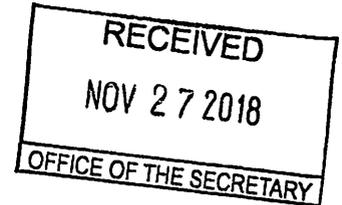


HARD COPY

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
FILED: November 16th, 2018



IN THE MATTER OF

TIMOTHY W. CARNAHAN,

AND CYIOS CORPORATION

RESPONDENTS

ADMINISTRATIVE PROCEEDING
File No. 3-16386

Judge Carol Fox Foelak

RESPONSE TO ORDER FOR PROPOSAL, IN ALTERNATIVE, MOTION TO DISMISS THIS CASE, IN ALTERNATIVE MOTION TO SHOW CAUSE

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **November 16th, 2018** THE RESPONDENTS a party who is unable to agree files a proposal by the date in question on ORDER and to answer to **the Release No. AP-6223/October 1st, 2018** ("Order"), in alternative, request to dismiss this case pursuant to Rules 111, 161, 300 & 400 of the Securities and Exchange Commission's Rules of Practice, 17 C.F.R. § 201.100.

INTERNAL CONTROLS ALLEGATION

The SEC's alleged violation of "Internal Controls" claims are untimely filed **February 13, 2015**. Specifically, the action occurred in 2009 as defined in the case *Gabelli v. Securities and Exchange Commission, No. 11-1274* **the United States Supreme Court clarified that the 5-year statute of limitations applicable to SEC enforcement actions that seek financial penalties begins to accrue when the alleged violation occurs, not when the SEC discovers the violation.**

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Under rule Rule 12h-3, In order to rely on Rule 12h-3, the issuer:

- must be current in its Exchange Act reporting obligations;¹
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CONCLUSION

For the foregoing reasons and below as well, the respondents respectfully request that Your Honor grant this motion to dismiss this case.

1. Section 706(2)(A) of the Administrative Procedure Act (APA) instructs courts reviewing regulation to invalidate any agency action found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
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Respectfully,



Timothy Carnahan



Timothy Carnahan, CEO and President of CYIOS

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In accordance with Rule 150 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the foregoing Reply to the Division of Enforcement's Summary Disposition was served on the persons listed below November 15th, 2018 via United States Postal Service or email where indicated:

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Administrative Law Judge SEC
100 F Street, N.E.
Washington, DC 20549-2557
via USPS

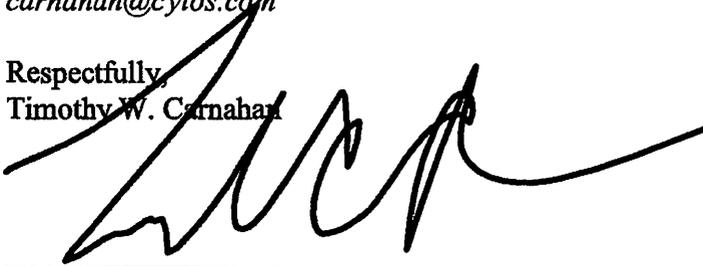
Carol Fox Foela
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Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
ALJ@sec.gov

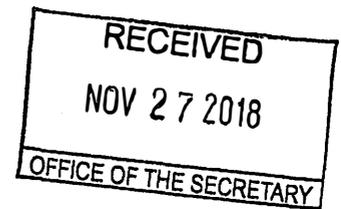
Chris Davis
Timothy McCole
801 Fort Worth Regional Office
Securities and Exchange Commission
801 Cherry Street, Suite 1900
Fort Worth, TX 76102
DavisCa@SEC.GOV

Timothy W. Carnahan
President and CEO and Chairman
CYIOS Corporation
carnahan@cyios.com

CYIOS Corporation
c/o Timothy W. Carnahan, President,
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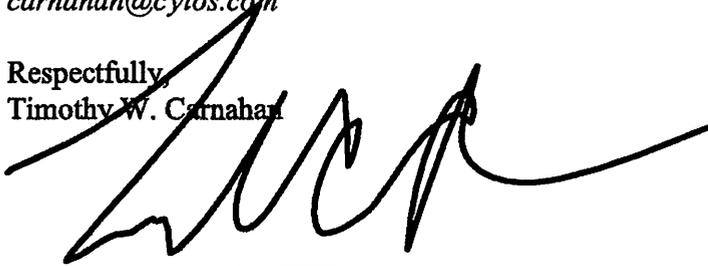
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One would have to turn a blind eye not to see the how the DOE has falsified the record to support its false claim. See for yourself on sec.gov – look at the 10-K filing Item 9A(T).

4. The SEC Commission failed to find for almost 2yrs a final decision. In lack of concluding the case when the SEC Commission could have, under Rule 411 Commission Consideration of Initial Decisions by Hearing Officers part (f) the commission failed to obtain a majority.
 - a. *Failure to Obtain a Majority, in the event a majority of participating Commissioners do not agree to a disposition on the merits, the initial decision shall be of no effect, and an order will be issued in accordance with this result. Moreover, the absence of any action on the part of the commission for period of time as stated in the sec rules of practice, this case has been abandoned or dead locked Failure to Obtain a Majority) as we know the record shows the case was scheduled, briefs were reviewed -but no decision, no stay under the rules of practices Rule 401 or any other section as per relevant to stays in the regulation.*

5. These false statements, arbitrary and capricious claims have been a financial sanction against the respondents. These sanctions have cost the respondents over \$20M. The respondents request the case be dismissed and relief given.
6. The current ALJ stated the below about prejudice in ORDER dated October 18th, 2018. *The respondents point is that the Supreme Court did NOT give DOE a Financial Gun to be falsely planted on the respondent by the DOE and then have DOE claim see they had a gun so we shot and killed the company. The respondent's claims are verifiable and truthful – those of the DOE are not either verifiable and/or truthful.*
 - a. the Division is not required to be “uncritical or even . . . neutral” in the investigative process and “the Supreme Court has recognized the propriety of affording Commission staff ‘considerable discretion in determining when and how to investigate’ potential securities law violations.” Kevin Hall, CPA, Exchange Act Release No. 61162, 2009 SEC LEXIS 4165, at *78-79 (Dec. 14, 2009) (quoting SEC v. Jerry T. O’Brien, Inc., 467 U.S. 735, 744-45 (1984).

Timeliness: The Order was received October 1th, 2018 with due date of November 16th 2018, this filing is timely.

Date: November 16th, 2018

Respondents submitted,

Respectfully,



Timothy Carnahan



Timothy Carnahan, CEO and President of CYIOS

Service List

In accordance with Rule 150 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the foregoing Reply to the Division of Enforcement's Summary Disposition was served on the persons listed below November 15th, 2018 via United States Postal Service or email where indicated:

Honorable Brenda P. Murray Chief
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Respectfully,
Timothy W. Carnahan