



U.S. Department of Justice

*United States Attorney
Northern District of New York*

445 Broadway
Room 218
Albany, NY 12207

518-431-0247
FAX: 518-431-0249

March 5, 2012

By ECF

The Honorable David R. Homer
James T. Foley – U.S. Courthouse
445 Broadway, Room 509
Albany, NY 12207

Re: Securities & Exchange Commission v. Timothy M. McGinn and David L. Smith,
10-CV-457 (GLS/DRH)

Dear Judge Homer:

Pursuant to Local Rule 7.1(b)(2), the United States requests that the Court schedule a conference because the United States plans to file a motion to intervene pursuant to Fed. R. Civ. P. 24 and to stay dispositive motions and trial in this case pending completion of the related criminal proceedings, United States v. McGinn and Smith, 12-CR-28 (DNH/DRH).

We have conferred with all of the parties in the civil case, and none of them plan to oppose the motion with the exception of the Securities and Exchange Commission and the Receiver which will take no position on the motion.

Very truly yours,

RICHARD S. HARTUNIAN
UNITED STATES ATTORNEY

By: /s/ Elizabeth C. Coombe
Elizabeth C. Coombe
Richard Belliss
Assistant United States Attorneys