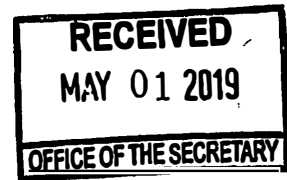


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16386



In the Matter of

**TIMOTHY W. CARNAHAN
AND CYIOS CORPORATION,**

Respondents.

**DIVISION OF ENFORCEMENT'S
SUPPLEMENTAL BRIEF PURSUANT TO
THE COURT'S APRIL 24, 2019 ORDER**

As required by the Court's April 24, 2019 Order (the "Order"), the Division submits this supplemental brief. *A.P. Rulings Rel. No. 6529* at 8. The Order directs the Division to "submit a supplemental brief by May 8, 2019, addressing whether the Sarbanes-Oxley Section 105(c)(7)(B) and Securities Act Section 17(a)(2) charges are still at issue and if so, on what authority." *Id.*

The Division agrees that it is uncertain whether these charges are still at issue in light of the unique circumstances here—where this proceeding has been remanded for a new hearing before a different ALJ, and where the prior orders in this case (including the Initial Decision, which dismissed these charges) have been effectively vacated.¹ That said, the Division shares the Court's concern that no action be taken that could "raise serious questions about the integrity of these proceedings." *Id.* Consequently, out of an abundance of caution, the Division will not

¹ The Commission's Order remanding this case states: "The assigned ALJ shall exercise the full powers conferred by the Commission's Rules of Practice and the Administrative Procedure Act and *shall not give weight to or otherwise presume the correctness of any prior opinions, orders, or rulings issued in the matter.*" *Pending Admin. Proc.*, Securities Act Rel. No. 10536, 2018 WL 4003609, at *2 (Aug. 22, 2018) (emphasis added). Because of this extremely unusual—possibly unprecedented—procedural posture, the Division sees the import of the relevant case law as unclear.

pursue these charges further and will not offer evidence supporting them (except for evidence that also supports the other remaining charges).



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

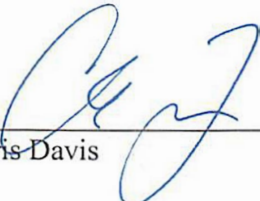
Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the Division of Enforcement's Supplemental Brief Pursuant to the Court's April 24, 2019 Order, via electronic mail and/or United Parcel Service, Overnight Mail:

Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Honorable James Grimes (email only)
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Timothy W. Carnahan (email only)
President and CEO and Chairman
CYIOS Corporation
Ronald Reagan Building
1300 Pennsylvania Ave., 700
Washington DC 20004

CYIOS Corporation (email only)
c/o Timothy W. Carnahan, President, CEO and Chairman
Ronald Reagan Building
1300 Pennsylvania Ave., 700
Washington, DC 20004


Chris Davis