

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Administrative Proceedings Rulings  
Release No. 5462 / January 12, 2018

Administrative Proceeding  
File No. 3-18271

In the Matter of

**Jeffrey D. Smith,  
Joseph Carswell, and  
Michael W. Fullard**

**Order Regarding Service and  
Notice to the Parties**

On January 11, 2018, the Division of Enforcement submitted several declarations regarding service of the order instituting this proceeding (OIP) on Jeffrey D. Smith and Joseph Carswell.<sup>1</sup> Based on the declaration of a process server, I find that Carswell was served with the order instituting proceedings by personal service on December 13, 2017. 17 C.F.R. § 201.141(a)(2)(i). The declarations show that Jeffrey D. Smith has not yet been served, but that efforts to do so continue. I ORDER the Division to file a supplemental declaration regarding the status of service of the OIP on Smith by February 23, 2018. This matter will proceed with the other parties in Smith's absence.

The parties are notified of the Securities and Exchange Commission's order issued November 30, 2017. *Pending Admin. Proc.*, Securities Act of 1933 Release No. 10440, 2017 SEC LEXIS 3724, <https://www.sec.gov/litigation/opinions/2017/33-10440.pdf>. In that order, the Commission ratified the appointment of its administrative law judges and directed each judge to reconsider the record, including all substantive and procedural actions, in pending proceedings for which no initial decision has been issued and in

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<sup>1</sup> I previously found that Michael W. Fullard was served on November 26, 2017. *See Jeffrey D. Smith*, Admin. Proc. Rulings Release No. 5279, 2017 SEC LEXIS 3882, at \*1 (ALJ Dec. 6, 2017).

those that are pending before the Commission following an initial decision. This proceeding falls into the former category.

After reviewing the Commission's order, the parties should confer and contact my office at alj@sec.gov by January 19, 2018, to provide their earliest availability for a telephonic prehearing conference. I will set an appropriate procedural schedule, including deadlines for the parties to address the Commission's order, following that conference. *See* 17 C.F.R. § 201.161(a); *Pending Admin. Proc.*, 2017 SEC LEXIS 3724, at \*2-3.

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Cameron Elliot  
Administrative Law Judge