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August 9, 2010

Hon. Gary L. Sharpe
U.S. District Judge
James T. Foley U.S. Courthouse
445 Broadway, Rm. 441
Albany, New York 12207

Re: Securities Exchange Commission v. McGinn, Smith & Co., Inc., et al.
Case No: 1:10-CV-457 (GLS/DRH)

Dear Judge Sharpe:

Pending before your Honor is a Motion to Dismiss filed by Relief Defendant Lynn A. Smith in response to the SEC's Complaint dated April 20, 2010. Pursuant to FRCP 15(a), the SEC has filed an Amended Complaint as of right that essentially renders the motion moot.

Accordingly, as counsel for Lynn Smith, we hereby withdraw the pending Motion to Dismiss as it relates to the Plaintiff's original Complaint and respectfully request that the scheduled date of August 19, 2010 which this motion was to be heard be removed from your Honor's calendar.

Featherstonhaugh, Wiley & Clyne, LLP



Scott J. Ely

SJE:cr

cc: David Stoelting
Jill Dunn
Martin Kaplan