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Admitted in New York
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June 7, 2010

VIA ECF

Hon. David R. Homer
United States Magistrate Judge
James T. Foley Federal Courthouse
445 Broadway
Albany, NY 12207

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

Dear Judge Homer:

The Court's prior Order scheduling the response and reply papers directed the Intervenor to file his Reply to Plaintiff's motion for a preliminary injunction on or before today, June 7, 2010. See Docket #40. On Thursday, June 3, we took the deposition testimony of Timothy Welles pursuant to the Court's expedited discovery order. Although I had requested an expedited transcript, I was informed this morning that Alliance Reporting Services will be unable to comply with that request until tomorrow.

Because we will be submitting the transcript of Mr. Welles' testimony in support of Intervenor's Reply papers, all counsel have consented to extend our time to file the reply papers until tomorrow, June 8, 2010. I respectfully request that the Court modify the prior scheduling order to that effect, and a proposed order is submitted herewith.

Thank you for your consideration.

Very truly yours,

THE DUNN LAW FIRM PLLC

By: s/
Jill A. Dunn

JAD/jc

Cc: David Stoelting, Esq. (Via ECF)
James D. Featherstonhaugh, Esq. (Via ECF)
Michael Koenig, Esq. (Via ECF)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

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,

**Case No.: 1:10-CV-457
(GLS/DRH)**

Defendants, and

LYNN A. SMITH,

Relief Defendant.

ORDER

IT IS ORDERED that Intervenor shall file and serve any reply papers to the Plaintiff's motion for a preliminary injunction on or before Tuesday, June 8, 2010.

DATED: June 7, 2010

UNITED STATES MAGISTRATE JUDGE