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January 26, 2011

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

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

Dear Judge Homer:

As you are aware, there is currently a discovery/status conference scheduled for Monday, January 31, 2011, at 9:30 am in your Chambers. I write to request that said conference be adjourned for a period of no less than two weeks for the following reasons: First, our firm has only recently been substituted as counsel for David Smith and we are still in the process of obtaining all the relevant documents and information from our predecessors at the Gusrae, Kaplan, Law Firm. We do not therefore know, beyond that firm's general averments, what discovery has been provided and what is still outstanding. Second, we have not yet had the opportunity to meet and confer with the SEC in order to make a good faith effort to resolve any discovery issues that may currently exist. As such, we are not yet in a position to competently address any outstanding discovery issues that may exist.

Inasmuch as we do not wish to waste the Court's time, I respectfully request that the conference be adjourned. I have conferred with Mr. Stoelting who consents to the requested adjournment. Thank you for your consideration.

Respectfully Submitted,

DREYER BOYAJIAN LLP

By:

William J. Dreyer