the annual report, or as a separate report if no annual report is issued, the corporation shall, within one hundred twenty (120) days after the end of the corporation's fiscal year, annually prepare and mail, deliver or send by electronic transmission to each director as statement of transaction or indemnification of the following kind:

(a) Any transaction (i) in which the corporation, or its subsidiary, was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than Fifty Thousand and no/100 Dollars (\$50,000.00) or was one of several transactions with the same "interested person" involving, in the aggregate more than Fifty Thousand and no/100 Dollars (\$50,000.00). For this purpose, an "interested person" is either:

(i) Any director or officer of the corporation, or its subsidiary (but mere common directorship shall not be considered such and interest); or

(ii) Any holder of more than ten percent (10%) of the voting power of the corporation, or its subsidiary.



The statement shall include a brief description of the transaction, the names of the interested persons involved, their relationship to the corporation, the nature of their interest in the transaction, and if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnifications or advances aggregating more than Ten Thousand and no/100 Dollars (\$10,000.00) paid during the fiscal year to any officer or director of the corporation under these bylaws, unless that indemnification has already been approved by the directors.

## **ARTICLE XVI**

### **AMENDMENT OF BYLAWS**

These bylaws may be amended by a two-thirds (2/3) vote of the directors present and voting, provided the proposed amendments have been read at the previous meeting or the directors notified in writing. No amendment shall be made to matters of FCC eligibility, qualification, or preference, in Article II, Section 2.02, Article III or Article XVII hereof, unless such amendment is required, or is permitted with no detriment to the corporation's qualifying or comparative position, under revisions to FCC rules, regulations or policies as they may occur from time to time.

## **ARTICLE XVII**

### **LOCAL DIVERSITY OF OWNERSHIP**

The corporation at all times shall maintain "local diversity of ownership" as that is defined in FCC Rules and Regulations, Section 73.7003(b)(2), 47 C.F.R. Section 73.7003(b)(2). At no time shall the corporation, any parent or subsidiary entity, any voting member, or any officer or director of the corporation, have an attributable interest in another radio station, including any license, construction permit or debt or equity

position, if the principal community contour of such station would overlap in any part with the principal community contour of a new noncommercial radio station for which the corporation files an FCC application for construction permit.

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**CERTIFICATE OF SECRETARY**  
**OF**  
**WEST SIDE THEATRE FOUNDATION,**  
**a California Nonprofit Public Benefit Corporation**

I hereby certify that I am the duly elected and acting Secretary of said Corporation and that the foregoing Bylaws, comprising seventeen (17) pages, constitute the Bylaws of said Corporation as duly adopted at a meeting of the Board of Directors thereof held on

\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
DAVID REED, Secretary