

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 687/October 25, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14538

In the Matter of	:	
	:	ORDER DISCONTINUING
W. TODD SMITH	:	PROCEEDING WITHOUT
	:	PREJUDICE

On September 7, 2011, the Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleges that W. Todd Smith (Smith) was the subject of a final judgment by default that enjoined him from future violations of Sections 5(a) and 5(c) of the Securities Act of 1933 and Section 15(a)(1) of the Exchange Act, in SEC v. Rockwell Energy of Texas, LLC, Civil Action No. 4:09-CV-4080 (S.D. Tex.) (July 11, 2011).

The OIP sent by the Office of the Secretary to Smith's last known address was returned to the Commission and marked undelivered. On October 19, 2011, the Division of Enforcement (Division) filed a Motion to Discontinue Administrative [Proceeding] as Respondent Cannot Be Located (Motion). The Motion contains a Declaration of Jason Rodgers (Declaration) and exhibits, submitted in the civil action, describing the unsuccessful attempts the Division made to serve Smith – use of a process server to attempt service at an address Smith provided that was a vacant office, a search of public databases, use of a process server for one possible address and contact with persons at a second possible address, and communications to known e-mail addresses used by Smith. The Declaration concludes with a determination that there is no person in the state of Texas upon whom service of process would bind Smith. Based on its experience in this proceeding and the civil action, the Division requests, pursuant to 17 C.F.R. § 200.30-10(a)(8), that I discontinue the proceeding.

Ruling

FOR GOOD CAUSE SHOWN, I GRANT the Division's Motion and discontinue the proceeding without prejudice, pursuant to 17 C.F.R. § 200.30-10(a)(8).

Brenda P. Murray
Chief Administrative Law Judge