



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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November 9, 2011

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 to respectfully request that the discovery cut-off be extended from December 1, 2011 to December 16, 2011. All other dates in the Court's previous scheduling order (Dkt. 290) would remain in effect.

The parties have been working expeditiously to complete discovery. However, this brief extension is necessitated by several factors. First, two depositions that the plaintiff has noticed, Lynn Smith and Martin Finn, cannot proceed until the resolution of plaintiff's motion to compel (Dkt. 338). In addition, Thomas Urbelis's deposition cannot be scheduled until early December due to his lawyer's scheduling issues (the Court denied Urbelis' motion to quash on October 28, 2011). Finally, there are several third-party witnesses who have been subpoenaed and whose depositions are being scheduled.

William Dreyer (on behalf of David Smith), Stewart Jones (on behalf of Timothy McGinn), and Scott Ely (on behalf of the Trust and Lynn, Lauren and Geoffrey Smith) have consented to the extension of the discovery cut-off to December 16, 2011.

Respectfully submitted,

/s/
David Stoelting

cc (by e-mail and ECF): All counsel
Nancy McGinn