



NEW YORK
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400
NEW YORK, NY 10281-1022

June 28, 2021

BYECF

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:

Plaintiff Securities and Exchange Commission ("SEC") respectfully submits this letter to correct two inaccurate references to the amount of money the Receiver currently has on hand contained in its Memorandum of Law in Opposition to the Motion of Defendant David L. Smith to Declare the Final Judgment Entered Against Him on June 25, 2015 Void Under Federal Rule of Civil Procedure 60(b)(6) (Docket No. 1198), filed on June 25, 2021.

In its brief, at page 21, footnote 13, the SEC stated, "Although the Receiver holds approximately \$225,000 in cash and illiquid assets, these assets are expected to be applied to the Receiver's expenses in winding down the Receivership by the end of 2021, including potential tax liabilities of the Receivership Estate," citing to the Declaration of the Receiver William Brown, dated June 24, 2021 (Docket No. 1196-1). This figure is also referenced on page 6 of our brief.

Today, the Receiver advised us that, as of the close of business on June 25, 2021, the Receiver in fact has approximately \$670,000 left (after the expected clearance of all outstanding investor checks); that the Receiver has set aside \$225,000 of that amount for unforeseen liabilities; and that the Receiver expects the remainder of the money to be expended in payments related to the operation of the Receivership as it winds down, such as rent, payroll, professional fees and other administrative expenses.

The Honorable Gary L. Sharpe
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The SEC apologizes for this error in its brief.

Respectfully submitted,

/s/ Kevin P. McGrath

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