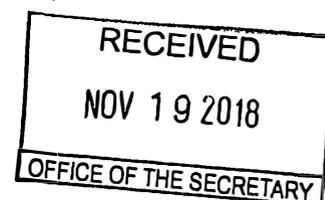


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-16386

In the Matter of

TIMOTHY W. CARNAHAN
AND CYIOS CORPORATION,

Respondents.

DIVISION OF ENFORCEMENT'S
PROPOSAL FOR THE CONDUCT OF
FURTHER PROCEEDINGS

Division of Enforcement's Proposal for the Conduct of Further Proceedings

The Division of Enforcement submits this proposal pursuant to the Court's October 1, 2018 Order (the "Order"). The Order instructed the parties to submit either a joint proposal or separate proposals for the conduct of further proceedings. Because the Respondents have refused to confer with Division Counsel regarding the conduct of further proceedings, the Division submits this separate proposal.

The Respondents Have Refused to Confer with Division Counsel

The undersigned Division counsel has repeatedly contacted the Respondents in order to confer on how the further proceedings should be conducted. Division counsel emailed Carnahan on October 23, 2018, writing in relevant part: "As reflected in the Court's October 1 order, we are required to confer regarding a proposal for the conduct of further proceedings. We must submit either a joint proposal or separate proposals by November 16. Do you have some time to confer on this in the next couple of weeks? I'm free any day next week or Mon-Wed of the following week."¹ Follow up emails were sent on November 5, 2018 and November 13, 2018. Respondents have not responded to any of these emails, and have refused to otherwise confer. Consequently, the Division files its own separate proposal.²

The Division's Proposal for the Conduct of Future Proceedings

The issues in this matter are straightforward and the record is fully developed. As detailed below, most or all of the relevant facts are either not in dispute or are indisputable. Consequently, it can be resolved quickly in a summary type proceeding. For example, it can be

¹ The emails were sent to carnahan@cyios.com—the same email address the Respondents have used to communicate throughout this proceeding.

² Notably, however, the Respondents have emailed Division counsel regarding other matters and filed a number of frivolous motions during the same time period.

resolved on the current record through briefing alone. At most, it can be resolved through briefing and a short hearing—which need not exceed 1-2 days. Discovery is not needed.

The Division had planned to confer with the Respondents regarding the items outlined in SEC Rule of Practice 221(c). Since the Respondents have refused to confer, the Division offers its views on those items as follows:

(1) Simplification and clarification of the issues

The remaining issues are narrow and straightforward: (1) did CYIOS fail to make its required periodic filings; (2) did Carnahan fail to properly evaluate CYIOS's internal controls over financial reporting ("ICFR"); (3) if he did, did CYIOS make and did Carnahan cause CYIOS to make materially untrue statements in its public filings; and (4) did Carnahan inaccurately attest that CYIOS's financial reports did not contain any untrue statements of material fact.

The first issue should not be in dispute—as it is incontrovertible that CYIOS made none of its required public filings between November 21, 2012 and May 30, 2014.³ Nor should the facts related to issues 2-4 be in dispute, as these issues are closely related and the record is well developed. Carnahan has never disputed that he was CYIOS's principal executive responsible for evaluating CYIOS's ICFR. Nor has he disputed how he performed—or more accurately, failed to perform—the evaluations. Consequently, the relevant facts are ripe for stipulation. Or if the Respondents are unwilling to do so, the case is ready to be argued on the existing record.

(2) Exchange of witness and exhibit lists and copies of exhibits

The Division believes that the case can be heard on the existing record using the existing exhibits. However, if it turns out that new witness and exhibit lists need to be exchanged, the Division defers to the Court's preferred timing for the exchange of these items. That said, a hearing will not require many witnesses or exhibits.

(3) Timing of expert witness disclosures and reports, if any

The Division has already made expert disclosures as part of the original hearing. Because the Division believes that the case can be heard on the existing record, it does not believe that expert disclosures need to be made again. However, if it turns out that new expert disclosures need to be made, the Division defers to the Court's preferred timing for the exchange of these items. That said, the Division believes that this can be done quickly as it anticipates that it would use the same expert used in the original hearing.

³ As noted below, the Court can and should take judicial notice of this.

(4) Stipulations, admissions of fact, and stipulations concerning the contents, authenticity, or admissibility into evidence of documents

The facts giving rise to this matter can be fully stipulated. They are either: (1) indisputable (e.g., whether filings were made, the content of the filings and certifications, and the fact that Carnahan was CYIOS's principal executive responsible for ICFR); or (2) fully developed through earlier proceedings in this matter (e.g., Carnahan's sworn testimony regarding the ICFR evaluations). There should not be any dispute over the authenticity or admissibility of evidence—which consists almost entirely of CYIOS's public filings and documents from the Respondents' own files.

(5) Matters of which official notice may be taken

The Court can and should take official notice of all facts that come from CYIOS's public filings—including the content of the management certifications and the fact that they were signed by Carnahan. The Court also can and should take official notice of the fact that CYIOS failed to make its required public filings from November 21, 2012 through May 30, 2014.

(6) The schedule for exchanging prehearing motions or briefs, if any

The Division defers to the Court's preferred timing for the exchange of these items. That said, the schedule for exchanging these items can be abbreviated since the issues here are straightforward and the relevant facts should not be in dispute.

(7) The method of service for papers other than Commission orders

Service by email is appropriate since this is the method that has been used throughout the proceeding by both the Respondents and the Division.

(8) The filing of any motion pursuant to § 201.250

This matter is appropriate for summary disposition. In addition, to the extent it is appropriate in light of the Court's schedule, an expedited briefing schedule is appropriate. Finally, because the issues here are simple and should not be in dispute, motions for summary disposition can be submitted without the need for prior discovery or motion practice.

(9) Settlement of any or all issues

The Division believes that settlement would be appropriate here. However, the Respondents have been unwilling to engage in substantive settlement talks up to this point.

(10) Determination of hearing dates

The Division defers to the Court's schedule for a hearing date, but believes that a hearing can be expedited. A hearing would not need to last more than 1-2 days.

(11) Amendments to the order instituting proceedings or answers thereto

There is no need for amendments.

(12) Production, and timing for completion of the production, of documents as set forth in § 201.230, and prehearing production of documents in response to subpoenas duces tecum as set forth in § 201.232

At the outset of this proceeding, the documents described in Commission Rule of Practice 230 were made available for copying and inspection in the Commission's Fort Worth, Texas regional office—which is where they are normally maintained. They remain available. However, the Respondents should already be in possession of any relevant documents—which are either their own documents or have already been produced in this proceeding.

(13) Specification of procedures as set forth in § 201.202

There should be an initial decision by the hearing officer, it should become effective after 30 days, and any objections not made should be deemed waived.

(14) Depositions to be conducted, if any, and date by which depositions shall be completed

No depositions are needed.

(15) Such other matters as may aid in the orderly and expeditious disposition of the proceeding

N/A.

Dated: November 16, 2018

Respectfully submitted,



Chris Davis
Texas Bar No. 24050483
United States Securities and
Exchange Commission
Fort Worth Regional Office
Burnett Plaza, Suite 1900
801 Cherry Street, Unit 18
Fort Worth, Texas 76102
(817) 900-2638 (Davis)
(817) 978-4927 (facsimile)

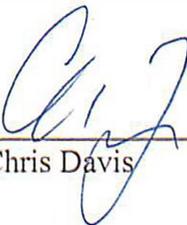
Service List

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the *Division of Enforcement's Proposal for the Conduct of Further Proceedings* was served on the following on November 16, 2018 via email and United Parcel Service, Overnight Mail:

Honorable Judge Carol Fox Foelak
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Timothy W. Carnahan
President and CEO and Chairman
CYIOS Corporation
carnahan@cyios.com
Ronald Reagan Building
1300 Pennsylvania Ave., 700
Washington DC 20004

CYIOS Corporation
c/o Timothy W. Carnahan, President, CEO and Chairman
Ronald Reagan Building
carnahan@cyios.com
1300 Pennsylvania Ave., 700
Washington, DC 20004


Chris Davis