



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

New York Regional Office
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**DIVISION OF
ENFORCEMENT**

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November 4, 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 respectfully enclose for the Court's consideration and approval a proposed *Order to Liquidate Securities Pursuant to Final Judgment and Make Transfers to the Receiver* (the "Proposed Order").

If approved by the Court, the Proposed Order would require non-party National Financial Services LLC ("NFS") to sell the securities in the two brokerage accounts referred to as the Stock Account and the Smith Trust Account. Both accounts are held at NFS. As stated in the Court's *Final Judgment as to Defendant David L. Smith*, the Stock Account and the Smith Trust Account shall each "be treated as an asset of [Defendant David L.] Smith's and shall be applied to Smith's payment obligations under this Final Judgment." See Dkt. 835 at 7. The Proposed Order further requires NFS to transfer the proceeds of the sales, along with any cash in the accounts, to the Receiver for distribution to investors.

NFS and the Receiver both consent to the Proposed Order. Accordingly, the Commission respectfully requests that the Court approve the Proposed Order.

Respectfully submitted,

/s/ David Stoelting
David Stoelting

cc (by email and ECF): William J. Dreyer, Esq., counsel to Defendant David L. Smith

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants.

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10 Civ. 457 (GLS/CFH)

**ORDER TO LIQUIDATE SECURITIES
PURSUANT TO FINAL JUDGMENT
AND MAKE TRANSFERS TO THE RECEIVER**

WHEREAS on June 25, 2015, the Court entered the Final Judgment as to Defendant David Smith (Dkt. 835) (the “Final Judgment”),

WHEREAS, the Final Judgment, among other things, provides that Defendant David Smith (“Smith”) is: (a) the joint owner of a brokerage account in the name of Lynn A. Smith, account number RMR-XXX916 (the “Stock Account”); and (b) the beneficial owner of the assets of the David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04, including account number RMR-XXX671 (the “Smith Trust Account”),

WHEREAS, the Final Judgment (Dkt. 835 at 7) further provides that “all cash and securities” in the Stock Account and the Smith Trust Account “shall be treated as an asset of Smith’s and shall be applied to Smith’s payment obligations under this Final Judgment,”

WHEREAS, the Stock Account and the Smith Trust Account (the “Accounts”) are maintained at National Financial Services, LLC (“NFS”),

NOW, THEREFORE,

I.

IT IS ORDERED that NFS shall sell all securities held in the Accounts and turn over the cash proceeds of such sales, along with all other cash and cash equivalents held in the Accounts, to the Court-appointed Receiver, William J. Brown, Esq., for distribution to the investors pursuant to the Plan of Distribution.

II.

IT IS FURTHER ORDERED that Smith's payment obligations under Part VI of the Final Judgment shall be reduced by the amount transferred to the Receiver pursuant to Part I of this Order.

SO ORDERED

GARY L. SHARPE
United States District Judge

Dated: Albany, New York
_____, 2019