



Michael L. Koenig
Tel. (518) 689-1414
Fax (518) 689-1499
koenigm@gtlaw.com

June 14, 2010

VIA ELECTRONIC FILING

The Honorable David R. Homer
United States District Court
Northern District of New York
James T. Foley United States Courthouse
445 Broadway
Albany, New York 12207

Re: *Securities and Exchange Commission v. McGinn, Smith & Co., Inc., et al.*,
10-CV-457 (GLS)(DRH)

Dear Judge Homer:

We represent Defendants Timothy McGinn and David Smith in the above-referenced proceeding. We write to correct a misstatement or misconception in "Plaintiff's Memorandum of Law in Response to: (1) Relief Defendant Lynn A. Smith's Opposition to Plaintiff's Motion for a Preliminary Injunction; and (2) Intervenor's Order to Show Cause" filed by the Securities and Exchange Commission ("SEC" or "Commission") on June 3, 2010 (Docket No. 47) ("Reply Memorandum").

The Commission's Reply Memorandum states that the home owned by Nancy McGinn should "remain frozen as joint marital property." (Docket No. 47 at p. 2.) However, the SEC's own Exhibit 117 demonstrates that the home is solely owned by Nancy McGinn. Mrs. McGinn is not a party to this case. Accordingly, the house is not a frozen asset. Whatever theories the SEC has concerning Mrs. McGinn's ownership of the home are not properly before the Court in any fashion. Accordingly, we request that the Court disregard the SEC's assertion regarding the house.

We appreciate the Court's consideration of this matter.

Respectfully submitted,

GREENBERG TRAUIG, LLP

A handwritten signature in black ink that reads "Michael L. Koenig" with a stylized flourish at the end.

Michael L. Koenig
(Bar Roll No.: 507425)

MLK/nak

cc: David Stoelting (via ECF)
James Featherstonhaugh (via ECF)
William Brown (via ECF)
Jill A. Dunn (via ECF)

ALB 1,330,221v4