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November 15, 2010

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By ECF

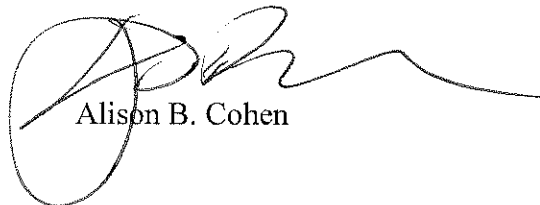
Honorable David R. Homer
United States Magistrate Judge
United States District Court for the
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, NY 12207

Re: *SEC v. McGinn, Smith & Co., Inc., et al*, 10-Civ.- 457 (GLS/DRH)

Dear Judge Homer:

We represent defendants David L. Smith and Timothy M. McGinn (the "Defendants") in the above-referenced matter, and write to request that the Court allow the Defendants to file two exhibits and the references thereto in their Memorandum of Law in Support of Defendants' Motion to Compel the Plaintiff to Answer Interrogatories under seal. The Defendants will file their motion to compel by CM/ECF today. One document the Defendants seek to file under seal is a non-public document obtained by the Defendants from the plaintiff in this case. The Defendants seek to file a second document under seal pursuant to Local Rule 8.1 because it contains the personal identification information of non-parties to this action. Defendants propose to file today by CM/ECF a redacted version of the memorandum of law and the exhibits, and will separately serve the unredacted version of those documents upon the parties by FedEx. On Tuesday, November 16, 2010, Defendants will file the unredacted papers with the Court when their counsel appear before the Court for the scheduled evidentiary hearing.

Sincerely,


Alison B. Cohen

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cc: David Stoelting
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