

VERIFIER CAPITAL HOLDINGS, LLC

Sch K-1 Supporting Schedules Partner # 23 MCGINN SMITH FUNDING LLC

## Line 5 - Interest Income

## Other Interest Income

INTERERST INCOME

1,667.

Total Interest Income

1,667.

## Line 17 - Alternative minimum tax (AMT) items

## A Post-1986 depreciation adjustment

From other (general business)

5,228.

From pass-through entities

993.

Total box A

6,221.

## B Adjusted gain or loss

From other (general business)

-1,848.

Total box B

-1,848.

## Line 18c - Nondeductible Expenses

Travel and entertainment expense nondeductible

415.

Total Nondeductible Expenses

415.

Statement 2

8P9000 1.000

9SH00B M406

V08-4.1

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PTR # 23 MCGINN SMITH FUNDING LLC

VERIFIER CAPITAL HOLDINGS, LLC

Schedule of Activities		Type of Activity	Disposed	QLIH	PTP	Pass-through
A: HIDDEN EYES LLC		Pass-Through	No	No	No	Yes
B: VERIFIER CAPITAL HOLDINGS, LLC		Portfolio	No	No	No	No
C: VERIFIER CAPITAL HOLDINGS, LLC		Gen. T\B	No	No	No	No
D:						
		A	B	C	D	
Income (Loss)	1 Ordinary business income (loss)	-10,141.		-116,712.		
	2 Net rental real estate income (loss)					
	3 Other net rental income (loss)					
	4 Guaranteed payments					
	5 Interest income		1,667.			
	6a Ordinary dividends					
	6b Qualified dividends					
	7 Royalties					
	8 Net short-term capital gain (loss)					
	9a Net long-term capital gain (loss)					
	9b Collectibles (28%) gain (loss)					
9c Unrecaptured section 1250 gain						
10 Net section 1231 gain (loss)						
11 Other income (loss)						
Deductions	12 Section 179 deduction					
	13a-g Contributions					
	13i,k,l Deductions related to portfolio income					
	13g Interest expense on investment debts					
	13i Section 59(e)(2) expenditures					
	13l-v Other deductions					
Credits	15a,c Low-income housing credit (section 42(j)(5))					
	15b,d Low-income housing credit (other)					
	15e Qualified rehabilitation expenditures (rental real estate)					
	15f Other rental real estate credits					
	15g Other rental credits					
	15h-p Other credits					
Foreign Transactions	16b Gross income from all sources					
	16c Gross income sourced at partner level					
	16d Foreign gross income (partnership level): Passive					
	16e Foreign gross income (partnership level): General categories					
	16f Foreign gross income (partnership level): Other					
	16g Deductions allocated and apportioned (partner level): Interest expense					
	16h Deductions allocated and apportioned (partner level): Other					
	16i Deductions allocated and apportioned (partnership level): Passive					
	16j Deductions allocated and apportioned (partnership level): General categories					
	16k Deductions allocated and apportioned (partnership level): Other					
	16l Total foreign taxes paid					
	16m Total foreign taxes accrued					
	16n Reduction in taxes available for credit					
16o Foreign trading gross receipts						
16p Extraterritorial income exclusion						
16q Other foreign transactions						
Alternative Minimum Tax	17a Post-1986 depreciation adjustment	993.		5,228.		
	17b Adjusted gain or loss			-1,848.		
	17c Depletion (other than oil and gas)					
	17d Gross income from oil, gas, and geothermal					
	17e Deductions from oil, gas, and geothermal					
	17f Other AMT items					
Tax-exempt Inc. & Exp.	18a Tax-exempt interest income					
	18b Other tax-exempt income					
	18c Nondeductible expenses			415.		
Other	20a Investment income		1,667.			
	20b Investment expenses					
	20c-x Other information					

JSA  
8P9011 4.000

9SH00B M406

V08-4.1

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**From:** Guzzetti, Andrew [guzzettia@mcginnsmith.com]  
**Sent:** Monday, March 02, 2009 1:25 PM  
**To:** Andy Guzzetti  
**Subject:** INCOME OPPORTUNITY FOR YOUR CLIENTS  
**Attachments:** image001.gif; image002.gif; image001.gif; PPM -TDM VERIFIER 07R 9% DUE 8-15-10.pdf;  
 TDM Verifier 07R Supplement.doc

☒ INCOME OPPORTUNITY FOR YOUR CLIENTS

IN THESE TOUGH, UNPREDICTABLE MARKETS MANY ADVISORS ARE LOOKING TO HELP CLIENTS BUILD OR MAINTAIN WEALTH BY DIVERSIFYING INTO DIFFERENT ASSET CLASSES. SINCE 1995 MCGINN SMITH & CO. HAS BEEN STRUCTURING INVESTMENT OPPORTUNITIES IN THE HOME & COMMERCIAL SECURITY ALARM INDUSTRY. CLIENTS HAVE INVESTED \$700,000,000 IN OUR PRIVATE PLACEMENTS. THESE OPPORTUNITIES ARE REG D INVESTMENTS THAT ARE GEARED TO ACCREDITED INVESTORS WHO WANT INCOME. OUR DEALS RANGE FROM 1YR TO 5 YRS WITH VERY COMPETITIVE RATES. PLEASE TAKE A MINUTE TO LOOK AT THE ATTACHED PPM(AND SUPPLEMENT) FOR A CURRENT OPPORTUNITY. THESE ARE VERY TOUGH TIMES AND ADVISORS MUST LOOK FOR OPPORTUNITIES TO ENHANCE THEIR PRODUCT MIX. ASSETS NOT CORRELATED TO THE STOCK MARKET HELP TO PROTECT CLIENTS ASSETS. WE KNOW YOUR CLIENTS AND YOUR PROSPECTS ARE LOOKING TO YOU FOR FRESH IDEAS TO HELP THEM REBOUND FROM THIS CURRENT MARKET & ECONOMIC MELTDOWN.

IF YOU WANT MORE INFORMATION PLEASE GIVE ME A CALL AT 518 348 0060

*Andy*

Andrew G. Guzzetti  
**Managing Director**  
**Private Client Group**  
**McGinn Smith & Co.**  
**45 Broadway**  
**26th Flr.**  
**NYC 10006**  
**212 785 4377 x 242**  
**212 202 6097 (fax)**

**AND**

**6 EXECUTIVE PARK DRIVE**  
**CLIFTON PARK, NY 12065**  
**518 348 0060 x249**  
**518 348 0107 (F)**

**" The highest compliment I can receive is a referral from a friend and client "**

4/14/2010

**From:** Rees, David [reesd@mcginnsmith.com]  
**Sent:** Tuesday, March 03, 2009 11:29 AM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** Emailing: MS Trans Funding.pdf

**Attachments:** MS Trans Funding.pdf



MS Trans  
Funding.pdf (281 KB)

<<MS Trans Funding.pdf>> Tim,  
I have attached the income stmt, balance sheet and transaction report for your review.  
Note there are \$501K of income items I have yet to identify (some of these may be interest  
payments or principle paydowns on loans). I will keep plugging away on this and others now  
that the MGS audit is done.

Dave R.  
I am leaving early today to attend the last SU home game- will be leaving around 3:30.

The message is ready to be sent with the following file or link  
attachments:

MS Trans Funding.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or  
receiving certain types of file attachments. Check your e-mail security settings to  
determine how attachments are handled.

MSTRANSF-All Accounts

3/3/09

## Balance Sheet

As of 12/31/08

Page 1

Acct	12/31/08 Balance
<b>ASSETS</b>	
Cash and Bank Accounts	
Checking	576.81
ESCROW	6,663.13
<b>TOTAL Cash and Bank Accounts</b>	<b>7,239.94</b>
Other Assets	
Cruise Charter Vent	2,296,438.35
DF 107th Assoc.	50,000.00
DF 1stline Tr.	545,156.84
DF Alarm Traders	69,000.00
DF TDM Cable	54,000.00
DF TDM Ver	133,000.00
DF- CMS Fin Svcs.	130,000.00
DF- Luxury Cruise	180,000.00
DF- Mr. Cranberry	217,500.00
DF- MS Funding	95,000.00
DF- TMM	150,000.00
DF- Verifier Cap, LLC	8,500.00
DF- Zetek	1,130,000.00
DF-Luxury Cruise Tr	1,625.00
Integrated Excell	236,636.00
MS Pref Stock	1,150,000.00
PrimeVision Comm, LLC	95,605.48
<b>TOTAL Other Assets</b>	<b>6,542,461.67</b>
<b>TOTAL ASSETS</b>	<b>6,549,701.61</b>
<b>LIABILITIES &amp; EQUITY</b>	
LIABILITIES	
Other Liabilities	
DT Investors	4,375,000.00
DT Others	275,000.00
DT STEWARTS	2,500,000.00
INEX Jr	100,000.00
<b>TOTAL Other Liabilities</b>	<b>7,250,000.00</b>
<b>TOTAL LIABILITIES</b>	<b>7,250,000.00</b>
EQUITY	-700,298.39
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>6,549,701.61</b>

MSTRANSF-All Accounts

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## Profit &amp; Loss Statement

1/1/08 Through 12/31/08

Page 1

Category Description	1/1/08- 12/31/08
<b>INCOME</b>	
Div Income	23,798.61
Gift Received	501,208.75
Other Inc	350,000.00
<b>TOTAL INCOME</b>	<b>875,007.36</b>
<b>EXPENSES</b>	
Advisory Fees	275,000.00
Bank Charge	2,291.20
Charity	77,527.89
Interest Exp	202,188.79
Legal Fees	172,636.75
Misc	706,603.12
Underwriting	139,058.00
<b>TOTAL EXPENSES</b>	<b>1,575,305.75</b>
<b>TOTAL INCOME - EXPEN...</b>	<b>-700,298.39</b>

MSTRANSF-All Accounts

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## QuickZoom Report

1/1/08 Through 12/31/08

Page 1

Date	Acct	Num	Description	Memo	Category	Clr	Amount
7/25/08	ESCROW	DEP	Unknown		Gift Received	R	52,121.25
7/31/08	ESCROW	DEP	Unknown		Gift Received	R	98,900.00
8/8/08	ESCROW	DEP	Unknown		Gift Received	R	69,187.50
10/29/08	ESCROW	DEP	Deposits	research	Gift Received	R	133,000.00
11/26/08	ESCROW	DEP	Deposits		Gift Received	R	148,000.00
TOTAL 1/1/08 - 12/31/08							501,208.75
TOTAL INFLOWS							501,208.75
TOTAL OUTFLOWS							0.00
NET TOTAL							501,208.75

*unknown  
deposits*

MSTRANSF-All Accounts

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## Transaction Report by Account

1/1/08 Through 12/31/08

Page 1

Date	Acct	Num	Description	Memo	Category	Clr	Amount
<b>Checking</b>							
7/22/08	Checking		Opening Balance		[Checking]	R	0.00
7/31/08	Checking		Transfer	Cover Investor Inter...	[ESCROW]	R	80,000.00
8/1/08	Checking	EFT	Stewart's	Investor interest	Interest Exp	R	-49,315.07
8/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-25,762.33
8/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-3,888.89
8/1/08	Checking	EFT	Bank Charges	Service Charge	Bank Charge	R	-40.03
8/22/08	Checking	1000	CT Lien Solutions	INV 915469	Misc	R	-43.20
9/8/08	Checking	1001	McBee	Checks	Bank Charge	R	-95.17
10/28/08	Checking	EFT	C4		Bank Charge	R	-96.00
10/30/08	Checking		Interest Expense		[ESCROW]	R	73,040.00
11/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-67,040.00
11/1/08	Checking	1002		McGinn Smith Trans...	Interest Exp	R	-6,000.00
11/3/08	Checking	DEP	Deposits		[DT Others]	R	73,000.00
11/5/08	Checking	EFT	DT Others		--Split--	R	-73,182.50
11/14/08	Checking	DEP	Deposits	TAIN/FIIN loan (\$75...	[DT Others]	R	125,000.00
11/14/08	Checking	EFT	McGinn, Smith		Advisory Fees	R	-125,000.00
11/26/08	Checking	DEP	Deposits	FIIN/FEIN/TAIN \$50...	[DT Others]	R	150,000.00
11/26/08	Checking	EFT	McGinn, Smith		[MS Pref Stock]	R	-150,000.00
<b>TOTAL Checking</b>							<b>576.81</b>
<b>Cruise Charter Vent</b>							
5/1/08	Cruise Chart...		Opening Balance		[Cruise Charter Vent]		0.00
5/14/08	Cruise Chart...		Unknown	verify this	[ESCROW]		300,000.00
6/2/08	Cruise Chart...		CCV		[ESCROW]		1,310,000.00
6/6/08	Cruise Chart...		CCV		[ESCROW]		75,000.00
6/12/08	Cruise Chart...		First Independent Inco...	repay FIIN fbo CCV	[ESCROW]		175,671.23
6/12/08	Cruise Chart...		TAIN	repay TAIN fbo CCV	[ESCROW]		200,767.12
6/23/08	Cruise Chart...		Unknown		[ESCROW]		75,000.00
8/22/08	Cruise Chart...		CCV		[ESCROW]		140,000.00
8/29/08	Cruise Chart...		MS Funding		[ESCROW]		100,000.00
8/29/08	Cruise Chart...		Unknown		[ESCROW]		-100,000.00
10/31/08	Cruise Chart...		CCV		[ESCROW]		20,000.00
<b>TOTAL Cruise Charter Vent</b>							<b>2,296,438.35</b>
<b>DF 107th Assoc.</b>							
5/1/08	DF 107th As...		Opening Balance		[DF 107th Assoc.]		0.00
5/19/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		15,000.00
6/13/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		15,000.00
8/1/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		10,000.00
10/8/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		10,000.00
<b>TOTAL DF 107th Assoc.</b>							<b>50,000.00</b>
<b>DF 1stline Tr.</b>							
5/1/08	DF 1stline Tr.		Opening Balance		[DF 1stline Tr.]		0.00
6/2/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		71,500.00
7/1/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		75,000.00
7/31/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		85,000.00
10/1/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		116,000.00
10/30/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		108,656.84
11/26/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		89,000.00
<b>TOTAL DF 1stline Tr.</b>							<b>545,156.84</b>
<b>DF Alarm Traders</b>							
5/1/08	DF Alarm Tr...		Opening Balance		[DF Alarm Traders]		0.00
5/8/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		20,000.00



MSTRANSF-All Accounts

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## Transaction Report by Account

1/1/08 Through 12/31/08

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Date	Acct	Num	Description	Memo	Category	Clr	Amount
6/5/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		15,000.00
7/3/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		20,000.00
8/7/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		14,000.00
	<b>TOTAL DF Alarm Traders</b>						<b>69,000.00</b>
	<b>DF TDM Cable</b>						
6/1/08	DF TDM Cable		Opening Balance		[DF TDM Cable]		0.00
6/2/08	DF TDM Cable		TDM Cable		[ESCROW]		27,000.00
7/1/08	DF TDM Cable		TDM Cable		[ESCROW]		27,000.00
	<b>TOTAL DF TDM Cable</b>						<b>54,000.00</b>
	<b>DF TDM Ver</b>						
5/1/08	DF TDM Ver		Opening Balance		[DF TDM Ver]		0.00
5/14/08	DF TDM Ver		Tdm Verifier		[ESCROW]		44,000.00
7/1/08	DF TDM Ver		Tdm Verifier Tr		[ESCROW]		89,000.00
	<b>TOTAL DF TDM Ver</b>						<b>133,000.00</b>
	<b>DF- CMS Fin Svcs.</b>						
8/1/08	DF- CMS Fin...		Opening Balance		[DF- CMS Fin Svcs.]		0.00
8/22/08	DF- CMS Fin...		CMS		[ESCROW]		100,000.00
10/15/08	DF- CMS Fin...		CMS		[ESCROW]		30,000.00
	<b>TOTAL DF- CMS Fin Svcs.</b>						<b>130,000.00</b>
	<b>DF- Luxury Cruise</b>						
5/1/08	DF- Luxury ...		Opening Balance		[DF- Luxury Cruise]		0.00
5/16/08	DF- Luxury ...		Luxury Cruise		[ESCROW]		60,000.00
6/17/08	DF- Luxury ...		Luxury Cruise		[ESCROW]		120,000.00
	<b>TOTAL DF- Luxury Cruise</b>						<b>180,000.00</b>
	<b>DF- Mr. Cranberry</b>						
5/1/08	DF- Mr. Cran...		Opening Balance		[DF- Mr. Cranberry]		0.00
7/1/08	DF- Mr. Cran...		Unknown		[ESCROW]		50,000.00
7/31/08	DF- Mr. Cran...		Unknown		[ESCROW]		50,000.00
9/4/08	DF- Mr. Cran...		Mr. Cranberry		[ESCROW]		75,000.00
12/2/08	DF- Mr. Cran...		Mr. Cranberry		[ESCROW]		42,500.00
	<b>TOTAL DF- Mr. Cranberry</b>						<b>217,500.00</b>
	<b>DF- MS Funding</b>						
8/1/08	DF- MS Fun...		Opening Balance		[DF- MS Funding]		0.00
8/4/08	DF- MS Fun...		MS Funding		[ESCROW]		50,000.00
9/11/08	DF- MS Fun...		MS Funding		[ESCROW]		37,000.00
10/8/08	DF- MS Fun...		Unknown		[ESCROW]		8,000.00
	<b>TOTAL DF- MS Funding</b>						<b>95,000.00</b>
	<b>DF- TMM</b>						
8/1/08	DF- TMM		Opening Balance		[DF- TMM]		0.00
8/22/08	DF- TMM		TMM		[ESCROW]		50,000.00
10/22/08	DF- TMM		TMM		[ESCROW]		20,000.00
10/27/08	DF- TMM		TMM		[ESCROW]		50,000.00
11/7/08	DF- TMM		TMM		[ESCROW]		30,000.00
	<b>TOTAL DF- TMM</b>						<b>150,000.00</b>
	<b>DF- Verifier Cap, LLC</b>						
9/1/08	DF- Verifier ...		Opening Balance		[DF- Verifier Cap, LL...		0.00


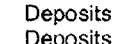
MSTRANSF-All Accounts

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## Transaction Report by Account

1/1/08 Through 12/31/08

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Date	Acct	Num	Description	Memo	Category	Clr	Amount
9/11/08	DF- Verifier ...		Verifier Capital, LLC		[ESCROW]		8,500.00
	<b>TOTAL DF- Verifier Cap, LLC</b>						<b>8,500.00</b>
	<b>DF- Zetek</b>						
5/1/08	DF- Zetek		Opening Balance		[DF- Zetek]		0.00
6/25/08	DF- Zetek		Zetek		[ESCROW]		150,000.00
7/3/08	DF- Zetek		Zetek		[ESCROW]		200,000.00
7/31/08	DF- Zetek		Zetek		[ESCROW]		250,000.00
8/28/08	DF- Zetek		Zetek		[ESCROW]		100,000.00
9/11/08	DF- Zetek		Zetek		[ESCROW]		150,000.00
9/25/08	DF- Zetek		Zetek		[ESCROW]		90,000.00
10/14/08	DF- Zetek		Zetek		[ESCROW]		90,000.00
11/26/08	DF- Zetek		Zetek		[ESCROW]		80,000.00
11/28/08	DF- Zetek		Zetek		[ESCROW]		20,000.00
	<b>TOTAL DF- Zetek</b>						<b>1,130,000.00</b>
	<b>DF-Luxury Cruise Tr</b>						
5/1/08	DF-Luxury C...		Opening Balance		[DF-Luxury Cruise Tr]		0.00
6/2/08	DF-Luxury C...		Luxury Cruise		[ESCROW]		90,625.00
7/1/08	DF-Luxury C...		TDM Luxury Cruise		[ESCROW]		-89,000.00
	<b>TOTAL DF-Luxury Cruise Tr</b>						<b>1,625.00</b>
	<b>DT Investors</b>						
5/1/08	DT Investors		Opening Balance		[DT Investors]		0.00
5/30/08	DT Investors		Deposits		[ESCROW]		-665,000.00
6/5/08	DT Investors				[ESCROW]		-130,000.00
6/12/08	DT Investors				[ESCROW]		-1,000,000.00
6/30/08	DT Investors		Deposits		[ESCROW]		-585,000.00
7/31/08	DT Investors		Deposits		[ESCROW]		-690,000.00
8/31/08	DT Investors		Deposits		[ESCROW]		-175,000.00
9/30/08	DT Investors		Deposits		[ESCROW]		-650,000.00
10/31/08	DT Investors		Deposits		[ESCROW]		-370,000.00
11/28/08	DT Investors		Deposits		[ESCROW]		-110,000.00
	<b>TOTAL DT Investors</b>						<b>-4,375,000.00</b>
	<b>DT Others</b>						
11/1/08	DT Others		Opening Balance		[DT Others]		0.00
11/3/08	DT Others		Deposits		[Checking]		-73,000.00
11/5/08	DT Others		DT Others		[Checking]		73,000.00
11/14/08	DT Others		Deposits	TAIN/FIIN loan (\$75...	[Checking]		-125,000.00
11/26/08	DT Others		Deposits	research	[Checking]		-150,000.00
	<b>TOTAL DT Others</b>						<b>-275,000.00</b>
	<b>DT STEWARTS</b>						
4/29/08	DT STEWA...		Opening Balance		[DT STEWARTS]		0.00
5/2/08	DT STEWA...		Stewart's		[ESCROW]		-2,500,000.00
	<b>TOTAL DT STEWARTS</b>						<b>-2,500,000.00</b>
	<b>ESCROW</b>						
4/16/08	ESCROW		Opening Balance		[ESCROW]	R	0.00
5/2/08	ESCROW		Stewart's		[DT STEWARTS]	R	2,500,000.00
5/2/08	ESCROW		McGinn, Smith		[MS Pref Stock]	R	-1,000,000.00
5/8/08	ESCROW		Alarm Traders		[DF Alarm Traders]	R	-20,000.00
5/14/08	ESCROW		Unknown	verify this	[Cruise Charter Vent]	R	-300,000.00
5/14/08	ESCROW	EFT	Tdm Verifier		[DF TDM Ver]	R	-44,000.00
5/15/08	ESCROW		Nfs	int coverage for others	Misc	R	-24,293.75

MSTRANSF-All Accounts

3/3/09

## Transaction Report by Account

1/1/08 Through 12/31/08

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Date	Acct	Num	Description	Memo	Category	Clr	Amount
5/16/08	ESCROW	EFT	Luxury Cruise		[DF- Luxury Cruise]	R	-60,000.00
5/19/08	ESCROW		IA5 Associates	fees	[DF 107th Assoc.]	R	-15,000.00
5/20/08	ESCROW		X5 Studios		Misc	R	-3,140.00
5/21/08	ESCROW	EFT	Marlene Brustle		Misc	R	-5,000.00
5/29/08	ESCROW		Integrated Excellence		[Integrated Excell]	R	-93,818.00
5/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	665,000.00
5/30/08	ESCROW		Bank Charges	may fees	Bank Charge	R	-360.00
5/31/08	ESCROW		Balance Adjustment		Misc	R	0.01
6/2/08	ESCROW		TDM Cable		[DF TDM Cable]	R	-27,000.00
6/2/08	ESCROW		Firstline Tr		[DF 1stline Tr.]	R	-71,500.00
6/2/08	ESCROW	EFT	Luxury Cruise		[DF-Luxury Cruise Tr]	R	-90,625.00
6/2/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-1,310,000.00
6/4/08	ESCROW		PrimeVision, LLC		[PrimeVision Comm,...]	R	-95,605.48
6/5/08	ESCROW	DEP			[DT Investors]	R	130,000.00
6/5/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-15,000.00
6/6/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-75,000.00
6/12/08	ESCROW	DEP			[DT Investors]	R	1,000,000.00
6/12/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-85,900.00
6/12/08	ESCROW	EFT	Integrated Excellence		[Integrated Excell]	R	-274,818.00
6/12/08	ESCROW	EFT	First Independent Inco...	repay FIIN fbo CCV	[Cruise Charter Vent]	R	-175,671.23
6/12/08	ESCROW	EFT	TAIN	repay TAIN fbo CCV	[Cruise Charter Vent]	R	-200,767.12
6/13/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-15,000.00
6/17/08	ESCROW	EFT	Luxury Cruise		[DF- Luxury Cruise]	R	-120,000.00
6/19/08	ESCROW	EFT	Marlene Brustle	supplies	Misc	R	-2,808.33
6/20/08	ESCROW	EFT	Unknown		Charity	R	-25,567.89
6/23/08	ESCROW	EFT	Unknown		[Cruise Charter Vent]	R	-75,000.00
6/25/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-150,000.00
6/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	585,000.00
6/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-340.00
7/1/08	ESCROW	DEP	TDM Luxury Cruise		[DF-Luxury Cruise Tr]	R	89,000.00
7/1/08	ESCROW	EFT	Unknown		[DF- Mr. Cranberry]	R	-50,000.00
7/1/08	ESCROW	EFT	Tdm Verifier Tr		[DF TDM Ver]	R	-89,000.00
7/1/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-75,000.00
7/1/08	ESCROW	EFT	TDM Cable		[DF TDM Cable]	R	-27,000.00
7/3/08	ESCROW	DEP	MS Pref Div		Div Income	R	9,423.61
7/3/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-200,000.00
7/3/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-20,000.00
7/15/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-37,053.75
7/15/08	ESCROW	EFT		int cov for others	Misc	R	-5,000.00
7/15/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-121,308.75
7/15/08	ESCROW	EFT	Shutts, Brownell, Etal		Legal Fees	R	-59,758.32
7/17/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-121,308.76
7/17/08	ESCROW	EFT	Crossways Consulting		Misc	R	-7,500.00
7/23/08	ESCROW	EFT		firstline b'ruptcy	Legal Fees	R	-78,303.43
7/25/08	ESCROW	DEP	Unknown		Gift Received	R	52,121.25
7/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	690,000.00
7/31/08	ESCROW	DEP	Unknown		Gift Received	R	98,900.00
7/31/08	ESCROW	EFT	Transfer	Cover Investor Inter...	[Checking]	R	-80,000.00
7/31/08	ESCROW	EFT	Unknown		[DF- Mr. Cranberry]	R	-50,000.00
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-17,937.50
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-13,965.63
7/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-380.00
7/31/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-85,000.00
7/31/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-250,000.00
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-1,768.12
7/31/08	ESCROW		Balance Adjustment		Misc	R	-0.01
8/1/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-10,000.00
8/4/08	ESCROW	EFT	MS Funding		[DF- MS Funding]	R	-50,000.00
8/4/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-28,218.00
8/7/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-14,000.00
8/7/08	ESCROW	EFT	Manett Phelps		Legal Fees	R	-6,250.00
8/8/08	ESCROW	DEP	Unknown		Gift Received	R	69,187.50

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## Transaction Report by Account

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Date	Acct	Num	Description	Memo	Category	Clr	Amount
8/14/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
8/14/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-1,793.75
8/22/08	ESCROW	DEP	Integrated Excellence		[Integrated Excell]	R	132,000.00
8/22/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-140,000.00
8/22/08	ESCROW	EFT	CMS		[DF- CMS Fin Svcs.]	R	-100,000.00
8/22/08	ESCROW	EFT	TMM		[DF- TMM]	R	-50,000.00
8/28/08	ESCROW	DEP	INEX JR	Loan	[INEX Jr]	R	100,000.00
8/28/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-100,000.00
8/29/08	ESCROW	DEP	Unknown		[Cruise Charter Vent]	R	100,000.00
8/29/08	ESCROW	EFT	MS Funding		[Cruise Charter Vent]	R	-100,000.00
8/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	175,000.00
8/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-220.00
9/4/08	ESCROW	EFT	Mr. Cranberry		[DF- Mr. Cranberry]	R	-75,000.00
9/5/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-42,758.00
9/8/08	ESCROW	EFT	Unknown		Charity	R	-1,960.00
9/8/08	ESCROW	EFT	TMM		Charity	R	-50,000.00
9/11/08	ESCROW	EFT	MS Funding		[DF- MS Funding]	R	-37,000.00
9/11/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-150,000.00
9/11/08	ESCROW	EFT	Fischkind & Assoc		Legal Fees	R	-12,000.00
9/11/08	ESCROW	EFT	Verifier Capital, LLC		[DF- Verifier Cap, LL...	R	-8,500.00
9/17/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-5,718.00
9/17/08	ESCROW	EFT	J. Cornacchia	int cov for others	Misc	R	-5,000.00
9/22/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,800.00
9/23/08	ESCROW	EFT	McGinn, Smith		Advisory Fees	R	-150,000.00
9/25/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-90,000.00
9/29/08	ESCROW	DEP	NEI Capital	adv fee	Other Inc	R	200,000.00
9/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	650,000.00
9/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-200.00
10/1/08	ESCROW	DEP	McGinn, Smith		Div Income	R	14,375.00
10/1/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-116,000.00
10/3/08	ESCROW	DEP	NEI	fortress adv fee	Other Inc	R	150,000.00
10/8/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-10,000.00
10/8/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,470.00
10/8/08	ESCROW	EFT	Unknown		[DF- MS Funding]	R	-8,000.00
10/14/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-90,000.00
10/15/08	ESCROW	EFT	CMS		[DF- CMS Fin Svcs.]	R	-30,000.00
10/17/08	ESCROW		Nfs		Misc	R	-74,230.00
10/17/08	ESCROW	EFT	NFS WIRE		Misc	R	-44,356.88
10/21/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,405.00
10/21/08	ESCROW		One City Ctr		Misc	R	-49,097.50
10/21/08	ESCROW		Misc Checks		Misc	R	-5,718.00
10/21/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
10/22/08	ESCROW	EFT	TMM		[DF- TMM]	R	-20,000.00
10/27/08	ESCROW	EFT	TMM		[DF- TMM]	R	-50,000.00
10/29/08	ESCROW	DEP	Deposits	research	Gift Received	R	133,000.00
10/30/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-8,501.89
10/30/08	ESCROW	EFT	Stewart's	Investor interest	Interest Exp	R	-50,000.00
10/30/08	ESCROW	TXFR	Interest Expense		[Checking]	R	-73,040.00
10/30/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-108,656.84
10/30/08	ESCROW		Nfs		Misc	R	-13,965.63
10/30/08	ESCROW	EFT	Paetec	verify this...	Misc	R	-35,208.43
10/30/08	ESCROW		One City Ctr		Misc	R	-17,937.50
10/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	370,000.00
10/31/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-20,000.00
10/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-340.00
11/7/08	ESCROW	EFT	TMM		[DF- TMM]	R	-30,000.00
11/18/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-10,400.00
11/18/08	ESCROW		Matthew McGinn		Legal Fees	R	-2,400.00
11/18/08	ESCROW	EFT	NFS WIRE		Misc	R	-22,500.00
11/18/08	ESCROW		Misc Checks		Misc	R	-5,718.00
11/18/08	ESCROW	EFT	NFS WIRE		Misc	R	-1,793.75
11/24/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00

MSTRANSF-All Accounts

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## Transaction Report by Account

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Date	Acct	Num	Description	Memo	Category	Clr	Amount
11/26/08	ESCROW	DEP	Deposits		Gift Received	R	148,000.00
11/26/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-89,000.00
11/26/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-80,000.00
11/28/08	ESCROW	DEP	Deposits		[DT Investors]	R	110,000.00
11/28/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-20,000.00
11/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-180.00
12/2/08	ESCROW	EFT	Mr. Cranberry		[DF- Mr. Cranberry]	R	-42,500.00
12/4/08	ESCROW	EFT	Manett Phelps		Legal Fees	R	-6,250.00
12/19/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
12/19/08	ESCROW	EFT	Misc Checks		Misc	R	-5,718.00
12/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-40.00
<b>TOTAL ESCROW</b>							<b>6,663.13</b>
<b>INEX Jr</b>							
8/21/08	INEX Jr		Opening Balance		[INEX Jr]		0.00
8/28/08	INEX Jr		INEX JR	Loan	[ESCROW]		-100,000.00
<b>TOTAL INEX Jr</b>							<b>-100,000.00</b>
<b>Integrated Excell</b>							
5/1/08	Integrated E...		Opening Balance		[Integrated Excell]		0.00
5/29/08	Integrated E...		Integrated Excellence		[ESCROW]		93,818.00
6/12/08	Integrated E...		Integrated Excellence		[ESCROW]		274,818.00
8/22/08	Integrated E...		Integrated Excellence		[ESCROW]		-132,000.00
<b>TOTAL Integrated Excell</b>							<b>236,636.00</b>
<b>MS Pref Stock</b>							
5/1/08	MS Pref Stock		Opening Balance		[MS Pref Stock]		0.00
5/2/08	MS Pref Stock		McGinn, Smith		[ESCROW]		1,000,000.00
11/26/08	MS Pref Stock		McGinn, Smith		[Checking]		150,000.00
<b>TOTAL MS Pref Stock</b>							<b>1,150,000.00</b>
<b>PrimeVision Comm, LLC</b>							
5/1/08	PrimeVision ...		Opening Balance		[PrimeVision Comm,...]		0.00
6/4/08	PrimeVision ...		PrimeVision, LLC		[ESCROW]		95,605.48
<b>TOTAL PrimeVision Comm, LLC</b>							<b>95,605.48</b>
<b>OVERALL TOTAL</b>							<b>-700,298.39</b>

Re call

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**From:** Livingston, Thomas  
**Sent:** Tuesday, March 03, 2009 5:26 PM  
**To:** Smith, David  
**Subject:** Re: Re call

Not easy just lucky

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**From:** Smith, David  
**To:** Livingston, Thomas  
**Sent:** Tue Mar 03 15:18:53 2009  
**Subject:** RE: Re call

congratulations see how easy it is

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**From:** Livingston, Thomas  
**Sent:** Tue 3/3/2009 3:07 PM  
**To:** Smith, David  
**Subject:** RE: Re call

My 21k is done for march actually more like 40

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**From:** Smith, David  
**Sent:** Tuesday, March 03, 2009 11:34 AM  
**To:** Livingston, Thomas  
**Subject:** RE: Re call

Tom,  
I will respond to all of these issues when I get back. This communication by e-mail is not the way to address these issues. I did so yesterday because if your misunderstanding of the deal was not addressed your frustration would only grow and become counterproductive. Having said that, your points on decision involvement are well taken. Meetings, which are the obvious forum for these things, are particularly difficult with Tim away until May and my currently being in FL. I felt a strong necessity to make the decisions when I did. One of my weaknesses is being influenced easily by opinions that are counter to my own instincts. Already this morning I have had members seek to have me reconsider some of the decisions made. This time I am just saying no and going with my first decision, which is usually the best one. That is not to suggest that I don't value yours and others opinions, but these decisions are particularly difficult because they so directly impact the lives of those involved and it is hard not to be influenced by everyone's specific pleadings. I will talk to you later about Fred. I am already very much behind in dealing with other issues that must be addressed today.

Dave

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**From:** Livingston, Thomas  
**Sent:** Mon 3/2/2009 4:24 PM  
**To:** Smith, David  
**Subject:** RE: Re call

2/18/2010



Re call

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Dave

Thanks for the thoughtful and helpful reply. In fact I did have it wrong. I would hope that you would accept my apology for my confusion. I hope you understand that my concerns are genuine about my financial demise. That being said I think that my abilities will carry the day and I will be able to meet my obligations under these terms. As it relates to structured products I think your comment "When you start allocating large segments of the SP commissions as override, you are taking dollars that would otherwise stay at the firm because they were earned by someone else" I was not talking about commissions earned by someone else. You have to look at what I was able to do...I took transactions that the brokers as well as the firm were making a gross spread of between 1.5-2% and made it 6%. I have talked to numerous other bd's and none of them get those kind of economics. There are not many things I can take credit for but clearly this is one of them. Over the years the firm has benefitted from my syndicate relationships (as it should). However if you take a look at the way say Bob Paul or Frank Sinatra are compensated they get a portion of the underwriting fees (because frankly absent them the fees would not exist) They use the relationships and friendships they have developed and leverages them. I would argue the same with some of things I do. The numbers I outlined in my prior email might seem aggressive but clearly it isn't worth zero. It takes time, diligence and credibility to get these things done and I think I have done it well. What I was trying to do was have some number that adequately compensates me for the time I allocate to this area that takes away from production. All my friends now run desks and sooner rather than later business will improve. All of them run the structured product areas of their respective firms and almost all are working on innovative ways to take advantage of the new realities facing wall street.

As it pertains to other aspects of my email do you think it is unreasonable of me as a 20% stakeholder in MS to expect to be included in most discussions? I don't. My opinions of what Tim thinks of me and or how he treats me is obvious to all. That being said at the end of the day I really don't care if he likes me or not. What I do care about is that I have the respect of my partners. I am getting older and frankly at this stage of career I will not be disrespected or treated like a second class citizen. For example when Tom Murray was here Tim didn't miss the opportunity to try and embarrass me in front of Tom. prompting Tom to say to me "why is he always a dick to you". Tom's word not mine. What Tim doesn't realize it makes all of us look bad. I respect the close and unique relationship you and Tim share. I have tried over the years to develop a relationship based on mutual respect and have failed miserably. It is not my intent to come between or cause difficulties between the two of you. However, I think after 23 years a deserve some let up. Moreover I am very open on ways I might improve it.

I don't think you understand how upsetting it is for me to see guzzetti and mayer receive stock in MS. I worked my ass off and got not a share in IASG..not a dime! You would have thought the guy who brought in the most revenue for the longest period of time would have got something. When it came to buying into MS I got no special treatment..we picked a number that could have been argued either way whether I over paid or under paid. But clearly it wasn't at a discount. Yet here we are giving stock not to the deserving producers.Phil, Ryan (even that I would have a hard time stomaching) but to the guys that produce no revenue? And again 23 years before I got to the table! Frankly as I have told you the Reilly loan is killing me. I would sacrifice for the next twenty years to pay it. But I have to understand that I am not just a stockholder. I placed my bets when I took the loan out that whether or not MS did well was not as important that I had a seat at the table and some control over my own destiny. Naturally I was hoping that it would be profitable..there is still plenty of time left to make that a reality.With new folks at the table and clearly no voice in the direction of the firm I can not see any reason to continue paying him. If I default he becomes a shareholder. From my perspective I am in no worse position than I am in now. Decisions have been made over the last year that I have had zero say in that I would rather not put in an email but put me at risk. That would be fine as long as I have a say on the risks being taken. A three member partnership need not be contentious at all as long as the dialogue between all three is open and honest. Early on I was included in some meetings and at the end of the day we all got along fine.The fact that entities get formed and I am not informed of its purpose or worse I discover the formation and I don't get a realistic honest answer as to why I wasn't included and where the economics are going. From a partners point of view that just seems like a given from a fairness and disclosure point of view. I will go to the end of the line for you but these answers are just to important for me to gloss over. When I bought in it was because I wanted to be YOUR partner. I guess it shouldn't matter to me that Brian and Andy will have shares in a worthless enterprise but at the end of the day if the firm is to survive I believe it will be driven by a huge contribution by me not them. I trusted you and still do but the dynamics seen through my eyes have changed and I don't feel to my benefit. I really don't think I am asking that much. I see how funds are moved around and I know that I am not included. Why? I think its a simple question. On one hand we expect brokers not to sell away but yet we have entities that enrich some partners and not others.These other entities maybe have no value..I don't know but I am sure it would be easy to assuage me with full and fair disclosure. If you recall to get me to sign the agreement with Kennedy and Willis you assured me that that my tax concerns were off base and I didn't understand. Well history shows that my concerns were correct. Both you and Tim assured me that if we kept Newton alive we would find a way to minimize the tax bite if any, by shifting things through Newton. None of that happened and now I have a huge tax obligation. All of this is water over the

2/18/2010

Re call

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dam but you have to realize I don't have a lot of runway left in my career. mistakes are magnified today more than ever and taking some control over my destiny is a must. I can contribute mightily to McGinn Smith's recovery but it has to be on a more level playing field. I don't care if you and Tim get rich beyond description but I do not want to live hand to mouth. If I do, I want it to be of my own making not something beyond my control or influence. I have always done what you asked of me (sometimes kicking and screaming) but at the end of the day I have done it. This time I am asking you to do something for me that really cost nothing and only stands to benefit everyone. Explain the entities, show me their financial statements and let me really garner an opinion as to whether or not they have little or no value. As you know Verifier was originated soon after Tim came back. My name appears in all documents of LLC's formed up and until Verifier. Then poof I am gone. Mistake? Maybe. I just want to be treated fairly as it relates to these enterprises. Again if I am just a shareholder than all of this is moot and I will then know where I stand.

Tom

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**From:** Smith, David  
**Sent:** Monday, March 02, 2009 4:13 PM  
**To:** Livingston, Thomas  
**Subject:** RE: Re call

Tom,

I just got your e-mail, which I don't understand because it is time stamped 8:30, and thus was not able to respond earlier. Now, I am scheduled to leave for Orlando to pick Lauren up in ten minutes, and with my one finger typing will not have adequate time to respond to everything in your memo. However, the critical response is the compensation plan that I outlined and your response to it. If you did not take notes or understand it at the time you should have asked me to go over it. Your response demonstrates that you missed the key elements of the proposal. Your understanding is completely off the mark. Your payout does not decline with the draw. You receive 100% payout on the first \$21,000 that you do period. After you receive the \$21,000, the split is 60/40 in favor of you, with your 60% going to erase the arrearages until they are eliminated. At that point the 60% goes into your paycheck. The 100% payout on the first \$21,000 goes for the entire year or until we have to review all compensation. But, I have told everyone the same thing- we will review our ability to change the new compensation levels after one year and hopefully both our income and capital are adequate. Thus, under this plan, the first \$252,000 you produce is yours, nothing going to the firm. What could possibly be a better deal than that? So there is no misunderstanding, that is net commissions after expenses to the firm from clearing or errors, etc. The firm doesn't make anything unless you do in excess of \$252,000, but it does stop the cash flow bleed by paying draws when there is no revenue generated by you. The draw diminishes for the same reason, to save cash flow if you are not generating revenue. Thus, the second month goes to \$14,000 and then to \$7,000. However, if you produce earnings of \$21,000 in those months, that is what you will receive. To establish a draw after those three months, you would get a weighted average of your production for the three months on a 3:2:1 basis. E.g.,  
 March:  $\$10,000 \times 3 + \$30,000$

April:  $\$17,000 \times 2 + \$34,000$

May  $\$22,000 \times 1 + \$22,000$  Total:  $\$86,000$  divided by 6 =  $\$14,333$

If a simple 3 month average works out better you get to use that (as it would in this example)  
 After the initial 3 months, a simple quarterly average would be used.

The override proposal that you offered is punitive to the firm because there is no incremental dollars. My proposal pays you 100%, but it is only on the dollars that you produce. Thus, while there is no benefit to the firm, either is there a downside. When you start allocating large segments of the SP commissions as override, you are taking dollars that would otherwise stay at the firm because they were earned by someone else. Your assertion that no consideration was given to you or your family, or your status as a partner is both insulting to me and absent any thought. I will accept them because it appears that you did not understand the deal as presented. A 100% payout on the first \$21,000 could not be more generous. At a 45% payout, which is where I believe your compensation is currently figured, you would have to be producing over \$46,000 just to push. Of the 3 partners, you are currently the only one with upside over your draw. Yes, once the firm is in a position that all the profits from Tim's deals are not necessary to be allocated to the firm, and if they are not Verifier deals where profit is due to Mathew Rogers net of his draw, then there will be dollars available. This is all being done for the sake of survival and as stated will be reviewed in a year. As for the distribution of stock, circumstances and evaluations are dramatically different than in 2003. "Giving" stock to Andy and Brian at the same evaluation as in

2/18/2010



2003 is hardly comparable to you paying for it then. You could argue that they are receiving something of no value. In addition, taking Brian's salary with overrides from \$136,000 to \$60,000 and Andy's salary from \$200,000 to \$75,000 and compensating them with \$36,000 and \$75,000 respectively worth of MS stock was not a deal they would volunteer for. In fact, Andy asked if we were trying to send the signal that we would rather have his resignation.

P.S. Lauren's flight has been delayed and thus I was able to spend more time in response than anticipated. I did not become a proficient typist in the meantime.

Finally, your diatribe on the conflicts and feelings running between you and Tim will go unanswered as I doubt that I would change your mind. Suffice it to say, three member partnerships often cause friction and I remember only too well your concern if Tim would return to MS. And yes I am sure that I assured you that Tim would be ensconced at IASG until he retired. With healthy economics and a renewed revenue generating business model, I suspect that a lot of that will go away. My history with Tim is long, complex, and one I value highly; thus, I am protective of it and work hard to prevent conflicts that can be disruptive. But the same goes for you. I defend you when it is called for and I try to be forthright with you when I believe criticisms are warranted. The fact is we all have accountability when it comes to the difficulty the firm finds itself in. My performance as CEO will never be pointed to as exemplary, and my management of the mezzanine funds is responsible for our inability to recognize substantial fee income as we had anticipated. And that doesn't address the legal costs and potential liability. But we have to fight through this, and you need to be a major contributor, both in revenue generation and as a positive force endorsing these difficult choices that I have made.

P.S.S I realize that I did not get to you regarding Fred. I will in the morning. Brian and Andy both seem to be on board, but reject some of the decisions I made regarding certain personnel.

Dave

Dave:

Thanks for taking the time to explain your thinking on the current dilemma MS finds itself in. I gave careful thought to your proposal (directives) and this was my take away. I will start with how this new directive impacts me, the realities of being partner (shareholder) in MS and where I can or can not add value.

Let me start by saying that I don't want to outline my contributions over the last 23 years. You either know them or you don't. As you know I became a shareholder (partner) back in 2002. That transaction in retrospect was more a function of a liquidity issue for Tim McGinn during his divorce than it was an acknowledgement of my contribution or value. It has been most obvious to me (and pretty much everyone else) that Tim McGinn does not care for me, does not think that I add any value and would prefer it if I was not associated with MS. I have known this for many years and plugged along regardless. Immediately upon Tim's return to MS I understood I was in for trouble. After 20 plus years of working together I knew Tom, his family and his role as a partner mattered little. I watched as countless entities were formed (outside of the MS holding co.) that I only can assume created revenue. Naturally none of these entities were ever discussed with me, was I included in any of the economics (and I can only assume there were some otherwise what was the point in their formation). I appreciate that Tim thinks I have the intellect of a gnat but I do pay attention. ALL decisions that have been made at MS since his return have been decided by you and him. My opinion, suggestions etc. have not been sought and if they were it was after the fact. I have been in countless meetings with you where you have referred to Tim as "my partner" not "our partner"! Now that might sound trivial to you but when the cost of becoming a partner was so high these nuances mean everything. I appreciate and understand that my name is not on the door. That being said I had the notion that I was indeed a partner. The definition of which as defined by the Oxford dictionary "a person who takes part in an undertaking with another or others, especially in a business with shared risks and profits". The facts are that even in the most recent deliberation on the direction and financial condition of the firm did not include me..I was and am treated like every other employee of the firm.

When you outlined the comp for the "partners of the firm" (and I am going only from memory) we all start with a \$21k draw.(march) (you will have to excuse me if I don't have both your and Tim's terms correct) but with me if my memory serves me correctly I get a 100% payout on business for March and then it declines along with the draw so that with in three months it is 60%. I have been around long enough and frankly am smart enough (contrary to some people's opinion) that giving somebody a 100% on business that you would expect to minimal makes a lot of sense. Ostensibly what both you and Tim are saying to me is "your just another salesman" will give you a little runway but then your on your own! At no point did you and Tim ask or even care where my personal finances were. This doesn't appear to me to be the way a partner should be treated (unless he isn't a partner or you don't want him as a partner). The fact that Tim gets 100% credit for the profitability of his "investment banking" deals while at the same time and again I am going from memory, you said "well tom we will have to figure out some sort of override for you on structured product". Why would I not get the same treatment as Tim if I was indeed a partner? I developed the relationships over the years. I have been incredibly creative in how I got firms to give us huge economics but somehow this is throw tom a bone (maybe). We will figure this out later? That never bodes well for me! Not to diminish what goes into Tim's transactions but frankly stealing future cash flows is not rocket science. AS I

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Re call

Page 5 of 5

review the new economic realities as outlined by you..all Tim's new hires..Carr, Rogers etc. have little impact on their lives (they have deals). I know one thing for certain that Tim McGinn is not likely to be able to survive on 21k or a little over 10k net a month. Nor can I! Let's be honest and transparent about this instead of acting like I am a moron. That being said I understand this business and am able and willing to make things happen. But given the outline of how I am to be treated why would I stay here? If the calculations used by Tim in devising this strategy was that Tom has no options I can say this is a terrible miscalculation. The fact that your now contemplating giving away equity to people that contributed very little suggest my equity has basically been an interest free loan to Tim and a 12% loan to me! Stupid Tom! Under the current comp structure I am likely to declare bankruptcy. This is just a reality. Not that I am not appreciative of the immediate draw but frankly it is going to take me a little while to develop the business to a level that it has an impact on the firms finances. I can appreciate that my comp should not be a drain. Therefore I suggest the following: My comp should be calculated by first looking at the spread on structured products. For example if we did a transaction that we had a gross spread of 6% and showed the brokers 50% of that (3%) as their gross number I would get credit for 50% of the 3% retained by MS. So if we did a transaction that had \$10k in gross fees 50% or \$5000 would go to the brokers as a gross number and \$5000 would be my gross number (\$2500 net to me). This would be a credit against my 21k hurdle. Additionally all business that I do I would get a 100% payout on up until I reach the 21k number (inclusive of the structured product contribution) any commissions beyond 21k would carry a zero payout until they reached 42k after that there would be a claw back of only deficiencies in commissions but not structured products payments. If there were no deficiencies the payout would be at the same level as the highest payout of our retail salesman. There are no gifts here I earn it!

I appreciate the sacrifices you personally have made over the last two years and I am willing to pretty much do anything to help fix the ship! However it appears that there is little value in my ownership at MS as it pertains to my input, contribution (either prior or future) or ideas. If I have to start over somewhere else I guess that is what has to happen but for once in my life I really have to think what is in the best interest of my family. As you know I have two very young children, a big mortgage etc. I have the utmost in confidence that I can produce but I can't set myself up that in a within a handful of months I will be sitting across your desk having a conversation that my world is falling apart. You don't want and I don't want it. I am not asking for anything for free or a sense of entitlement. Everything I have outlined involves creating revenue (by me). Unlike other expenditures within the firm which are likely to contribute little if any revenue and lots of expense.

I was reluctant to do the TDM deal as I suspected that my lack of involvement in what was going on at MS Smith, Tim's disdain for me and other factors ultimately might not be good for me or my clients. As I have exhibited many many times in the past I would follow you off a cliff! You have been a mentor, friend and confidant. That being said I sense that we are going back to where I entered the firm. It is you and Tim and I am the schmuck broker. I am way to old for that. And if I am going to be that Schmuck I might as well do it for someone that at least fakes it that he thinks I am of some value. If it is Tim and your desire to see me back in that role then I suspect if I am going to start over I will declare bankruptcy and move on with a clean slate (or somewhat clean slate) and begin building again. I am not really afraid of the building or hard work that goes into these things. Your thoughts as always are appreciated.

Thomas E. Livingston  
Principal  
McGinn Smith Co., Inc.  
99 Pine St.  
Albany, New York 12207  
(p) 518-449-5131  
(f) 518-463-9183

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2/18/2010

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**From:** Barnett, Carol [barnettc@mcginnsmith.com]  
**Sent:** Wednesday, March 04, 2009 10:13 AM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** MSTFC Letter Question  
**Attachments:** McGinn Smith Transaction Funding Corp ltr final March 4, 2009.doc

Tim,

- (a) 3rd paragraph last line (insert A)
- (b) 5th paragraph second line

both say just McGinn, Smith. Is this McGinn, Smith & Co., Inc. or MSTFC?

*Carol R. Barnett*  
*Executive Assistant to Chairman*  
McGinn Smith & Co., Inc.  
99 Pine Street (5th floor)  
Albany, NY 12207  
Phone: 518-449-5131 ext. 211  
Fax: 518-449-4894  
E-mail: [barnettc@mcginnsmith.com](mailto:barnettc@mcginnsmith.com)

4/14/2010

*McGinn Smith  
Transaction Funding Corp.*

**Timothy M. McGinn**  
Chairman & CEO

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99 Pine Street  
Albany, NY 12207  
518-449-5131  
Fax 518-320-1033  
*tim.mcginnsmith.com*

March 4, 2009

To: Noteholders of McGinn, Smith Transaction Funding Corp.

We are pleased to have distributed on March 2, a contingent interest payment, which when added to floor interest has created an aggregate return of 16.15% for 2008.

As everyone knows, 2008 was a most difficult year in the economy, with particular pain felt in the investment banking and capital market sectors.

McGinn, Smith Transaction Funding Corp. assisted in doing five transactions during the period of April 30 – December 31. These transactions created aggregate investment banking fees of \$1,440,000. Of the \$10,000,000 offering, we closed on \$6,875,000. As you may recall, contingent interest is equal to 30% of the first \$2,500,000 of investment banking fees earned by McGinn, Smith. Consequently, the contingent interest earned was:

\$	1,440,000
x	.30
x	<u>.6875</u>
\$	297,000

The contingent interest of \$297,000 on a time weighted basis added 8.15% to the floor interest of 8.00%, yielding a total return of 16.15%.

We have started 2009 with a transaction which has contributed \$625,000 of investment banking fees to McGinn, Smith. That transaction alone will create contingent interest of approximately \$129,000 adding 188 basis points to the total return for 2009.

Noteholders of McGinn, Smith Transaction Funding Corp.

March 4, 2009

Furthermore, to the extent that any transaction effected carries warrants or other equity components, 30 percent of the warrants retained by McGinn, Smith & Co., Inc. will be distributed on a pro-rata basis to noteholders of McGinn, Smith Transaction Funding Corp.

We thank you for your confidence.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. McGinn", with a stylized flourish at the end.

Timothy M. McGinn  
Chairman & CEO  
McGinn, Smith Transaction Funding Corp

tmm:cb

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**From:** McGinn, Timothy  
**Sent:** Wednesday, March 04, 2009 1:23 PM  
**To:** marlene@yolocruises.com  
**Subject:** FW: wire

Marlene,

I pay the Amex bill from my personal account and then wire the exact funds to take care of the charges.

Fred will have his check tomorrow.

Enjoy the cruise.

Tim

---

**From:** McGinn, Timothy  
**Sent:** Wed 3/4/2009 1:22 PM  
**To:** Bank Mercantile (joan.dixon@bankmercantile.com); Katherine.VanBrocklin@bankmercantile.com  
**Cc:** denise.birnback@bankmercantile.com  
**Subject:** wire

Ladies,

Please wire \$7,540.35 from Cruise Charter Ventures LLC to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 2675  
Account Name: Timothy M. McGinn

Also, please issue a check in the amount of \$4,527.50 from Cruise Charter Ventures LLC, payable to:  
Discount All Inclusive. Please overnight same to: Discount All Inclusive, 4 Sawmill Lane, Newtown, PA. 18940,  
Attn: Fred Olivari.

Thank you,

Timothy M. McGinn  
Managing Member

2/12/2010

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**From:** Dirk Sonneborn  
**Sent:** Wednesday, March 04, 2009 4:07 PM  
**To:** McGinn, Timothy  
**Subject:** RE: Assistance for Mom and Dad

Thanks for the help. I'll get the names of the folks included in the letter to see if that changes your thoughts.

I was on the Isle of Capri a hundred years ago, down the coast from Amalfi. Clearest, bluest water I had ever seen or seen since. You will love it.

**Dirk E. Sonneborn**  
**Vice President for Development and Marketing**  
**Central New York Community Foundation**  
**500 South Salina Street**  
**Suite 428**  
**Syracuse, New York 13202**

(w) 315-422-9538

(c) [REDACTED]

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**From:** McGinn, Timothy [mailto:tmmcginn@mcginnsmith.com]  
**Sent:** Wednesday, March 04, 2009 3:49 PM  
**To:** Dirk Sonneborn  
**Subject:** RE: Assistance for Mom and Dad

Dirk,

Cathy Marino has no influence at all. Lovely lady, but not in a position to make decisions.

Both Nigro and Mary Lou's husband John are on the Board. Both appointees of Joe Bruno. Typically, political appointees have had little influence, but what the Hell.

I haven't seen the letter, so I don't know the committee of five. When did you get it? Who are they?

Webb will have no influence. Charlie Wheeler may be of some help.

The real decision maker is Steve Dunker. You will need to get close to him. Duke, Goldman Sachs, etc.

I doubt that investing in a partnership would be determinative. Too many out there, too many investors.

I wish I could be more helpful. I am renting a villa on the Amalfi coast for August. Trying something different, maybe even learning a little Italian.

Tim

---

**From:** Dirk Sonneborn [mailto:Dirk@cnycf.org]  
**Sent:** Wed 3/4/2009 3:25 PM  
**To:** McGinn, Timothy  
**Subject:** RE: Assistance for Mom and Dad

4/13/2010

Hey, thanks for your quick response. I knew you weren't on the Board anymore, from the sounds of your email, perhaps they weren't totally appreciative and respectful of your contributions and help. What a shame.

I was going to ask for your advice, though. Is Kathy Marino really making these decisions? Or is the committee of five that were listed in the letter?

The folks of influence I've been able to identify with our family are:

Marcel (Mickey) Webb who is chair of the Capital Region OTB Board (client and friend of my brother Jim);  
Charlie Wheeler who is on the Saratoga Race Track Advisory Board and is senior in the management of the track (an old Albany family and acquaintance who has offered to help when we were box holders) My mom knew his Mom and Dad etc;

A close friend of Mom's who is genuinely a close friend of Mary Lou Whitney

My Dad served on a community Board with John Nigri, but doesn't know him well.

The only other thought we've had is that, before we knew we were going to lose the box, we have seriously been considering a family investment in a horse partnership. Would it make a difference if we proceeded down that path?

Any advice and thought would be appreciated. Some traditions need to end, but it sure is sad to see Mom and Dad have to deal with this one. Dad will be 91 in May. They've been in the box longer than my 54 years.

These are tough times for your business, I suspect. I know it is tough to get much philanthropy accomplished. I'd genuinely like to get caught up some time when you have a chance.

I look forward to your comments and response.

Fondly,

Dirk

**Dirk E. Sonneborn**  
**Vice President for Development and Marketing**  
**Central New York Community Foundation**  
**500 South Salina Street**  
**Suite 428**  
**Syracuse, New York 13202**

(w) 315-422-9538

(c) [REDACTED]

---

**From:** McGinn, Timothy [mailto:tmmcginn@mcginnsmith.com]

**Sent:** Wednesday, March 04, 2009 2:36 PM

**To:** Dirk Sonneborn

**Subject:** RE: Assistance for Mom and Dad

Dirk,

Thanks for the email. I am working out of our Boca Raton office for the winter. At my age, I've decided that I've paid my dues by spending all those cold, dark winters in upstate New York.

As regards the perennial challenge, I assume you're referring to the Saratoga box situation. As you may know, I am no longer serving on the board of NYRA. Additionally, I have not been offered a renewal on my own box. Oh well. Consequently, I no longer have any influence with the new regime at NYRA. I wish them only the best, and feel that my 14 years of board service was productive for the institution.

4/13/2010



On to new experiences. I'm sorry that this remains an issue for your parents. I was particularly vocal on seeing that the box stayed in your family. Please keep me informed as to your progress on the matter.

Best to you and, of course, your parents.

Tim

---

**From:** Dirk Sonneborn [mailto:Dirk@cnycf.org]

**Sent:** Wed 3/4/2009 2:25 PM

**To:** McGinn, Timothy

**Subject:** Assistance for Mom and Dad

Hi Tim:

I just left you VM in your office. I forgot to ask when you'd be back in so am sending this email in case you see it sooner. When you can spare 5 minutes, I would really appreciate a call. We're trying to help Mom and Dad with a perennial challenge.

Thanks,

Dirk

**Dirk E. Sonneborn**  
**Vice President for Development and Marketing**  
**Central New York Community Foundation**  
**500 South Salina Street**  
**Suite 428**  
**Syracuse, New York 13202**

**(w) 315-422-9538**

**(c) 315-422-9538**

4/13/2010

**Unknown**

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**From:** Rees, David  
**Sent:** Thursday, March 05, 2009 4:45 PM  
**To:** tim.mcginns@mcginnsmith.com  
**Subject:** TDMVerTr07

Tim,  
another \$100K will be hitting the Mercantile account tonight for a G. Smith sale. Do you want to have that sent to M&T Bank and we can finish off [REDACTED] family Trust (\$75K more to go). Also, [REDACTED] is looking to redeem his \$10K- he's been calling Frank C. daily with an update. I don't know what your priority list is.

If you want me to proceed, I'll send a note to Denise to wire the funds, but you'll have to be on Stand-by for a confirmation. How was golf?

Dave

**From:** Rees, David [reese@mcginnsmith.com]  
**Sent:** Monday, March 09, 2009 8:18 AM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** Emailing: MS Trans Funding.pdf

**Attachments:** MS Trans Funding.pdf



MS Trans  
Funding.pdf (281 KB)

<<MS Trans Funding.pdf>> mcginn smith transaction funding. Income Stmt, Balance Sheet and transaction report. Several deposits were classified as "gifts received", which need to be reclassified to either interest income or loan repayments. Dave

The message is ready to be sent with the following file or link attachments:

MS Trans Funding.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

MSTRANSF-All Accounts

3/3/09

## Balance Sheet

As of 12/31/08

Page 1

Acct	12/31/08 Balance
<b>ASSETS</b>	
Cash and Bank Accounts	
Checking	576.81
ESCROW	6,663.13
<b>TOTAL Cash and Bank Accounts</b>	<b>7,239.94</b>
Other Assets	
Cruise Charter Vent	2,296,438.35
DF 107th Assoc.	50,000.00
DF 1stline Tr.	545,156.84
DF Alarm Traders	69,000.00
DF TDM Cable	54,000.00
DF TDM Ver	133,000.00
DF- CMS Fin Svcs.	130,000.00
DF- Luxury Cruise	180,000.00
DF- Mr. Cranberry	217,500.00
DF- MS Funding	95,000.00
DF- TMM	150,000.00
DF- Verifier Cap, LLC	8,500.00
DF- Zetek	1,130,000.00
DF-Luxury Cruise Tr	1,625.00
Integrated Excell	236,636.00
MS Pref Stock	1,150,000.00
PrimeVision Comm, LLC	95,605.48
<b>TOTAL Other Assets</b>	<b>6,542,461.67</b>
<b>TOTAL ASSETS</b>	<b>6,549,701.61</b>
<b>LIABILITIES &amp; EQUITY</b>	
LIABILITIES	
Other Liabilities	
DT Investors	4,375,000.00
DT Others	275,000.00
DT STEWARTS	2,500,000.00
INEX Jr	100,000.00
<b>TOTAL Other Liabilities</b>	<b>7,250,000.00</b>
<b>TOTAL LIABILITIES</b>	<b>7,250,000.00</b>
EQUITY	-700,298.39
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>6,549,701.61</b>

MSTRANSF-All Accounts

3/3/09

## Profit &amp; Loss Statement

1/1/08 Through 12/31/08

Page 1

Category Description	1/1/08- 12/31/08
<b>INCOME</b>	
Div Income	23,798.61
Gift Received	501,208.75
Other Inc	350,000.00
<b>TOTAL INCOME</b>	<b>875,007.36</b>
<b>EXPENSES</b>	
Advisory Fees	275,000.00
Bank Charge	2,291.20
Charity	77,527.89
Interest Exp	202,188.79
Legal Fees	172,636.75
Misc	706,603.12
Underwriting	139,058.00
<b>TOTAL EXPENSES</b>	<b>1,575,305.75</b>
<b>TOTAL INCOME - EXPEN...</b>	<b>-700,298.39</b>

MSTRANSF-All Accounts

3/3/09

## QuickZoom Report

1/1/08 Through 12/31/08

Page 1

Date	Acct	Num	Description	Memo	Category	Clr	Amount
7/25/08	ESCROW	DEP	Unknown		Gift Received	R	52,121.25
7/31/08	ESCROW	DEP	Unknown		Gift Received	R	98,900.00
8/8/08	ESCROW	DEP	Unknown		Gift Received	R	69,187.50
10/29/08	ESCROW	DEP	Deposits	research	Gift Received	R	133,000.00
11/26/08	ESCROW	DEP	Deposits		Gift Received	R	148,000.00
TOTAL 1/1/08 - 12/31/08							501,208.75
TOTAL INFLOWS							501,208.75
TOTAL OUTFLOWS							0.00
NET TOTAL							501,208.75

*Unknown deposits*

MSTRANSF-All Accounts

3/3/09

## Transaction Report by Account

1/1/08 Through 12/31/08

Page 1

Date	Acct	Num	Description	Memo	Category	Clr	Amount
<b>Checking</b>							
7/22/08	Checking		Opening Balance		[Checking]	R	0.00
7/31/08	Checking		Transfer	Cover Investor Inter...	[ESCROW]	R	80,000.00
8/1/08	Checking	EFT	Stewart's	Investor interest	Interest Exp	R	-49,315.07
8/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-25,762.33
8/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-3,888.89
8/1/08	Checking	EFT	Bank Charges	Service Charge	Bank Charge	R	-40.03
8/22/08	Checking	1000	CT Lien Solutions	INV 915469	Misc	R	-43.20
9/8/08	Checking	1001	McBee	Checks	Bank Charge	R	-95.17
10/28/08	Checking	EFT	C4		Bank Charge	R	-96.00
10/30/08	Checking		Interest Expense		[ESCROW]	R	73,040.00
11/1/08	Checking	EFT	NFS WIRE	Investor Interest	Interest Exp	R	-67,040.00
11/1/08	Checking	1002		McGinn Smith Trans...	Interest Exp	R	-6,000.00
11/3/08	Checking	DEP	Deposits		[DT Others]	R	73,000.00
11/5/08	Checking	EFT	DT Others		--Split--	R	-73,182.50
11/14/08	Checking	DEP	Deposits	TAIN/FIIN loan (\$75...	[DT Others]	R	125,000.00
11/14/08	Checking	EFT	McGinn, Smith		Advisory Fees	R	-125,000.00
11/26/08	Checking	DEP	Deposits	FIIN/FEIN/TAIN \$50...	[DT Others]	R	150,000.00
11/26/08	Checking	EFT	McGinn, Smith		[MS Pref Stock]	R	-150,000.00
<b>TOTAL Checking</b>							<b>576.81</b>
<b>Cruise Charter Vent</b>							
5/1/08	Cruise Chart...		Opening Balance		[Cruise Charter Vent]		0.00
5/14/08	Cruise Chart...		Unknown	verify this	[ESCROW]		300,000.00
6/2/08	Cruise Chart...		CCV		[ESCROW]		1,310,000.00
6/6/08	Cruise Chart...		CCV		[ESCROW]		75,000.00
6/12/08	Cruise Chart...		First Independent Inco...	repay FIIN fbo CCV	[ESCROW]		175,671.23
6/12/08	Cruise Chart...		TAIN	repay TAIN fbo CCV	[ESCROW]		200,767.12
6/23/08	Cruise Chart...		Unknown		[ESCROW]		75,000.00
8/22/08	Cruise Chart...		CCV		[ESCROW]		140,000.00
8/29/08	Cruise Chart...		MS Funding		[ESCROW]		100,000.00
8/29/08	Cruise Chart...		Unknown		[ESCROW]		-100,000.00
10/31/08	Cruise Chart...		CCV		[ESCROW]		20,000.00
<b>TOTAL Cruise Charter Vent</b>							<b>2,296,438.35</b>
<b>DF 107th Assoc.</b>							
5/1/08	DF 107th As...		Opening Balance		[DF 107th Assoc.]		0.00
5/19/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		15,000.00
6/13/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		15,000.00
8/1/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		10,000.00
10/8/08	DF 107th As...		IA5 Associates	fees	[ESCROW]		10,000.00
<b>TOTAL DF 107th Assoc.</b>							<b>50,000.00</b>
<b>DF 1stline Tr.</b>							
5/1/08	DF 1stline Tr.		Opening Balance		[DF 1stline Tr.]		0.00
6/2/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		71,500.00
7/1/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		75,000.00
7/31/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		85,000.00
10/1/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		116,000.00
10/30/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		108,656.84
11/26/08	DF 1stline Tr.		Firstline Tr		[ESCROW]		89,000.00
<b>TOTAL DF 1stline Tr.</b>							<b>545,156.84</b>
<b>DF Alarm Traders</b>							
5/1/08	DF Alarm Tr...		Opening Balance		[DF Alarm Traders]		0.00
5/8/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		20,000.00

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6/5/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		15,000.00
7/3/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		20,000.00
8/7/08	DF Alarm Tr...		Alarm Traders		[ESCROW]		14,000.00
	<b>TOTAL DF Alarm Traders</b>						<b>69,000.00</b>
	<b>DF TDM Cable</b>						
6/1/08	DF TDM Cable		Opening Balance		[DF TDM Cable]		0.00
6/2/08	DF TDM Cable		TDM Cable		[ESCROW]		27,000.00
7/1/08	DF TDM Cable		TDM Cable		[ESCROW]		27,000.00
	<b>TOTAL DF TDM Cable</b>						<b>54,000.00</b>
	<b>DF TDM Ver</b>						
5/1/08	DF TDM Ver		Opening Balance		[DF TDM Ver]		0.00
5/14/08	DF TDM Ver		Tdm Verifier		[ESCROW]		44,000.00
7/1/08	DF TDM Ver		Tdm Verifier Tr		[ESCROW]		89,000.00
	<b>TOTAL DF TDM Ver</b>						<b>133,000.00</b>
	<b>DF- CMS Fin Svcs.</b>						
8/1/08	DF- CMS Fin...		Opening Balance		[DF- CMS Fin Svcs.]		0.00
8/22/08	DF- CMS Fin...		CMS		[ESCROW]		100,000.00
10/15/08	DF- CMS Fin...		CMS		[ESCROW]		30,000.00
	<b>TOTAL DF- CMS Fin Svcs.</b>						<b>130,000.00</b>
	<b>DF- Luxury Cruise</b>						
5/1/08	DF- Luxury ...		Opening Balance		[DF- Luxury Cruise]		0.00
5/16/08	DF- Luxury ...		Luxury Cruise		[ESCROW]		60,000.00
6/17/08	DF- Luxury ...		Luxury Cruise		[ESCROW]		120,000.00
	<b>TOTAL DF- Luxury Cruise</b>						<b>180,000.00</b>
	<b>DF- Mr. Cranberry</b>						
5/1/08	DF- Mr. Cran...		Opening Balance		[DF- Mr. Cranberry]		0.00
7/1/08	DF- Mr. Cran...		Unknown		[ESCROW]		50,000.00
7/31/08	DF- Mr. Cran...		Unknown		[ESCROW]		50,000.00
9/4/08	DF- Mr. Cran...		Mr. Cranberry		[ESCROW]		75,000.00
12/2/08	DF- Mr. Cran...		Mr. Cranberry		[ESCROW]		42,500.00
	<b>TOTAL DF- Mr. Cranberry</b>						<b>217,500.00</b>
	<b>DF- MS Funding</b>						
8/1/08	DF- MS Fun...		Opening Balance		[DF- MS Funding]		0.00
8/4/08	DF- MS Fun...		MS Funding		[ESCROW]		50,000.00
9/11/08	DF- MS Fun...		MS Funding		[ESCROW]		37,000.00
10/8/08	DF- MS Fun...		Unknown		[ESCROW]		8,000.00
	<b>TOTAL DF- MS Funding</b>						<b>95,000.00</b>
	<b>DF- TMM</b>						
8/1/08	DF- TMM		Opening Balance		[DF- TMM]		0.00
8/22/08	DF- TMM		TMM		[ESCROW]		50,000.00
10/22/08	DF- TMM		TMM		[ESCROW]		20,000.00
10/27/08	DF- TMM		TMM		[ESCROW]		50,000.00
11/7/08	DF- TMM		TMM		[ESCROW]		30,000.00
	<b>TOTAL DF- TMM</b>						<b>150,000.00</b>
	<b>DF- Verifier Cap, LLC</b>						
9/1/08	DF- Verifier ...		Opening Balance		[DF- Verifier Cap, LL...		0.00





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9/11/08	DF- Verifier ...		Verifier Capital, LLC		[ESCROW]		8,500.00
	<b>TOTAL DF- Verifier Cap, LLC</b>						<b>8,500.00</b>
	<b>DF- Zetek</b>						
5/1/08	DF- Zetek		Opening Balance		[DF- Zetek]		0.00
6/25/08	DF- Zetek		Zetek		[ESCROW]		150,000.00
7/3/08	DF- Zetek		Zetek		[ESCROW]		200,000.00
7/31/08	DF- Zetek		Zetek		[ESCROW]		250,000.00
8/28/08	DF- Zetek		Zetek		[ESCROW]		100,000.00
9/11/08	DF- Zetek		Zetek		[ESCROW]		150,000.00
9/25/08	DF- Zetek		Zetek		[ESCROW]		90,000.00
10/14/08	DF- Zetek		Zetek		[ESCROW]		90,000.00
11/26/08	DF- Zetek		Zetek		[ESCROW]		80,000.00
11/28/08	DF- Zetek		Zetek		[ESCROW]		20,000.00
	<b>TOTAL DF- Zetek</b>						<b>1,130,000.00</b>
	<b>DF-Luxury Cruise Tr</b>						
5/1/08	DF-Luxury C...		Opening Balance		[DF-Luxury Cruise Tr]		0.00
6/2/08	DF-Luxury C...		Luxury Cruise		[ESCROW]		90,625.00
7/1/08	DF-Luxury C...		TDM Luxury Cruise		[ESCROW]		-89,000.00
	<b>TOTAL DF-Luxury Cruise Tr</b>						<b>1,625.00</b>
	<b>DT Investors</b>						
5/1/08	DT Investors		Opening Balance		[DT Investors]		0.00
5/30/08	DT Investors		Deposits		[ESCROW]		-665,000.00
6/5/08	DT Investors				[ESCROW]		-130,000.00
6/12/08	DT Investors				[ESCROW]		-1,000,000.00
6/30/08	DT Investors		Deposits		[ESCROW]		-585,000.00
7/31/08	DT Investors		Deposits		[ESCROW]		-690,000.00
8/31/08	DT Investors		Deposits		[ESCROW]		-175,000.00
9/30/08	DT Investors		Deposits		[ESCROW]		-650,000.00
10/31/08	DT Investors		Deposits		[ESCROW]		-370,000.00
11/28/08	DT Investors		Deposits		[ESCROW]		-110,000.00
	<b>TOTAL DT Investors</b>						<b>-4,375,000.00</b>
	<b>DT Others</b>						
11/1/08	DT Others		Opening Balance		[DT Others]		0.00
11/3/08	DT Others		Deposits		[Checking]		-73,000.00
11/5/08	DT Others		DT Others		[Checking]		73,000.00
11/14/08	DT Others		Deposits	TAIN/FIIN loan (\$75...	[Checking]		-125,000.00
11/26/08	DT Others		Deposits	research	[Checking]		-150,000.00
	<b>TOTAL DT Others</b>						<b>-275,000.00</b>
	<b>DT STEWARTS</b>						
4/29/08	DT STEWA...		Opening Balance		[DT STEWARTS]		0.00
5/2/08	DT STEWA...		Stewart's		[ESCROW]		-2,500,000.00
	<b>TOTAL DT STEWARTS</b>						<b>-2,500,000.00</b>
	<b>ESCROW</b>						
4/16/08	ESCROW		Opening Balance		[ESCROW]	R	0.00
5/2/08	ESCROW		Stewart's		[DT STEWARTS]	R	2,500,000.00
5/2/08	ESCROW		McGinn, Smith		[MS Pref Stock]	R	-1,000,000.00
5/8/08	ESCROW		Alarm Traders		[DF Alarm Traders]	R	-20,000.00
5/14/08	ESCROW		Unknown	verify this	[Cruise Charter Vent]	R	-300,000.00
5/14/08	ESCROW	EFT	Tdm Verifier		[DF TDM Ver]	R	-44,000.00
5/15/08	ESCROW		Nfs	int coverage for others	Misc	R	-24,293.75

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5/16/08	ESCROW	EFT	Luxury Cruise		[DF- Luxury Cruise]	R	-60,000.00
5/19/08	ESCROW		IA5 Associates	fees	[DF 107th Assoc.]	R	-15,000.00
5/20/08	ESCROW		X5 Studios		Misc	R	-3,140.00
5/21/08	ESCROW	EFT	Marlene Brustle		Misc	R	-5,000.00
5/29/08	ESCROW		Integrated Excellence		[Integrated Excell]	R	-93,818.00
5/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	665,000.00
5/30/08	ESCROW		Bank Charges	may fees	Bank Charge	R	-360.00
5/31/08	ESCROW		Balance Adjustment		Misc	R	0.01
6/2/08	ESCROW		TDM Cable		[DF TDM Cable]	R	-27,000.00
6/2/08	ESCROW		Firstline Tr		[DF 1stline Tr.]	R	-71,500.00
6/2/08	ESCROW	EFT	Luxury Cruise		[DF-Luxury Cruise Tr]	R	-90,625.00
6/2/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-1,310,000.00
6/4/08	ESCROW		PrimeVision, LLC		[PrimeVision Comm,...]	R	-95,605.48
6/5/08	ESCROW	DEP			[DT Investors]	R	130,000.00
6/5/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-15,000.00
6/6/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-75,000.00
6/12/08	ESCROW	DEP			[DT Investors]	R	1,000,000.00
6/12/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-85,900.00
6/12/08	ESCROW	EFT	Integrated Excellence		[Integrated Excell]	R	-274,818.00
6/12/08	ESCROW	EFT	First Independent Inco...	repay FIIN fbo CCV	[Cruise Charter Vent]	R	-175,671.23
6/12/08	ESCROW	EFT	TAIN	repay TAIN fbo CCV	[Cruise Charter Vent]	R	-200,767.12
6/13/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-15,000.00
6/17/08	ESCROW	EFT	Luxury Cruise		[DF- Luxury Cruise]	R	-120,000.00
6/19/08	ESCROW	EFT	Marlene Brustle	supplies	Misc	R	-2,808.33
6/20/08	ESCROW	EFT	Unknown		Charity	R	-25,567.89
6/23/08	ESCROW	EFT	Unknown		[Cruise Charter Vent]	R	-75,000.00
6/25/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-150,000.00
6/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	585,000.00
6/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-340.00
7/1/08	ESCROW	DEP	TDM Luxury Cruise		[DF-Luxury Cruise Tr]	R	89,000.00
7/1/08	ESCROW	EFT	Unknown		[DF- Mr. Cranberry]	R	-50,000.00
7/1/08	ESCROW	EFT	Tdm Verifier Tr		[DF TDM Ver]	R	-89,000.00
7/1/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-75,000.00
7/1/08	ESCROW	EFT	TDM Cable		[DF TDM Cable]	R	-27,000.00
7/3/08	ESCROW	DEP	MS Pref Div		Div Income	R	9,423.61
7/3/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-200,000.00
7/3/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-20,000.00
7/15/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-37,053.75
7/15/08	ESCROW	EFT		int cov for others	Misc	R	-5,000.00
7/15/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-121,308.75
7/15/08	ESCROW	EFT	Shutts, Brownell, Etal		Legal Fees	R	-59,758.32
7/17/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-121,308.76
7/17/08	ESCROW	EFT	Crossways Consulting		Misc	R	-7,500.00
7/23/08	ESCROW	EFT		firstline b'ruptcy	Legal Fees	R	-78,303.43
7/25/08	ESCROW	DEP	Unknown		Gift Received	R	52,121.25
7/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	690,000.00
7/31/08	ESCROW	DEP	Unknown		Gift Received	R	98,900.00
7/31/08	ESCROW	EFT	Transfer	Cover Investor Inter...	[Checking]	R	-80,000.00
7/31/08	ESCROW	EFT	Unknown		[DF- Mr. Cranberry]	R	-50,000.00
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-17,937.50
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-13,965.63
7/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-380.00
7/31/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-85,000.00
7/31/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-250,000.00
7/31/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-1,768.12
7/31/08	ESCROW		Balance Adjustment		Misc	R	-0.01
8/1/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-10,000.00
8/4/08	ESCROW	EFT	MS Funding		[DF- MS Funding]	R	-50,000.00
8/4/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-28,218.00
8/7/08	ESCROW	EFT	Alarm Traders		[DF Alarm Traders]	R	-14,000.00
8/7/08	ESCROW	EFT	Manett Phelps		Legal Fees	R	-6,250.00
8/8/08	ESCROW	DEP	Unknown		Gift Received	R	69,187.50

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8/14/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
8/14/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-1,793.75
8/22/08	ESCROW	DEP	Integrated Excellence		[Integrated Excell]	R	132,000.00
8/22/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-140,000.00
8/22/08	ESCROW	EFT	CMS		[DF- CMS Fin Svcs.]	R	-100,000.00
8/22/08	ESCROW	EFT	TMM		[DF- TMM]	R	-50,000.00
8/28/08	ESCROW	DEP	INEX JR	Loan	[INEX Jr]	R	100,000.00
8/28/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-100,000.00
8/29/08	ESCROW	DEP	Unknown		[Cruise Charter Vent]	R	100,000.00
8/29/08	ESCROW	EFT	MS Funding		[Cruise Charter Vent]	R	-100,000.00
8/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	175,000.00
8/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-220.00
9/4/08	ESCROW	EFT	Mr. Cranberry		[DF- Mr. Cranberry]	R	-75,000.00
9/5/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-42,758.00
9/8/08	ESCROW	EFT	Unknown		Charity	R	-1,960.00
9/8/08	ESCROW	EFT	TMM		Charity	R	-50,000.00
9/11/08	ESCROW	EFT	MS Funding		[DF- MS Funding]	R	-37,000.00
9/11/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-150,000.00
9/11/08	ESCROW	EFT	Fischkind & Assoc		Legal Fees	R	-12,000.00
9/11/08	ESCROW	EFT	Verifier Capital, LLC		[DF- Verifier Cap, LL...	R	-8,500.00
9/17/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-5,718.00
9/17/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
9/22/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,800.00
9/23/08	ESCROW	EFT	McGinn, Smith		Advisory Fees	R	-150,000.00
9/25/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-90,000.00
9/29/08	ESCROW	DEP	NEI Capital	adv fee	Other Inc	R	200,000.00
9/30/08	ESCROW	DEP	Deposits		[DT Investors]	R	650,000.00
9/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-200.00
10/1/08	ESCROW	DEP	McGinn, Smith		Div Income	R	14,375.00
10/1/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-116,000.00
10/3/08	ESCROW	DEP	NEI	fortress adv fee	Other Inc	R	150,000.00
10/8/08	ESCROW	EFT	IA5 Associates	fees	[DF 107th Assoc.]	R	-10,000.00
10/8/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,470.00
10/8/08	ESCROW	EFT	Unknown		[DF- MS Funding]	R	-8,000.00
10/14/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-90,000.00
10/15/08	ESCROW	EFT	CMS		[DF- CMS Fin Svcs.]	R	-30,000.00
10/17/08	ESCROW		Nfs		Misc	R	-74,230.00
10/17/08	ESCROW	EFT	NFS WIRE		Misc	R	-44,356.88
10/21/08	ESCROW	EFT	Matthew McGinn		Legal Fees	R	-2,405.00
10/21/08	ESCROW		One City Ctr		Misc	R	-49,097.50
10/21/08	ESCROW		Misc Checks		Misc	R	-5,718.00
10/21/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
10/22/08	ESCROW	EFT	TMM		[DF- TMM]	R	-20,000.00
10/27/08	ESCROW	EFT	TMM		[DF- TMM]	R	-50,000.00
10/29/08	ESCROW	DEP	Deposits	research	Gift Received	R	133,000.00
10/30/08	ESCROW	EFT	NFS WIRE	int coverage for others	Misc	R	-8,501.89
10/30/08	ESCROW	EFT	Stewart's	Investor interest	Interest Exp	R	-50,000.00
10/30/08	ESCROW	TXFR	Interest Expense		[Checking]	R	-73,040.00
10/30/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-108,656.84
10/30/08	ESCROW		Nfs		Misc	R	-13,965.63
10/30/08	ESCROW	EFT	Paetec	verify this...	Misc	R	-35,208.43
10/30/08	ESCROW		One City Ctr		Misc	R	-17,937.50
10/31/08	ESCROW	DEP	Deposits		[DT Investors]	R	370,000.00
10/31/08	ESCROW	EFT	CCV		[Cruise Charter Vent]	R	-20,000.00
10/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-340.00
11/7/08	ESCROW	EFT	TMM		[DF- TMM]	R	-30,000.00
11/18/08	ESCROW	EFT	McGinn, Smith		Underwriting	R	-10,400.00
11/18/08	ESCROW		Matthew McGinn		Legal Fees	R	-2,400.00
11/18/08	ESCROW	EFT	NFS WIRE		Misc	R	-22,500.00
11/18/08	ESCROW		Misc Checks		Misc	R	-5,718.00
11/18/08	ESCROW	EFT	NFS WIRE		Misc	R	-1,793.75
11/24/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00

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11/26/08	ESCROW	DEP	Deposits		Gift Received	R	148,000.00
11/26/08	ESCROW	EFT	Firstline Tr		[DF 1stline Tr.]	R	-89,000.00
11/26/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-80,000.00
11/28/08	ESCROW	DEP	Deposits		[DT Investors]	R	110,000.00
11/28/08	ESCROW	EFT	Zetek		[DF- Zetek]	R	-20,000.00
11/30/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-180.00
12/2/08	ESCROW	EFT	Mr. Cranberry		[DF- Mr. Cranberry]	R	-42,500.00
12/4/08	ESCROW	EFT	Manett Phelps		Legal Fees	R	-6,250.00
12/19/08	ESCROW	EFT	[REDACTED]	int cov for others	Misc	R	-5,000.00
12/19/08	ESCROW	EFT	Misc Checks		Misc	R	-5,718.00
12/31/08	ESCROW	EFT	Bank Charges	Service Charge	Bank Charge	R	-40.00
<b>TOTAL ESCROW</b>							<b>6,663.13</b>
<b>INEX Jr</b>							
8/21/08	INEX Jr		Opening Balance		[INEX Jr]		0.00
8/28/08	INEX Jr		INEX JR	Loan	[ESCROW]		-100,000.00
<b>TOTAL INEX Jr</b>							<b>-100,000.00</b>
<b>Integrated Excell</b>							
5/1/08	Integrated E...		Opening Balance		[Integrated Excell]		0.00
5/29/08	Integrated E...		Integrated Excellence		[ESCROW]		93,818.00
6/12/08	Integrated E...		Integrated Excellence		[ESCROW]		274,818.00
8/22/08	Integrated E...		Integrated Excellence		[ESCROW]		-132,000.00
<b>TOTAL Integrated Excell</b>							<b>236,636.00</b>
<b>MS Pref Stock</b>							
5/1/08	MS Pref Stock		Opening Balance		[MS Pref Stock]		0.00
5/2/08	MS Pref Stock		McGinn, Smith		[ESCROW]		1,000,000.00
11/26/08	MS Pref Stock		McGinn, Smith		[Checking]		150,000.00
<b>TOTAL MS Pref Stock</b>							<b>1,150,000.00</b>
<b>PrimeVision Comm, LLC</b>							
5/1/08	PrimeVision ...		Opening Balance		[PrimeVision Comm,...]		0.00
6/4/08	PrimeVision ...		PrimeVision, LLC		[ESCROW]		95,605.48
<b>TOTAL PrimeVision Comm, LLC</b>							<b>95,605.48</b>
<b>OVERALL TOTAL</b>							<b>-700,298.39</b>

**Unknown**


---

**From:** McGinn, Timothy  
**Sent:** Monday, March 09, 2009 8:36 AM  
**To:** Guzzetti, Andrew  
**Cc:** Smith, David  
**Subject:** RE: DEAL AVAILABILITY & MARKET COMMENTS

Andy,

I would like to be on the call today at 4:11. Thanks.

Tim

---

**From:** Guzzetti, Andrew  
**Sent:** Mon 3/9/2009 8:28 AM  
**To:** all-brokers  
**Subject:** DEAL AVAILABILITY & MARKET COMMENTS

GOOD MORNING.....GREAT WEEKEND WEATHER COMES TO AN END, COOLER,  
 SNOWY MORNING IN THE NORTHEAST.....MARKETS LOOK DOWN ON THE  
 OPENING.....TAKE A LOOK AT THE BARRON'S ARTICLE BELOW.....MAKES ALL  
 THE POINTS WE HAVE BEEN DISCUSSING.....STAY STRONG, SHOW YOUR CPS ALL OUR  
 OPPORTUNITIES.....PROSPECT FOR NEW BUSINESS.....MAKE THE CALLS

**SALES MEETING TODAY 4:11PM**  
**866 612 5946**  
**3160398**

**TDM VERIFIER 07R**  
**THIS IS COMMERCIAL ALARM CONTRACTS IN UK AND US.**  
**\$880,000 18 MONTHS, 9%SC:3.5%(70%) BOOKS ARE IN OFFICES**  
**PUT FEATURE 12/31/09 CLIENT CAN PUT BACK AT PAR(MUST NOTIFY BY 10/31/09)**

**TDMM CABLE 09**  
**THIS IS THE TRIPLE PLAY (TELEPHONE, CABLE, INTERNET) IN GATED COMMUNITIES. THIS**  
**DEAL IS FOR 21 FLORIDA COMMUNITIES**  
**SENIOR TRANCH \$640,000 36MONTHS, 9% COUPON, AMORTIZED FROM THE START, NO**  
**BALLOON SC:5%(70%)**  
**JUNIOR TRANCH \$1,245,000, 66 MONTHS, 11% COUPON, 35 MONTHS INTEREST ONLY,**  
**AMORTIZED LAST 31 MONTHS, NO BALLOON, SC:8%(70%)**  
**BOOKS ARE IN OFFICES**

**PINE STREET CAPITAL FUND II .....WE HAVE PPM'S.....USE THE MANAGERS TO**  
**SELL.....YOU CAN BRING TO YOUR CLIENTS A MANAGER GROUP WHO MADE MONEY**  
**(10%IRR) OVER THE LAST 4YEARS.....DO YOU THINK THERE ARE MANY OTHER**  
**FUNDS OUT THERE WITH THAT TRACK RECORD.....**

**\$1,800,000 ZETEC.....BOOKS ARE IN ALL OFFICES.....12% 4YR**  
**BOND.....PREFERRED STOCK(12% OF COMPANY).....SC:8%(75%)**  
**.....WARRANTS.....DON'T FORGET BOOK "102 MINUTES"**

**\$2,500,000.....FAITH & FAMILY VALUE NETWORK(CVN).....EQUITY DEAL..... MINIMUM**  
**\$25,000.....\$2/SHR COMMON & 50% WARRANT COVERAGE(\$3 STRIKE PRICE...5YRS)**

2/10/2010

.....BOOKS ARE IN ALL OFFICES.....HAVE PDF EXEXECUTIVE SUMMARY AVAILABLE  
FOR FC'S TO LOOK AT, CAN NOT BE SENT TO CLIENTS.....ACCREDITED  
INVESTORS.....SC:10%(60)

## Ouch! That Hurt

By ANDREW BARY | [MORE ARTICLES BY AUTHOR](#)

### Sure, stocks could slide much further – but they probably won't. By most measures, they are downright cheap

**AFTER THE STUNNING DECLINE OF THE PAST FIVE** months that has left the Dow Jones Industrial Average and Standard & Poor's 500 Index more than 50% below their 2007 highs, a lot of investors are worried stocks could fall much further.

In a worst-case scenario, based on current earnings estimates and the most pessimistic reading of market history, the Dow could fall a further 25%, to 5000, and the S&P could drop to about 500. The Dow industrials closed at 6,627 Friday, and the S&P 500 ended at 683, both down 24% so far this year and both at 12-year lows.

The lousy economy is the main factor, but stocks haven't been helped by Obama administration proposals that would hurt a range of companies, including drug makers, managed-care firms and student-loan providers. Investors also haven't liked the president's plan to raise taxes on the wealthy. It doesn't help that the Street is calling this an "Obama bear market" and that some investors are looking to "Obama-proof" their portfolios, avoiding sectors targeted by the president.

### The Bear Through History

This S&P 500 decline is among the biggest ever. Price/earnings multiples are among the lowest.

Peak	Trough	Price Decline	P/E At	
			Peak	Trough
Sept. '29	June '32	86%	22.0x	10.7x
March '37	April '42	60	28.1	13.4
May '48	June '49	30	33.6	10.7
Aug. '58	Oct. '57	22	28.9	24.5
Dec. '81	June '82	28	38.5	28.3
Feb. '88	Oct. '86	22	31.4	25.3
Nov. '88	May '70	38	31.7	21.9
Jan. '73	Oct. '74	48	22.8	11.3
Nov. '80	Aug. '82	27	10.9	8.5
Aug. '87	Dec. '87	34	18.0	10.3
July '90	Oct. '90	20	16.9	14.4
March '00	Oct. '02	49	26.9	15.9
Oct. '07	March '09	56	22.4	13.4

Source: Goldman Sachs

However you feel about President Obama, he got at least one thing right last week: He said stocks are cheap for long-term investors.

Our research shows that to be true, whether you look at stocks relative to book value, U.S. economic output, gold or a normal level of corporate earnings.

These factors, plus the huge amounts of cash now sitting on the sidelines, suggest that, barring a global economic and financial meltdown, the Dow should bottom well above 5,000 and the S&P Index well above 500.

It is tough to predict this year's corporate profits because of the deepening global downturn and potential likelihood of little or no earnings in the U.S. financial sector. Citigroup financial economist Steve Wieting sees \$51 in operating profits for the companies in the S&P 500 this year before big write-downs, down from \$66 in 2008. Based on his estimate, which is in line with the current Wall Street consensus, the S&P 500 is valued at more than 13 times projected 2009 profits.

2/10/2010



**THAT PRICE/EARNINGS MULTIPLE** is in line with the lowest levels hit during most bear markets over the past 80 years. Key exceptions were 1974, 1982 and 1987, when the S&P 500 was valued at about 10 times forward earnings, according to Goldman Sachs. If stocks do get to a P/E of 10, the S&P 500 could drop as low as 500, a decline of more than 25% from current levels, and the Dow Jones Industrial Average could drop toward 5000.

## Financial Wild Card

Write-downs and provision for bad loans continue to make earnings predictions for financial companies virtually impossible.

S&P 500 Sector	2009 Est. Earnings		2009E P/E	Current Index Weight
	Contribution*	Change		
Consumer Discretionary	5.2%	-25.0%	18.8	7.4%
Consumer Staples	16.5	1.0	11.1	13.2
Energy	18.8	-55.0	10.0	13.9
Financials	0.0	NM	NM	9.7
Health Care	22.0	7.0	10.4	16.8
Industrials	11.5	-35.0	11.9	10.3
Technology	14.3	-30.0	15.9	17.4
Basic Materials	1.7	-65.0	27.5	3.1
Telecom	4.8	-12.0	10.8	3.7
Utilities	5.3	2.0	11.6	4.5

INDEX TOTAL: 1000  
\*As a share of S&P 500 earnings. \*\*Assumes \$51 S&P 500 earnings. E-Estimate.  
NM-Not meaningful. Source: Citigroup Global Markets

This scenario seems extreme, however, because prior market lows occurred during periods of higher inflation and interest rates, decreasing the relative appeal of stocks. Treasury yields, for instance, were in the double digits in 1982, against 2% or 3% now.

Tobias Levkovich, chief U.S. equity strategist at Citigroup, is encouraged, partly because he sees signs of panic.

"I have met recently with retail brokers who have told me that people are coming to them and saying: 'Just get me out,'" says Levkovich, who views this capitulation as a bullish sign. An optimistic Levkovich says "it is too late to sell," but admits he was saying the same thing when stocks were appreciably higher than

they are now.

Levkovich has set a bullish S&P 500 price target of 1,000, which is more than 40% above current levels. That may be too optimistic, but if the Dow industrials and S&P 500 merely get back to where they started 2009, the indexes would rise more than 30%.

The brutal bear market of the past year has affected all industry groups and nearly every stock. All 30 members of the Dow Jones industrials are in the red for the past 12 months and just one stock, IBM (IBM), is in the black for 2009. Within the S&P 500, just eight stocks are higher in the past year, led by Family Dollar Stores (FDO), which has gained 56%. The worst performer in the S&P 500: AIG (AIG), which is off 99%, to just 35 cents.

**ONE OF THE PROBLEMS** with projecting earnings is the mess surrounding financial companies. Citigroup's Wieting assumes no profits this year for financial companies in the S&P 500 index, as charge-offs for bad loans offset operating earnings. That is a far cry from 2007, when the financials chipped in 20% of the index's profits.

## A U-Turn in Profits

The bottom in S&P 500 earnings should arrive this year.

S&P 500

It is too pessimistic to assume that the financial sector will continue to earn nothing over the long haul. Goldman Sachs strategist David Kostin sees \$63 in S&P profits this year, before provisions and write-offs, and \$71 next year. Based on his estimates, stocks look much more attractive. The last time the S&P was at these

2/10/2010

levels, in 1996, operating earnings were running at about \$40, well below current levels.

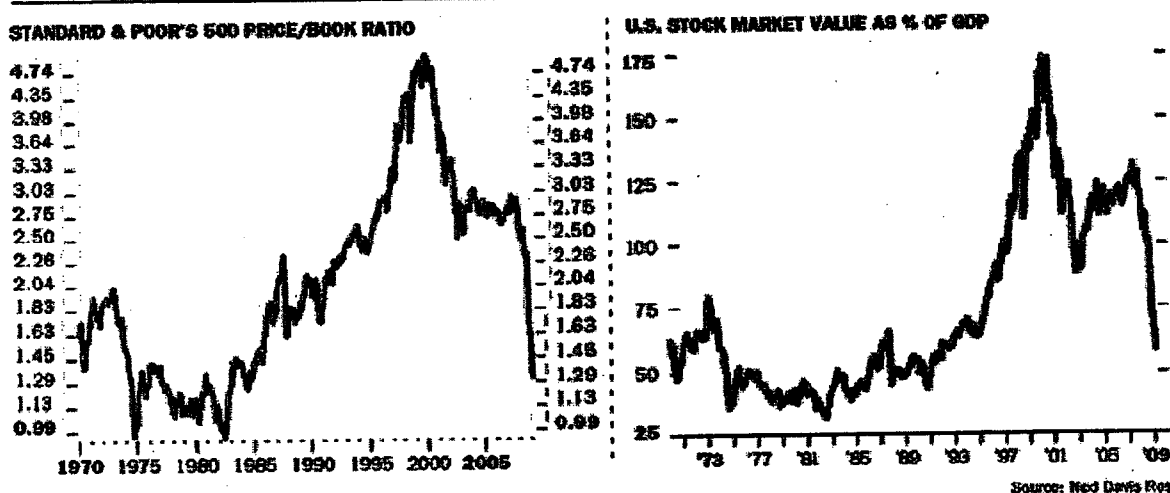
Stocks are also inexpensive relative to U.S. economic output, book value and gold. As the nearby table shows, the stock market is currently valued at less than 60% of the U.S. gross domestic product of \$14 trillion. That is the lowest stocks have been relative to annual economic output since the early 1990s. In 2000, at the market's peak, stocks were valued at almost two times the nation's annual output. True, today's 60% level remains considerably above bear-market lows hit in 1990 and 1982, but investors need to recognize that American companies get a much bigger share of their profits from abroad now than they did then. Adjust for this factor, and the ratio would be lower and more bullish.

The S&P 500 is valued at just 1.3 times its book value, or shareholder equity, down from a peak of five in 2000. The most recent official figure for book value from S&P is \$529 for year-end 2007. Ned Davis Research assumes a small increase last year. Book value still is relevant, despite a lot of goodwill and intangible assets mixed in with hard assets like cash, factories and inventories. On the flip side, many companies, like Coca-Cola (KO) and Altria (MO), are worth much more than their small book values due to valuable brands that aren't fully reflected on their books.

Gold has been a star during the downdraft of the past six months, rising \$140, to \$942 an ounce. Gold's rise reflects its haven status, as investors worldwide worry that massive stimulus programs ultimately will prove inflationary and significantly erode the value of paper money.

### Equity Value Has Fallen Off a Cliff

Whether measured by its fast-shrinking price-to-book ratio or as a percentage of gross domestic product, the stock market's value has plummeted to cheap levels not seen in decades. And the drop has been nearly straight down.



Stocks, however, look like a better value than gold based on their historical relationship. The S&P 500 index is worth about 75% of an ounce of gold, versus a peak of more than five times the value of gold in 2000 when the S&P peaked at more than 1,500 and gold languished around \$300 an ounce. Over the past 40 years, the S&P has averaged 1.6 times the value of an ounce of gold. Stocks do offer some inflation protection because of corporate assets and earnings power.

Defensive industry groups like drugs and consumer products haven't been spared lately. The major drug stocks -- Pfizer (PFE), Lilly (LLY), Merck (MRK), Bristol-Myers Squibb (BMY) and Schering Plough

2/10/2010



(SGP) -- are down an average of 23% this year and now trade for an average 2009 P/E of just eight.  
(See Bristol-Myers story.)

Consumer stocks like Heinz (HNZ), Kraft (KFT), Procter & Gamble (PG), Coca-Cola and General Mills (GIS) are trading for 10 to 12 times earnings and with yields of 3% to 5%.

Once confidence returns, expect such stocks to benefit. And don't forget, there is plenty of potential fuel for a market rally. A key measure of liquidity, money-market mutual funds, now hold almost \$4 trillion, roughly half of the \$8 trillion value accorded U.S. stocks. That nearly \$4 trillion is about double the level of two years ago. Don't be surprised to see some of that money being put into the stock market soon.

*Andy*

Andrew G. Guzzetti  
**Managing Director**  
**Private Client Group**  
**McGinn Smith & Co.**  
**45 Broadway**  
**26th Flr.**  
**NYC 10006**  
**212 785 4377 x 242**  
**212 202 6097 (fax)**

**AND**

**6 EXECUTIVE PARK DRIVE**  
**CLIFTON PARK, NY 12065**  
**518 348 0060 x249**  
**518 348 0107 (F)**

**" The highest compliment I can receive is a referral from a friend and client "**

2/10/2010

**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Monday, March 09, 2009 3:30 PM  
**To:** joan.dixon@bankmercantile.com; Katherine.VanBrocklin@bankmercantile.com  
**Cc:** denise.bimbach@bankmercantile.com  
**Subject:** journal and wire

Ladies,

Please journal \$33,500 from TDM Cable Funding LLC to Mr. Cranberry LLC, then issue a check in the amount of \$34,000 from Mr. Cranberry LLC to:

[REDACTED]  
[REDACTED]  
[REDACTED]  
Please overnite the check to [REDACTED]

Thank you,

Timothy M. McGinn  
Managing Member

4/13/2010

**From:** Rees, David [reesd@mcginnsmith.com]  
**Sent:** Wednesday, March 11, 2009 10:51 AM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** mstf- revised

**Attachments:** mstf-revised.pdf



mstf-revised.pdf  
(26 KB)

Tim, revised income stmt and balance sheet. I've fixed a couple of items but am waiting for Denise to provide some add'l details as to deposits/expenses. I reclassified your receivable to a misc. expense and grossed up the loans for the commitment fees.

Dave

MSTRANSF-All Accounts

3/11/09

## Balance Sheet

As of 12/31/08

Page 1

Acct	12/31/08 Balance
<b>ASSETS</b>	
Cash and Bank Accounts	
Checking	576.81
ESCROW	6,663.13
<b>TOTAL Cash and Bank Accounts</b>	<b>7,239.94</b>
Other Assets	
Accrued Div Receivable	15,213.64
Accrued Int. Rec	342,250.00
Cruise Charter Vent	2,365,331.35
DF 107th Assoc.	51,500.00
DF 1stline Tr.	561,511.84
DF Alarm Traders	71,070.00
DF TDM Cable	55,670.00
DF TDM Ver	136,990.00
DF- CMS Fin Svcs.	133,900.00
DF- Luxury Cruise	220,608.43
DF- Mr. Cranberry	217,500.00
DF- MS Funding	97,850.00
DF- TMM	0.00
DF- Verifier Cap, LLC	8,755.00
DF- Zetek	1,163,900.00
DF-Luxury Cruise Tr	1,625.00
Integrated Excell	247,695.00
MS Pref Stock	1,150,000.00
PrimeVision Comm, LLC	98,473.48
<b>TOTAL Other Assets</b>	<b>6,939,843.74</b>
<b>TOTAL ASSETS</b>	<b>6,947,083.68</b>
<b>LIABILITIES &amp; EQUITY</b>	
LIABILITIES	
Other Liabilities	
DT Investors	4,375,000.00
DT Others	275,000.00
DT STEWARTS	2,500,000.00
INEX Jr	100,000.00
<b>TOTAL Other Liabilities</b>	<b>7,250,000.00</b>
<b>TOTAL LIABILITIES</b>	<b>7,250,000.00</b>
EQUITY	-302,916.32
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>6,947,083.68</b>

MSTRANSF-All Accounts

3/11/09

## Profit &amp; Loss Statement

1/1/08 Through 12/31/08

Page 1

Category Description	1/1/08- 12/31/08
<b>INCOME</b>	
Commitment Fee Income	154,710.00
Div Income	39,012.25
Gift Received	501,208.75
Interest Inc	342,250.00
Other Inc	350,000.00
<b>TOTAL INCOME</b>	<b>1,387,181.00</b>
<b>EXPENSES</b>	
Advisory Fees	275,000.00
Bank Charge	2,291.20
Charity	77,527.89
Interest Exp	202,188.79
Legal Fees	172,636.75
Misc	821,394.69
Underwriting	139,058.00
<b>TOTAL EXPENSES</b>	<b>1,690,097.32</b>
<b>TOTAL INCOME - EXPENSES</b>	<b>-302,916.32</b>

**From:** Rees, David [reesd@mcginnsmith.com]  
**Sent:** Wednesday, March 11, 2009 4:17 PM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** Emailing: mstf-v3.pdf

**Attachments:** mstf-v3.pdf



mstf-v3.pdf (26 KB)

<<mstf-v3.pdf>> version 3. I found some of the income items classified as "gifts" and offset the appropriate account. For the remaining unknown incomes, I reclassified to offset misc. exp.

Dave

The message is ready to be sent with the following file or link attachments:

mstf-v3.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

MSTRANSF-All Accounts

3/11/09

**Balance Sheet**  
As of 12/31/08

Page 1

Acct	12/31/08 Balance
<b>ASSETS</b>	
Cash and Bank Accounts	
Checking	576.81
ESCROW	6,663.13
<b>TOTAL Cash and Bank Accounts</b>	<b>7,239.94</b>
Other Assets	
Accrued Div Receivable	15,213.64
Accrued Int. Rec	342,250.00
Cruise Charter Vent	2,365,331.35
DF 107th Assoc.	51,500.00
DF 1stline Tr.	561,511.84
DF Alarm Traders	71,070.00
DF TDM Cable	55,670.00
DF TDM Ver	136,990.00
DF- CMS Fin Svcs.	133,900.00
DF- Luxury Cruise	220,608.43
DF- Mr. Cranberry	217,500.00
DF- MS Funding	97,850.00
DF- TMM	0.00
DF- Verifier Cap, LLC	8,755.00
DF- Zetek	1,163,900.00
DF-Luxury Cruise Tr	1,625.00
DF- Others	324,777.00
Integrated Excell	247,695.00
MS Pref Stock	1,150,000.00
Prepaid Assets	115,882.00
PrimeVision Comm, LLC	98,473.48
<b>TOTAL Other Assets</b>	<b>7,380,502.74</b>
<b>TOTAL ASSETS</b>	<b>7,387,742.68</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>LIABILITIES</b>	
Other Liabilities	
DT Investors	4,375,000.00
DT Others	275,000.00
DT STEWARTS	2,500,000.00
INEX Jr	100,000.00
<b>TOTAL Other Liabilities</b>	<b>7,250,000.00</b>
<b>TOTAL LIABILITIES</b>	<b>7,250,000.00</b>
<b>EQUITY</b>	<b>137,742.68</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>7,387,742.68</b>

MSTRANSF-All Accounts

3/11/09

## Profit &amp; Loss Statement

1/1/08 Through 12/31/08

Page 1

Category Description	1/1/08- 12/31/08
<b>INCOME</b>	
Commitment Fee Income	154,710.00
Div Income	39,012.25
Interest Inc	342,250.00
Other Inc	350,000.00
<b>TOTAL INCOME</b>	<b>885,972.25</b>
<b>EXPENSES</b>	
Advisory Fees	275,000.00
Bank Charge	2,291.20
Interest Exp	202,188.79
Legal Fees	172,636.75
Misc	72,936.83
Underwriting	23,176.00
<b>TOTAL EXPENSES</b>	<b>748,229.57</b>
<b>TOTAL INCOME - EXPENSES</b>	<b>137,742.68</b>



---

**From:** Livingston, Thomas  
**Sent:** Wednesday, March 11, 2009 4:32 PM  
**To:** Smith, David  
**Subject:** RE: New Issue Announcement: FPL Group 60NC5 \$25 par

ok wachovia revised the deal will price it in a few minutes they took me back to 50k still sold 30k and the remainder is trading at 25.10 I am told it should trade like Gerogia powers at around 26.30

---

**From:** Smith, David  
**Sent:** Wednesday, March 11, 2009 2:28 PM  
**To:** Livingston, Thomas  
**Subject:** RE: New Issue Announcement: FPL Group 60NC5 \$25 par

Great news! Keep it coming. i am working from home today on how i am going to raise \$175m by Friday for MSC. Call me if you need me at 583-6823. A suggestion: copy TMM on that kind of =20 news. Any encouragement on the revenue side is helpful,

---

**From:** Livingston, Thomas  
**Sent:** Wed 3/11/2009 11:29 AM  
**To:** Smith, David  
**Subject:** FW: New Issue Announcement: FPL Group 60NC5 \$25 par

We're back! First preferred transaction in many months with more to come. Have 100k sold 30k already and made .40 net 12k Wachovia the lead

-----Original Message-----

**From:** BRIAN E. SMITH, WACHOVIA CORPORATION [<mailto:brianesmith@bloomberg.net>]  
**Sent:** Wednesday, March 11, 2009 1:14 PM  
**To:** Livingston, Thomas  
**Subject:** Fwd: New Issue Announcement: FPL Group 60NC5 \$25 par

--- Original Sender: NANCY ANDES, WACHOVIA CORPORATION ---

----- Original Message -----

**From:** JEFF GASS (WACHOVIA CORPORATION)  
**At:** 3/11 11:23:20

New Issue Announcement: FPL Group 60NC5 \$25 par - Red Attached

**Issuer:** FPL Group Capital Inc.  
**Designation:** Series F Junior Subordinated Debentures due 2069  
**Legal Format:** SEC Registered  
**Expected Ratings\*:** A3/BBB+/A-  
**Size:** \$100mm (4mm \$25 par securities)  
**Date of Maturity:** March 1, 2069 **\*\*ALL INSTITUTIONAL ORDERS**  
**Px Talk:** 8.75 - 8.875% **MUST GO INTO THE POT\*\***  
**Coupon Structure:** Fixed for Life, no step-up  
**Price to Public:** \$25 per security  
**Coupon Payment Dates:** March 1, June 1, September 1 and December 1 of

2/18/2010

each year, beginning June 1, 2009 Optional Redemption: At any time on and after March 1, 2014 at 100% of the principal amount plus accrued and unpaid interest.

Features: Optional deferral for a maximum 10 years;  
Dividend Stopper; Special Event Redemptions (par: tax; make-whole: rating agency) (See Red) Replacement Language: Replacement Capital Covenant

Make-Whole Call: At any time prior to March 1, 2014 at 100% plus Make-Whole Premium at discount rate equal to Treasury Yield plus ☐ basis points

Use of Proceeds: Proceeds will be added to general funds. FPL expects to use its general funds to repay a portion of commercial paper issued to fund investments by FPL Group Capital in independent power projects.

Settlement Date: March \_\_, 2006 [T+5]

Listing: NYSE expected

Red Herring: Attached

It Books: WS(physical)/BAS/C/MS/UBS

Co-Mgrs: RAYJ/RBC

Note: A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

The issuer has filed a registration statement (including a prospectus) with the SEC for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and other documents the issuer has filed with the SEC for more complete information about the issuer and this offering. You may get these documents for free by visiting EDGAR on the SEC Web site at [www.sec.gov](http://www.sec.gov). Alternatively, the issuer, any underwriter or any dealer participating in the offering will arrange to send you the prospectus if you request it by calling Banc of America Securities, LLC toll free at 1-800-294-1322, Citigroup Global Markets Inc. toll free at 1-877-858-5407, Morgan Stanley & Co. Incorporated toll free at 1-866-718-1649 (institutional investors) or 1-800-584-6837 (retail investors), UBS Securities LLC toll free at 1-877-827-6444, ext 561-3884 or Wachovia Capital Markets, LLC toll free at 1-800-326-5897.

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2/18/2010

**From:** Scutt, Frantz [ScuttF@mcginnsmith.com]  
**Sent:** Wednesday, March 11, 2009 4:21 PM  
**To:** McGinn, Timothy  
**Subject:** MS Funding

Hey Tim,

Hope all is well. My client had questions regarding the pay out on the dividend. He was paid 5k for an int pymt.

Franz

Quick question on the Credit balance stuff.

I received a check dated March 2 for \$7754.00 - My understanding initially was that this sweep of funds was to also include the contingent payment on the McGinn Smith corporate notes. I did receive a letter in the mail on Saturday dated March 4 from Tim regarding these notes. I'm having a bit of difficult with the math:

He says that the contingent interest of \$297,000 on a time weighted basis added 8.15% to the floor interest of 8%. He also mentions that the offering included notes equal to \$6.875M. So I suspect the math he is using to get the \$297K starts with the  $\$1.440\text{M} \times 30\%$  contingent interest  $\times .6875$  (I suspect what we're doing here is taking the  $\$6.875\text{M}/\$10.0\text{M}$ ). First question relates to understanding why we're using the .6875 factor unless the initial deal was stipulated on receiving \$10M in funding - please clarify. My thinking is that the contingent factor of 30% is consistent but the .6875X weighting is not (Unless this has to do with timing of investible cash flows. Second, I am confused on the 8.15% number - Tim mentions this is calculated on a "Time weighted" basis - is that assuming that all the money was received and available to be put to work on April 30 or is he figuring the return when he actually put the money to work? Third, if we take my interest in the funding, I would be entitled to 3.636% of the total. So if we take the \$297K number and apply this % it would yield a total interest payment of \$9,090.00. If we work the math a little differently and assume the return Tim mentions of 8.15% takes effect on April 30 - we would have 8 months of ownership in 2008. If we than apply  $(8/12)$  or  $.6667 \times (8.15 \times 250\text{K} - \text{my investment})$  we would yield an interest payment of \$13,500. Fourth, If we again try to back into the 8.15% return another way (take the  $297\text{K}/6875$ ) you get a 4.32% return - if we adjust for 8 months we would get an "annualized bump" of 6.48% - still well below the 8.15%. So as you can see, none of these numbers seem to reconcile. Please let me know where I may have been off in my calculations (I did just come back from Thai festival where alcohol may be playing a part in my thinking).

In any case, Tim should be commended for having an excellent year!  
Especially, in light of the environment we had to endure. Please let me know what the right numbers are and what the check I just received for (\$7754.00) covers?

Thanks

4/14/2010

Unknown

---

**From:** Tim McGinn  
**Sent:** Monday, March 16, 2009 10:21 AM  
**To:** Guzzetti, Andrew  
**Cc:** McGinn, Timothy; Smith, David  
**Subject:** Re: FYI

I paid [REDACTED] \$40,000 last wk.

Sent from my iPhone

On Mar 16, 2009, at 10:16 AM, "Guzzetti, Andrew" <[guzzettia@mcginnsmith.com](mailto:guzzettia@mcginnsmith.com)> wrote:

THE FOLLOWING CLIENTS ARE MAKING NOISE ABOUT THEIR TDM VERIFIER REDEMPTIONS

[REDACTED] \$60,000

[REDACTED] \$25,000

[REDACTED] \$25,000

*Andy*

Andrew G. Guzzetti

**Managing Director**

**Private Client Group**

**McGinn Smith & Co.**

**45 Broadway**

**26th Flr.**

**NYC 10006**

2/15/2010

**212 785 4377 x 242**

**212 202 6097 (fax)**

**AND**

**6 EXECUTIVE PARK DRIVE**

**CLIFTON PARK, NY 12065**

**518 348 0060 x249**

**518 348 0107 (F)**

**" The highest compliment I can receive is a referral from a friend and client "**

2/15/2010

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**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Tuesday, March 17, 2009 9:45 AM  
**To:** Lex, Bill  
**Cc:** McGinn, Timothy; Guzzetti, Andrew; McGinn, Timothy  
**Subject:** RE: URGENT - TDM Verifier 07 Redemptions

Bill,

In case your clients missed it, the world has changed a bit in the last 20 months. The available lines of credit and refinancing alternatives are not as available as they were when we first syndicated this deal. Refinancing is not a Ponzi scheme, but rather how most of the world of commerce operates, particularly in difficult times. McGinn Smith does not have an available reserve similar to the U.S. Treasury Department to paper over current dislocations. We are doing our best to resolve the situation. One of the reasons securities salesmen are paid so generously is due to the fact that they often have to assist the client through difficult situations and maintain their trust and confidence. These days we all have to work a little harder.

Dave

---

**From:** Lex, Bill  
**Sent:** Tuesday, March 17, 2009 9:19 AM  
**To:** Smith, David  
**Cc:** McGinn, Timothy; Guzzetti, Andrew; McGinn, Timothy  
**Subject:** URGENT - TDM Verifier 07 Redemptions  
**Importance:** High

When the TDM was given to the sales force to sell about 20 months ago, we were not told that investors could only redeem if a new client took them out. My clients continue to ask me if they've bought into a Ponzi Scheme and I've tried to reassure them that that is not the case. This current situation is not helping me to build confidence with clients who have hundreds of thousands of dollars in McGinn, Smith investments.

**I NEED TO HEAR BEFORE NOON TODAY THAT THESE CLIENTS ARE GOING TO BE REDEEMED THIS WEEK.**

---

**From:** Smith, David  
**Sent:** Tue 3/17/2009 8:55 AM  
**To:** Lex, Bill; McGinn, Timothy; Guzzetti, Andrew  
**Subject:** RE: TDM Verifier 07 Redemptions

Bill,

It would be helpful if you could sell the \$125,000 worth of redemptions. We have not moved any of this product for weeks, which is causing the bottleneck. Do you have anything pending?

Dave

---

**From:** Lex, Bill  
**Sent:** Monday, March 16, 2009 11:56 AM  
**To:** Smith, David; McGinn, Timothy; Guzzetti, Andrew  
**Subject:** TDM Verifier 07 Redemptions  
**Importance:** High

Dear Gentlemen:

4/14/2010

I believe if we don't get my clients redeemed immediately if not sooner, we could be facing regulatory complaints. I think making the redemptions happen is cheaper than dealing with complaints. Please advise that my clients will be redeemed today so I can communicate that fact to my clients.

The clients are [REDACTED] - \$60,000, [REDACTED] \$25,000, [REDACTED]  
\$30,000 and [REDACTED] - \$10,000

Sincerely,  
Bill Lex

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.0.237 / Virus Database: 270.11.15/2004 - Release Date: 03/16/09 07:04:00

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.0.237 / Virus Database: 270.11.16/2005 - Release Date: 03/16/09 19:01:00

4/14/2010

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**From:** Lex, Bill [lexb@mcginnsmith.com]  
**Sent:** Tuesday, March 17, 2009 2:02 PM  
**To:** [REDACTED]  
**Cc:** Smith, David; McGinn, Timothy; Guzzetti, Andrew  
**Subject:** Note redemption

Dear [REDACTED]

I have to apologize for the delay with the redemption of your TDM Verifier 07 Note. Redemptions are in the hands of David Smith at McGinn, Smith. His phone number is (800) 724-3330 and his e-mail address is [smithd@mcginnsmith.com](mailto:smithd@mcginnsmith.com).

I will advise if there is any more that I can do.

Sincerely,  
Bill Lex  
Lex and Smith Associates, Ltd.  
(610) 265-1565

4/14/2010



---

**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Tuesday, March 17, 2009 2:44 PM  
**To:** McGinn, Timothy  
**Cc:** Guzzetti, Andrew  
**Subject:** Lex's e-mail to me

Lex's response was an in-your-face response to my e-mails to him. This is a guy that gets 85% payout and when the heat is on he shuffles his customer off to us (me) in order to avoid the expected confrontation. I will not be taking his clients' calls.  
DLS

4/14/2010

## Unknown

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**From:** Livingston, Thomas  
**Sent:** Thursday, March 19, 2009 10:36 AM  
**To:** Smith, David  
**Subject:** Re

**Attachments:** 20090319084845.pdf



20090319084845.p  
df (10 KB)

Dave

Please see attached.

Tom

Thomas E. Livingston  
Principal  
McGinn Smith Co., Inc.  
99 Pine St.  
Albany, New York 12207  
(p) 518-449-5131  
(f) 518-463-9183

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# THOMAS E. LIVINGSTON

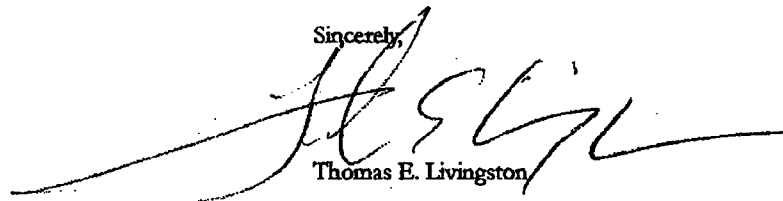
March 19, 2009

David Smith  
President  
McGinn Smith Co., Inc.  
99 Pine St.  
Albany, New York 12207

Dear Dave:

Please accept this as my formal resignation from the board of directors of McGinn Smith Co., Inc, and all of its affiliates and as secretary of McGinn Smith Co., Inc. It has been my privilege to serve and am grateful for the experience.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Livingston', with a long horizontal flourish extending to the right.

Thomas E. Livingston

**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Monday, March 23, 2009 12:58 PM  
**To:** McGinn, Timothy  
**Subject:** FW: new unit  
**Attachments:** prospect script RIA's.doc

---

**From:** Livingston, Thomas  
**Sent:** Monday, March 23, 2009 12:23 PM  
**To:** Smith, David  
**Subject:** RE: new unit

Dave:

- 1.) they are calling RIA's, Financial Planners/series 7 licensed insurance agents (upstate New York)
  - 2.) They are currently only making introductory calls about the firm and speaking generically about CD's (script)
  - 3.) Compensation agreements are signed and copies will be supplied
  - 4.) the leads are exclusively for me
  - 5.) Although we have not discussed the amortization of the cost of these reps. I would expect the following.  
 On an individual basis. MS would receive its sunk cost bank first. After MS receives that cost back I would receive what ever was left at our agreed upon payout
  - 6.) Francesca is focusing on calling
  - 7.) Francesca is not a banker
  - 8.) they both have materials to take the series 7 and have begun the process by studying
  - 9.) I am working with them daily. I have sat with them and watched their calls and helped them. They are having much success with the script I gave them and the leads are very interested.
  - 10.) I am planning on supplying progress reports
  - 11.) Sales force will be up and running this week
  - 12.) Re Francesca answers to 15-16 Francesca does not have a clue when it comes to banking. She is a hard worker and ultimately will be a good salesperson.
  - 13.) we do not need to discuss Fred or other recruits
  - 14.) Irwin is fine working with me. He is actually happier this way.
  - 15.) nothing else is relevant
- They have their marching orders for the rest of today and tomorrow. I am leaving for NYC this afternoon and will not return until Wednesday.

---

**From:** Smith, David  
**Sent:** Monday, March 23, 2009 11:54 AM  
**To:** Livingston, Thomas  
**Subject:** new unit

Tom,

Would you provide me with a brief outline on each of our three new recruits as to what their work day will consist of, including:

- 1) who they are calling
- 2) what they are calling on
- 3) have you provided them with a script, and if so we need a copy to file for regulatory purposes
- 4) the finalized compensation agreements now and going forward
- 5) do we have those agreements in writing and if so are they signed and in an employee file
- 6) are leads being generated for exclusively you or are there plans to ultimately distribute the leads
- 7) how are we amortizing the costs of each of these employees
- 8) is Francesca focusing on deals or asset mgt.

4/14/2010

- 9) what are the plans for registration
- 10) are you providing the training and are you meeting daily with the group to review their progress
- 11) are you planning on providing progress reports
- 12) how is salesforce.com coming
- 13) has Irwin inquired about Fred and what have you told him
- 14) do we need to discuss Fred
- 15) is Francesca more interested in the investment banking side and have you introduced her to Tim
- 16) does she see her role any differently than you and are her expectations on the IB side of the business realistic
- 17) any other relevant information that you think is important

4/14/2010

Hello \_\_\_\_\_ my name is \_\_\_\_\_ from McGinn Smith Co. I am calling on behalf of Tom Livingston who is one of the principal owners of our company. McGinn Smith is a regional Investment Bank based in Albany that has been in existence for approximately 30 years.

Are you familiar with our firm?

Yes? Have you had dealings with us in the past?

Yes? So then you're familiar with our business and how we have been able to help similar companies like yours.

(we) McGinn Smith has developed relationships with many RIA's and Investment professionals around the US offering them a variety of Fixed Income and Structured Investment Products (CD's) (we offer materials and support) in an effort to help Investment professionals meet their clients needs. Given the current economic environment most are very appreciative of the value we add to their firms and clients.

I would like to send you information about McGinn Smith and the services we offer to the RIA's (registered Investment Advisors), Financial Planning community Once you have received this Material (information) would you be amenable in setting up a time for you to speak with Tom and he can explain how McGinn Smith can add value and revenue to your practice.

Does that sound like something you would be interested in?

Yes?

What is a good time for you? What is your email address? Is this a better way of corresponding with you?

Can I ask you a few more questions?

Do you and your staff currently have securities licenses?

No?

Do you plan on obtaining licenses? Yes? Maybe we can assist you in that process? (yes? I will have Tom call you and explain)

What products or services are you currently offering?

Who do you clear your transaction through?

Do you make the decisions on what is offered throughout your firm?

How many sales people do you have? Are they all registered? Any?

What's the biggest concern of your clients currently?

No?

Thanks for time have a nice day.

Can I ask you a question before we hang up?

What is the biggest concern of your clients today?

Thanks I appreciate your time

**From:** Barnett, Carol [barnettc@mcginnsmith.com]  
**Sent:** Tuesday, March 24, 2009 12:50 PM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** Emailing: NFS Ltr from DLS March 20, 09.pdf

**Attachments:** NFS Ltr from DLS March 20, 09.pdf



NFS Ltr from DLS  
March 20, 09....

<<NFS Ltr from DLS March 20, 09.pdf>> Tim, this is fyi. I'll hold the hard copy here unless you tell me otherwise.

The message is ready to be sent with the following file or link attachments:

NFS Ltr from DLS March 20, 09.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

*McGinnSmith  
& Company, Inc.*

Investment Bankers • Investment Brokers

99 Pine Street  
Albany, NY 12207

518-449-5131

Fax 518-449-4894

[www.mcginnsmith.com](http://www.mcginnsmith.com)

March 20, 2009

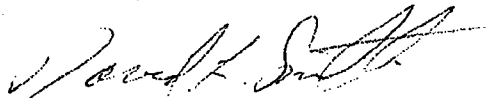
National Financial Services  
Ms. Sonja Cullaro – Credit Risk Director  
Credit Risk Management  
1000 Plaza 5  
Jersey City, New Jersey 07311

Dear Ms. Cullaro,

I am responding to your letter of net capital deficiency, dated March 5, 2009. Obviously, we share your concern and have taken several steps to reduce monthly expenses, but in this difficult environment, revenue and profitability are our overriding concern. We have recently reduced staff, executive salaries, and staff working hours that will save us approximately \$800,000 a year. We have redirected ticket charges to our registered representatives that should cut costs another \$200,000. We are in the process of renegotiating our lease for our New York City Office that will save us \$150,000. On the revenue side we have recently brought on one investment banking person and three registered representatives. While all of these steps will eventually add to profitability and contribute to capital retention, we realize that we will need to add to our net capital during this period when business has been dramatically reduced. To that end, we are presently pursuing a capital raise of approximately \$500,000 which we believe will be in place by June 1, 2009. In the meantime, we will probably be operating with net capital ranging between the regulatory minimum of \$120,000 and the NFS requirement of \$250,000. We seek your patience and understanding during this difficult time and plan on being in compliance with the NFS Net Capital Requirement within 60 days.

If you need to discuss this with me any further, please call me at 518-449-5131.

Sincerely,



David L. Smith  
President

DLS/gbg

cc: David P. Rees



**From:** Van Brocklin, Katherine [Katherine.VanBrocklin@bankmercantile.com]  
**Sent:** Thursday, March 26, 2009 4:17 PM  
**To:** Tim McGinn  
**Subject:** RE: wire

Indeed we did. But sadly denise and I don't benefit. Our branch is on its own.

-----Original Message-----

From: Tim McGinn <mcginnt@mcginnsmith.com>  
Sent: Thursday, March 26, 2009 4:10 PM  
To: Van Brocklin, Katherine <Katherine.VanBrocklin@bankmercantile.com>  
Subject: Re: wire

I'll do my best. Cash is in short supply these days. Didn't you get some TARP \$?

Sent from my iPhone

On Mar 26, 2009, at 4:05 PM, "Van Brocklin, Katherine"  
<Katherine.VanBrocklin@bankmercantile.com>  
> wrote:

> Any spare cash I can borrow (not personally) till 4/1? Denise and I  
> are short \$150000... Just a thought. Just in case.  
>  
>  
> From: McGinn, Timothy <tmcmcginn@mcginnsmith.com>  
> Sent: Thursday, March 26, 2009 3:59 PM  
> To: Dixon, Joan A. <Joan.Dixon@bankmercantile.com>; Van Brocklin,  
> Katherine <Katherine.VanBrocklin@bankmercantile.com>; Birnbach, Denise  
> <Denise.Birnbach@bankmercantile.com>  
> Cc: marlene@yolocruises.com <marlene@yolocruises.com>  
> Subject: wire  
>  
> Ladies,  
>  
> Cruise Charter Ventures LLC will receive an incoming wire of \$90,000.  
> either this afternoon or tomorrow morning.  
>  
> Once received, please wire \$100,000. from Cruise Charter Ventures LLC  
> to:  
>  
> Bank of America  
> 901 Main Street  
> Dallas, Texas 75202  
> ABA #: 026009593  
> Account #: [REDACTED] 4130  
> Account Name: Carnival Cruise Lines  
> Booking number: #2Z1C37  
> Carnival Legend 04/26/09  
> Cruise Charter Ventures LLC  
>  
>  
> Thank you,  
>  
> Timothy M. McGinn  
> Managing Member  
>  
>

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**Unknown**

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**From:** Tim McGinn  
**Sent:** Friday, March 27, 2009 8:02 AM  
**To:** Rees, David  
**Subject:** Re: TDMM & TDMVER

Don't know yet. Depends on collections and where we stand on April 1 distributions. Does not look promising.

Sent from my iPhone

On Mar 27, 2009, at 6:55 AM, "Rees, David" <reesd@mcginnsmith.com> wrote:

> Tim,  
> any commission \$ available for McGinn, Smith? I believe we're owed  
> about \$50K.  
>  
>  
> Dave  
>

**From:** Livingston, Thomas [livingstont@mcginnsmith.com]  
**Sent:** Friday, March 27, 2009 10:40 AM  
**To:** Smith, David  
**Subject:** update

Wanted to give you an update on Irwin, Francesca and Derek. Irwin has set 12 appointments.. the first of which is Tuesday. Many will be coming here to the office. They all will be bringing statements etc. Very well qualified (and unhappy with their current advisor). Francesca and Derek have been cold calling and have 123 prospects that have expressed interest. They have been calling independent financial advisors. They will be arranging second calls for me and appointments beginning Monday.

Thomas E. Livingston  
Principal  
McGinn Smith Co., Inc.  
99 Pine St.  
Albany, New York 12207  
(p) 518-449-5131  
(f) 518-463-9183

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**From:** r carl palmer [rcarlpalmerjr@gmail.com]  
**Sent:** Monday, March 30, 2009 9:26 AM  
**To:** Tim McGinn  
**Subject:** Re: C'est dommage!!!

I assumed Matthew was the office.....and whatever happened with the bank in Port Chester? I never heard anything following our visit.

I am chasing down a banking investment opportunity.....that probably smacks of the same aggressive strategy we employed in this year's pool....i. e. swinging for the fences, but will be fantastic if we pull it off. It's at least serious enough that we've brought [REDACTED] into the discussions....I'll keep you posted.

On Mon, Mar 30, 2009 at 8:38 AM, Tim McGinn <[mcginnt@mcginnsmith.com](mailto:mcginnt@mcginnsmith.com)> wrote:  
Good to know something positive came out of our failed efforts.

Yes, we have a tiny Boca office. One man banking office - Matthew Rogers.

Also offices in Clifton Park (suburb of Albany), NYC, and an affiliate office in London.

As to "How we're doing?", the answer is simple and not unique. We, like most in the financial services sector, are struggling. On the bright side, unlike Citi, B of A, and others, we are not owned by the govt. Last year was dreadful, off to pretty good start this year. We will plod on, I'm too old for med school, too nervous to steal.

Sent from my iPhone

On Mar 30, 2009, at 8:06 AM, r carl palmer <[rcarlpalmerjr@gmail.com](mailto:rcarlpalmerjr@gmail.com)> wrote:

Good morning.....the check will be in the mail....I assume to you at 99 Pine Street?

Your pool has caused Murray to become a communicator with me, during which calls to ask me if I know how you are doing....probably to cross-check his other sources. In one of those conversations, he said you were opening an office in Boca.....true?

On Mon, Mar 30, 2009 at 7:27 AM, McGinn, Timothy <[tmcmcginn@mcginnsmith.com](mailto:tmcmcginn@mcginnsmith.com)> wrote:  
Carl,

An awful weekend. We went in with 37% of the Elite Eight, came out with 0% of the Final Four. I took a little solace in the Villanova win.

Damages are \$298. for you, \$298. for Dicko.

I ran out of magic.

Next year.

4/14/2010

Tim

---

**From:** r carl palmer [mailto:[rcarlpalmerjr@gmail.com](mailto:rcarlpalmerjr@gmail.com)]

**Sent:** Sat 3/28/2009 1:18 PM

**To:** undisclosed-recipients

**Subject:** NEW CELL PHONE NUMBER

As of Tuesday, March 31, 2009, my NEW CELL PHONE NUMBER [REDACTED]

R. Carl Palmer, Jr.

741 Azalea Street

Boca Raton, Florida 33486

H: [REDACTED]

C: [REDACTED]

[rcarlpalmerjr@gmail.com](mailto:rcarlpalmerjr@gmail.com)

4/14/2010

---

**From:** Livingston, Thomas [livingstont@mcginnsmith.com]  
**Sent:** Monday, March 30, 2009 11:40 AM  
**To:** Smith, David; McGinn, Timothy  
**Subject:** RE: new crisis

He handed me his resignation. I am aware. Will wait to hear from you.

---

**From:** Smith, David  
**Sent:** Monday, March 30, 2009 11:36 AM  
**To:** McGinn, Timothy  
**Cc:** Livingston, Thomas  
**Subject:** new crisis

Minutes ago I received a phone call from Dave Rees who informed me that he was resigning. That's right-resigning. He gave us all of two weeks. Aside from the message this will send to FINRA, I have an enormous amount of work involvement with the Funds that he never completed. He has been taking a fair amount of afternoons off lately, supposedly for his son, but probably while looking for a job. Dave has not been handling the stress of the job and our financial position very well and I am sure that he is concerned with the viability of the firm, and felt he had to look out for his family. I can understand all of that. What I can't accept is that he gave us less than two weeks. I have a guest arriving at the moment, so I have to get off. I will talk to both of you as soon as I can get away.

DLS

4/14/2010

---

**From:** Cooper, Brian  
**Sent:** Monday, March 30, 2009 2:46 PM  
**To:** McGinn, Timothy  
**Subject:** RE: Funding

Tim, I will forward wire instructions tomorrow.

Thanks

*Brian J. Cooper  
McGinn Smith & Co. Inc.  
99 Pine Street, Suite 5  
Albany, NY 12207  
Phone 518-449-5131 ext 232  
Fax 518-449-4894  
Toll Free 1-800-724-3330*

---

**From:** McGinn, Timothy  
**Sent:** Friday, March 27, 2009 2:33 PM  
**To:** Cooper, Brian  
**Subject:** RE: Funding

Will I get the rest of the analysis today? I need to know how much I can get from Verifier and TDM Luxury Cruise.

---

**From:** Cooper, Brian  
**Sent:** Fri 3/27/2009 2:03 PM  
**To:** Tim McGinn  
**Cc:** Rees, David  
**Subject:** RE: Funding

Tim, we have received so far \$1,075,000 for the TDMM Cable Sr. Deal. The Principal and Interest payment due April 1<sup>st</sup> is \$24,802.69 and \$6,866.25 respectively.

All told April 1<sup>st</sup> funding needs will total \$269,500 if you decide to pay the principal on the TDMM Sr. notes otherwise, we would need \$244,500 to cover our obligations.

Thank you,

---

**From:** Cooper, Brian  
**Sent:** Thursday, March 26, 2009 3:42 PM  
**To:** 'Tim McGinn'  
**Cc:** Rees, David  
**Subject:** Funding

Tim, here are the funding needs for April 1<sup>st</sup>. I have not included TDMM Cable, I am still in the process of working up the

2/12/2010



numbers so that I can give you both with and without principal payments.

First lines	\$110,000
Integrated Excellence	\$4,500
TDM Verifier Trust 08	\$89,000
TDM Verifier Trust 09	\$34,000

Total Funds	\$237,500
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TDMM Cable estimate with principal is approximately \$60,000 but I will have a better number for you tomorrow.

I am anticipating that the Fortress Payments ( \$40k ) will be covered once the funds are transferred into the NEI Capital Account.

I have the funds at M&T to cover the TDM Cable 06 48month payments.

Thank you

**Brian J. Cooper**  
**McGinn Smith & Co. Inc.**  
**99 Pine Street, Suite 5**  
**Albany, NY 12207**  
**Phone 518-449-5131 ext 232**  
**Fax 518-449-4894**  
**Toll Free 1-800-724-3330**

2/12/2010

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**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Monday, March 30, 2009 3:45 PM  
**To:** Guzzetti, Andrew  
**Subject:** RE: TDMM Cable Sr. Trust 09

OK to send it to him. Just explain that interest payments are being made for the stub period on April 1 and that principal payments will commence on May 1. Should not be a big deal.

---

**From:** Guzzetti, Andrew  
**Sent:** Mon 3/30/2009 3:31 PM  
**To:** McGinn, Timothy  
**Subject:** FW: TDMM Cable Sr. Trust 09

Bill Lex is demanding an amortization schedule. Patti is reluctant to send him one out because he apparently doesn't know we should have paid on March 1<sup>st</sup>. Please advise.

*Andy*

Andrew G. Guzzetti  
**Managing Director**  
**Private Client Group**  
**McGinn Smith & Co.**  
**45 Broadway**  
**26th Flr.**  
**NYC 10006**  
**212 785 4377 x 242**  
**212 202 6097 (fax)**

**AND**

**6 EXECUTIVE PARK DRIVE**  
**CLIFTON PARK, NY 12065**  
**518 348 0060 x249**  
**518 348 0107 (F)**

**" The highest compliment I can receive is a referral from a friend and client "**

---

**From:** Lex, Bill  
**Sent:** Monday, March 30, 2009 3:23 PM  
**To:** Sicluna, Patricia  
**Cc:** Guzzetti, Andrew  
**Subject:** RE: TDMM Cable Sr. Trust 09

Patty:

Bill said he would like those schedules in his hands no later than 4/1/09. Please let him know that it can be done.

Thanks,  
Deb

4/14/2010

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**From:** Sicluna, Patricia  
**Sent:** Mon 3/30/2009 3:21 PM  
**To:** Lex, Bill  
**Cc:** Guzzetti, Andrew  
**Subject:** RE: TDMM Cable Sr. Trust 09

Deb,

We are working on it now and will keep you posted.

Patty

---

**From:** Lex, Bill  
**Sent:** Monday, March 30, 2009 1:12 PM  
**To:** Sicluna, Patricia  
**Cc:** Guzzetti, Andrew  
**Subject:** TDMM Cable Sr. Trust 09  
**Importance:** High

Dear Patty:

Bill would like to know how our clients are supposed to know the amount of principal and interest they will receive on 4/1/09 for the referenced note since they haven't received their amortization schedules. Please advise.

Thank you,  
Deb Adkins  
Lex and Smith Associates, Ltd.  
(610) 265-1565

No virus found in this incoming message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 8.0.238 / Virus Database: 270.11.32/2030 - Release Date: 03/30/09 08:40:00

4/14/2010

**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Monday, March 30, 2009 5:33 PM  
**To:** joan.dixon@bankmercantile.com; Katherine.VanBrocklin@bankmercantile.com  
**Cc:** Rees, David  
**Subject:** wire

Ladies,

Please wire \$61,750 from TDMM Cable Sr. Trust 09 to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 8734  
Account Name: McGinn, Smith & Co., Inc.

Thank you,

Timothy M. McGinn  
Managing Member

3/3/2010

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**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Wednesday, April 01, 2009 4:53 PM  
**To:** Livingston, Thomas  
**Subject:** RE: Please be advised

Prior to this change MSA (MS Advisors) was the registered SEC advisor for the mez funds (FIIN, FEIN, TAIN, FAIN) and the platform accounts for managed money through NFS. The later process was always a bit cumbersome because we wanted the advisory fees to go into the brokerage unit. We accomplished that by debiting the client's brokerage account for the management fee that was the shared by the actual money manager, NFS, and finally McGinn, Smith. It was always somewhat difficult to justify why MS was the ultimate beneficiary of the fee. By making MS the advisor, we make the entire process more transparent.

Dave

---

**From:** Livingston, Thomas  
**Sent:** Wed 4/1/2009 2:19 PM  
**To:** Smith, David  
**Subject:** Fw: Please be advised

What is this about?

---

**From:** Guzzetti, Andrew  
**To:** all-brokers  
**Sent:** Wed Apr 01 14:15:40 2009  
**Subject:** Please be advised

McGinn Smith & Co. has assumed all advisory contracts and is now the RIA replacing McGinn Smith Advisors. This will have no effect on current managed accounts or future managed accounts. If you have any questions please give me a call.

*Andy*

Andrew G. Guzzetti  
**Managing Director**  
**Private Client Group**  
**McGinn Smith & Co.**  
**45 Broadway**  
**26th Flr.**  
**NYC 10006**  
**212 785 4377 x 242**  
**212 202 6097 (fax)**  
**AND**  
**6 EXECUTIVE PARK DRIVE**  
**CLIFTON PARK, NY 12065**

3/8/2010

**518 348 0060 x249**

**518 348 0107 (F)**

**" The highest compliment I can receive is a referral from a friend and client "**

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.0.238 / Virus Database: 270.11.29/2024 - Release Date: 04/01/09 06:06:00

3/8/2010

**Unknown**

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**From:** marlene@yolocruises.com  
**Sent:** Monday, April 06, 2009 9:07 AM  
**To:** Timothy McGinn  
**Subject:** Good Morning

Yes, it is Monday the toughest day of the week usually!

I think your tournament is over?

FYI...Bobby flew in Fri.....going home tomorrow. He helped put up some things and hung with the guys.

Items I need to talk to you about:

- 1.Conference call at 5pm with Carnival about the \$148,700.00 and the balance due from the tax/tips that they want to collect.
- 2.Tampa - I am going tomorrow, to hire the chambermaids, gogo dancers, strippers
- 3.Our cruise auction - online
4. Tampa Hotel...we are switching the guest over to this hotel
5. Gil's payment of \$1070.00 and commission schedule
6. The \$1000.00 payment that was to be paid to Int Men of Steel
7. The additional expenses of approx \$5,000 for the rentals of the mattresses,poles,lights equipment on board
8. The good news is Valhalla will be spending approx \$10,000 in sponsorship....the final details and payment this week
9. Wednesday Apri 15 - if you are available...we can see the ship in FLL that Janice will be working for. No money down. The VP's may cruise on ours to see what the charter would entail.

Please just let me know if we can do the 5pm conference call and I would like to speak to you prior to the phone call. [REDACTED] of Sales (#2 person at Carnival and why we have our contract - friends with [REDACTED] is [REDACTED] and you may need that name if you need to drop it with [REDACTED]

[REDACTED]

Marlene Brustle  
President  
YOLO Cruises...You Only Live Once  
Phone:(561)998-9656 (YOLO)

2/24/2010

Fax: (888)269-9656 (YOLO)  
Reservations: (866)699-9656 (YOLO)  
[www.YOLOcruises.com](http://www.YOLOcruises.com)  
[Marlene@YOLOcruises.com](mailto:Marlene@YOLOcruises.com)

2/24/2010



**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Tuesday, April 07, 2009 8:08 AM  
**To:** NISCHINTH SADHAK  
**Subject:** RE: Mortgage

Nisch,

Thank you for that. I don't know if I'm going to be in my current residence for 3 yrs. Thinking of downsizing NY and upsizing Florida, changing my primary residence to Florida.

Best,

Tim

---

**From:** NISCHINTH SADHAK [mailto:NSADHAK@mtb.com]  
**Sent:** Mon 4/6/2009 11:46 AM  
**To:** McGinn, Timothy  
**Subject:** Mortgage

Tim,

Just wanted to bring it to your attention that you are currently paying 6.375 and we are currently offering rates in the mid 5's. You refinancing could save you around \$300 monthly however you may have to pay closing costs. You would breakeven if you end up living in the same house between 3 and half to 4 and half year. Let me know if you are interested and I can have my mortgage rep give you a call.

Thank you.



Nisch Sadhak  
 Assistant Branch Manager  
 Albany Downtown Branch  
 Ph 518-426-6363  
 Fx 518-436-7881

[nsadhak@mtb.com](mailto:nsadhak@mtb.com)

Please consider the impact on our environment before printing this e-mail.

\*\*\*\*\*

This email may contain privileged and/or confidential information that is intended to be confidential. There are risks associated with the use of electronic transmission. The sender of this email assumes no responsibility for any loss or damage resulting from the use of electronic transmission.

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4/14/2010

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**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Tuesday, April 07, 2009 6:57 PM  
**To:** Lex, Bill  
**Subject:** RE: TDM '07 Redemptions

Bill

Send me the complete list of your redemptions and the priority of each. If I find a way to take them out, please remove them from your customer list.

---

**From:** Lex, Bill  
**Sent:** Tuesday, April 07, 2009 3:41 PM  
**To:** McGinn, Timothy; Smith, David; Guzzetti, Andrew  
**Subject:** TDM '07 Redemptions  
**Importance:** High

Gentlemen:

I just got off the phone with [REDACTED] who has been calling for almost two months to get his TDM redemption. He is one of many people who refer to our deals as a Ponzi Scheme. I try to reassure my clients that McGinn, Smith & Co., Inc. does not run Ponzi Schemes but the uproar is getting louder and louder from clients whose patience is worn thin by having their money tied up in these TDM notes. Most of the people whose money is tied up in TDM are still upset about what happened with the David Smith notes.

This is just another cry from the wilderness to try to get this log jam broken so we can move forward with new business. I've even taken Dave's prior suggestion and bought some of it myself to help with the log jam, but I am having a hard time putting off a client who agreed to a two week extension when we are now almost 8 weeks out.

Sincerely,  
Bill Lex  
Lex and Smith Associates, Ltd.  
(610) 265-1565

No virus found in this incoming message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 8.0.238 / Virus Database: 270.11.29/2024 - Release Date: 04/07/09 06:41:00

4/14/2010

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**From:** Smith, David  
**Sent:** Wednesday, April 08, 2009 2:42 PM  
**To:** Lex, Bill  
**Cc:** McGinn, Timothy; Guzzetti, Andrew  
**Subject:** RE: TDM 07 Redemptions

Bill,  
 I am having [REDACTED] taken care of tomorrow. We have \$75,000 ticketed, but uncollected. I just did \$100,000 that should be processed by next Wednesday. \$30,000 of the ticketed has to go to Frank Chiappone as he sold the new notes. \$25,000 has to be allocated to another client who is making lots of noise. That leaves \$120,000 available to take care of your remaining \$105,000, assuming no one else has a critical situation. Thus, by next Friday, we should have your checks out the door. You remove these clients from your client list by no longer selling them any private placements. Nothing else has to be done.  
 Dave

---

**From:** Lex, Bill  
**Sent:** Wednesday, April 08, 2009 12:57 PM  
**To:** Smith, David  
**Cc:** McGinn, Timothy; Guzzetti, Andrew  
**Subject:** TDM 07 Redemptions  
**Importance:** High

In response to your April 7, 2009 6:57 p.m. e-mail:

First, [REDACTED] or \$10,000 was to be redeemed on April 1, 2009 because I purchased a \$10,000 note in my 401(k) on April 1, 2009 so that this elderly couple could be promptly redeemed. The [REDACTED] are the parents of one of my employees, [REDACTED] and the in-laws of my corporate attorney, [REDACTED]. To say I am embarrassed that this was not redeemed when it was supposed to be is a drastic understatement. I want this redeemed immediately.

As regards your request for the priority of redemptions, they should be as follows:

[REDACTED]	\$30,000
[REDACTED]	\$25,000
[REDACTED]	\$20,000
[REDACTED]	\$30,000

This is the prioritized list, but they should all be redeemed immediately if not sooner.

You tell me to remove these people from my customer list. What exactly does that mean and procedurally, how do I do it?

Sincerely,  
 Bill Lex  
 Lex and Smith Associates, Ltd.  
 (610) 265-1565

No virus found in this incoming message.

2/18/2010

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.0.238 / Virus Database: 270.11.29/2024 - Release Date: 04/08/09 05:53:00

2/18/2010

**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Thursday, April 09, 2009 11:33 AM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine; Birnbach, Denise  
**Subject:** journals & wires

Ladies,

Please journal \$45,000 from TDMM Cable Sr. Trust 09 to McGinn, Smith Transaction Funding Corp. Once there, please journal \$37,500. from McGinn, Smith Transaction Funding Corp. to Mr. Cranberry, LLC.

Whereupon, Please wire \$37,500 from Mr. Cranberry LLC to:

JP Morgan Chase  
1 Chase Plaza  
New York, New York 10081  
ABA #: 021000021  
Account #: [REDACTED] 6-221  
Account Name: National Financial Services  
For Further Credit to:  
Acct #: ~~021000021~~ 4272  
Account Name: Mr. Cranberry LLC

Also, please wire \$6,250. from McGinn, Smith Transaction Funding Corp. to:

Comerica  
Los Angeles, CA  
ABA #: 121137522  
Account #: [REDACTED] 3698  
Account Name: Manatt, Phelps & Phillips

Thank you,

Timothy M. McGinn  
Chairman and CEO

3/3/2010

**Unknown**

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**From:** tim kolojay  
**Sent:** Monday, April 13, 2009 3:26 PM  
**To:** tim mcginn  
**Subject:** FW: Liability Quote  
**Attachments:** Charter Cruise Ventures, LLC invoice.pdf

**Tim Kolojay,MAAA, ACAS, ARM**  
**McGinn, Smith & Co., Inc.**  
**Albany Office: (518)449-5131**  
**NH Office: (603)746-2616**  
**Cell: (678) 313-1069**

---

**From:** rscott@brakkeschafnitz.com  
**To:** tkolojay@hotmail.com  
**CC:** jbrakke@brakkeschafnitz.com;  
**Subject:** RE: Liability Quote

Hello Tim: Here is what I have been able to find for the cruise charter.

**Insured:** Charter Cruise Ventures, LLC

**Company:** Zurich American Insurance Co. (A.M. Best rating A XV)

**Coverage:** Travel Agents and Tour Operators Professional Liability Insurance

Occurrence Form

Bodily Injury and Property Damage(except automobiles)

Professional Errors and Omissions

Personal Injury

**Limit:** \$2,000,000 Per Occurrence

\$2,000,000 Aggregate

**Terms &**

**Conditions:** Terrorism Coverage

Cap on Loss from Certified Acts of Terrorism

Deductible will apply to both defense and indemnity payments

**Exclusions:** Hired and Non Owned Automobile

As with all insurance policies, certain conditions and exclusions apply. Please refer to

2/6/2010

the

policy contract and endorsements for full coverage terms. Both are available upon request.

Deductible: \$1,000 Defense and Indemnity

Higher deductible options available for minimal savings.

Premium: \$2,006.00 Minimum and Deposit

\$500.00 Broker Fee, fully retained at inception

\$10.00 Company Fee, fully retained at inception

\$2,000.00 Agency Fee, fully retained at inception

Total \$4,516.00 Including All Taxes & Fees

100% Minimum Retained Premium in the Event of Cancellation. No Flat Cancellations.

This quotation is valid for 30 days, or until inception of coverage, whichever is sooner.

There are options for lower limits of coverage and higher deductibles, but the savings is only \$100-200 for higher deductibles, or \$250 for reducing the coverage to \$1,000,000.

Please review and contact me with any questions, or for any further clarification.

If this is acceptable to you, please remit payment per the attached invoice.

Best regards,

Ron Scott, Acct. Mgr.  
Brakke-Schafnitz Insurance Brokers, Inc.  
28202 Cabot Rd., Ste. 500  
Laguna Niguel, CA 92677  
949-365-5141 Direct  
949-365-5161 Fax  
rscott@bsib-ins.com

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**From:** tim kolojay [mailto:tkolojay@hotmail.com]

**Sent:** Wednesday, April 01, 2009 11:05 AM

**To:** Ron Scott

**Subject:** RE: Liability Quote

good job old boy

**Tim Kolojay, MAAA, ACAS, ARM**  
**McGinn, Smith & Co., Inc.**  
**Albany Office: (518)449-5131**  
**NH Office: (603)746-2616**  
**Cell: (678) 313-1069**

> From: rscott@brakkeschafnitz.com

2/6/2010

> To: tkolajay@hotmail.com  
> Date: Wed, 1 Apr 2009 10:59:08 -0700  
> Subject: Liability Quote

>  
>

> Hello Tim: I have received an indication from Zurich for your liability coverage on the YOLO cruise. It is less than half the price of what Carnival quoted you. I am firming up the details today, and will get a firm quote to you ASAP. Zurich is rated A XV by A.M. Best, excellent.

> Regards,

>

> Ron Scott, Acct. Mgr.  
> Brakke-Schafnitz Insurance Brokers, Inc.  
> 28202 Cabot Rd., Ste. 500  
> Laguna Niguel, CA 92677  
> 949-365-5141 Direct  
> 949-365-5161 Fax  
> rscott@bsib-ins.com

2/6/2010



**Brakke-Schafnitz Ins. Brokers**  
 License #0428915  
 28202 Cabot Road, Suite 500  
 Laguna Niguel, CA 92677-1271  
 Phone : 949-365-5100 Fax : 949-365-5161

<b>INVOICE # 67779</b>		Page 1
ACCOUNT NO.	OP	DATE
CHART-2	87	04/01/09
BALANCE DUE ON		
04/15/09		

**Charter Cruise Ventures, LLC**  
 2905 N. Commerce Pkwy.  
 Miramar, FL 33025-3957

Itm #	Trn Date	Trn Type	Description	Amount
521383	04/01/09	MEM APPL	Prof. Liab for Carnival cruises	\$ 2,006.00
521384	04/01/09	MEM APPL	Company Fee	\$ 10.00
521385	04/01/09	MEM APPL	Broker Fee	\$ 500.00
521386	04/01/09	MEM APPL	Agency Fee	\$ 2,000.00
<b>Invoice Balance:</b>				<b>\$ 4,516.00</b>

Travel Agents and Tour Operators Professional Liability  
 Insurance for Carnival Cruise 4/26/2009 to 5/3/2009.

**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Thursday, April 16, 2009 2:34 PM  
**To:** [REDACTED]  
**Subject:** RE: [REDACTED]  
[REDACTED]

Thanks for your email. I am back in Florida working out of our Boca Raton office until May 1.

I would be happy to look at your friend's C.V. Our business, like most in the financial services sector is struggling. We have had 2 rounds of layoffs in the last 12 months, the first in our 29 year history. Additionally, all senior people have taken 20% pay cuts.

Having said that, we would be interested in someone who can sell (sell, not market) in a compensation arena best described as "Eat what you kill". Our top salesperson earned over \$800,000. last year, so there is a modest amount of incentive.

As I think you know, we have offices in Clifton Park, Albany, Manhattan, and Boca Raton. We also have an affiliate office in London.

If your friend has a continuing interest, please pass the C.V. along to me via email. We could meet in our NYC office the week of May 4th.

All the Best,

Tim

---

**From:** [REDACTED]  
**Sent:** Mon 4/13/2009 9:53 AM  
**To:** McGinn, Timothy  
**Subject:** [REDACTED]

Hi Tim,

I hope you are well and had a wonderful Easter. I hear you have been favoring the warmth of the Florida sun over the dreary days we've had here. I don't blame you. I am more than ready for spring.

I wanted to ask you to keep a friend of mine on your radar if you hear about any CMO or executive level marketing positions. I know you may hear about or know business associates that have positions available that aren't always publicly posted.

His name is [REDACTED] and he is out of NYC and currently looking confidentially. He is super smart, demands excellence and gets results. I cannot say enough great things about his business acumen and marketing capabilities. I also worked for him, so I have first-hand knowledge of his abilities in the boardroom, working with outside partners and staff and as a public speaker. I would highly recommend him.

I have a copy of his resume I can forward you if that would be helpful. He also said he would be delighted to meet with you if you are in NYC or connect with you by phone if you had the time to do so.

4/14/2010

Thanks so much Tim. Hope to see you soon.

Sincerely,



---

**A Good Credit Score is 700 or Above. See yours in just 2 easy steps!**

4/14/2010

---

**From:** Smith, David [smithd@mcginnsmith.com]

**Sent:** Sunday, April 19, 2009 11:13 PM

**To:** McGinn, Timothy

**Subject:** Bud Koffman

Call me around 7:30. I have spent a fair amount of time today looking for a solution to the 107th loan. As you surmised, we did grant 150% collateral coverage, but it gets worse. You and I signed on as guarantors, something that I did not think was the case. Bud hasn't brought that up, but I am certain that he is aware of it. My solution is to transfer some of that debt with the option writing/structured finance approach that we have been talking about. I think we will need at least a 2yr. piece of paper. We can use some of the money to start amortizing the loan, and hopefully earn enough on the investment program to cover the payments. Tall order! I would appreciate your input. Also, any new thoughts on how we are going to meet the MSTF interest payment of \$140,000 at the end of the month. I assume that there are no assets that can be monetized. Speak to you in the morning.

Davel

3/19/2010

**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Tuesday, April 21, 2009 9:23 PM  
**To:** joan.dixon@bankmercantile.com; Katherine.VanBrocklin@bankmercantile.com  
**Subject:** journals

Ladies,

Please journal \$15,000. from TDMM Cable Sr. Trust 09 to McGinn, Smith Transaction Funding Corp.

Once there, please journal \$14,250 from McGinn, Smith Transaction Funding Corp. to Cruise Charter Ventures, LLC.

I will give additional wire instructions from CCV in a separate email.

Thank you,

Timothy M. McGinn  
Managing Member

3/3/2010

**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Tuesday, April 21, 2009 9:30 PM  
**To:** joan.dixon@bankmercantile.com; Katherine.VanBrocklin@bankmercantile.com  
**Cc:** marlene@yolocruises.com  
**Subject:** wires

Ladies,

Please execute the following two wires, with funds drawn from Cruise Charter Ventures, LLC.:

1) \$9,000 to:  
Bank of America  
Boca Raton, Fl.  
ABA #: 063100277  
Account #: [REDACTED] 1050  
Account Name: Marlene Brustle

2) \$1,800 to:  
Wells Fargo  
14600 Katy Freeway  
Houston, Texas 77079  
ABA #: 121000248  
Account #: [REDACTED] 9789  
Account Name: IMOS LLC

Thank you,

Timothy M. McGinn  
Managing Member

4/14/2010

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**From:** Diane Roberts [DRoberts@thedelraybeachclub.com]  
**Sent:** Thursday, April 23, 2009 9:18 AM  
**To:** tim.mcginn@mcginnsmith.com  
**Subject:** Delray Beach Club Membership Information  
**Attachments:** ADMISSIONS PACKET.pdf; April 2009 Newsletter.pdf; SUMMER SERVICES.pdf

Good morning Mr. McGinn,

Thank you for your interest in the Delray Beach Club. We are a private social club that's just around the corner! Our social activities include fine dining, casual dining, fitness, tennis, swimming, beach activities, bridge, bingo, theme parties and shows, along with member trips. For children the club offers summer beach camp, tennis camp, swimming lessons and beach activities.

I've attached a copy of our membership rates. Please give me a call to schedule a tour of our facility. Should you wish to proceed with a membership just complete the Candidate Information Sheets and return them to my attention. If you need assistance in finding sponsors I can contact our Membership Committee to meet with you.

Again, thank you for your interest in our beautiful club.

Diane Roberts  
Membership Director

Delray Beach Club  
2001 S. Ocean Blvd  
Delray Beach, FL 33483  
561-921-0244

4/14/2010

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**From:** Cooper, Brian  
**Sent:** Thursday, April 23, 2009 2:31 PM  
**To:** McGinn, Timothy  
**Cc:** Shea, Brian  
**Subject:** May 1st Funding Needs

Tim, here are the funding needs for May 1<sup>st</sup>. I am starting to get a complex, it seems like I am always asking you for money. Maybe we are related.

MSTF	\$137,500 includes Stewarts \$50,000
Firstlines	\$110,000
INEX	\$4,000
TDM Cable 06	\$18,000
TDMM Cable	\$36,000

Total Funding Needed \$305,500

Fortress Trust \$44,000 this is covered with the funds that are wired into the NEI Capital Account from Full Circle Partners

Thank you,

2/12/2010



---

**From:** Cooper, Brian  
**Sent:** Tuesday, April 28, 2009 10:23 AM  
**To:** McGinn, Timothy  
**Subject:** May 1st Funding Needs Reminder

Tim, this is just a reminder of the e-mail I sent last week. Wasn't sure if you missed the 1<sup>st</sup> e-mail.

MSTF	\$137,500 includes Stewarts \$50,000
Firstlines	\$110,000
INEX	\$4,000
TDM Cable 06	\$18,000
TDMM Cable	\$36,000

Total Funding Needed \$305,500

Fortress Trust \$44,000 this is covered with the funds that are wired into the NEI Capital Account from Full Circle Partners

Thank you,

*Brian J. Cooper  
McGinn Smith & Co. Inc.  
99 Pine Street, Suite 5  
Albany, NY 12207  
Phone 518-449-5131 ext 232  
Fax 518-449-4894  
Toll Free 1-800-724-3330*

3/19/2010

**Unknown**

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**From:** Cooper, Brian  
**Sent:** Wednesday, April 29, 2009 8:06 AM  
**To:** McGinn, Timothy; Shea, Brian  
**Subject:** Mercantile Accounts  
**Attachments:** Mercantile Account Balances.xls

Tim, we have collected \$495,000 for the TDMM Jr. Cable 09 trust. McGinn Smith has collected \$21,200 in UW fees to date. Another \$18,400 is due to be collected.

Can I have the \$18,400 wired to MGS?

Call me if we need to discuss.

Thank you,

**Brian J. Cooper**  
**McGinn Smith & Co. Inc.**  
**99 Pine Street, Suite 5**  
**Albany, NY 12207**  
**Phone 518-449-5131 ext 232**  
**Fax 518-449-4894**  
**Toll Free 1-800-724-3330**

3/3/2010

**Unknown**

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**From:** Tim McGinn  
**Sent:** Wednesday, April 29, 2009 9:52 AM  
**To:** Kolojay, Timothy  
**Subject:** Re: update

Happy to hear the Indians are having a good time. How are the dancers and strippers Marlene hired?

How is the staff performing? What does she have Jen & Derrick doing? Are there sufficient chambermaids for the playrooms? Are the YOLO sponsored parties well attended? Any security problems or unruly behaviour? Any girl/girl stuff in public? Any fucking/sucking in public? Are we allowing that?

Have you met the Vallhalla crew? Who is your candidate (staff) for MVP? What percentage of the dames are attractive? How do these people "hook-up"?

Sorry for all the questions. You are my eyes and ears.

Thanks.

Sent from my iPhone

On Apr 29, 2009, at 8:32 AM, "Kolojay, Timothy" <[kolojayt@mcginnsmith.com](mailto:kolojayt@mcginnsmith.com)> wrote:

Things were very merry last night after the Mexico part of the trip was canceled. I think you might have said something to Marlene yesterday when I mentioned the VIP snub. She (and Earl) wanted me to hang with them last night. Only one incident. Fat lady fell down in the Cabaret show last night. I was in front of her and heard a loud crash. Carnival jumped to the rescue and iced down her knee. She was apologetic. It was her fault. She was too fat and old. Good Cabaret show though. Hot bodies. I met last night with one of the passengers. His name is Tif Murphy. He is from Jacksonville. His point to me was that he would possibly go in halves with us on another cruise. He is ecstatic about this one. He wanted to make sure that we were taking reservations/deposits before everyone disembarked. Nothing like it. You hit a 4 bagger with this one. Marlene said Yolo will be taking reservations et al before everyone leaves. People from all over the world. Several people also recommended that we give price breaks to the first signees and charge more for the later signees as we get closer to launch. I told him why we did it the way we did this time and he understood. That's it for now. Earl has his nose so far up Marlene's ass, it is not funny. Or actually— it is. I haven't told him to wipe the brown spot off. Playrooms are standing room only.

Tim Kolojay, MAAA, ACAS, ARM  
CEO  
CMS Financial Services Corp.  
Albany Office: (518) 449-5131  
Cell: (609) 660-6600

2/6/2010

**Unknown**

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**From:** Tim McGinn  
**Sent:** Thursday, April 30, 2009 11:15 AM  
**To:** Cooper, Brian  
**Cc:** Dixon, Joan A.; McGinn, Timothy; Birnbach, Denise; Van Brocklin, Katherine  
**Subject:** Re: Wire

OK with me.

Timothy M. McGinn  
Managing Member

Sent from my iPhone

On Apr 30, 2009, at 10:47 AM, "Cooper, Brian" <[cooperb@mcginnsmith.com](mailto:cooperb@mcginnsmith.com)> wrote:

Good morning Joan,

with Tim's approval, please wire \$125,000 from TDMM Cable Jr. Trust 09 to:

M&T Bank

Buffalo NY

McGinn Smith And Company

ABA 022000046

Account [REDACTED] 4734

Thank you

*Brian J. Cooper*

*McGinn Smith & Co. Inc.*

3/3/2010

***99 Pine Street, Suite 5***

***Albany, NY 12207***

***Phone 518-449-5131 ext 232***

***Fax 518-449-4894***

***Toll Free 1-800-724-3330***

**3/3/2010**

**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Thursday, April 30, 2009 12:42 PM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine  
**Subject:** journals and wires

Ladies,

Please execute the following:

- 1) Journal \$60,000 from TDMM Cable Jr. Trust 09 to McGinn, Smith Transaction Funding Corp.
- 2) Please journal \$34,000 from TDMM Cable Jr. Trust 09 to Mr. Cranberry LLC.
- 3) Upon completion of (2) above, please send via overnite delivery a check in the amount of \$34,000., drawn on Mr. Cranberry LLC, payable to [REDACTED]. Please overnite same to my attention at McGinn, Smith & Co., Inc., 99 Pine St., Albany, NY 12207.
- 4) Please issue a check in the amount of \$8,670. drawn on McGinn, Smith Transaction Funding Corp, payable to Matthew McGinn. Please overnite same to my attention as described in #3 above.
- 5) Please wire \$30,000. from TDMM Cable Jr. Trust 09 to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 2675  
Account Name: Timothy M. McGinn

- 6) Please wire TOMORROW, FRIDAY, MAY 1, from McGinn, Smith Transaction Funding Corp, \$50,000. to:

Adirondack Trust Company  
Saratoga Springs, NY  
ABA #: 021302884  
Account #: [REDACTED] 9259  
Account Name: [REDACTED]

Thank you,

Timothy M. McGinn  
Chairman and CEO

3/3/2010

**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Friday, May 01, 2009 11:24 AM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine  
**Cc:** Cooper, Brian

Ladies,

Please wire \$53,000 from TDMM Cable Jr. Trust 09 to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 6207  
Account Name: McGinn, Smith Transaction Funding Corp.

Thank you,

Timothy M. McGinn  
Chairman and CEO

3/3/2010

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**From:** Cooper, Brian [cooperb@mcginnsmith.com]  
**Sent:** Monday, May 04, 2009 10:44 AM  
**To:** Tricia Trombley  
**Cc:** Shea, Brian  
**Subject:** Check Needed

Please issue a check payable to National Financial Services for \$100,000.

This is for deposit into Lynn Smiths NFS account per Dave Smith.

Thank you,

*Brian J. Cooper  
McGinn Smith & Co. Inc.  
99 Pine Street, Suite 5  
Albany, NY 12207  
Phone 518-449-5131 ext 232  
Fax 518-449-4894  
Toll Free 1-800-724-3330*

4/14/2010



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**From:** "McGinn, Timothy" <tmcginn@mcginnsmith.com>  
**To:** "Cooper, Brian" <cooperb@mcginnsmith.com>; "Tim McGinn" <mcginnt@mcginnsmith.com>;  
"Smith, David" <smithd@mcginnsmith.com>  
**Cc:** "Shea, Brian" <sheab@mcginnsmith.com>  
**Sent:** Tuesday, May 05, 2009 1:33 PM  
**Subject:** RE: Note Terms

14%, maturity of January 31, 2010.

---

**From:** Cooper, Brian  
**Sent:** Tuesday, May 05, 2009 2:29 PM  
**To:** Tim McGinn; Smith, David  
**Cc:** Shea, Brian  
**Subject:** Note Terms

On 3/19 FIIN sent \$40k to TDM Cable Funding, I need to know the terms to request the note from Joe.

Thank you,

*Brian J. Cooper*  
**McGinn Smith & Co. Inc.**  
99 Pine Street, Suite 5  
Albany, NY 12207  
Phone 518-449-5131 ext 232  
Fax 518-449-4894  
Toll Free 1-800-724-3330



**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Tuesday, May 05, 2009 1:29 PM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine  
**Subject:** journal and wires

Ladies,

Please journal \$27,000. from TDMM Cable Jr. Trust 09 to McGinn, Smith Transaction Funding Corp.

Whereupon, please execute the following two wires:

- 1) From McGinn, Smith Transaction Funding Corp., please wire \$17,000. to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 5028  
Account Name: firstline Sr. Trust 07

- 2) From McGinn, Smith Transaction Funding Corp., please wire \$10,000. to:

Commerce Bank  
784 Franklin Avenue  
Franklin Lakes, NJ  
ABA #: 021200957  
Account #: [REDACTED] 6385  
Account Name: [REDACTED]

Thank you,

Timothy M. McGinn  
Chairman and CEO

3/3/2010

**From:** Brian Shea  
**Sent:** Thursday, May 14, 2009 2:29 PM  
**To:** mcginnt@mcginnsmith.com; 'Smith, David'  
**Subject:** Payroll and Cash

The total payroll including outside brokers is \$260k, I just transferred up \$27k from NFS to bring our balance to around \$290k before other checks clear. We have a \$13k hit from 401k payments to the plan.

So, it appears we will cover payroll but it is very tight. We will need a cash infusion next week to cover certain expenses including last month's health care. We need to address the rent situation as well..

## Unknown

**From:** Wanda Shaw  
**Sent:** Thursday, May 14, 2009 11:43 AM  
**To:** Tim McGinn  
**Subject:** RE:

Hi Tim,

Here is the cash status:

Cash \$22,471.00 - this includes the \$8,000 I had set aside  
for interest

Payables	\$17,403.00
----------	-------------

**Net Cash**            **\$5,068.00**

Please note that according to the cash forecast, we will be short \$18,000 for payroll, bonus, and rent in 8 business days when the payroll and bonus needs to be paid on 5/26. This is based upon the incoming cash estimates that we have, but of course the actual cash could be more or less.

**Please let me know how to proceed.**

Thanks  
Wanda

-----Original Message-----

**From:** Tim McGinn [<mailto:mcginnnt@mcginnsmith.com>]  
**Sent:** Thursday, May 14, 2009 7:36 AM  
**To:** Wanda Shaw  
**Subject:**

**I know things are tight, but is there any extra cash?**

Sent from my iPhone



**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Friday, May 15, 2009 7:55 AM  
**To:** Dixon, Joan A.; Birnbach, Denise; Van Brocklin, Katherine  
**Cc:** Cooper, Brian; Shea, Brian  
**Subject:** journal and wire

Ladies,

Please journal \$26,500. from TDMM Cable Jr Trust 09 to McGinn, Smith Transaction funding Corp. Once there, please wire from McGinn, Smith Transaction Funding Corp. \$72,000 to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Acct #: [REDACTED] 4765  
Account Name: TDM Verifier Trust 07

Thank you,

Timothy M. McGinn  
Chairman and CEO

3/3/2010

**From:** Cooper, Brian  
**Sent:** Thursday, May 21, 2009 7:47 AM  
**To:** Tim McGinn  
**Cc:** Shea, Brian  
**Subject:** 5/21 mercantile account balances

**Attachments:** Mercantile Account Balances.xls



Mercantile Account  
Balances.xls...

Tim, here are the account balances and to just give you a heads up we will need approximately \$275k for funding on June 1st. FYI, I will be out of the office next Monday and Friday

Firstline's	\$108k	
TDM Cable 48	\$17k	
TDMM Cables'	\$70k	(This amount may change after I run the new sales report)
INEX	\$5k	

TDM Luxury Cruise           \$91k

Fortress will pay \$42k on June 1st and these funds will be covered by Full Circle Partners/NEI Capital

Thank you,

-----Original Message-----

From: Tim McGinn [mailto:mcginnt@mcginnsmith.com]  
Sent: Thursday, May 21, 2009 7:19 AM  
To: Cooper, Brian  
Subject:

Please send account balances.

Sent from my iPhone

4/13/2010 14:57

Mercantile Account Balances  
 ABA: 063113772  
 21845 Powerline Rd  
 Boca Raton FL 33433

Account Name	Account #	5/14/2009	4/13/2010	Change	Note
Mr. Cranberry, LLC	██████████171	211	211	\$ -	
TDM Cable Funding, LLC	██████████9507	2,192	2,192	\$ -	
McGinn, Smith Funding, LLC	██████████1635	3,213	3,213	\$ -	
107th Assoc, LLC	██████████1987	0	0	\$ -	
TDM Cable Funding, LLC	██████████5573	440	440	\$ -	
MSTF	██████████3083	3,704	4,181	\$ 477	Credit \$46k from CCV, \$26,500 from TDMM Jr 09 Wired \$72k to TDM V 07r M&T Operating Account
Cruise Charter Ventures	██████████3972	47,715	1,715	\$ (46,000)	Transfer to MSTF
TDM V09	██████████4007	140	140	\$ -	
TDMM Jr Trust 09	██████████4139	177,751	151,251	\$ (26,500)	Transfer to MSTF
TDMM Sr Trust 09	██████████4150	250,805	350,805	\$ 100,000	Customer Deposit
TDM Verifier Trust 07R	██████████4216	837	35,797	\$ 34,960	Alt Investments, Wire fees \$40
MSTF 2nd Offering	██████████8857	-	-	\$ -	
NEI Capital LLC	██████████9220	321	321	\$ -	
		<u>\$ 487,328</u>	<u>\$ 550,265</u>	<u>\$ 62,937</u>	

## Dormant/Closed Accounts

TDM Verifier Trust 08	██████████60130	314	314	\$ 0	
Fortress Tr. 08	██████████9187	756	756	\$ (0)	
INEX Sr	██████████3983	0			
INEX	██████████3994	0			
TDM Luxury Cruise	██████████0086	-	-	\$ -	



2009  
Projected Payment  
Schedule

Trust	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Pays on	Maturity	Note
MSF		137,100	297,004		137,100		137,100				137,100		845,404	1st	7/1/2012	
TDMCab06 10%		35,000			35,000		35,000				35,000		140,000	15th	11/15/2010	
TDM Ver 07R Trust 10%					52,500		52,500				52,500		157,500	15th	8/15/2010	Payments assume the trust sells out
TDM Ver Trust 07 8.5%		31,500			31,500								94,500	15th	8/15/2009	
TDM Verifier 24		44,561						31,500					44,561	15th	2/15/2009	Rollled to TDM Ver. 07R Trust
TDMVER 08 18Month	40,500			40,500			40,500						121,500	1st	6/30/2009	
TDMVER 08 36 Month	48,000			48,000			48,000			48,000			192,000	1st	12/31/2010	
TDMVER 09				32,500			32,500			32,500			97,500	1st	4/1/2013	Payments assume the trust sells out
TDM Luxury Cruise			91,000			91,000			91,000			91,000	364,000	1st	9/1/2011	
FIRSTLN11.0	17,114	17,114	17,114	17,114	17,114	17,114	17,114	17,114	17,114	17,114	17,114	17,114	205,370	1st	5/1/2012	
FIRSTLN11B	17,096	17,096	17,096	17,096	17,096	17,096	17,096	17,096	17,096	17,096	17,096	17,096	205,150	1st	10/1/2012	
FIRSTLN9.25	66,636	65,386	64,136	62,886	61,636	60,386	59,136	70,386	82,886	89,135	86,635	85,386	854,629	1st	9/1/2010	
FIRSTLN9.5B	11,311	11,310	11,311	11,311	11,310	11,311	11,311	11,311	11,311	11,311	11,311	31,971	177,050	1st	10/1/2011	
INEX10%	15,704	15,828	15,955	16,088	16,225	16,383	17,040	17,163	17,290	17,423	17,561	17,718	200,379	1st	12/1/2013	
INEX9%	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	27,000	1st	6/1/2013	
Fortress Trust	44,150	43,150	42,652	42,543	42,435	42,327	56,218	55,958	54,698	54,449	54,200	52,951	585,732	1st	10/30/2011	
TDMCab48	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	204,000	1st	11/15/2010	
TDM SR 09	-	-	5,500	47,388	47,656	47,926	48,198	47,388	47,388	47,387	47,388	47,387	433,606	1st	2/1/2012	Payments assume the trust sells out
TDM JR 09	-	-	-	12,146	12,146	12,146	12,146	12,146	12,146	12,146	12,146	12,146	109,313	1st	8/1/2014	Payments assume the trust sells out
	279,761	437,295	581,018	366,822	500,969	334,937	378,509	523,912	370,179	365,812	527,962	392,019	5,059,194			

**From:** Cooper, Brian [cooperb@mcginnsmith.com]  
**Sent:** Thursday, May 21, 2009 7:47 AM  
**To:** Tim McGinn  
**Cc:** Shea, Brian  
**Subject:** 5/21 mercantile account balances

**Attachments:** Mercantile Account Balances.xls



Mercantile Account  
Balances.xls...

Tim, here are the account balances and to just give you a heads up we will need approximately \$275k for funding on June 1st. FYI, I will be out of the office next Monday and Friday

Firstline's	\$108k
TDM Cable 48	\$17k
TDM Cables'	\$70k (This amount may change after I run the new sales report)
INEX	\$5k

TDM Luxury Cruise \$91k

Fortress will pay \$42k on June 1st and these funds will be covered by Full Circle Partners/NEI Capital

Thank you,

-----Original Message-----

**From:** Tim McGinn [mailto:mcginnt@mcginnsmith.com]  
**Sent:** Thursday, May 21, 2009 7:19 AM  
**To:** Cooper, Brian  
**Subject:**

Please send account balances.

Sent from my iPhone

**Unknown**

---

**From:** Tim McGinn  
**Sent:** Thursday, May 21, 2009 1:21 PM  
**To:** Cooper, Brian

Brian

Please wire \$12,500 from TDMM Jr. To Manatt, Phelps. I don't have the wire instructions but we have previously wired \$6250 or \$12000 from MSTF.

Thanks.

Tim

Sent from my iPhone

**Unknown**

---

**From:** Tim McGinn  
**Sent:** Thursday, May 21, 2009 4:29 PM  
**To:** Livingston, Thomas  
**Cc:** McGinn, Timothy; Smith, David  
**Subject:** Re: Re revex

Good job. Thanks.

Sent from my iPhone

On May 21, 2009, at 3:52 PM, "Livingston, Thomas" <livingstont@mcginnsmith.com > wrote:

> Tim and Dave:  
> We closed the Alcoa Revex transaction a few minutes ago.  
> The firm ticketed \$2,468,000. I built in 6% in fees We paid the  
> brokers 5% gross. The total gross commissions earned were \$123,400.  
> assuming an average pay out of 60% we retained \$49,360. we kept 1% for  
> the firm (no  
> payout) \$24,680. So the total net retained by the firm was \$74,040 The  
> trade settles on 5/27 Tom  
>  
> Thomas E. Livingston  
> Principal  
> McGinn Smith Co., Inc.  
> 99 Pine St.  
> Albany, New York 12207  
> (p) 518-449-5131  
> (f) 518-463-9183  
>  
>  
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> is free of viruses, interceptions or interference

**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Tuesday, May 26, 2009 2:43 PM  
**To:** [REDACTED]  
**Subject:** wire instructions

[REDACTED]

First of all, thank you for the opportunity to help you with your financial affairs. As I mentioned Friday, the priority in our investment philosophy has always been Preservation of Capital.

As regards the corporate funds, please wire the funds as follows:

Mercantile Bank  
21845 Powerline Rd.  
Boca Raton, Fl.  
ABA #: 063113772  
Account #: [REDACTED] 01635  
Account Name: MS Funding LLC.

I have used a maturity date of December 10, 2009; which is a 198 day duration. Since the duration is greater than 180 days, the rate bumps to the next level which is 9.25%. Consequently, the earnings on the investment of \$500,367. will be \$25,107,46, which will be paid on maturity resulting in a return wire of \$525,475.04.

We are also sending via Fedex (with a Fedex return envelope), the papers necessary for your personal account. The wire instructions for your personal account are as follows:

JP Morgan Chase  
ABA #: 021000021  
Account # 066196-221  
Further credit to:  
Account #: [REDACTED] 275  
Account Name: [REDACTED]

I look forward to meeting you and your partner the week of June 15.

Timothy M. McGinn  
Chairman of the Board

4/14/2010

**Unknown**

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**From:** Cooper, Brian  
**Sent:** Tuesday, June 02, 2009 12:28 PM  
**To:** McGinn, Timothy; Shea, Brian  
**Subject:** 6/2 Updated Mercantile balances  
**Attachments:** Mercantile Account Balances.xls

Tim here is the funding needed:

Integrated Excellence	\$5k
Fortress Trust	\$5k
Firstline's	\$108k
TDMM Cable Jr/Sr	\$65k
TDM Luxury Cruise	\$91k
<b>Total</b>	<b>\$275k</b>

3/26/2010

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**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Wednesday, June 03, 2009 9:28 AM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine; Birnbach, Denise  
**Subject:** wire

Ladies,

Please wire \$184,000 from McGinn, Smith Funding LLC (MS Funding LLC) to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] \$207  
Account Name: McGinn, Smith Transaction Funding Corp.

Thank you,

Timothy M. McGinn  
Managing Member

4/14/2010

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**From:** McGinn, Timothy [tmmcginn@mcginnsmith.com]  
**Sent:** Wednesday, June 03, 2009 9:52 AM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine; Birnbach, Denise  
**Cc:** Smith, David  
**Subject:** wire #2

Ladies,

Please wire \$150,000 from the McGinn, Smith Funding LLC (MS Funding LLC) account to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 84734  
Account Name: McGinn, Smith & Co., Inc.

Please confirm wire launch.

Thank you,

Timothy M. McGinn  
Managing Member

4/14/2010



**Unknown**

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**From:** McGinn, Timothy  
**Sent:** Wednesday, June 03, 2009 11:02 AM  
**To:** Dixon, Joan A.; Van Brocklin, Katherine; Birnbach, Denise  
**Subject:** wires and journals

Ladies,

We are expecting an incoming wire to Cruise Charter Ventures, LLC in the amount of \$208,500.

Once received please execute the following:

- 1) Please wire \$6,500 to:

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 2675  
Account Name: Timothy M. McGinn

- 2) Please wire \$16,000

M & T Bank  
Buffalo, NY  
ABA #: 022000046  
Account #: [REDACTED] 4734  
Account Name: McGinn, Smith & Co., Inc.

- 3) Please journal \$32,755.33 to: Mercantile Account Number: [REDACTED] 2011, White Glove Cruises, LLC.  
4) Please journal \$17,000 to Mr. Cranberry LLC.

Items 1 through 4 above will come out of the Cruise Charter Ventures Account.

- 5) Please issue checks from Mr. Cranberry as follows:

\$8,500 to Timothy M. McGinn  
\$8,500 to David L. Smith

Please overnite the checks to my attention at McGinn, Smith & Co., Inc, 99 Pine St., Albany, NY 12207.

Thank you,

Timothy M. McGinn  
Managing Member

3/3/2010

---

**From:** Smith, David [smithd@mcginnsmith.com]  
**Sent:** Wednesday, June 03, 2009 4:07 PM  
**To:** Thiel, Lawrence  
**Cc:** Guzzetti, Andrew; McGinn, Timothy  
**Subject:** RE: Net Cap Deposit

Larry,

You beat me to the punch. I was just coming in to email you about the deposit. We deposited the \$150,000 to our operating account this morning. I am trying to get some sort of written confirmation that I can forward to you by the end of the day. The deposit was made and confirmation will show the deposit today regardless of whether you get proof tonight or tomorrow morning. My CFO is gone for the day and thus I will not be able to provide the net cap tonight. I spoke with him yesterday about it, and while understandably not happy with the directive, he believes he can pull the estimate together in a day. Our out of town guests leave tomorrow after lunch, so I should be in a better position to discuss the aforementioned at that time.

Dave

---

**From:** Thiel, Lawrence [mailto:Lawrence.Thiel@FMR.COM]  
**Sent:** Wednesday, June 03, 2009 3:03 PM  
**To:** Smith, David  
**Subject:** Net Cap Deposit

Hi David,

In follow-up to our conversation of yesterday, our Risk Dept has requested that you forward proof of the \$150,000 deposit that you are making today to your operating account. Additionally, an estimated manual Net Cap computation has also been requested to be received by close of business today.

I appreciate your attention to this matter and please feel free to contact me with any questions you may have.

Larry Thiel

Senior Vice President, Regional Manager  
National Financial, a Fidelity Investments company  
617-563-0870  
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Internal Virus Database is out of date.

Checked by AVG - [www.avg.com](http://www.avg.com)

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