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SHAWN T. MAY

July 9, 2014

VIA ELECTRONIC FILING

Hon. Gary L. Sharpe, Chief Judge
James T. Foley U.S. Courthouse
445 Broadway, Room 112
Albany, NY 12207

**Re: Securities and Exchange Commission
v. McGinn, Smith & Co., Inc., et. al.
Case No.: 1:10-CV-457**

Dear Judge Sharpe:

This Court graciously granted extensions of time to file the summary judgment motions at the request of various parties. The last adjournment was granted with an express Order that "All motions by any parties are to be **completely** filed by 4:00 p.m. on July 8, 2014. No further extensions will be permitted".

Last evening, commencing at 4:05 p.m. and terminating at 8:37 p.m., the plaintiff attempted to file their rather voluminous motion for summary judgment. At 8:01 p.m., defendants' received an e-mail from David Stoelting which stated "My computer suddenly stopped sending e-mails, so I am not going to be able to send any more. However, tomorrow we will put all of the Appendix exhibits on a disk and overnight them to all".

The motion was neither filed, nor served, in a timely manner. On behalf of my clients, Geoffrey R. Smith, Lauren T. Smith and the Smith Trust, I respectfully request that the Court not consider the plaintiff's motion as it was untimely.

Very truly yours,


JAMES D. LINNAN
BAR ROLL NUMBER: 102058

JDL:phb

cc.: Service List

VIA E-MAIL AND REGULAR MAIL