

SUPREME COURT OF THE STATE OF NEW YORK
COUNTRY OF NEW YORK

THEO CHINO

Plaintiff-Petitioner,

-against-

THE DEPARTMENT OF FINANCIAL SERVICES; ANTHONY J. ALBANESE, In his Official Capacity as the Acting Superintendent of the Department of Financial Services.

Defendants-Respondents.

**AFFIDAVIT OF THEO CHINO
IN OPPOSITION TO
RESPONDENTS' CROSS-
MOTION TO DISMISS**

Index No. 101880/2015
Hon. Lucy Billings

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

I, Theo Chino, being duly sworn, deposes and states:

1. I am the Plaintiff-Petitioner in the above listed case. The information given in this affidavit is true and correct to the best of my knowledge.

2. On November 19, 2013, I incorporated Chino LTD in Delaware, and on February 24, 2014, I submitted an application for authority to conduct business in the state of New York under § 1304 of the Business Corporation Law as a foreign business corporation. The original purpose of Chino LTD was to install Bitcoin processing services in the State of New York. A copy of the filing receipt is annexed as Exhibit I.

3. In March 2014, I hired an employee to sell Chino LTD's Bitcoin-related services in New York County and Bronx County.

4. My employee distributed surveys to local bodegas and stores to evaluate the Bitcoin landscape and identify potential clients in the Manhattan area. A copy of one of the

translated surveys is annexed as Exhibit II.

5. On December 31, 2014, I co-founded Conglomerate Business Consultants Inc. (CBC). A copy of the New York Certificate of incorporation is annexed as Exhibit III.

6. CBC started out by purchasing phone minutes from E-Sigma Online LLC, and latter from NobelCom LLC. CBC would distribute the phone minutes to bodegas who would in turn sell the phone minutes to customers. A copy of the distribution agreement with NobelCom LLC is annexed as Exhibit IV.

7. While CBC was a distributor of phone minutes and provided the Bitcoin processing service directly to bodegas, Chino Ltd. provided technical services to CBC by processing the bitcoin transactions.

8. After business relationships were established with bodegas through selling phone minutes, between December 2014 and May 2015, CBC entered into formal contracts with seven bodegas in New York to offer Bitcoin-processing services. A copy of one of the contracts between CBC and a bodega is annexed as Exhibit IV. The bodegas were given signage to display that they accepted Bitcoins. A photo of the signage is annexed as Exhibit V.

9. Everyday, CBC sent the bodegas the daily exchange rate that would be used for Bitcoin processing through CBC. An email of the exchange rate sent from CBC to the bodegas is annexed as Exhibit VI.

10. As required under NYCRR § 200.21, I submitted an application for license on August 7, 2015 to engage in Virtual Currency Business Activity, as defined in 23 NYCRR § 200.2(q).

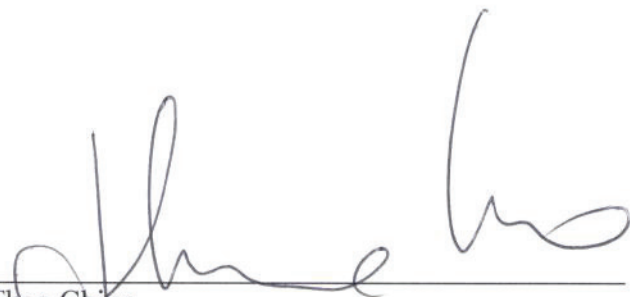
11. As allowed under 23 NYCRR § 200.21, CBC continued offering Bitcoin processing services to bodegas while I waited for my application to be processed.

12. On October 16, 2015, I filed the above-entitled action while my application was being processed because I realized the requirements under Part 200 of Chapter 1 of Title 23 of the New York Codes, Rules and Regulations would generate significant costs to run my business.

13. On January 4, 2016, the New York State Department of Financial Services returned my application without further processing after they performed an initial review. The stated reason for returning my application was that the New York State Department of Financial Services was unable to evaluate whether my company's current or planned business activity would be considered Virtual Currency Business Activity that requires licensing under the New York Financial Services Law and regulations. The January 4, 2016 letter from the New York State Department of Financial Services is annexed as Exhibit VII.

14. On January 4, 2016, CBC stopped offering Bitcoin processing services when the New York State Department of Financial Services because my application was not approved and I could no longer provide Bitcoin processing services without a license. I did not challenge New York State Department of Financial Services returning my application because I had already initiated the above-entitled action.

Dated: October 26th, 2016
New York, NY



Theo Chino
640 Riverside Drive, 10B
New York, NY 10031

SWORN to before me, this 26th day October, 2016



NOTARY PUBLIC



EXHIBIT “I”

FILING RECEIPT

=====

ENTITY NAME: CHINO LTD

DOCUMENT TYPE: APPLICATION FOR AUTHORITY (FOREIGN BUS)

COUNTY: NEWY

=====

FILED:02/24/2014 DURATION:PERPETUAL CASH#:140224000732 FILM #:140224000671
DOS ID:4533808

FILER:

EXIST DATE

THEO CHINO
640 RIVERSIDE DRIVE
10B
NEW YORK, NY 10031

02/24/2014

ADDRESS FOR PROCESS:

THEO CHINO
640 RIVERSIDE DRIVE
NEW YORK, NY 10031

10B

REGISTERED AGENT:



The corporation is required to file a Biennial Statement with the Department of State every two years pursuant to Business Corporation Law Section 408. Notification that the biennial statement is due will only be made via email. Please go to www.email.ebiennial.dos.ny.gov to provide an email address to receive an email notification when the Biennial Statement is due.

=====

SERVICE COMPANY: ** NO SERVICE COMPANY **

SERVICE CODE: 00

FEES 225.00

FILING 225.00
TAX 0.00
CERT 0.00
COPIES 0.00
HANDLING 0.00

PAYMENTS 225.00

CASH 0.00
CHECK 225.00
CHARGE 0.00
DRAWDOWN 0.00
OPAL 0.00
REFUND 0.00

=====

DOS-1025 (04/2007)

EXHIBIT “II”

MAR 26 ENT'D



Chino, Ltd

Negocio

Nombre del negocio

Dirección

Nombre de la persona que toma
decisión

Hora que se puede encontrar el
dueño

Caridad Restaurant
3531 Broadway
Amauris

Aceptan Tarjetas de Crédito

Fees

yes

Aceptaría trabajar con el Bitcoin

yes!

Qué opinión sobre el Bitcoin

dice que eso no vendra
ahora pero espero que suceda

Notas (correo electrónico, teléfono, etc ..)

Amaury@caridad145.com

MARCH 26, 2017



Chino, Ltd

Business

Name of the business

CARIDAD RESTAURANT

Address

3531 BROADWAY

Name of the person that makes decision

AMAURIS

Time the owner can be reached

Accept Credit Card

Fees

YES

Would they accept working with Bitcoin

Yes!

What opinion of the Bitcoin

Says that she will not use AT THIS MOMENT, BUT HOPE ONE DAY

Notes (email, phone number, etc....)

AMAURY@CARIDAD145.COM

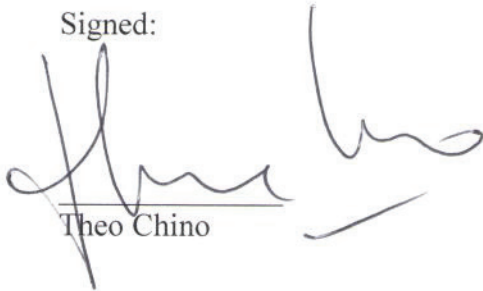
--- ENGLISH TRANSLATION ---

CERTIFICATE OF ACCURACY IN TRANSLATION

I, Theo Chino, hereby certify that I am fluent in both English and Spanish, and that I have faithfully translated from Spanish into English, to the best of my knowledge, the attached document, titled:

“Survey Given to Caridad Restaurant”

Signed:



Theo Chino

New York, New York
October 25, 2016

EXHIBIT “III”

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on December 31, 2014.

A handwritten signature in cursive script that reads "Anthony Giardina".

Anthony Giardina
Executive Deputy Secretary of State

CERTIFICATE OF INCORPORATION
OF
Conglomerate Business Consultants Inc

Under Section 402 of the Business Corporation Law

FIRST: The name of the corporation is:

Conglomerate Business Consultants Inc

SECOND: This corporation is formed to engage in any lawful act or activity for which a corporation may be organized under the Business Corporation Law, provided that it is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

THIRD: The county, within this state, in which the office of the corporation is to be located is
NEW YORK.

FOURTH: The total number and value of shares of common stock which the corporation shall have authority to issue is: 200 SHARES WITH NO PAR VALUE.

FIFTH: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the corporation served upon him or her is:

Conglomerate Business Consultants Inc
14 Wall Street 20th Floor
New York, NY 10005

I certify that I have read the above statements, I am authorized to sign this Certificate of Incorporation, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

Silfrido Martinez (signature)

Silfrido Martinez, INCORPORATOR
14 Wall Street 20th Floor
New York, NY 10005

Filed by:
Silfrido Martinez
14 Wall Street 20th Floor
New York, NY 10005

FILED WITH THE NYS DEPARTMENT OF STATE ON: 12/31/2014
FILE NUMBER: 141231010182; DOS ID: 4686913

ONLINE FILING RECEIPT

ENTITY NAME: CONGLOMERATE BUSINESS CONSULTANTS INC

DOCUMENT TYPE: INCORPORATION (DOM. BUSINESS)

COUNTY: NEW

FILED:12/31/2014 DURATION:PERPETUAL CASH#:141231010182 FILE#:141231010182
DOS ID:4686913

FILER:

EXIST DATE

SILFRIDO MARTINEZ
14 WALL STREET 20TH FLOOR
NEW YORK, NY 10005

12/31/2014

ADDRESS FOR PROCESS:

CONGLOMERATE BUSINESS CONSULTANTS INC
14 WALL STREET 20TH FLOOR
NEW YORK, NY 10005

REGISTERED AGENT:

STOCK: 200 NPV



The corporation is required to file a Biennial Statement with the Department of State every two years pursuant to Business Corporation Law Section 408. Notification that the Biennial Statement is due will only be made via email. Please go to www.email.ebiennial.dos.ny.gov to provide an email address to receive an email notification when the Biennial Statement is due.

SERVICE COMPANY: ** NO SERVICE COMPANY **
SERVICE CODE: 00

FEE:	145.00	PAYMENTS	145.00
FILING:	125.00	CHARGE	145.00
TAX:	10.00	DRAWDOWN	0.00
PLAIN COPY:	0.00		
CERT COPY:	10.00		
CERT OF EXIST:	0.00		

DOS-1025 (04/2007)

Authentication Number: 1412310167 To verify the authenticity of this document you may access the Division of Corporation's Document Authentication Website at

EXHIBIT “IV”



Conglomerate Business Consultants, Inc.

14 Wall Street – 20th Floor, New York, NY 10005
(888) 522-5211 – support@cbcna.co

001016

BITCOIN PROCESSING AGREEMENT

Effective beginning 05 / 28 / 2015 with the regularly scheduled transfers following the date of acceptance of this authorization by **Conglomerate Business Consultants, Inc.** ("CBC, Inc") and of which CBC, Inc. will notify me in writing, I (hereafter "I", "me" or "my") hereby authorize **Conglomerate Business Consultants, Inc** and its successors or assigns to process blockchain inscriptions and bitcoin transfers on my behalf.

The amount of each such **inscription** will be equal to my scheduled invoice due under the retail contract held by CBC, Inc and I (the "Agreement".)

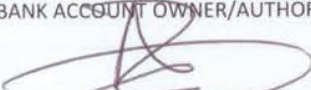
I understand that any financial information provided herein shall be deemed a part of this authorization.

Activation Fee <u>0</u>		Per Transaction Fee	
Monthly Airtime Fee (per terminal) <u>0</u>		One Time Fee <u>0</u>	
BANK ROUTING NUMBER	ACCOUNT TYPE (CHECK ONE)	BANK ACCOUNT NUMBER	

I may cancel this authorization by one of the following methods:

- a. Sending a written cancellation request by regular mail to **CBC, Inc, 14 Wall St, 20th Floor, New York, NY 10005;**
- b. Sending an email requesting cancellation addressed to **autopaycancel@cbcna.co;**
- c. Sending a cancellation request by facsimile to **(888) 531-3901;** or
- d. Enrolling as a registered user at **http://www.cbcna.co** and canceling as provided in that website;
- e. Requesting from any CBC, Inc. representative for the written cancellation form in person or by calling **(888) 522-5211** and returning it to CBC, Inc.

This authorization will remain in full force and effect until I cancel it by a method listed herein; and CBC, Inc. cancels it in writing. x AR

COMPANY NAME <u>Neo wireless</u>		ADDRESS <u>1481 Saint Nicholas Ave</u>	
FINANCIAL INSTITUTION NAME		NAME(S) ON BANK ACCOUNT	
BANK ROUTING NUMBER	ACCOUNT TYPE (CHECK ONE) <input type="checkbox"/> Checking <input type="checkbox"/> Savings	BANK ACCOUNT NUMBER	
BANK ACCOUNT OWNER/AUTHORIZED SIGNER'S SIGNATURE 			DATE <u>05/28/15</u>

Important Enrollment Information

1. Please make sure all information above is filled in and that a blank voided check is included with this authorization form containing any missing information.
2. Return the Authorization Form and voided check to the address below or by fax to 1-888-531-3901.

Conglomerate Business Consultants, Inc.
14 Wall Street – 20th floor
New York, NY 10005

EXHIBIT “V”



bitcoin
**ACCEPTED
HERE**

cBc

CONGLOMERATE BUSINESS CONSULTANTS INC.
14 Wall Street New York, NY 10005
1-888-522-5211
E-mail: sales@cbcna.co
www.cbcna.co



FOR TECHNICAL SUPPORT
PLEASE CONTACT US AT:

1-888-316-4123
support@cbcna.co

EXHIBIT “VI”

Original Message

Message ID	<201506081154.t58BsYts029008@intranet.inhse.knyc.ny.us.chino.ws>
Created at:	Mon, Jun 8, 2015 at 7:54 AM (Delivered after 222 seconds)
From:	CBC Info <autoinfo@cbcna.co>
To:	Bouna Fade <ouze91@gmail.com>
Subject:	\$214.00 or 4.67 mXBT - Monday, June 8, 2015
SPF:	PASS with IP 91.121.200.135 Learn more

[Download Original](#)

[Copy to clipboard](#)



Theo Chino <theo.chino@gmail.com>

\$214.00 or 4.67 mXBT - Monday, June 8, 2015

CBC Info <autoinfo@cbcna.co>
To: Bouna Fade <ouze91@gmail.com>

Mon, Jun 8, 2015 at 7:54 AM



14 Wall Street - 20th Floor, New York, NY 10005
(888) 522-5211 - support.co

Multiservice And Innovations Inc.

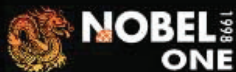
Owner: Bouna Fade

If you see any errors on the transactions you performed yesterday, please contact us immediately.

Information valid from
06/08/2015 - 8:00 am to 06/08/2015 - 10:00 pm

Bitcoin rate provided by:
 Chino, Ltd

214.00 USD = 1.00 XBT
1.00 USD = 4.67 mXBT



Balance:

Time	Product	Retail Price	Retail Cost	Status	Invoice Number	Phone Number
11:58 AM	Nobel One	10.00	7.50	Cancelled	P-1481261246	917-362-1878

12:04 PM	Nobel One	5.00	3.75	Fully processed	P-5602261227	917-362-1878
12:02 PM	Nobel One	10.00	7.50	Fully processed	P-7991261224	347-394-9198
12:00 PM	Nobel One	5.00	3.75	Fully processed	P-3091261272	347-940-9505
01:05 PM	T-Mobile RTR + Prepaid Wireless	60.00	58.80	Fully processed	P-9844261277	34-75565026
01:04 PM	Top Up Guinea - Cellcom	5.00	4.55	Fully processed	P-1044261238	224-654419735
02:56 PM	Top Up Liberia --- Lonestar Cell (MTN)	5.00	4.30	Fully processed	P-9288261255	231-886754875
02:55 PM	Top Up Liberia --- Lonestar Cell (MTN)	5.00	4.30	Fully processed	P-8978261201	231-888743460
02:28 PM	Top Up Senegal - Orange	26.00	22.62	Fully processed	P-4487261211	221-774355980
02:22 PM	Nobel One	20.00	15.00	Fully processed	P-2367261260	917-536-7434
05:53 PM	Top Up Guinea - Cellcom	5.00	4.55	Fully processed	P-0345361258	224-656097743
05:41 PM	Top Up El Salvador - Movistar	5.00	4.33	Fully processed	P-7205361236	503-61300435
06:14 PM	Top Up Guinea - Cellcom	5.00	4.55	Fully processed	P-8906361274	224-654431409
07:40 PM	Top Up Mali - Orange	12.00	10.32	Fully processed	P-7009361274	223-78774327
Total cost for Sunday, June 7, 2015 transactions:		\$ 155.81				

EXHIBIT “VII”



NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

January 4, 2016

Chino Ltd.
640 Riverside Drive, 10B
New York, NY 10031

Attn: Theo Chino
Chief Executive Officer

RE: Chino Ltd.
Application for License to Engage in Virtual Currency Business Activity

Dear Mr. Chino:

The New York State Department of Financial Services (the "Department") has performed an initial review of the Virtual Currency Business Activity license application (the "Application") of Chino Ltd. (the "Company"). The Department notes that the submitted Application documentation is exceptionally limited. Among other issues, the Application does not contain any description of the Company's current or proposed business activity. Therefore, the Department is unable to evaluate whether the Company's current or intended business activity (if any) would be considered Virtual Currency Business Activity that requires licensing under the New York Financial Services Law and regulations (*see* 23 NYCRR Part 200). For that reason, the Application is herewith being returned to you without further processing by the Department.

The Department would emphasize that the instant letter does not offer any opinion as to whether or not any business activity of the Company requires or would require licensing in New York.

Should you have any questions, please contact me at Maharshi.Datta@dfs.ny.gov or (212) 709-1530.

Sincerely,

Maharshi Datta
Supervising Bank Examiner
Capital Markets Division
New York State Department of Financial Services
One State Street, New York, NY 10004-1511

Enclosure: Original Application