

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

**REPLY MEMORANDUM OF LAW IN FURTHER
SUPPORT OF RESPONDENTS'**

NOTICE OF MOTION
FOR CERTIFICATION OF ORDER FOR APPEAL
PURSUANT TO 28 U.S.C. § 1292(b); MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT THEREOF
NOTICE OF MOTION

ARUGMENTS

1. In its opposition brief ("Opp."), the Division states last paragraph first sentence - "This is not a truly unusual case". The respondents ask the Division and the ALJ to turn their attention to Chief Administrative Law Judge's Order Assigning Proceedings Post *Lucia v. SEC*, page 4 last paragraph first sentence - "Given this unusual situation".

Moreover, the Division concedes that this case is in fact "extraordinary" in their interview By Stephanie Russell-Kraft (Law360, New York (August 21, 2015, 8:28 PM ET)) SEC's 'RoboCop' Drags Agency Into 21st Century. Excerpt below:

When the financial reporting and audit group was first established under the name FRAud Task Force, its goal was not to bring any cases on its own. Its approximately 16 lawyers and accountants were tasked with identifying potential cases of wrongdoing and then passing them along to enforcement staff members for further investigation.

But the group's reach has already grown bigger than planned.

In February, the FRAud Group filed its first enforcement action against defense contractor Cyios Corp, its CFO Traci J. Anderson and sole director Timothy W. Carnahan.

"We would have farmed it out like we do other referrals, but because we thought we could do it quickly it made sense to do it on our own," Woodcock said of the charges.

The SEC claims that the firm failed to make periodic filings, that Anderson violated a Public Company Accounting Oversight Board order barring her from associating with a public accounting firm, and that Carnahan failed to assess the company's internal controls. A hearing for all three defendants is set to begin before an administrative judge on Sept. 2.

Margaret McGuire, who took over the group after Woodcock's departure, said the Cyios case is likely to remain an exception rather than the new rule.

"Our mission is to identify matters worthy of investigation, rather than conduct the investigation," she said.

2. The Division mistakenly states that the "Respondents" raise two issues. The respondents clearly bring up much more than two issues. Below is exactly what we stated for quick easy reading.

Respondents stated (page 1):

An interlocutory appeal of the ALJ's Order would give the opportunity to address several important questions about the law in question. **Specifically, what proceeding was dismissed and to whom or what parties, and specifically what proceeding(s), and violations were vacated. Finally, the tolling period has expired based upon the 5 year Statue of limitation Section 2462 of Title 28 of the United States Code.**

The Division capriciously and arbitrarily states we disagree on the "language of the Court's October 1, 2018 order" as well as stating this is not a "truly unusual case".

3. The interlocutory appeal is meritorious due that the ALJ's have been properly appointed as stated in the ID Lucia v. SEC case; there is a question of law as how would the interlocutory appeal process work under the new ALJ appointments; the responded plead that the ALJ fall into the same category as District Judges therefore can and should be review by such.
4. The DOE has been prejudice toward the respondents from the very start of their allegations – which have been proven to be FALSE. The DOE singled out the respondents from day 1 as per argument #1 proves to a period.

Here, all three requirements for the interlocutory appeal are met and we show DOE prejudice toward the respondents if not approved.

Date: October 11th, 2018

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 Division of Enforcement's Summary Disposition was served on the persons listed below October 11th, 2018 via United States Postal Service or email where indicated:

Honorable Brenda P. Murray Chief
Administrative Law Judge SEC
100 F Street, N.E.
Washington, DC 20549-2557
via USPS

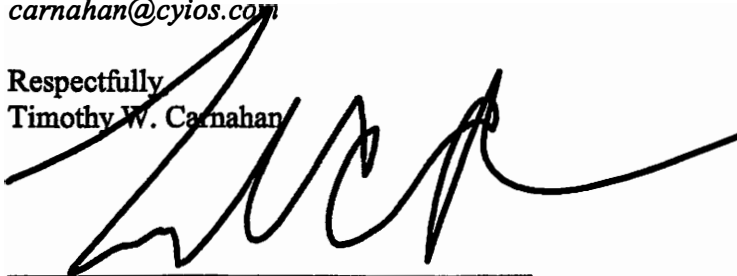
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Respectfully
Timothy W. Carnahan

A large, stylized handwritten signature in black ink, appearing to read 'T. Carnahan', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

This letter has three copies.