

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Administrative Proceedings Rulings  
Release No. 5792 / June 12, 2018

Administrative Proceeding  
File No. 3-17366

In the Matter of

**Capitol City Bancshares, Inc.,  
Chang-On International, Inc.,  
Computer Graphics  
International Inc.,  
John D. Oil and Gas Company,  
Legal Life Plans, Inc., and  
Power River Coal Corp.**

**Order Regarding Service**

The Securities and Exchange Commission issued an order instituting proceedings on August 9, 2016. To date, Respondents Chang-On International, Inc., a Utah corporation, and Computer Graphics International Inc., a Nevada corporation, have not been served. According to the most recent status update submitted by the Division of Enforcement, it has made no progress in its attempts to serve them under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, *done* Nov. 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163: “The last update [that the Commission] received from the Chinese Central Authority confirmed they obtained the subpoena package from [the Office of International Affairs] on November 16, 2016, and forwarded the packages to the Supreme Court to be sent to the local courts, for service upon the two Respondents.” That was over eighteen months ago. Such delays are not unheard of in China. *Accord* P.R.C., Response, Questionnaire of November 2013 relating to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 5, [https://assets.hcch.net/upload/wop/2014/2014sc\\_14cn.pdf](https://assets.hcch.net/upload/wop/2014/2014sc_14cn.pdf) (reporting that out of the 1,930 requests received in 2012, 40 took more than twelve months to execute and 606 were still pending when the November 2013 survey was completed); *id.* at 6 (recognizing that “some cases [are] still

pending after 1 or 2 years”). But I cannot continue this proceeding indefinitely. *Cf. Richard Cannistraro*, Exchange Act Release No. 39521, 1998 WL 2614, at \*1-2 (Jan. 7, 1998) (summarily affirming dismissal without prejudice of proceeding where respondent avoided service for six months because “any postponement must be for a definite period of time and cannot be open-ended”).

The Division is therefore ORDERED to file a brief with supporting evidence by July 2, 2018, addressing each of the following points and any others that it believes might be relevant.

- (1) Whether service can be completed through alternative means as permitted by state law, such as service on a registered agent or the appropriate secretary of state. *Cf., e.g., Intelligent Payments, LLC v. RevProtect, Inc.*, No. 2:15-cv-410, 2017 WL 1906696, at \*2 (D. Utah May 8, 2017) (recognizing that Utah permits service on the registered agent of a dissolved corporation (citing Utah Code Ann. § 16-10a-1409)); *Canarelli v. Dist. Ct.*, 265 P.3d 673, 675 n.2 (Nev. 2011) (recognizing similar provision in Nevada (citing Nev. Rev. Stat. § 78.750(2)); Nev. Rev. Stat. § 14.030(1), (3) (permitting service on the Nevada Secretary of State if service upon or notice to the officers of the corporation has been unsuccessful).
- (2) Whether the safety valve provision (paragraph two) of Article 15 of the Hague Convention may be invoked. *See, e.g., In the Matter of C.T.S. Tech. Co.*, 31 FCC Rcd. 6126, ¶ 4 (2016) (entering default judgment after more than one year passed since notice was transmitted to foreign authority for Hague service and four separate, unsuccessful attempts were made to obtain a certificate of service or to expedite the return of a certificate from the foreign authority); *Thomas v. Biocine Sclavo, S.P.A.*, No. 94-cv-1568, 1998 WL 51861, at \*1-2 (N.D.N.Y. Feb. 4, 1998) (finding plaintiff “was entitled to entry of default” against defendants that he attempted to serve through Hague service channels because the foreign authority had failed to return a certificate in conformance with Hague Convention requirements and “he had followed the proper procedures and waited a sufficient length of time” per Article 15).
- (3) Whether it would be appropriate or necessary to dismiss this proceeding without prejudice under *Cannistraro*.
- (4) Whether the Division will seek a discontinuance from the chief administrative law judge under 17 C.F.R. § 200.30-10(a)(8) because a respondent cannot be found.

I request an electronic courtesy copy of any brief and supporting material be sent to alj@sec.gov.<sup>1</sup>

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Jason S. Patil  
Administrative Law Judge

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<sup>1</sup> The challenges with serving an issuer through a foreign Hague authority could perhaps be avoided if, for example, service of an order instituting proceedings could be accomplished by delivery or attempted delivery to the issuer's most recent email address on file with the Commission and Commission rules specifically required issuers to maintain a valid email address in their reports filed on EDGAR and to agree that such email address may be used for service as a condition for registration and filing on EDGAR. See 17 C.F.R. §§ 201.141(a) (service rule for administrative proceedings), 232.101(a)(1)(i) (registration statements filed pursuant to Section 12(b) or (g) of the Exchange Act are subject to the Commission's electronic filing requirements), 232.301 ("The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: 'General Information,' Version 30 (March 2018)."); EDGAR Filer Manual, Volume I, § 5.4, at 5-5 (Mar. 2018) ("It is the obligation of the registrant to keep the company information on EDGAR current and valid."); see also *FKA Distrib. Co. v. Yisi Tech. Co.*, No. 17-cv-10226, 2017 WL 4129538, at \*1 (E.D. Mich. Sept. 19, 2017) ("[S]everal courts have held that the Hague Convention allows service by email.").