

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

No. 10-CV-457
(GLS/DRH)

McGINN, SMITH & CO., INC., et al.,

Defendants.

ORDER

On July 22, 2010, a telephone conference was held with counsel for plaintiff Securities and Exchange Commission (SEC) and counsel for intervenor David M. Wojeski as Trustee of David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04 ("Trust"). The conference was held at the request of the SEC. The SEC advised that it intends shortly to file an amended complaint alleging inter alia that the Trust was created by a fraudulent conveyance and to renew its motion to freeze the Trust pending the outcome of this case based on new evidence. The Trust opposed the request. Finding insufficient cause for the relief sought by the SEC during the conference, it is hereby

ORDERED that the request of the SEC for an order freezing the Trust is **DENIED** without prejudice to renewal by formal motion; and

IT IS FURTHER ORDERED that the request of the Trust for an order compelling release of the assets of the Trust to the Trustee is **DENIED** without prejudice to renewal in a formal motion.

IT IS SO ORDERED.

Dated: July 23, 2010
Albany, New York


United States Magistrate Judge