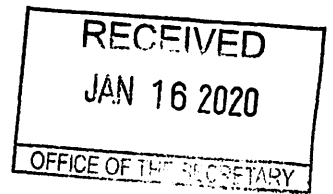


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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
FILED: January 13th, 2020



IN THE MATTER OF
TIMOTHY W. CARNAHAN,
AND CYIOS CORPORATION
RESPONDENTS

ADMINISTRATIVE PROCEEDING
File No. 3-16386

*Motion to Strike/Dismiss Order (Initial
Decision) and Dismiss case*

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **January 13th, 2020**, THE RESPONDENTS file Motion to Strike/Dismiss Order (Initial Decision) Dated January 10th 2020 issued by James E. Grimes, Administrative Law Judge as being UNTIMELY and Dismiss this case pursuant to Rules and Practices of the Securities and Exchange Commission's Rules of Practice, 17 C.F.R. § 201.100.

The Initial Decision of a hearing officer has a time period for filing based upon the date of service of the order; the date of service of the order is **February 13, 2015** as stated by Carol Fox Foelak, Administrative Law Judge in ORDER Release No. 6293/November 5, 2018.

Thus, under SEC Rule 360. Initial Decision of Hearing Officer (2) – the January 10th 2020 Order “Initial Decision” (ID) is untimely.

Furthermore, there has been no “Motion for Extension” under Rule 360 (3).

Notwithstanding the above,

This vague procedural process is a violation of the respondent's Constitutional Due process rights; fifth and fourteenth amendments both contain due process clauses to safeguard from arbitrary denial of life, liberty or property by the government outside the sanction of law; specifically, prohibition against vague laws.

In 2016, rule 900 was violated by the SEC as well; the respondents again filed a motion for an interlocutory review to James E. Grimes, Administrative Law Judge in 2019 but was denied out of judicial bias. A motion for disqualification has been filed January 13th, 2020 for James E. Grimes, Administrative Law Judge to recuse himself.

Rule 900(a) provides that, "to the extent possible . . . [o]rdinarily, a decision by the Commission with respect to an appeal . . . should be issued within seven months from the date the petition for review . . . is filed." 17 C.F.R. § 201.900(a). In this case, there was never anything filed from the SEC under rule 900 to support "no action/decision" or reason for "no action/decision" which was required by law.

Now it is clear that James E. Grimes, Administrative Law Judge (ALJ) (who has been asked to disqualify himself from this case in another motion dated January 13th, 2020), he answered a previous motion by the respondents in 2019 that there was no proof that the case was not decided or at a stalemate between the commission. However, he omitted that fact that rule 900 was still violated and constituted an immediate dismissal; this contemptuous conduct from the judge leads to his pattern of judicial bias, incompetency decision making and willfully neglect of facts in this case against the respondents. James E. Grimes, Administrative Law Judge (ALJ) omission was sinister and prejudice the respondents.

Again, **the respondents Due Process was violated by the SEC.** More so, Carol Fox Foelak ALJ released the ORDER Release No. 6293/November 5, 2018; as we assume the judge reviewed this quite thoroughly but for some reason left out the "gap" in time from 2016 (*Respondent's Appeal of 2015 Initial Decision was waiting for decision by the Commission*) to 2018 (*where commission's stay was put in place due to the Supreme court case Lucia v. SEC, 585 U.S. 2018*) – the "gap" is where SEC violated SEC Rule 900 and yet two ALJs did not acknowledge the violation. This further proves judicial bias and brings corruption into the

procedural due process. Again, any human can do the math – seven months and more had tolled during the “gap” yet the SEC refused to give a decision; all the SEC commission needed to do was release a decision. This irreputable damaged to the respondent have continued into the January 10th 2020 Initial Decision; thus the respondents plead for an immediate dismissal.

With the above stated, the SEC has been caught using vague laws, violating respondent’s constitution rights and its not uncommon. See the whistleblower case about Rule.900 : Flynn vs SEC : No. 16-2122. With this case, the SEC has known for years that there is a problem that is clearly a violation of the respondent’s due process. With this stated, it can only be found that the SEC ALJs are acting in bad faith or even with sinister intention.

The Respondents have clearly shown a due process violation based on the Commission’s procedural timelines. This case should be dismissed.

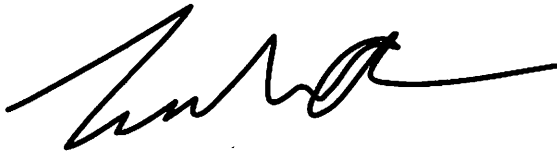
These facts are undisputed at face and cannot be cured by the commission on appeal – see (Heath v. SEC, 586 F.3d 122, 142 (2d Cir. 2009)). If SEC seeks this route, it would be inflicting and applying further penalty on the respondents which have been wrongfully forced into hardship since the inception of this case 2014.

CONCLUSION

For the foregoing reasons, the respondents respectfully request that Your Honor grant this motion and grant relief from destroying a company, defamation of the respondent's character and mangling a company financials with malign intent.

Timeliness: The Order was received January 10th, 2020, this motion is timely.

Date: January 13th, 2020
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 Order was served on the persons listed below as per date of this document via United States Postal Service or email where indicated:

Judge James E. Grimes

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President, CEO and Chairman
via email

Respectfully,
Timothy W. Carnahan

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