

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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**FORM 8-K**

CURRENT REPORT  
Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): August 2, 2007



**P.A.M. TRANSPORTATION SERVICES, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction  
of incorporation)

0-15057  
(Commission File Number)

71-0633135  
(I.R.S. Employer Identification No.)

297 West Henri De Tonti, Tontitown, Arkansas 72770  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (479) 361-9111

N/A  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

Election of W. Scott Davis to the Board of Directors

On August 2, 2007, our Board of Directors increased the size of the Board of Directors from eight to nine directors, and elected a new director, W. Scott Davis. Mr. Davis was elected for a term that extends until the 2008 annual meeting of the stockholders. Also, on August 2, 2007, Mr. Davis was appointed to serve on the Compensation and Stock Option Committee of our Board of Directors. Mr. Davis is a private investor, and has many years of experience in investment banking. From 1987 to 2006, Mr. Davis worked for Stephens Inc., an investment banking firm, including serving as an Executive Vice President of Stephens Inc. from 2002 to 2006, and as a Managing Director from 2000 to 2002.

The election of Mr. Davis was not pursuant to any arrangement or understanding between Mr. Davis and any third party. As of the date of this report, neither Mr. Davis nor any member of his immediate family is a party, either directly or indirectly, to any transaction that the Company is aware of, that is required to be reported pursuant to Item 404(a) of Regulation S-K under the Securities Exchange Act of 1934.

Mr. Davis will be compensated for his service on our Board of Directors and any committees of the Board on which he serves in accordance with our compensation arrangements for non-employee directors, other than our Chairman of the Board. These compensation arrangements, as currently in effect, are set forth in our proxy statement for our 2007 annual meeting of stockholders, that was filed with the Securities and Exchange Commission on April 26, 2007.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

Amendment of By-Laws

On August 2, 2007, our Board of Directors amended and restated our By-Laws, effective as of that date. The Board's primary purpose for amending the Bylaws was to make it clear that the positions of Chairman of the Board and Vice Chairmen of the Board are not officer positions unless the Board of Directors expressly determines otherwise for a particular director serving in one of those positions. The following is a listing of the substantive changes effected by the amendment of the Bylaws.

- A new Section 15 was added to Article II regarding the appointment and duties of the Chairman of the Board, and providing that the position of Chairman of the Board is not an officer position unless the Board of Directors expressly determines otherwise for a particular director serving as Chairman of the Board.
- A new Section 16 was added to Article II regarding the appointment and duties of Vice Chairmen of the Board, and providing that the position of Vice Chairman of the Board is not an officer position unless the Board of Directors expressly determines otherwise for a particular director serving as a Vice Chairman of the Board.
- Section 1 of Article III was amended to remove specific references to the Chairman of the Board and Vice Chairman of the Board, and references to them as officer positions.
- Section 2 of Article III, which set forth the duties of the Chairman of the Board, was deleted. The Chairman's duties are now addressed in Section 15 of Article II.
- Section 3 of Article III, which set forth the duties of the Vice Chairman of the Board, was deleted. The Vice Chairman's duties are now addressed in Section 16 of Article II.
- Section 4 of Article III was amended to authorize our Chief Executive Officer to preside at meetings of the shareholders and Board of Directors to the extent determined by the Board of Directors.
- Sections 4 through 14 of Article III were renumbered as Sections 2 through 12 of Article III.

A copy of our Bylaws, as amended and restated on August 2, 2007, is attached to this report as Exhibit 3.2.

**Item 8.01 Other Events.**

Appointment and Compensation of Chairman of the Board

On August 2, 2007, our Board of Directors appointed Matthew T. Moroun, who is a member of our Board of Directors, and our largest stockholder, the Chairman of our Board of Directors. The Board approved an annual retainer for Mr. Moroun for his services as Chairman of the Board, which is a non-officer position, of \$100,000 per year, payable quarterly, as a director fee. In addition, Mr. Moroun will continue to receive meeting fees and an annual grant of a stock option for his services as a director, in the same amounts as are provided generally for our other non-employee directors.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits. The following exhibits are furnished with this report:

- 3.2 By-Laws, as amended and restated on August 2, 2007

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

P.A.M. TRANSPORTATION SERVICES, INC.

\_\_\_\_\_  
(Registrant)

Date: August 8, 2007

By: /s/ Robert W. Weaver

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Robert W. Weaver  
President and Chief Executive Officer

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EXHIBIT INDEX

Exhibit Number	Exhibit Description
3.2	By-Laws, as amended and restated on August 2, 2007

**AMENDED AND RESTATED BY-LAWS  
OF  
P.A.M. TRANSPORTATION SERVICES, INC.**

**ARTICLE I.  
SHAREHOLDERS MEETINGS**

**SECTION 1. PLACE OF MEETING.** The Board of Directors may designate any place within or without the State of Delaware as the place of meeting for any annual or for any special meeting called by the Board of Directors. A waiver of notice signed by all shareholders entitled to vote at a meeting may designate any place within or without the State of Delaware as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Corporation in the State of Arkansas.

**SECTION 2. ANNUAL MEETING.** The annual meeting of the shareholders of the Corporation shall be held on such date, at such time and at such place within or without the State of Delaware as may be designated by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may be properly brought before the meeting.

**SECTION 3. SPECIAL MEETINGS.** Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute or the Amended and Restated Certificate of Incorporation, may be called by the President, the Chief Executive Officer, or the Chairman of the Board of Directors, if any. The President or Secretary shall call a special meeting when: (1) requested in writing by any two or more of the Directors; or (2) requested in writing by shareholders owning at least seventy-five percent (75%) of the shares entitled to vote. Such written request shall state the purpose or purposes of the proposed meeting. No business shall be transacted and no corporate action shall be taken other than that stated in the notice of the meeting unless all of the shareholders are present in person or by proxy, in which case any and all business may be transacted at the meeting even though the business is transacted without notice. The provisions of this Section shall be amended, altered, changed or repealed only with the affirmative vote or consent of the holders of at least seventy-five percent (75%) of the outstanding shares of the stock of the Corporation entitled to elect Directors, in addition to any approval of the Board of Directors or any shareholder vote or consent required by law or any provision of the Amended and Restated Certificate of Incorporation or otherwise.

**SECTION 4. NOTICE.** Except as otherwise required by statute or the Certificate of Incorporation, written notice of each meeting of the shareholders, whether annual or special, shall be served, either personally or by mail, upon each shareholder of record entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the meeting. If mailed, such notice shall be directed to a shareholder at his post office address last shown on the records of the Corporation. Notice of any special meeting of shareholders shall state the purpose or purposes for which the meeting is called. Notice of any meeting of shareholders shall not be required to be given to any shareholder who, in person or by his attorney thereunto authorized, either before or after such meeting, shall waive such notice. Attendance of a shareholder at a meeting, either in person or by proxy, shall itself constitute waiver of notice and waiver of any and all objections to the place and time of the meeting and manner in which it has been called or convened, except when a shareholder attends a meeting solely for the purpose of stating, at the beginning of the meeting, any such objections to the transaction of business. Notice of the time and place of any adjourned meeting need not be given otherwise than by the announcement at the meeting at which adjournment is taken.

**SECTION 5. QUORUM.** The holders of a majority of the stock issued, outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the shareholders and shall be requisite for the transaction of business, except as otherwise provided by law, by the Certificate of Incorporation, or by these By-Laws. If, however, such majority shall not be present or represented at any meeting of the shareholders, the shareholders entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the requisite amount of voting stock shall be present. At such adjourned meeting at which a quorum shall be present in person or by proxy, any business may be transacted that might have been transacted at the meeting originally called.

**SECTION 6. VOTING, PROXIES.** At every meeting of the shareholders, any shareholder having the right to vote shall be entitled to vote in person or by proxy, but no proxy shall be voted after eleven months from its date, unless said proxy provides for a longer period. Each shareholder shall have one vote for each share of stock having voting power, registered in his name on the books of the Corporation. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting entitled to vote on the subject matter shall be the act of the shareholders, except as otherwise provided by law, by the Certificate of Incorporation or by these By-Laws.

**SECTION 7. FIXING OF RECORD DATE.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of dividends, the Board of Directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not less than ten (10) nor more than sixty (60) days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of dividends, the date on which notice of the meeting is mailed, or on the date on which the resolution of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

**SECTION 8. INFORMAL ACTIONS BY SHAREHOLDERS.** Any action required to be taken at a meeting of the shareholders, or any other action which may be taken at a meeting of the shareholders, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by the shareholders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of shareholders at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of any such corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing. Such consent shall have the same force and effect as a unanimous vote of the shareholders.

**ARTICLE II  
DIRECTORS**

**SECTION 1. GENERAL POWERS.** Except as may be otherwise provided by any legal agreement among shareholders, the property and business of the Corporation shall be managed by its Board of Directors. In addition to the powers and authority expressly conferred by these By-Laws, the Board of

Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law, or by any legal agreement among shareholders, or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the shareholders.

**SECTION 2. NUMBER, TENURE, QUALIFICATIONS, REMOVAL.** The Board of Directors shall consist of not less than three (3) nor more than fifteen (15) members, the precise number to be fixed by resolution of the shareholders or the Board of Directors from time to time. Each Director shall hold office until the annual meeting of shareholders held next after his election and until his successor has been duly elected and has qualified, or until his earlier resignation, removal from office, or death. Directors need not be shareholders. Any Director may be removed at any time, with or without cause, by the affirmative vote of the holders of seventy-five percent (75%) of the outstanding shares of the stock of the Corporation entitled to elect Directors, either at the annual meeting or at a special meeting called for that purpose. This Section shall be amended, altered, changed or repealed only with the affirmative vote or consent of the holders of at least seventy-five percent (75%) of the outstanding shares of stock of the Corporation entitled to elect Directors, in addition to any approval of the Board of Directors or any shareholder vote or consent required by law or any provision of the Amended and Restated Certificate of Incorporation of the Corporation or otherwise.

**SECTION 3. VACANCIES AND ADDITIONAL DIRECTORSHIPS.** Any newly created directorships resulting from any increase in the authorized number of Directors and any vacancies on the Board of Directors resulting from resignation, removal, death, or other cause, may be filled by the vote of the majority of the Directors then in office, though less than a quorum, and if not therefore filled by action of the Directors, may be filled by the shareholders at any meeting held during the existence of such vacancy; provided that whenever any Director shall have been elected by the holders of any class of stock of the Corporation voting separately as a class under the provisions of the Certificate of Incorporation, such Director may be removed and the vacancy filled only by the holders of that class of stock voting separately as a class. A Director elected in accordance with this Section shall hold office until the annual meeting of shareholders held next after his election and until his successor has been duly elected and qualified, or until his earlier resignation, removal or death. During any period when there is a vacancy on the Board of Directors, including any vacancy resulting from an increase in the authorized number of Directors, the remaining Directors shall continue to act.

**SECTION 4. PLACE OF MEETING.** The Board of Directors may hold its meetings at such place or places within or without the State of Delaware as it may from time to time determine.

**SECTION 5. COMPENSATION.** Directors may be allowed such compensation for attendance at regular or special meetings of the Board of Directors and of any special meeting or standing committees thereof as may be from time to time determined by resolution of the Board of Directors.

**SECTION 6. REGULAR MEETINGS.** A regular annual meeting of the Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place within or without the State of Delaware, for the holding of additional regular meetings without other notice than such resolution.

**SECTION 7. SPECIAL MEETINGS, NOTICE.** Special meetings of the Board of Directors may be called at any time by the Chairman of the Board, the Chief Executive Officer, the President, or any two (2) or more members of the Board of Directors. The person or persons calling a special meeting of the Board of Directors may fix the time and place of the meeting. Notice of any special meeting shall be given to each Director personally or by telephone, or by mail, express mail, courier service, facsimile, electronic mail or other means of electronic transmission, addressed to each Director at the Director's usual place of business or residence, or the Director's address as it is shown on the records of the Corporation. If the notice is by mail, the notice shall be deemed adequately delivered when deposited in the United States mail at least four (4) days prior to the time set for the meeting. If the notice is by express mail or courier service, such notice shall be deemed adequately delivered when delivered to the express mail or courier service at least two (2) days prior to the time set for such meeting. If the notice is given personally or by telephone, or by facsimile, electronic mail or other means of electronic transmission, such notice will be deemed adequately delivered when the notice is transmitted at least one (1) day prior to the time set for the meeting. An oral notice given personally or by telephone may be communicated either to the Director or to a person at the office of the Director whom the person giving the notice has reason to believe will promptly communicate it to the Director. Any such special meeting shall be held at such time and place as shall be stated in the notice of the meeting. Unless otherwise indicated in the notice thereof, any and all business other than an amendment of these By-Laws may be transacted at any special meeting, and an amendment of these By-Laws may be acted upon if the notice of the meeting shall have stated that the amendment of these By-Laws is one of the purposes of the meeting. At any meeting at which every Director shall be present, even though without any notice, any business may be transacted, including the amendment of these By-Laws.

**SECTION 8. NOTICE, WAIVER BY ATTENDANCE.** No notice of a meeting of the Board of Directors need be given to any Director who signs a waiver of notice either before or after the meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting and waiver of any and all objections to the place of the meeting, the time of the meeting or the manner in which it has been called or convened except when a Director states, at the beginning of the meeting, any such objection or objections to the transaction of business.

**SECTION 9. QUORUM.** At all meetings of the Board of Directors, the presence of a majority of the Directors shall constitute a quorum for the transaction of business. In the absence of a quorum a majority of the Directors present at any meeting may adjourn from time to time until a quorum be had. Notice of the time and place of any adjourned meeting need only be given by announcement at the meeting at which adjournment is taken.

**SECTION 10. MANNER OF ACTING.** The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**SECTION 11. EXECUTIVE COMMITTEE.** In furtherance and not in limitation of the powers conferred by statute, the Board of Directors may establish an Executive Committee of two (2) or more Directors constituted and appointed by the Board of Directors from their number who shall meet when deemed necessary. They shall have authority to exercise all the powers of the Board which may be lawfully delegated and not inconsistent with these By-Laws, at any time and when the Board is not in session. The committee shall elect a Chairman, and a majority of the whole committee shall constitute a quorum; and the act of a majority of members present at a meeting at which a quorum is present shall be the act of the committee provided all members of the committee have had notice of such meeting or waived such notice. Except as otherwise provided by resolution of the Board of Directors, meetings of the Executive Committee may be called by any member of the Executive Committee. Notice of meetings of the Executive Committee may be given in the same manner as provided for special meetings of the Board of Directors in Section 7 of Article II, or waived as provided in Section 8 of Article II or as otherwise permitted by applicable law.

**SECTION 12. OTHER COMMITTEES.** In addition to the Executive Committee, the Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, including without limitation a Compensation Committee, each committee to consist of one or more of the Directors of the Corporation. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified

member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided by resolution passed by a majority of the whole Board, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and the affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending these By-Laws; and unless such resolution, these By-Laws, or the Certificate of Incorporation expressly so provide, no such committee shall have the power to authorize to declare a dividend or to authorize the issuance of stock. Except as otherwise provided by resolution of the Board of Directors, or for the Executive Committee, meetings of any committee may be called by the chairperson, any two members of the committee, or if the committee has only one member, such member. Notice of meetings of any committee may be given in the same manner as provided for special meetings of the Board of Directors in Section 7 of Article II, or waived as provided in Section 8 of Article II or as otherwise permitted by applicable law.

**SECTION 13. ACTION WITHOUT FORMAL MEETING.** Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the Minutes of the proceedings of the Board or committee.

**SECTION 14. CONFERENCE CALL MEETINGS.** Members of the Board of Directors, or any committee designated by such Board, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

**SECTION 15. CHAIRMAN OF THE BOARD.** The Board of Directors may at any time appoint from its members a Chairman of the Board, who shall serve in that capacity at the discretion of the Board of Directors. Unless otherwise determined by the Board of Directors, the Chairman of the Board, if any, shall preside at all meetings of the shareholders and of the Board of Directors at which the Chairman of the Board is present. The Chairman of the Board shall have such other duties as may from time to time be assigned to the Chairman of the Board by these By-Laws or by the Board of Directors. Unless expressly determined otherwise by the Board of Directors with respect to a particular director serving as Chairman of the Board, the position of Chairman of the Board shall not be deemed an officer position of the Corporation.

**SECTION 16. VICE CHAIRMEN OF THE BOARD OF DIRECTORS.** The Board of Directors may at any time appoint from its members one or more Vice Chairmen of the Board, who shall serve in that capacity at the discretion of the Board of Directors. Unless otherwise determined by the Board of Directors, in case of the absence of the Chairman of the Board, the Vice Chairman, if any, (or if more than one, one of the Vice Chairmen as designated by the Board of Directors) shall preside at all meetings of the shareholders and the Board of Directors at which he shall be present. The Vice Chairmen of the Board shall have such other duties as may from time to time be assigned to them by the Board of Directors. Unless expressly determined otherwise by the Board of Directors with respect to a particular director serving as a Vice Chairman of the Board, the position of Vice Chairman of the Board shall not be deemed an officer position of the Corporation.

### **ARTICLE III. OFFICERS**

**SECTION 1. OFFICERS.** The officers of the Corporation shall be a Chief Executive Officer, a Chief Operating Officer, a Chief Financial Officer, a President, one or more Executive Vice Presidents or Vice Presidents, a Secretary and a Treasurer, and such additional officers, if any, as shall be elected by the Board of Directors pursuant to the provisions of Section 9 of this Article III. The Chief Executive Officer, the Chief Financial Officer, the President, one or more Executive Vice Presidents or Vice Presidents, the Secretary and the Treasurer, shall be elected by the Board of Directors at its first meeting after each annual meeting of the shareholders. The failure to hold such election shall not of itself terminate the term of office of any officer. Any number of offices may be held simultaneously by the same person, except that the person serving as Chief Financial Officer may not serve simultaneously as the Chief Executive Officer. Any officer may, but need not be, a Director. Any officer may resign at any time upon written notice to the Corporation.

All officers, agents and employees shall be subject to removal, with or without cause, at any time by the Board of Directors. The removal of an officer without cause shall be without prejudice to his contract rights, if any. The election or appointment of an officer shall not of itself create contract rights. All agents and employees other than officers elected by the Board of Directors shall also be subject to removal, with or without cause, at any time by the officers appointing them.

Any vacancy caused by the death of any officer, his resignation, his removal, or otherwise, may be filled by the Board of Directors, and any officer so elected shall hold office at the pleasure of the Board of Directors.

In addition to the powers and duties of the officers of the Corporation as set forth in these By-Laws, the officers shall have such authority and shall perform such duties as from time to time may be determined by the Board of Directors.

**SECTION 2. POWERS AND DUTIES OF THE CHIEF EXECUTIVE OFFICER.** The Chief Executive Officer shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall have general charge and control of all its business and affairs and shall perform all duties incident to the office of Chief Executive Officer; he may sign and execute, in the name of the Corporation, all authorized deeds, mortgages, bonds, notes and other evidence of indebtedness, contracts or other instruments, except in cases in which the signing and execution thereof shall have been expressly excluded from the Chief Executive Officer and delegated to some other officer or agent of the Corporation by the Board of Directors. In the absence or disability of the Chairman and all Vice Chairmen, or if the Board of Directors has not appointed a Chairman or Vice Chairman, the Chief Executive Officer shall preside at all meetings of the shareholders and of the Board of Directors, and in any event may so preside to the extent determined by the Board of Directors. The Chief Executive Officer shall have such other powers and perform such other duties as may from time to time be assigned to him by these By-Laws or by the Board of Directors.

**SECTION 3. POWERS AND DUTIES OF THE CHIEF OPERATING OFFICER.** The Chief Operating Officer shall be the principal operating officer of the Corporation with authority as such, and at the request of the Chief Executive Officer or in his absence or disability to act, shall perform the duties and exercise the functions of the Chief Executive Officer, and when so acting shall have such other powers and perform such other duties as may from time to time be assigned to him by the Board of Directors or the Chief Executive Officer.

**SECTION 4. POWERS AND DUTIES OF THE CHIEF FINANCIAL OFFICER.** The Chief Financial Officer shall be the chief accounting officer of the Corporation; he shall see that the books and account and other accounting records of the Corporation are kept in proper form and accurately; and, in general, he shall perform all the duties incident to the office of Chief Financial Officer of the Corporation and such other duties as may from time to time be assigned to him by the Board of Directors or the Chief Executive Officer.

**SECTION 5. POWERS AND DUTIES OF THE PRESIDENT.** The President shall act as a general executive officer of the Corporation and shall have such other powers and perform such other duties as may from time to time be assigned to him by these By-Laws or by the Board of Directors or by the Chief Executive Officer.

**SECTION 6. POWERS AND DUTIES OF THE EXECUTIVE VICE PRESIDENT OR VICE PRESIDENT.** Each Executive Vice President or Vice President shall perform all duties incident to such office and shall have such powers and perform such duties as may from time to time be assigned to him by these By-Laws or by the Board of Directors or the Chief Executive Officer.

**SECTION 7. POWERS AND DUTIES OF THE SECRETARY.** The Secretary shall keep the minutes of meetings of the Board of Directors and the minutes of all meetings of the shareholders in books provided for that purpose; he shall attend to the giving or serving of all notices of the Corporation; he shall have the custody of the corporate seal of the Corporation and shall affix the same to such documents and other papers as the Board of Directors or the Chief Executive Officer shall authorize and direct; he shall have charge of the stock certificate books, transfer books and stock ledgers and such other books and papers as the Board of Directors or the Chief Executive Officer shall direct, all of which shall at all reasonable times be open to the examination of any Director, upon application, at the offices of the Corporation during business hours; and he shall perform such other duties as may from time to time be assigned to him by these By-Laws or the Board of Directors or the Chief Executive Officer.

**SECTION 8. POWERS AND DUTIES OF THE TREASURER.** The Treasurer shall have custody of, and when proper shall pay out, disburse or otherwise dispose of, all funds and securities of the Corporation which may have come into his hands; he may endorse on behalf of the Corporation for collection checks, notes and other obligations and shall deposit them to the credit of the Corporation in such bank or banks or depository or depositories as the Board of Directors may designate; he shall sign all receipts and vouchers for payments made to the Corporation; he shall enter or cause to be entered regularly in the books of the Corporation kept for the purpose full and accurate accounts of moneys received or paid or otherwise disposed of by him and whenever required by the Board of Directors or the Chief Executive Officer shall render statements of such accounts; and he shall perform all duties incident to the office of Treasurer and shall also have such other powers and shall perform such other duties as may from time to time be assigned to him by these By-Laws or by the Board of Directors or the Chief Executive Officer.

**SECTION 9. ADDITIONAL OFFICERS.** The Board of Directors may from time to time elect such other officers (who may but need not be Directors), including Controllers, Assistant Treasurers, Assistant Secretaries and Assistant Financial Officers, as the Board may deem advisable and such officers shall have such authority and shall perform such duties as may from time to time be assigned to them by the Board of Directors or the Chief Executive Officer.

The Board of Directors may from time to time by resolution delegate to any Assistant Treasurer or Assistant Treasurers any of the powers or duties herein assigned to the Treasurer; and may similarly delegate to any Assistant Secretary or Assistant Secretaries any of the powers or duties herein assigned to the Secretary.

**SECTION 10. GIVING OF BOND BY OFFICERS.** All officers of the Corporation, if required to do so by the Board of Directors, shall furnish bonds to the Corporation for the faithful performance of their duties, in such amounts and with such conditions and security as the Board shall require.

**SECTION 11. VOTING UPON STOCKS.** Unless otherwise ordered by the Board of Directors, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, the President, any Executive Vice President or Vice President shall have full power and authority on behalf of the Corporation to attend and to act and to vote, or in the name of the Corporation to executive proxies to vote, at any meetings of shareholders of any corporation in which the Corporation may hold stock, and at any such meetings shall possess and may exercise, in person or by proxy, any and all rights, powers and privileges incident to the ownership of such stock. The Board of Directors may from time to time, by resolution, confer like powers upon any other person or persons.

**SECTION 12. COMPENSATION OF OFFICERS.** The officers of the Corporation shall be entitled to receive such compensation for their services as shall from time to time be determined by the Board of Directors or by a committee of the Board to which the Board of Directors has delegated such responsibility.

#### **ARTICLE IV. CAPITAL STOCK**

**SECTION 1. FORM.** The interest of each shareholder shall be evidenced by a certificate representing shares of stock of the Corporation, which shall be in such form as the Board of Directors may from time to time adopt and shall be numbered and shall be entered in the books of the Corporation as they are issued. Each certificate shall exhibit the holder's name, the number of shares and class of shares and series, if any, represented thereby, a statement that the Corporation is organized under the laws of the State of Delaware, and the par value of each share or a statement that the shares are without par value.

Each certificate shall be signed by the Chairman of the Board, the President or a vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer and shall be sealed with the seal of the Corporation. In case any officer or officers who shall have signed any such certificate or certificates shall cease to be such officer or officers of the Corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by the Corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates had not ceased to be such officer or officers of the Corporation.

**SECTION 2. TRANSFER.** Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate, or by attorney lawfully constituted in writing, and upon surrender of the certificate thereof, or in the case of a certificate alleged to have been lost, stolen or destroyed, upon compliance with the provisions of Section 4, Article IV of these By-Laws.

**SECTION 3. RIGHTS OF HOLDER.** The Corporation shall be entitled to treat the holder of any share of the Corporation as the person entitled to vote such share, to receive any dividend or other distribution with respect to such share, and for all other purposes and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

**SECTION 4. LOST OR DESTROYED CERTIFICATES.** Any person claiming a certificate of stock to be lost, stolen or destroyed shall make an affidavit or affirmation of the fact in such manner as the Board of Directors may require and shall if the Board of Directors so requires, give the Corporation a bond of indemnity in the form and amount and with one or more sureties satisfactory to the Board of Directors, whereupon an appropriate new certificate may be issued in lieu of the one alleged to have been lost, stolen or destroyed.

**ARTICLE V.  
FISCAL YEAR**

The fiscal year of the Corporation shall be established by the Board of Directors of the Corporation.

**ARTICLE VI.  
SEAL**

The corporate seal shall be in such form as the Board of Directors may from time to time determine.

**ARTICLE VII.  
ANNUAL STATEMENTS**

No later than four months after the close of each fiscal year, and in any case prior to the next annual meeting of shareholders, the Corporation shall prepare:

- (a) A balance sheet showing in reasonable detail the financial condition of the Corporation as of the close of the fiscal year, and
- (b) A profit and loss statement showing the results of its operation during the fiscal year.

Upon written request, the Corporation shall mail promptly to any shareholder of record a copy of the most recent such balance sheet and profit and loss statement.

**ARTICLE VIII.  
INDEMNIFICATION**

**SECTION 1. ACTION BY PERSONS OTHER THAN THE CORPORATION.** Under the circumstances prescribed in Sections 3 and 4 of this Article, the Corporation shall indemnify and hold harmless any person who was or is a party or is threatened to be made a party of any, threatened, pending or completed action, suit or proceeding, or investigation, whether civil, criminal or administrative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a Director, Officer, employee or agent of the Corporation, or is now serving at the request of the Corporation as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in a manner which he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to criminal action or proceeding, he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in a manner which he reasonably believed to be in or not opposed to the best interest of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

**SECTION 2. ACTIONS BY OR IN THE NAME OF THE CORPORATION.** Under the circumstances prescribed in Sections 3 and 4 of this Article, the Corporation shall indemnify and hold harmless any person who was or is a party or is threatened to be made a party of any, threatened, pending or completed action, suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a Director, Officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Corporation; except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expense which the court shall deem proper.

**SECTION 3. SUCCESSFUL DEFENSE.** To the extent that a Director, Officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

**SECTION 4. AUTHORIZATION OF INDEMNIFICATION.** Except as provided in Section 3 of this Article and except as may be ordered by a court, any indemnification under Sections 1 and 2 of this Article shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, Officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 and 2. Such determination shall be made:

- (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding; or
- (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by the firm of independent legal counsel then employed by the Corporation, in a written opinion.

**SECTION 5. PREPAYMENT OF EXPENSES.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors upon receipt of an undertaking by or on behalf of the Director, Officer, employee or agent to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article.

**SECTION 6. NON-EXCLUSIVE RIGHT.** The indemnification provided by this Article shall not be deemed exclusive of any other right to which the person indemnified hereunder shall be entitled and shall inure to the benefit of the heirs, executors or administrators of such persons.

**SECTION 7. INSURANCE.** The corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this section.

**SECTION 8. INTERPRETATION OF ARTICLE.** It is the intent of this Article VIII to provide for indemnification of the Directors, Officers, employees and agents of the Corporation to the full extent permitted under the laws of State of Delaware. This Article VIII shall be construed in a manner consistent with such intent.

**ARTICLE IX.  
NOTICES: WAIVER OF NOTICE**

**SECTION 1. NOTICES.** Except as otherwise provided in these By-Laws, whenever under the provisions of these By-Laws notice is required to be given to any shareholder, Director or Officer, such notice shall be given either by personal notice or by cable or telegraph, or by mail by depositing the same in the post office or letter box in a postpaid sealed wrapper, addressed to such shareholder, Officer or Director at such address as appears on the books of the Corporation, and such notice shall be deemed to be given at the time when the same shall be thus sent or mailed.

**SECTION 2. WAIVER OF NOTICE.** Whenever any notice whatsoever is required to be given by law, by the Articles of Incorporation or by these By-Laws, a waiver thereof by the person or persons entitled to said notice given before or after the time stated therein, in writing, which shall include a waiver given by telegraph or cable, shall be deemed equivalent thereto. No notice of any meeting need be given to any person who shall attend such meeting.

**ARTICLE X.  
CHECKS, NOTES, DRAFTS, LOANS, ETC.**

**SECTION 1. CHECKS, NOTES, DRAFTS.** All checks, drafts, bills of exchange, acceptances, notes or other obligations or orders for the payment of money shall be signed and, if so required by the Board of Directors, countersigned by such officers of the Corporation and/or other persons as shall from time to time be designated by the Board of Directors or pursuant to authority delegated by the Board.

Checks, drafts, bills of exchange, acceptances, notes, obligations and orders for the payment of money made payable to the Corporation may be endorsed for deposit to the credit of the Corporation with a duly authorized depository by the Treasurer and/or such other officers or persons as shall from time to time be designated by the Treasurer.

**SECTION 2. LOANS.** No loans and no renewals of any loans shall be contracted on behalf of the Corporation except as authorized by the Board of Directors. When authorized so to do, any officer or agent of the Corporation may effect loans and advances for the Corporation from any bank, trust company or other institution or from any firm, corporation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Corporation. When authorized so to do, any officer or agent of the Corporation may pledge, hypothecate or transfer, as security for the payment of any and all loans, advances, indebtedness and liabilities of the Corporation, any and all stocks, securities and other personal property at any time held by the Corporation, and to that end may endorse, assign and deliver the same. Such authority may be general or confined to specific instances.

**ARTICLE XI.  
OFFICES**

Except as otherwise required by the laws of the State of Delaware, the Corporation may have an office or offices and keep its books, documents and papers outside of the State of Delaware at such place or places as from time to time may be determined by the Board of Directors or the President.

**ARTICLE XII.  
AMENDMENTS**

Except as otherwise indicated in these By-Laws, the By-Laws of the Corporation may be altered or amended and new By-Laws may be adopted by the shareholders or by the Board of Directors at any regular or special meeting of the Board of Directors; provided, however, that, if such action is to be taken at a meeting of the shareholders or Board of Directors, notice of the general nature of the proposed change in the By-Laws shall have been given in the notice of a meeting. Except as otherwise indicated in these By-Laws, action by the shareholders with respect to By-Laws shall be taken by an affirmative vote of a majority of the shares entitled to elect Directors, and action by the Directors with respect to By-Laws shall be taken by an affirmative vote of a majority of all Directors then holding office.