

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THEO CHINO and CHINO LTD,

Plaintiffs-Petitioners,

-against-

THE NEW YORK DEPARTMENT OF
FINANCIAL SERVICES and MARIA T. VULLO,
in her official capacity as the Superintendent of the
New York Department of Financial Services,

Defendants-Respondents.

Index No. 101880/2015
Hon. Lucy Billings

**NOTICE OF AMENDED
VERIFIED PETITION**

**ORAL ARGUMENT
REQUESTED**

PLEASE TAKE NOTICE that upon the annexed Amended Verified Petition, dated May 25, 2017, and all exhibits annexed thereto, application will be made before the Civil Branch Clerk's Office of the New York State Supreme Court, County of New York, located in room 130 of the Courthouse located at 60 Centre Street, New York, NY, on the 31st day of August 31, 2017 at 9:30am, or as soon thereafter as counsel can be heard for a judgment granting the relief requested in the petition as follows:

(a) Enjoining and permanently restraining Defendants-Respondents and any of their agents, officers, and employees from implementing or enforcing the "Virtual Currency" regulation promulgated by NYDFS at Part 200 of Chapter 1 of Title 23 of the New York Codes, Rules and Regulations (cited as "NYCRR") (the "Regulation") on the basis that it is unlawfully *ultra vires*, and declaring the Regulation invalid;

(b) Declaring the Regulation unconstitutional because it violates the separation-of-powers doctrine to the extent they are found to have delegated and/or authorized Defendants-Respondents to promulgate the Regulation;

(c) Enjoining and permanently restraining Defendants-Respondents and any of their agents, officers and employees from implementing or enforcing the Regulation on the basis that it is arbitrary and capricious;

(d) Enjoining and permanently restraining Defendants-Respondents and any of their agents, officers and employees from implementing or enforcing the Regulation on the basis that it is preempted by federal law;

(e) Enjoining and permanently restraining Defendants-Respondents and any of their agents, officers and employees from implementing or enforcing the Regulation on the basis that it violates both the First Amendment of the U.S. Constitution and of the New York Constitution;

(f) Setting aside the Regulation and declaring it without lawful authority, and in violation of law;

(g) Declaring that Defendants-Respondents proceeded in excess of jurisdiction;

(h) Declaring that the Regulation is preempted by federal law;

(i) Declaring that the Regulation violates both the First Amendment of the U.S. Constitution and of the New York Constitution;

(j) Awarding Plaintiffs-Petitioners incidental monetary relief as well as its reasonable attorneys' fees, costs and interest, including without limitation attorney's fees permitted under CPLR Article 86, and;

(k) Granting such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to Section 7804(c) of the Civil Practice Laws and Rules ("CPLR") an answer and supporting affidavits, if any, shall be served at least five (5) days before the return date of this application, and reply papers will be served at least one (1) day before that date, or in accordance with a Stipulation of Adjournment and

Briefing Schedule agreed upon by both parties and signed on May 17, 2017.

Dated: May 25, 2017
New York, New York



Pierre Ciric
THE CIRIC LAW FIRM, PLLC
17A Stuyvesant Oval
New York, NY 10009
Email: pciric@ciriclawfirm.com
Tel: (212) 260-6090
Fax: (212) 529-3647
Attorney for Plaintiffs-Petitioners