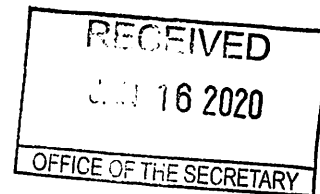


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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
FILED: January 13<sup>th</sup>, 2020

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



**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16386**  
***Motion for recusal: under SEC Rule 111 (f)***  
**Hearing Officer: Authority.**  
**of Judge James E. Grimes**

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **January 13<sup>th</sup>, 2020**, THE RESPONDENTS file Motion for recusal of Judge James E. Grimes pursuant to Rules and Practices of the Securities and Exchange Commission's Rules of Practice, 17 C.F.R. § 201.100.

***Motion for recusal: under SEC Rule 111 (f) Hearing Officer: Authority.***

Recusal based upon judicial bias, incompetence and neglect of facts – note, disqualification is appropriate where the ALJ is not capable of judging a particular controversy fairly on the basis of its own circumstances. Where the hearing officer's words or actions create a likelihood, or the appearance of a likelihood, that his or her mind is effectively closed to reason or persuasion from one side, disqualification may be appropriate.

Contemptuous Conduct on the judge leads to his bias, incompetency and willfully neglect of facts in this case against the respondents. The below should not be mistaken for a request to correct the record nor an appeal; the below are decisions from James E. Grimes, Administrative Law Judge that are bias, incompetent and are total neglect for facts.

1. James E. Grimes, Administrative Law Judge, NEVER reviewed the respondents claim that the statute of limitations has tolled; it has expired. The judge contends only it was reviewed by another judge; this is a failure to read and interpret law. The simple basis of acquiring a JD (Juris Doctor degree) should enable the judge to read and understand that the statute of limitations has not been ruled upon. FACT: If the SEC seeks civil penalties as part of those actions, it **must file suit and commence within five years** from the date when the claim first accrued, (*Gabelli v. Securities and Exchange Commission, No. 11-127 and United States v. Lindsay, 346 U. S. 568, 569*) pursuant to a general statute of limitations that governs many penalty provisions throughout the U. S. Code, 28 U. S. C. §2462. In the hearing, the respondents directly objected and referenced this statute with regard to the hearing even taking place let alone if a fine was assessed; James E. Grimes, Administrative Law Judge stated he would look into it. The case points to the 2009 filing first accrued (yet it was really 2005) either way; any living human can do the math – its 2020, eleven years later at minimum; it is total incompetence and an act of judicial bias from James E. Grimes, Administrative Law Judge to state the statute of limitations has not tolled time barred; further he should not have even set and had a hearing but he did and this is why he should recuse himself.
2. During the hearing, the Judge exemplified anger toward the respondents during the objection challenge. The judge went to as far as having a private

“eye wink and head shake” of a conversation with SEC Christopher Davis the attorney while finding out that the respondents exercised their right of the fifth amendment. The respondents had no idea what this “Secret incognito meeting” was about until they read the “ID” (Initial decision) January 10<sup>th</sup>, 2020. The respondents put it all together this was a bias, corrupt judge again. Just like Judge Elliot was during the first hearing of this case back in 2015; Judge Elliot was under review during that time by the Office of Inspector General (IG) (Transmittal of Interim Report of Investigation: 15-AJ-0482-I) – the respondents were never told about this and only found out years later.

3. The respondents noted in the first case under Judge Elliot that the judge was corrupt, bias and refused to look at the facts. The IG Investigation: 15-AJ-0482-I now totally supports that the respondents were accurate with their claim in 2015, nevertheless a corrupt (ID) Initial Decision was filed in 2015.
4. After respondents exercised their fifth amendment rights, James E. Grimes, Administrative Law Judge during the hearing and after the hearing, directed the SEC attorney Christopher Davis to support the judges claim of “Drawing Adverse Inferences and Admitting Exhibits” see ORDER dated August 6<sup>th</sup>.
5. Today January 10<sup>th</sup> 2020, James E. Grimes, Administrative Law Judge acknowledges that the respondents clearly showed the SEC’s “Expert Witness” did not review the patent of CYIPRO. The product in question of having documented processes which show that there were no false statements on any company filings. The “Expert Witness” admitted that he was not asked to review the patent of CYIPRO; nor to even review “CYIPRO” the product that supports the internal controls. Furthermore, the respondents asked this simple question to the SEC Expert witness – ***“if you didn’t review CYIPRO, nor it’s patent or web site cyipro.com – then how do you know the product does not have supporting documentation?”***. The “Expert Witness” failed to answer the question. The respondents then stated directly to James E. Grimes, Administrative Law Judge – ***“the SEC’s claim of false statements has been debunked – the statement on the respondents reports CYIOS Corporation are **not false** and the SEC has failed to give any reason to believe otherwise; if so, let this be the moment in time***

*the SEC shows it*". The respondents have over and over stated that they use their product CYIPRO to support the compliance of the security exchange rules, procedures processes and any relating facet. James E. Grimes, Administrative Law Judge clearly has exempted incompetence, bias or willful neglect with not acknowledging this fact that CYIPRO does have documentation to support all transactions. For James E. Grimes, Administrative Law Judge to state it the ORDER January 10<sup>th</sup> 2020 page 7 – *"CYIOS has represented in its public filings that CYIPRO "provides key solutions for compliance with Securities and Exchange Commission ('SEC') Sarbanes-Oxley regulations," but it is unclear how this aspect of the product functioned or what regulations it addressed"*. Here James E. Grimes, Administrative Law Judge is incompetent because in the hearing on record the **respondents questioned** the "Expert witness" and asked, *"Is there any software out on the market that businesses can use to fully support SEC compliance"*, **Expert witness stated** *"Yes, of course there is software available for this purpose"*. The **respondents followed** stating with *"CYIPRO is one of those software products"* and as stated on our SEC filings in question – it fully documents all transactions. So, again any person can see from above under oath testimony that CYIPRO's product was used for but not only the internal controls of CYIOS; James E. Grimes, Administrative Law Judge sat in his chair in disbelief that the respondents were right and yet turned, twisted and neglected to used the facts presented at the hearing rather was judicial bias ignoring them altogether.

For these five reasons it is patently obvious, James E. Grimes, Administrative Law Judge should immediately disqualify himself from this case under federal judicial statute, Title 28 U.S.C. § 455 and under SEC Rule 111 (f) Hearing Officer: Authority.

Notwithstanding the above five reasons, the most compelling fact is presented below:

The record will show that when the respondents asserted Fifth Amendment rights under the United States Constitution, James E. Grimes, Administrative Law Judge and the SEC Plaintiff attorney Christopher Davis both were angry but when Judge James E. Grimes stated "*We didn't anticipate...*" – this became a fact that this court, judge and attorney had talked about this case and premeditated the end result. There were over twenty people in that courtroom and a court reporter – anyone can rewind the tape to that moment of injustice.

Again, and in conclusion, James E. Grimes, Administrative Law Judge should immediately disqualify himself from this case under federal judicial statute, Title 28 U.S.C. § 455 and under SEC Rule 111 (f) Hearing Officer: Authority.

The right to be tried by an impartial judge is deeply embedded in American jurisprudence; in fact, this right has often been considered to be the "cornerstone" of the American legal system - James E. Grimes, Administrative Law Judge is not an impartial judge.

**CONCLUSION**

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

**Timeliness:** The Order was received January 10<sup>th</sup>, 2020, this filing is timely.

Date: January 13<sup>th</sup>, 2020  
Respondents submitted,  
Respectfully,



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Timothy Carnahan



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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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CYIOS Corporation  
c/o Timothy W. Carnahan,  
President, CEO and Chairman  
*via email*

Respectfully,  
Timothy W. Carnahan

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