



Phillips Lytle LLP

Via Overnight Courier

August 4, 2017

Chambers of the Hon. Gary L. Sharpe
Attn: John Law
Senior U.S. District Judge
James D. Foley U.S. Courthouse
445 Broadway, Room 112
Albany, NY 12207

Re: Securities and Exchange Commission vs. McGinn, Smith & Co. Inc., et al. - Plan
of Distribution
Case No. 1:10-cv-457 (GLS/CFH)

Dear Mr. Law:

This letter follows up my voicemail messages with respect to the January 20, 2017 Text
Only Order of the Court in this action to the extent it dealt with Distribution Schedules.

At page 8, paragraph 22, of the Receiver's Declaration dated December 29, 2015 (Docket
No. 847, attachment (2)), the Receiver stated that he would "file, on a rolling basis,
schedules of payments to be made under the Plan at least ten days prior to the subject
payments being made". See also Section II, page 11 of the Memorandum of Law in
Support of Motion of William J. Brown, as Receiver, for an Order (I) Approving Plan of
Distribution of Assets and (II) Authorizing Interim Distribution (Docket No. 847,
attachment (3)), which states that "Receiver will file, on a rolling basis, schedules of
payments to be made under the Plan at least ten days prior to the subject payments
being made".

The Receiver has, as of this date, filed seven Payment Schedules of First Investor
Distributions at Docket Nos. 919, 921, 922, 923, 924, 926 and 927.

The distribution account for the first investor distributions of 10% has been funded and
is ready to make payments, but in light of the Court's January 20, 2017 Text Order, the
Receiver has refrained from issuing checks in the belief that the Court's Text Order

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imposed a requirement for Court approval of the Distribution Schedules which were intended by the Receiver to be for notice purposes only.

I would appreciate clarification as to the Court's intention and if there is a process the Court wishes to implement. Thank you.

Very truly yours,

Phillips Lytle LLP

By 

William J. Brown