

**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.

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

ORDER

Pursuant to N.D.N.Y.L.R. 7.1(b)(2), defendants Timothy M. McGinn and David L. Smith filed requests for leave to file nondispositive motions to (1) suppress evidence pursuant to the Second Circuit's recent decision in S.E.C. v. Rajaratnam, ___ F.3d ___ No. 10-462-cv, 2010 WL 3768050 (2d Cir. Sept. 29, 2010); and (2) compel plaintiff to respond to certain interrogatories and document demands. Dkt. Nos. 153, 160. A telephone conference was held on-the-record with counsel for all parties on October 26, 2010 during which the other defendants joined in the request for leave to file a motion under Rajaratnam. For the reasons stated during that conference, which are incorporated herein by reference, it is hereby

ORDERED that:

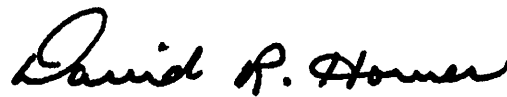
1. All defendants are granted leave to file motions under Rajaratnam (Dkt. No. 153);
2. Defendants Timothy M. McGinn and David L. Smith are granted leave to file a motion seeking to compel plaintiff to respond to certain interrogatories and document

demands (Dkt. No. 160); and

3. Any such motion shall be filed on or before **November 15, 2010**.

IT IS SO ORDERED.

DATED: October 26, 2010
Albany, New York



David R. Homer
U.S. Magistrate Judge