

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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

DIVISION OF ENFORCEMENT

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March 9, 2020

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:

The Turnover Order entered by the Court on February 18 (Dkt. 1113) was directed to the "John Hancock Life Insurance Co." I have since been informed by counsel for John Hancock that the proper entity is named "John Hancock Life Insurance Company (USA)." Accordingly, I am submitting a revised order with this amendment, and respectfully request that the Court approve the amended Proposed Order.

Respectfully submitted,
/s David Stoelting

David Stoelting

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

E. Stewart Jones, counsel to Defendant Timothy McGinn

William J. Brown, Esq., Receiver

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. : 10 Civ. 457-GLS-CFH

:

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

:

Defendants.

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[PROPOSED] TURNOVER ORDER (FED. R. CIV. P. 69(a) AND NY CPLR §§ 5225(b) AND 5227) TO JOHN HANCOCK LIFE INSURANCE COMPANY (USA)

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 John Hancock Life Insurance Company (USA) ("JHLICO (USA)"), 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 JHLICO (USA) turn over to the Court-appointed Receiver, William J. Brown, Esq. (the "Receiver") certain property in its hands described as the balances in the following accounts:

Beneficiary	Financial Institution	Account No.	Balance (approx.)
David Smith (401K) SSN: XXX-XX-XX09 DOB: XX/XX/1945	JHLICO (USA) Retirement Plan Services P.O. Box 600 Buffalo, NY 14201-0600	-1561	\$ 133,418.26 (plus the value of any uncashed checks)
Timothy M. McGinn (401K) SSN: XXXX-XX-XX51 DOB: XX/XX/1948	JHLICO (USA) Retirement Plan Services P.O. Box 600 Buffalo, NY 14201-0600	-1561	\$ 5,740.40 (plus the value of any uncashed checks)

JHLICO (USA) 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, NY 12207; and (d) submitted with a copy of this Order and a cover letter that identifies: (i) John Hancock Life 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.

ORDI	ERED that this Court sl	hall retain juriso	diction to enforce compliance with this	
Order.				
Dated:	Albany, New York	, 2020		
			UNITED STATES DISTRICT JUDGE	