

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of
Traci J Anderson, CPA,
Timothy W. Carnahan,
And
CYIOS Corporation
Respondents

RESPONDENTS
REPLY BRIEF:
CARNAHAN
November, 25 2015
PER ORDER:
ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3278 / October 30, 2015
DUE 11/25/2015

To the Court's Order and DOE's response and citation in the order "PCAOB Release No. 105-2015-034", the question "**Is Traci Anderson and Associated Person as per statute?**", **NO**. DOE's response is superfluous because they have not proved Traci is an Associated Person. Only registered public accounting firms or "associated person" can be in violation of such claims from DOE; see below U.S.C. Title 15, 98 §7215 (B) (1). This case should be dismissed summarily based upon law.

Moreover, DOE's response is arbitrary and capacious because they merely give their opinion as to why statute was changed then attempted to concatenate case law from "KOSH" that doesn't map to "Associated Person". So, even if Traci was proved to be an "associated person" the retroactive argument from the order would be relevant, and then even if the retroactive argument was not relevant, on the basis of testimony from Traci Anderson, she acted based upon legal counsel. Again, DOE has not proven that Traci Anderson is an "Associated Person".

Under the PCAOB Release No. 105-2015-034 and every case that has been presented, it is from the basis of statute copied for ease of reading below:

In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

My question in the hearing to the SEC was just this – how does DOE show that Traci Anderson and "Associated Person"? The DOE has shown NO proof that Traci is an "Associated Person"; thus the respondents are not in violation and this case should be summarily dismissed. (See page 2 of PCAOB Release No. 105-2015-034 from the Order 3278 where clearly they show "associated person".) See footnote 1 from DOE's response to show cause order, "*under this subsection willfully to become or remain associated with any issuer*"; DOE has failed to show by statute definition Traci Anderson is an "associated person". Below, we prove using the U.S.C. that Traci Anderson is NOT and "Associated Person" by tests from the statute.

A. Is Traci Anderson an "associated person" PCAOB Rule 1001(p)(i), **NO**. (OIP¶5)

- B. Does Traci Anderson work for a “**registered public accounting firm**”, **NO**. (OIP¶5)
- C. Does Traci Anderson receive **profits, compensation** in any other form from a registered public accounting firm, **NO**. (OIP¶8)
- D. Can Traci Anderson work for an issuer while **not** in connection with preparation or issuance of any audit report, **YES**; thus no permission or consent is required as Traci isn’t working in the capacity of PCAOB auditor. As we stated in March 4 answers, this is the law. (OIP¶9)
- E. Is Traci Anderson in violation with 105(c)(7)(B), **NO**, she is not an associated person working in conjunction or in the capacity of preparation or issuance of an Audit Report.

The USC has been copied from the link below for ease of reading and understanding.

<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section7215&num=0&edition=prelim#referenceintext-note>
 15 USC 7215: Investigations and disciplinary proceedings

From Title 15-COMMERCE AND TRADE CHAPTER 98-PUBLIC COMPANY ACCOUNTING REFORM AND CORPORATE RESPONSIBILITY SUBCHAPTER I-PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

§7215. Investigations and disciplinary proceedings
 (A) IN GENERAL

The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.

(B) INVESTIGATIONS
 (1) AUTHORITY

In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

From the above U.S.C, this case should be dismissed and relief deemed given to the respondents. Moreover, we’ve asked for a dismissal and appealed for a dismissal based upon law and it was denied; we were denied questioning the SEC during our hearing which further is a violation of our right to a fair trial, impartial jury and due process based in the six and fourteenth constitution amendments.

Thus with the again stated law above and below we conclude the SEC arbitrary and capriciously created and abused their discretion which was prejudice toward respondents. Continuing this thought process, the below is stated law and there has been no justice within the SEC based upon statue or fact.

Legal Argument A. from Motion for Summary Disposition

The Board and SEC do not have authority to investigate Traci J Anderson as per SOX § 105(b)(1). Traci J Anderson does NOT work for a **registered public accounting firm**, and is NOT **associated person** of such firm. Also, see PCAOB order below for reference and PCAOB Rule 1001(p)(i); thus in which our **motion for dismissal should be upheld as a matter of law.**

Moreover, we show below that the SEC in section III. Facts of the Motion for Summary Disposition, has arbitrarily and capriciously misstated the respondents statement to make allegations but are merely the basis of inference or supposition; thus in which our **motion for dismissal should be upheld as a matter of law whereas SEC has shown no legal material facts.**

Section A, Page 2 of Division of Enforcement's Motion for Summary Disposition, the division claims that we (respondents) do not deny and admit base upon CRP 220(c) see footnote 1. The Division is misleading the record again as below we fully explain (we use their footnotes and OIP# for reference) why we don't need consent and have NOT violated Traci J Anderson's PCAOB Order. We have included the law for reference in "Definitions".

Traci J. Anderson PCAOB ORDER Release No. 105-2010-007, August 12, 2010; Page 18

- A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Traci Jo Anderson is revoked; and
- B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Traci Jo Anderson, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

FACTS with MERIT

- F. Is Traci Anderson an "**associated person**" PCAOB Rule 1001(p)(i), **NO.** (OIP¶5)
- G. Does Traci Anderson work for a "**registered public accounting firm**", **NO.** (OIP¶5)
- H. Does Traci Anderson receive **profits, compensation** in any other form from a registered public accounting firm, **NO.** (OIP¶8)
- I. Can Traci Anderson work for an issuer while **not** in connection with preparation or issuance of any audit report, **YES**; thus no permission or consent is required as Traci isn't working in the capacity of PCAOB auditor. As we stated in March 4 answers, this is the law. (OIP¶9)
- J. Is Traci Anderson in violation with 105(c)(7)(B), **NO**, she is not working in conjunction or in the capacity of preparation or issuance of an Audit Report.

Definitions:

A. PCAOB Rule 1001(p)(i) and Section 2(a)(9) of the Act

(p)(i) **Person Associated With a Public Accounting Firm (and Related Terms)**

The terms "person associated with a public accounting firm" (or with a "registered public accounting firm" or "applicant") and "associated person of a public accounting firm" (or of a "registered public accounting firm" or "applicant") mean any individual proprietor, partner, shareholder, principal, accountant, or professional employee of a public accounting firm, or any independent contractor or entity that, in **connection with the preparation or issuance of an audit report.**

B. SOX § 105(c)(7)(B)

(B) **Association** with an issuer, broker, or dealer –AMENDED JULY 22, 2010

It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm **under this subsection** willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management **capacity**, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

C. 15 USC 7215 § (b)(1); SOX § 105(b)(1)

Investigations and disciplinary proceedings

(b) Investigations

(1) Authority

In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, **by a registered public accounting firm**, any **associated person** of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

INTERPRETATIONS:

Section 105(c)(7)(B), the words "**under this subsection**" are meant to say in conjunction with an audit report (see PCAOB Rule 1001(p)(i)). Further, section 105(c)(7)(B) uses words "**accountancy or a financial management capacity**" - our interpretation of "**capacity**" is in the realm of this subsection thus being in conjunction to and audit report; also, the phrase "**to permit such an association**" – PCAOB Rule 1001(p)(i) is defined above – **in connection with the preparation or issuance of an audit report.**

U.S.C Title 15, Chapter 98, Sub Chapter 1 § 7211-7720 is in regard to solely the PCAOB and the publishing of the "Audit Report" to protect the shareholders.

Actions consistent with LAW:

Traci J Anderson handed over her Audit clients in 2010 per PCAOB Order (**OIP¶6**), Traci was NOT performing work in connection with preparing or issuance of the audit report for CYIOS, and thus no violation has been committed by Traci Anderson or Timothy Carnahan with regards to her PCAOB Order and SOX §105(c)(7)(B).

Footnote 8 Notably, Anderson's letters to her audit clients reflect a lack of contrition for her PCAOB violations. In them, Anderson disagreed with the PCAOB's findings and the fact that she was barred from being an associated person of a registered public accounting firm, but claimed that she had no choice but to settle due to the cost of defending the case.

We object to the SEC's claim that Anderson's letters to her clients reflect a lack of contrition for her PCAOB violations. In fact Anderson was remorseful for her violations and had phone conversations with several of her clients prior to sending the letter to apologize for her actions and subsequent barring. The SEC cannot make assumptions about Anderson's mental state from

a few sentences in a letter. This comment on the part of the SEC is inappropriate and an attack on Anderson's character.

Further stated by PCAOB Enforcement team, the below announcement and in **PCAOB Release No. 105-2013-008**, highlighted and in bold indicates understanding of how this law is interpreted; thus supporting our interpretation stated above.

http://pcaobus.org/News/Releases/Pages/10222013_Deloitte.aspx

PCAOB Announces Settled Disciplinary Order against Deloitte & Touche for Permitting Suspended Auditor to Participate in Firm's Public Company Audit Practice

Deloitte & Touche to pay \$2 million to settle charges

Washington, DC, Oct. 22, 2013

The Public Company Accounting Oversight Board today announced a settled disciplinary order censuring Deloitte & Touche LLP and imposing a \$2 million civil money penalty against the firm for violating the Sarbanes-Oxley Act and PCAOB rules by permitting a former partner to perform or continue to perform activities as an "associated person" that were prohibited while he was subject to a PCAOB suspension order.

The Board also ordered Deloitte to undertake certain remedial actions to ensure that similar violations do not occur in the future. Deloitte consented to the entry of the order without admitting or denying the Board's findings.

The \$2 million penalty against the firm equals the Board's single largest civil money penalty, which the Board previously imposed in another disciplinary matter.

"When the Board suspends an auditor, it does so to protect investors," said James R. Doty, PCAOB Chairman. "Deloitte permitted the former partner to conduct work precluded by the Board's order and put investors at risk.

"Considering the magnitude of the penalty, firms should recognize the importance of abiding by the limitations imposed on a PCAOB-suspended auditor," he added.

The Board found that, in anticipation of the PCAOB suspension, the partner was made a salaried Director and transferred to an audit group in the firm's National Office. **After his transfer, Deloitte permitted the suspended auditor to become or remain an "associated person" by**

engaging in activities in connection with the preparation or issuance of public company audit reports.

Deloitte knew of the suspension order, but permitted these activities to take place without the consent of the Board or the Securities and Exchange Commission. These activities included work on developing firm-wide policies and audit guidance, as well as participation in three National Office consultations with public company audit engagement teams.

"The Act and the Board's rules specifically prohibit registered firms from allowing suspended or barred auditors from participating in the firm's issuer audit practice," said Claudius B. Modesti, Director of the PCAOB Division of Enforcement and Investigations.

"For investors to receive the benefit of those legal protections, all registered firms must take sufficient steps to ensure that suspended or barred auditors adhere to that requirement," said Director Modesti. "As the PCAOB order today demonstrates, failing to take such steps will result in the imposition of significant sanctions."

PCAOB Enforcement staff members Michael Plotnick, Michael Rosenberg, Natasha Guinan, and Pamela Woodward conducted the PCAOB investigation and litigation.

--- End of announcement

Legal Argument B

In reference to (OIP ¶ 12-19), the SEC is completely making statements that are arbitrary and at face value wrong in stating Timothy Carnahan did not assess its internal controls of financial reporting (ICRF) using COSO. Our Internal Controls are governed and assessed using our in-house product CYIPRO as stated in several emails (see Internalcontrols.docx). Further, we have completely mapped CYIPRO to ISO 9001 framework to comply with COSO (please see attached Continuous_Process_Improvement_Support.docx). This document was given to the SEC Staff August 25, 2014 2:28 PM.

Date Sent: Monday, August 25, 2014 2:28:25 PM
Sent From: "Timothy Carnahan" <carnahan@cyios.com>
Sent To: "King, David R." <KingDR@SEC.GOV>
Sent CC: "McGuire, Margaret S." <MCGUIREM@SEC.GOV>, "Peavler, David L." <PeavlerD@SEC.GOV>, "Woodcock, David R." <WoodcockD@SEC.GOV>
Subject: RE: Re: CYIOS Corporation (FW-3921)
Attachments: [Continuous_Process_Improvement_Support.docx]

Under Section 17(a)(2) the courts state there must be a "misstatement" and under 17(a)(3) there must be a scheme liability; see S.E.C vs St. Anselm Exploration Co., 936 F. Supp. 2d 1281, 1298-99 (D. Colo 2013); S.E.C vs Kelly, 817 F. Supp. 2d 340, 345 (S.D.N.Y.2011).

Since there has been no “misstatement”, “misrepresentation” and no “scheme”, both 17(a)(2) and 17(a)(3) SEC claims fail by law. Moreover, 17(a)(3) must be based upon something beyond the same claim of “misstatements” or “misrepresentation” which in this case we proved that there are not any misstatements or misrepresentations. See St. Anselm, 936 F. Supp. At 1298-99; Kelly, 817 F. Supp. 2d at 345.

Again, Carnahan and CYIOS did in fact evaluate ICFR for each 10-K and 10-Q. Carnahan and CYIOS do maintain documentation of management’s assessments of ICFR. As Carnahan discussed with the SEC back in July 2014, CYIOS does maintain “evidential matter, including documentation to provide reasonable support for management’s assessment of the effectiveness” of CYIOS’ internal control over financial reporting—the CYIPRO program based operating system that Carnahan created was built with ICFR and COSO in mind. Carnahan’s certifications that CYIOS had assessed ICFR are true.

(OIP ¶ 20) The issuance of common shares in reliance on 2009 filings (10-K) was not in violation due to misleading statement as the SEC has capriciously claimed because we proved we have a system in place CYIPRO in our above statement of fact. Form S-8’s reliance upon this filing and the 2010 10-Q’s are accurate.

Legal Argument D & E from Motion for Summary Disposition

Timothy Carnahan did not violate Rule 13a-15 or 13a-14 as ISO 9000:2008 is a recognized standard by the government of United States. As Rule 13a-15(c) states we do not have to use COSO but something similar. As the email stated Monday, August 25, 2014 we proved we used a suitable, recognized control framework.

As stated, the SEC legal arguments, claims are capricious because hence we have stated true statements and have a system in place, documentation that meets the Section 13a of the Exchange Act to include all of the certifications from CYIOS are true. We do understand there was a typo on the 2010-2011 Forms 10-K as stated Timothy Carnahan stated under oath; this is not a material issue.

OIP 10-11 filings; Legal Argument C. from SEC Motion for Summary Disposition

CYIOS filed March, 29th 2013 NT 10K and May 15th, 2013 NT 10-Q; CYIOS was having financial hardship and was not able to continue paying for auditors and lawyers for the filings so Timothy Carnahan did voluntarily file Form 15-12G as the appropriate paperwork May 29th, 2014 Notice of Termination of Registration. We have less than 300 shareholders 102 at the time of the filing. Moreover, we knew that we were still responsible for filing delinquent periodic reports. Mr. Carnahan called 202 551-3245 and spoke to SEC explaining we are going to do a merger and get all the delinquent filings up to date. If it had not been for the SEC Enforcement’s case in question that started mid-June of 2014, we would have been compliant and the SEC would not have had and issue which would have been the best for the shareholders.

The SEC Enforcement investigation has harmed our company due to arbitrary and capricious claims because not one claim is based upon fact which Timothy Carnahan as thoroughly explained throughout the case. See email with SEC enforcement; as you can see the SEC was

notified yet did NOT continue in an expeditious manner. Our claim is if it was NOT for the SEC investigation, we would have been compliant and merged. With this regard, the SEC investigation clearly caused CYIOS' violations of Section 13(a) of the Exchange Act not to be corrected.

Attachment(s):
CYIO Ltr 6-21-14.pdf

Date Sent: Saturday, June 21, 2014 8:08:41 PM
Sent From: "Timothy Carnahan" <carnahan@cyios.com>
Sent To: kingdr@sec.gov
Subject: Fwd: Letter of Cancellation (see attached)

David,

Hope your investigation has some substantial reasoning --- it is the direct cause of this letter.

Tim:

Timothy W. Carnahan
CEO
2023691984
CYIOS Corporation
Ronald Reagan Building
1300 Pennsylvania Ave,700
Washington,20004

powered by www.cyipro.com

We had been told from the merger group that they could not merge due to an SEC investigation; Mr. King leading the investigation had communications with a third party about CYIOS Corporation thus leading to a cancellation of the merger.

Request for Relief

- A. The Commission's investigation has interfered with our merger that would have benefited the shareholders, yet the commission hides behind rules and regulations and continues to misled the public ---- see attached letter from Office of General Counsel - Brian Castro National Ombudsman and National Administrator for Regulatory Enforcement dated October 7, 2014 - SEC Letter from Ombudsman.pdf.
- B. Our internal cost and lost are approximately \$200,000 that the commission should pay. All of this should send a steel sphere to the commission and the senator who has recommend the commission to act as it does (see attachment OIG SEC report 493) as #1 don't go on fishing expeditions and #2 don't attempt to pick prey of small businesses that have no funds.
- C. Relief as deemed necessary

CONCLUSION - REQUEST to DISMISS CLAIMS

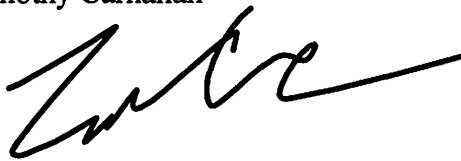
Based upon above, CYIOS respondents request for dismissal of the Administrative Proceeding against us collectively.

Vr,

Traci Anderson 11/25/2015
(date)



Timothy Carnahan 11/25/2015
(date)



Timothy Carnahan, CEO and President of CYIOS 11/25/2015
(date)

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 brief of Carnahan was served on the persons listed below on the 16th day of October, via electronic mail (where indicated) and United Parcel Service (UPS) overnight mail :

Honorable Brenda P. Murray Chief Administrative Law Judge
Securities and Exchange Commission 100 F Street, N.E.
Washington, DC 20549-2557
By Electronic mail: ALJ@SEC.GOV

Chris Davis
Timothy McCole
801 Fort Worth Regional Office
Securities and Exchange Commission 801 Cherry Street, Suite 1900
Fort Worth, TX 76 102
By Electronic Mail DavisCa@SEC.GOV

Traci J. Anderson, CPA
[REDACTED] Charlotte, NC [REDACTED]
By Electronic Mail to Traci.anderson@cyios.com

Timothy W. Carnahan
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1300 Pennsylvania Ave., 700 Washington DC 20004
By Electronic Mail to carnahan@cyios.com

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