

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-16386



IN THE MATTER OF  
TRACI J ANDERSON, CPA,  
TIMOTHY W. CARNAHAN,  
AND CYIOS CORPORATION  
RESPONDENTS

**NOTICE OF MOTION AND  
MOTION OF DEFENDANT  
TRACI ANDERSON, TIMOTHY CARNAHAN  
AND CYIOS 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**

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **JUNE 15<sup>TH</sup>, 2015** or as soon thereafter as the matter may be heard, before the Court THE RESPONDENTS shall move and hereby moves the Court for **certification of an interlocutory appeal**, pursuant to 28 U.S.C. § 1292(b), of this Court's Release No. 2786 order ("Order").

This motion is based on this notice of motion, the accompanying memorandum of points and authorities, the Order, and all the pleadings, papers, and files in this case.

An interlocutory appeal of this Court's Order would give the opportunity to address several important questions about the law in question. Specifically, Sarbanes-Oxley 105(c)(7)(B).

**AN INTERLOCUTORY APPEAL IS APPROPRIATE UNDER 28 U.S.C. § 1292(b).**

An interlocutory order is appealable under 28 U.S.C. § 1292(b) if: (1) the order has been certified for appeal by the Court, and (2) the Court, in its discretion, accepts the appeal. This Court should complete the first step by certifying that the Order is appropriate for immediate appeal under section 1292(b).

Under section 1292(b), there are three requirements for certification:

- The order involves a controlling question of law;
- There is a substantial ground for difference of opinion as to that question;
- and
- An immediate appeal from the order may materially advance the ultimate termination of the litigation.

28 U.S.C. § 1292(b).

Here, all three requirements are met.

### The Order Involves Controlling Questions of Law.

The Order involves several controlling questions of law. “[A]ll that must be shown in order for a question to be ‘controlling’ is that resolution of the issue on appeal could materially affect the outcome of litigation in the district court.” *In re Cement Antitrust Litig.*, 673 F.2d 1020, 1026 (9th Cir. 1982).

### There is Substantial Ground for Difference of Opinion on the Controlling Questions of Law.

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**.

### **FACTS with MERIT**

- A. Is Traci Anderson an “**associated person**” PCAOB Rule 1001(p)(i), **NO**.
- B. Does Traci Anderson work for a “**registered public accounting firm**”, **NO**.
- C. Does Traci Anderson receive **profits, compensation** in any other form from a registered public accounting firm, **NO**.
- 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.
- E. 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.
- F. 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**.
- G. 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.

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.

Below is a excerpt from the **PCAOB Release No. 105-2013-008**

**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.**

**An Immediate Appeal May Materially Advance the Ultimate Termination of the Litigation.**

An immediate appeal may materially advance the ultimate termination of the litigation.

“[N]either § 1292(b)’s literal text nor controlling precedent requires that the interlocutory appeal have a final, dispositive effect on the litigation.

It is sufficient that a reversal may take claims out of the case “[t]hat is sufficient to advance materially the litigation” and make certification of an interlocutory appeal permissible.

Date: 6/15/2015 4:38:05 PM  
Respondents submitted,  
Respectfully,

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Traci Anderson



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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 Division of Enforcement's Summary Disposition was served on the persons listed below June 3, 2015 via United States Postal Service or email where indicated:

Honorable Brenda P. Murray Chief  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
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via USPS

Honorable Cameron Elliot  
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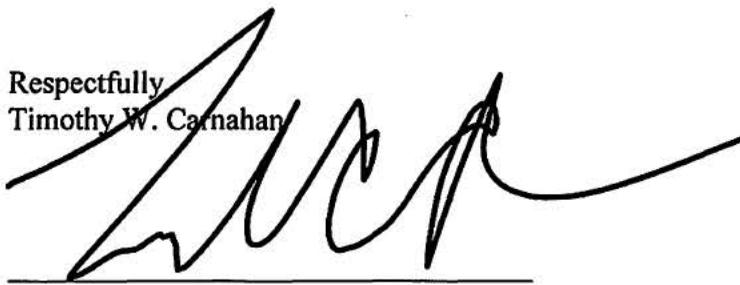
Chris Davis  
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Respectfully  
Timothy W. Cahahan

A handwritten signature in black ink, appearing to read 'Timothy W. Cahahan', written over a horizontal line. The signature is stylized and cursive.