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December 22, 2010

William J. Brown, Esq.
Phillips Lytle, LLP
Omni Plaza
30 South Pearl Street
Albany, New York 12207

Re: *SEC v. McGinn, Smith & Co., Inc., et al*
10 Civ. 457 (GLS) (DRH)
Our File No. CR-878

Dear Mr. Brown:

I have received a copy of the Answer you submitted on behalf of various McGinn, Smith entities to the Amended Complaint filed by the SEC.

On behalf of Mr. McGinn I respectfully object to the content of the Answer and respectfully request that you withdraw the Answer.

The content of the Answer does not reflect an adequate understanding of the allegations to which it purports to respond or, alternatively, does not reflect an adequate investigation of those allegations, or both.

The Complaint to which the Answer responds is a fundamentally flawed document which, itself, reflects incomplete investigation, misinterpretation of documents, facts and information, misunderstanding of documents, facts and information, assumptions that are devoid of factual support, factual and legal conclusions that are not justified by the objective and proven evidence and essential misrepresentations.

Your Answer would suggest, implicitly or explicitly, that the allegations in the Complaint represent proof that has been tested by a trial, cross-examination and an adversary proceeding on the substance of the case and still been found credible and fully proven. None of that has happened yet and I fully expect that once it does happen that the SEC's case will crumble like a piece of burnt paper.

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Your response to the Complaint, unless withdrawn, may deprive the entities on whose behalf you answered, as well as Mr. McGinn (and Mr. Smith) of their opportunity for a full blown adversary proceeding at which the allegations in the Complaint can be fully explored.

Your response, unless withdrawn, may irreparably prejudice the adversarial and trial rights of the entities whom you represent, and most assuredly may terminally prejudice the trial, presentational and confrontational rights of my client, Mr. McGinn (as well as those same rights of Mr. Smith).

I would be happy to discuss this with you at greater length, but at this time I respectfully ask that you withdraw the Answer and seek a further extension of time within which to answer the Complaint on behalf of the entities who you purported to represent in the submission you filed.

Thank you very much for your consideration and cooperation.

Respectfully yours,

E. STEWART JONES, PLLC

/s/ E. Stewart Jones, Jr.

E. Stewart Jones, Jr.
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ESJ, JR./ml