

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 930/September 30, 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 (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) 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, and the hearing was scheduled to commence on October 7, 2013. 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.

Each Respondent's Answer is due within twenty days of service of the OIP on him. See OIP at 3; 17 C.F.R. § 201.220(b). A Respondent who fails to file an Answer within the time provided will be deemed to be in default, and the undersigned will enter an order barring him from the securities industry. See OIP at 3; 17 C.F.R. §§ 201.155(a), .220(f).

To allow time for service and for Answers, consistent with 17 C.F.R. § 201.161, the hearing will be postponed sine die, and a prehearing conference will be held by telephone on November 26, 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