

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

New York Regional Office Brookfield Place, 200 Vesey St. New York, NY 10281-1022

DIVISION OF ENFORCEMENT David Stoelting Senior Trial Counsel (212) 336-0174 (direct) (212) 336-1324 (fax)

July 18, 2019

BY ECF

The Honorable Gary L. Sharpe United States District Judge United States District Court Northern District of New York United States Courthouse Albany, New York 12207

Re: SEC v. McGinn, Smith & Co., Inc., et al., 10-cv-457 (GLS)(CFH)

Dear Judge Sharpe:

On behalf of plaintiff Securities and Exchange Commission, I enclose for the Court's consideration and approval a proposed *Turnover Order* which provides for the transfer of certain funds in an account at M&T Bank in the name of Defendant-Judgment Debtor Timothy McGinn to the Receiver's account.

Respectfully submitted,

David Stoelting

cc (by ECF/email w/encl.): E. Stewart Jones, Jr. (counsel to Timothy McGinn) William J. Brown, Esq. (Receiver)

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

ECUDITIES AND EVOLUNGE COMMISSION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. : 10 Civ. 457-GLS-CFH

McGINN, SMITH & CO., INC., et al.,

:

Defendants.

rejenuumis.

[PROPOSED] TURNOVER ORDER (FED. R. CIV. P. 69(a) AND NY CPLR §§ 5225(b) AND 5227) TO THE M&T BANK

The Plaintiff-Judgment Creditor Securities and Exchange Commission (the "Commission") having moved for a turnover order pursuant to Rule 69(a) of the Federal Rules of Civil Procedure and New York Civil Practice Law and Rules ("NY CPLR") §§ 5225(b) and 5227, directed to the Respondent M&T Bank ("M&T"), and the Court having considered the papers submitted on such motion, and it appearing that such an order should be issued, it is hereby:

I.

ORDERED that the Respondent M&T turn over to the Court-appointed Receiver, William J. Brown, Esq. (the "Receiver") certain property in its hands described as the balance in the account ending -2675 in the name of Defendant-Judgment Debtor-Timothy M. McGinn ("McGinn"), in the approximate amount of \$9,476.55.

M&T shall, within 14 days of the service of this turnover order, make such payment to

the Receiver, for inclusion in the receivership estate in this action and distribution pursuant to the

Court-approved Plan. Payment shall be: (a) made by United States postal money order, certified

check, bank cashier's check, or bank money order; (b) made payable to "William J. Brown,

Receiver"; (c) hand-delivered or mailed to William J. Brown, Phillips Lytle LLP, Omni Plaza, 30

South Pearl Street, Albany, New York 12207; and (d) submitted with a copy of this Order and a

cover letter that identifies: (i) M&T as submitting the payment and (ii) the name and number of

this proceeding (SEC v. McGinn Smith & Co., Inc., 10-cv-457 (N.D.N.Y.). Further, Respondent

shall simultaneously transmit photocopies of evidence of payment, the cover letter sent to the

Receiver, and this Order to David Stoelting, Senior Trial Counsel, Division of Enforcement,

Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281.

II.

ORDERED that this Court shall retain jurisdiction to enforce compliance with this

Order.

Dated: Albany, New York

, 2019

UNITED STATES DISTRICT JUDGE

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