



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

New York Regional Office
Three World Financial Center
New York, NY 10281

DIVISION OF
ENFORCEMENT

David Stoelting
Senior Trial Counsel
(212) 336-0174 (direct)
(212) 336-1324 (fax)

June 3, 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

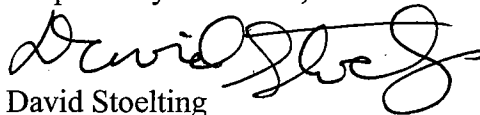
Re: SEC v. McGinn, Smith & Co., Inc., et al., 10 CV 457 (GLS)(DRH)

Dear Judge Homer:

Plaintiff's response to the filing by relief defendant Lynn Smith and to the Order to Show Cause filed by the Intervenor, the Trustee of the David and Lynn Smith Irrevocable Trust, was due yesterday. I notified Mr. Featherstonhaugh by e-mail last night about 6:00 p.m. that I did not think plaintiff could meet the deadline. The reason is that plaintiff conducted depositions this past Tuesday and Thursday of the former trustee and of the relief defendant, and these depositions and the accompanying exhibits are highly relevant to the pending preliminary injunction motion. Although the transcripts were delivered within twenty-four hours, reviewing the transcripts and incorporating into our papers the new evidence that has emerged has proven time-consuming.

Plaintiff therefore respectfully requests that it be permitted to 4:00 p.m. today, June 3, 2010, to file its papers. We would of course consent in advance to any extensions needed by the other parties.

Respectfully submitted,


David Stoelting

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