

# **EXHIBIT C**



Stradley Ronon Stevens & Young, LLP  
2600 One Commerce Square  
Philadelphia, PA 19103-7098  
Telephone 215.564.8000  
Fax 215.564.8120  
www.stradley.com

David C. Franceski, Jr.  
DFranceski@stradley.com  
215.564.8062

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June 10, 2009

**Via Telecopier and First Class U.S. Mail**

Mr. Steven E. Rowen  
Senior Examiner  
Financial Industry Regulatory Authority  
New Jersey District Office  
581 Main Street, Suite 710  
Woodbridge, NJ 07095

Re: **FINRA Routine Examination #20080117152 of McGinn, Smith & Co., Inc.**

Dear Steven:

This letter will serve to respond to your June 3, 2009, letter regarding additional requests for documents and information to our client, McGinn Smith & Co., Inc. ("MSC"), as well as the Staff's position with respect to what your letter characterizes as "outstanding" items as of that time, as the document and information and inspection was being conducted at the offices of MSC. The inspection was conducted pursuant to your May 13, 2009, request for information and on-site Staff inspection beginning on Monday, June 1, 2009.

As an initial matter, though we, as counsel, were not directly involved in the collection of documents and information for the on-site Staff inspection, and we were not present during the course of the review, I understand from my client that the Staff arrived on Monday, June 1, 2009, at 8:30 a.m. with six Staff members to conduct the on-site inspection. We further understand that the six Staff members remained on-site for 3 ½ business days, leaving at approximately noon on Thursday, June 4, with full, complete and uninterrupted access to all documents which were made available to them during the on-site review. To assist them in locating documents by category in the course of their inspection, the Staff was also supplied with the comprehensive "Document Directory" attached hereto as Exhibit "A." Finally, we understand that in the course of the on-site review, certain additional requests for documents and information were made by the Staff to MSC which were not contained in your May 13, 2009, letter or your June 3, 2009, letter, and that those requests were satisfied with additional productions "on the spot." In one instance, the additional production amounted to another nine boxes of documents.

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We hope by the foregoing that the Staff is satisfied that MSC has responded in good faith to, and met its FINRA Rule 8210 obligations with respect to, the on-site inspection.

Turning to the specific items in your June 3, 2009, letter, MSC responds as follows:

**NEW REQUESTS**

- (1) A copy [in electronic format] of complete investor Lists for the following offerings:
  - a. First Independent income Notes, LLC ("FIIN");
  - b. First Excelsior Income Notes, LLC ("FEIN");
  - c. Third Albany Income Notes, LLC ("TAIN");
  - d. First Advisory Income Notes, LLC ("FAIN");
  - e. Coventry CareLink Holding Corporation ("CCHC") – Series One Bonds (2003);
  - f. Coventry CareLink Bridge Loan Notes ("Coventry"); and
  - g. CMS Financial Services Corporation ("CMS").

**RESPONSE:**

This information was provided to the Staff on June 3. On the first day of the on-site inspection, the Staff also requested investor lists for the TDM Cable Trust 06 7.25% and the TDM Cable Trust 06 9.25% offerings, and those lists were also provided to the Staff on June 3.

- (2) A complete listing – to be provided in electronic format – of all offering programs in which McGinn, Smith or any affiliate entities were involved in (sic) from January 2003 through present. For each offering, please provide a product description [name/rate/series], date(s) of the offering, total offering amount and maturity date.

**RESPONSE:**

This information is being prepared and should be available to the Staff shortly.

**STATUS OF ITEMS CHARACTERIZED AS "OUTSTANDING":**

#1 – All firm emails in native format placed onto a CD in a searchable format, related to the offerings of Coventry CareLink Bridge Loan Notes ("Coventry") and CMS Financial Services Corporation ("CMS") for the period of January 1, 2006 through the present (May 13, 2009 ltr., Req. #1).

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**RESPONSE:** As a result of a discussion between counsel and the Staff on May 18, 2009, McGinn Smith & Co., believed that this request remained under discussion and was subject to feedback from the Staff. Once this misunderstanding was resolved at the commencement of the on-site review, MSC has made every effort to satisfy the Staff's request, without altering the parameters of the request. Once technological issues have been resolved and the data is in the format requested by the Staff, this information will be provided to the Staff as soon as possible, which we anticipate will occur this week. We appreciate the Staff's cooperation on this request.

#6 – Any communication(s) with investors regarding the most recent extension of Coventry – staff's request was for correspondence sent to/received from all investors; not a single sample;

**RESPONSE:** The Staff's May 13 request was not as phrased above and did not specify that it sought each communication with each investor. A sample text of the correspondence to all investors, which was identical in each instance, was provided to the Staff during the course of the on-site review. Nonetheless, documents responsive to the more broad request will be provided to FINRA.

#9 – All documentation related to FAIN;

**RESPONSE:** These documents were provided to the Staff for on-site review on Thursday, June 4, 2009.

#9d, 9g, 9h –

**RESPONSE:** It is unclear from your June 3 letter to which offering or offerings this reference relates. All responsive documents to these items currently in MSC's possession, except with respect to the 2003 Coventry Care Link Bond Offering ("the 2003 Bond Offering"), were provided to the Staff for on-site review in the course of their inspection. The documents related to FAIN were provided on the last day of the review, as noted above.

#9e – Extension and/or conversion notifications sent to/received from investors for FAIN, FEIN, FIIN, TAIN;

**RESPONSE:** See Response to #9i below.

#9f – Documentation related to CCHC, CMS, and Coventry;

**RESPONSE:** Documents and information as to CMS and Coventry (relating to application of offering proceeds) were provided to the Staff, either in the course of the inspection, or previously as a part of the MSC production on or about

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December 22, 2008. MSC is not certain to what offering the Staff's reference to "CCHC" relates. If "CCHC" is meant to refer to the 2003 Bond Offering offering, these documents have not been provided, though the offering document discloses how the proceeds were to be, and were, applied out of escrow.

#9i – All requested documentation

**RESPONSE:** As a result of a discussion between the Staff and counsel on May 18, 2009, MSC understood that Item 9i remained under discussion at the commencement of the on-site inspection. MSC has no current means by which to identify "prospective investors" as that term may be used in Item 9i, and it is not at all clear which individuals or entities would fit that characterization for the offerings at issue. With respect to the balance of the request, MSC continues to search for correspondence, and intends to make it and all responsive emails available once the same email issues presented by Request No. 1 are resolved. We anticipate the email production in the form requested by the Staff should be completed during the week of June 8, 2009. We appreciate the Staff's cooperation on this request.

#10 – A list of all financial accounts, including the name of the financial/banking institution, account number, all authorized signatories, and the date established. Banking, but not brokerage account information has been provided;

**RESPONSE:** All banking account information in the form requested and in the possession of MSC has been supplied to the Staff. Brokerage account information was an oversight and will be provided to the Staff shortly.

#12 – Documentation for CCHC and Coventry;

**RESPONSE:** Documentation for Coventry (relating to compensation to MSC and its affiliates) has been supplied to the Staff. Assuming "CCHC" refers to the 2003 Bond Offering, documentation responsive to this request will be provided to the Staff shortly.

#13 – Documentation for CCHC, Coventry and CMS.

**RESPONSE:** These documents (relating to arbitrations, civil actions, complaints and settlements), and assuming "CCHC" refers to the 2003 Bond Offering, have been provided to the Staff for review.

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If the Staff disagrees with our characterization of the response of MSC, please identify any deficiencies with specificity and we will promptly address them with MSC.

Sincerely yours,



David C. Franceski, Jr.

DCF/nb  
Enclosure  
950601

cc: David L. Smith  
Christine M. Debevec, Esq.

# FIRST CLASS MAIL

User ID: 062  
C/M #: 184835-0002

**Stradley Ronon Stevens & Young, LLP**  
2600 One Commerce Square  
Philadelphia, PA 19103-7098

Steven E. Rowen, Senior Examiner  
Financial Industry Regulatory Authority  
New Jersey District Office  
581 Main Street, Suite 710  
Woodbridge, NJ 07095

