

OFFICE OF THE CLERK - LEGAL DIVISION
UNITED STATES COURT OF APPEALS
21400 U.S. COURTHOUSE
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PHILADELPHIA, PA 19106-1790

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June 25, 2001

Mr. John Gardner Black, #10984-068
Morgantown FCI
P.O. Box 1000
Morgantown, WV 26507

Re: SEC v. Black, et al.
C.A. No. 01-2467
(W.D. Pa. Civ. No. 97-cv-02257)

Dear Mr. Black:

This will advise you that the above-captioned appeal will be submitted to a panel of this Court for possible dismissal due to a jurisdictional defect. It appears that this Court may lack appellate jurisdiction for the following reason:

Only final orders of the district courts may be reviewed. 28 U.S.C. § 1291. A final judgment ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. Berke v. Bloch, 242 F.3d 131 (3d Cir. 2001). It is unclear, however, whether the district court action as docketed above is concluded as to Defendants Devon Capital Management, Inc., and Financial Management Sciences, Inc.

Jurisdictional defects cannot be remedied by the Court of Appeals. Parties may submit written argument in support of or in opposition to the listing of the appeal for possible dismissal due to a jurisdictional defect. It would greatly assist the Court if the parties would address this Court's jurisdiction, including whether the rights and liabilities of Devon Capital Management, Inc., and Financial Management Sciences, Inc., have been finally determined. Any response must be in proper form (original and 3 copies, with certificate of service), and must be received by this office no later than 21 days from the date of this letter. Upon expiration of the response period, the case will be submitted to the Court for consideration of the jurisdictional question. The parties will be advised of any order issued in this matter.

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Very truly yours,



LAURA L. GREENE
Staff Attorney

LLG/jlm
Enclosure

cc: (Catherine E. Pappas, Esq.
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