

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400 NEW YORK, NY 10281-1022

October 27, 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 SEC's letter to the Court dated June 5, 2020 proposed, for reasons of equity and fairness, that the payment obligations of Defendant/Relief Defendant Lynn A. Smith and Relief Defendant Geoffrey R. Smith under prior Judgments of this Court be deemed satisfied once the Court approved the turnover of certain funds to the Receiver and those funds were transferred. Dkt. 1127. On August 11, 2020, the Court entered the turnover orders (Dkt. 1139, 1140) and those funds have now been transferred to the Receiver for the benefit of the victims pursuant to the Court's Distribution Plan. As a result, and for the reasons set forth in the June 5, 2020 letter, the SEC respectfully requests that the Court review and approve the proposed *Satisfaction of Judgment as to Lynn A. Smith and Geoffrey R. Smith*.

Respectfully submitted,

/s David Stoelting
David Stoelting
Securities and Exchange
Commission
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Attachment:

Proposed Satisfaction of Judgment as to Lynn A. Smith and Geoffrey R. Smith

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The Honorable Gary L. Sharpe October 27, 2020

cc (by email and ECF):

Justin Weddle, Esq., limited-purpose counsel for D., L. and G. Smith William J. Dreyer, Esq., counsel to D. Smith E. Stewart Jones, Esq., counsel to T. McGinn William J. Brown, Esq., Receiver

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. : 10-cv-457 (GLS)(CFH)

:

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

Defendants

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SATISFACTION OF JUDGMENT AS TO LYNN A. SMITH AND GEOFFREY R. SMITH

WHEREAS, the Final Judgments as to David L. Smith (Dkt. 835), and Lynn A. Smith and Geoffrey R. Smith (Dkt. 837) ordered David Smith, Lynn Smith and Geoffrey Smith to be jointly and severally liable for the return of certain funds that were found to have been fraudulently transferred in July 2010, and the remaining balance due is \$389,000.59;

WHEREAS, Lynn Smith also owes \$51,232 pursuant to a Judgment dated October 6, 2011 (Dkt. 399);

WHEREAS, Part VII(A) of the David Smith Judgment (Dkt. 835 at 7) states that David Smith is a "joint owner" of a brokerage account in the name of Lynn Smith, account number RMR-XX0916 (the "Stock Account");

THEREFORE, it is ordered that, upon the consent of the SEC and David, Lynn and Geoffrey Smith, \$389,000.59 and \$51,232 is applied from the Stock Account, to pay in full: (1) the joint-and-several payment obligations of David, Lynn and Geoffrey Smith arising from the

July 2010 transfers from the Trust Account; and (2) Lynn Smith's payment obligation under the

October 11, 2011 Judgment; and

THEREFORE, it is further ordered that full and complete satisfaction of: (1) the joint-

and-several provisions for monetary relief pertaining to the fraudulently conveyed assets in Part

VII of the David Smith Final Judgment, and in the Lynn Smith and Geoffrey Smith Final

Judgment; and (2) the payment obligations in the Judgment dated October 11, 2011, is hereby

acknowledged; and

THEREFORE, it is further ordered that the asset freeze imposed by the Court shall be

discontinued solely as to Lynn Smith and Geoffrey Smith; and

THEREFORE, it is further ordered that except as set forth herein, the Final Judgment as

to David Smith, including the disgorgement obligation, which is joint-and-several with

Defendant Timothy McGinn, remains in full force and effect.

Dated: Albany, NY ______, 2020

UNITED STATES DISTRICT JUDGE

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