

02-04-2004



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Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 1-30-04

BNY ESI & Co., Inc.

- Individual(s) Association General Partnership Limited Partnership [X] Corporation-State - Delaware Other

Additional name(s) of conveying party(ies) attached? [] Yes [X] No

2. Name and address of receiving party(ies)

Name: BNY Brokerage Inc.

Internal Address:

Street Address: 1633 Broadway, 48th Floor

City: New York, State: NY Zip: 10019

- Individual(s) citizenship Association General Partnership Limited Partnership [X] Corporation-State Delaware Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: [] Yes [] No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? [] Yes [] No

3. Nature of conveyance:

- Assignment Merger Security Agreement [X] Change of Name Other

Execution Date: August 22, 2002

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2,283,653

and 2,345,267

Additional number(s) attached [] Yes [XX] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Douglas J. Ray, Esq.

Internal Address: Pillsbury Winthrop LLP

Street Address: 1540 Broadway

City: New York, State: NY Zip: 10036-4039

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

- [X] Enclosed [] Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Douglas J. Ray Name of Person Signing

Douglas J. Ray Signature

January 30, 2004 Date

Total number of pages including cover sheet, attachments, and document: 8

206533-000011

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK REEL: 002908 FRAME: 0555

Office of the Commissioner of Patents and Trademarks FINANCE SECTION 2004 JAN 30 11:11 AM

Delaware

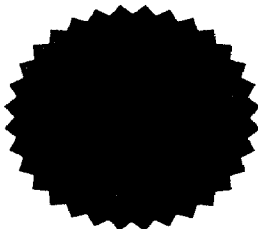
PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OF "BNY BROKERAGE INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, CHANGING ITS NAME FROM "BNY ESI & CO., INC." TO "BNY BROKERAGE INC.", FILED THE FIRST DAY OF OCTOBER, A.D. 2002, AT 4:30 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

2803176 8100X

AUTHENTICATION: 2886143

040047310

DATE: 01-22-04

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RESTATED

CERTIFICATE OF INCORPORATION

OF

BNY ESI & Co., Inc.

BNY ESI & Co., Inc., a Delaware corporation (the "Corporation"), does hereby certify that:

FIRST: The current name of the Corporation is "BNY ESI & Co., Inc." The Corporation was originally incorporated under the name BNY Brokerage Holdings I, Inc. The date of filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware was October 1, 1997.

SECOND: This Restated Certificate of Incorporation (the "Certificate") amends and restates in its entirety the present Certificate of Incorporation of the Corporation. This Certificate has been duly adopted and approved by the Board of Directors of the Corporation by unanimous written consent in lieu of a meeting thereof in accordance with the provisions of Sections 141(f), 242 and 245 of the General Corporation Law of the State of Delaware and by the Stockholders of the Corporation by written consent in lieu of a meeting thereof in accordance with the provisions of Sections 228(a), 242 and 245 of the General Corporation Law at the State of Delaware.

THIRD: This Certificate shall become effective immediately upon its filing with the Secretary of State of the State of Delaware.

FOURTH: Upon filing of this Certificate, the name of the Corporation shall be changed to BNY Brokerage Inc.

FIFTH: Upon the filing with the Secretary of State of the State of Delaware of this Certificate, the Certificate of Incorporation of the Corporation shall be amended and restated in its entirety to read as set forth on Exhibit A attached hereto.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be executed by a duly authorized officer this 22nd

day of August, 2002 and hereby affirms that the facts stated herein are true.

BNY ESI & Co., Inc.

By: Patricia A. Bicket
Name: Patricia A. Bicket
Title: Secretary

EXHIBIT A

RESTATED

CERTIFICATE OF INCORPORATION

OF

BNY Brokerage Inc.

ARTICLE I

NAME

The name of the corporation is BNY Brokerage Inc.

ARTICLE II

REGISTERED OFFICE AND AGENT

The address of the registered office of the corporation in this state is c/o The Bank of New York (Delaware), White Clay Center, Route 273, in the City of Newark, County of New Castle. The name of its registered agent at such address is The Bank of New York (Delaware).

ARTICLE III

OBJECT AND PURPOSES

The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

CAPITAL STOCK

The corporation is authorized to issue 1,000 shares of Common Stock, par value \$1.00 per share.

ARTICLE V

BY LAWS

In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to make, alter or repeal the by-laws of the corporation.

ARTICLE VI**ELECTION OF DIRECTORS**

Elections of directors need not be by written ballot unless the by-laws of the corporation shall so provide.

ARTICLE VII**INDEMNIFICATION OF DIRECTORS**

No director of the corporation shall have any personal liability to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law; or (iv) for any transaction from which the director derived an improper personal benefit.

ARTICLE VIII**RIGHT TO REDEEM OR CONVERT STOCK**

The corporation is authorized to redeem or convert to a fixed income security all or any part of the outstanding voting stock of the corporation owned by any person required to be approved by the Board of Directors of the New York Stock Exchange as a member, allied member or approved person who fails or ceases to be so approved as may be necessary to reduce such person's ownership of voting stock of the corporation below the level which enables such person to exercise controlling influence over the management or policies of the corporation.

ARTICLE IX**DIVIDENDS**

No dividend shall be declared or paid which shall impair the capital of the corporation nor shall any distribution of assets be made to any stockholder unless the value of the assets of the corporation remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital.

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