



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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DIVISION OF
ENFORCEMENT

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May 26, 2010

BY ECF

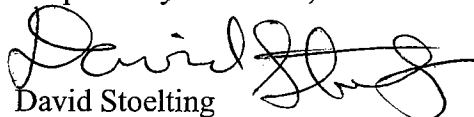
The Honorable David R. Homer
United States Magistrate Judge
United States District Court
Northern District of New York
United States Courthouse
Albany, New York 12207

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

Dear Judge Homer:

I write regarding plaintiff's opposition to relief defendant Lynn Smith's brief, which was otherwise due today. Mr. Featherstonhaugh, counsel to Ms. Smith, has graciously agreed to allow plaintiff to file its brief this Friday, as Ms. Smith's deposition will take place tomorrow. A proposed Consent Order is attached.

Respectfully submitted,


David Stoelting

cc (by e-mail): Michael Koenig, Esq.
James Featherstonhaugh, Esq.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

10 Civ. 457 (GLS)
(DRH)

McGINN, SMITH & CO., INC.,
McGINN, SMITH ADVISORS LLC,
McGINN, SMITH CAPITAL HOLDINGS CORP.,
FIRST ADVISORY INCOME NOTES, LLC,
FIRST EXCELSIOR INCOME NOTES, LLC,
FIRST INDEPENDENT INCOME NOTES, LLC,
THIRD ALBANY INCOME NOTES, LLC,
TIMOTHY M. MCGINN; AND
DAVID L. SMITH,

Defendants, and

LYNN A. SMITH,

Relief Defendant.

CONSENT ORDER

IT IS ORDERED that plaintiff shall file and serve any papers responding to relief defendant Lynn Smith's opposition to plaintiff's motion for a preliminary injunction no later than May 28, 2010.

SO ORDERED:

Dated: May __, 2010

UNITED STATES MAGISTRATE JUDGE