

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 1033/November 8, 2013

ADMINISTRATIVE PROCEEDING

File No. 3-15461

In the Matter of

TIMOTHY M. MCGINN and
DAVID L. SMITH

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POSTPONEMENT ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings on September 6, 2013, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940. The proceeding is a follow-on proceeding based on United States v. McGinn, No. 1:12-cr-00028 (N.D.N.Y. Aug. 13, 2013), in which each Respondent was found guilty of securities, mail, and wire fraud and other offenses. A prehearing conference was scheduled to be held by telephone on November 26, 2013.

In light of the status of settlement negotiations and consistent with 17 C.F.R. § 201.161, the telephonic prehearing conference will be postponed to December 12, 2013, at 10:30 a.m. EST, if the proceeding has not been resolved by then.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge