

Exhibit 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

10 Civ. 475 (GLS)
(DRH)

McGINN, SMITH & CO., INC.,
McGINN, SMITH ADVISORS LLC,
McGINN, SMITH CAPITAL HOLDINGS CORP.,
FIRST ADVISORY INCOME NOTES, LLC,
FIRST EXCELSIOR INCOME NOTES, LLC,
FIRST INDEPENDENT INCOME NOTES, LLC,
THIRD ALBANY INCOME NOTES, LLC,
TIMOTHY M. MCGINN; AND
DAVID L. SMITH,

Defendants, and

LYNN A. SMITH,

Relief Defendant.

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS TO RELIEF DEFENDANT LYNN A. SMITH**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Paragraph XX of the Order to Show Cause entered April 20, 2010, plaintiff Securities and Exchange Commission requests that relief defendant Lynn A. Smith produce the following documents at the Commission's offices at 3 World Financial Center, Suite 400, New York, N.Y. 10281, on or before May 17, 2010.

INSTRUCTIONS

1. Each Request requires the production of each responsive document in its entirety, including all non-identical copies, drafts, and identical copies containing different handwritten notations, without abbreviation, expurgation, or redaction.

2. If any document sought by this Request is withheld under a claim of privilege (including work product), then: (a) identify each such document by stating: (i) the type of document; (ii) the general subject matter of the document; and (iii) such other information as is sufficient to identify the document for a subpoena duces tecum, including, without limitation, the author of the document, the addressee of the document and, where not apparent, the relationship of the author and addressee to one another, the number of pages, its present custodian, and each person to whom the document or substance of the document production was communicated, in whole or in part; and (iii) identify the nature of the privilege and all facts upon which that assertion is based.

3. If any document sought by this Request once was, but no longer is, within a responding party's possession, control or custody, please identify each such document and its present or last known custodian, and state: (a) the reason why the document is not being produced; and (b) the date of the loss, destruction, discarding, theft or other disposal of the document.

4. No part of the document request shall be left unanswered merely because an objection is interposed to another part of the document request.

5. Unless otherwise indicated, this Request seeks documents from January 1, 2003 to the present.

6. This Request is ongoing in nature, and the responding party should continue to produce responsive documents as they are found or created on an ongoing basis.

DEFINITIONS

1. “Communication” means any transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

2. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

3. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including without limitation audio files, voicemail messages, electronic spreadsheets and drafts of electronic spreadsheets or other computerized data, including email messages (deleted or otherwise, and whether located at your offices or at your employees’ residences or property, or on central or official databases, your servers and backup servers, local databases, internet-based e-mail servers, individual employees’ hard drives, discs or personal digital assistants), notes, memoranda, work papers, paper files, desk files, draft workpapers). A draft or non-identical copy is a separate document within the meaning of this term.

4. “Immediate Family” shall mean parents, former or current spouse, sibling, children, grandchildren.

5. “McGinn” shall mean Timothy M. McGinn and any person or entity acting on his behalf.

6. “McGinn Smith Entities” or “McGinn Smith Entity” shall mean all of or any of the entities known as McGinn, Smith & Co., Inc., McGinn, Smith Advisors, LLC, and McGinn, Smith Capital Holdings Corp., as well as any entity or trust in which any of them, Smith, and/or

McGinn have or had a controlling interest, any subsidiaries, predecessors, successors or affiliated entities, and any present and former directors, officers, employees, agents, trustees, attorneys, consultants, representatives and independent contractors of the foregoing entities, including, but not limited to, the entities identified in Exhibit A to the Order to Show Cause, Temporary Restraining Order, and Order Freezing Assets and Granting Other Relief, entered on April 20, 2010.

7. "Smith" shall mean David L. Smith and any person or entity acting on his behalf.

8. "You" or "Your" shall refer to Lynn A. Smith and any person or entity acting on her behalf.

DOCUMENTS REQUESTED

1. Documents sufficient to indentify all bank, brokerage, trust or other investment accounts held at any time in your name, or for which you have any direct or indirect beneficial interest.

2. For all accounts indentified in response to Item 1, above, for the period January 1, 2003 through the present, all monthly account statements and documents sufficient to show the current holdings in such accounts and any transfers of funds to or from the accounts since the date of the last regular account statement.

3. For all accounts identified in response to Item 1, above, for the period January 1, 2003 through the present, all documents concerning deposits, credits, withdrawals and/or debits from the accounts and all documents providing source and recipient information about such deposits, credits, withdrawals and/or debits including but not limited to:

- a. Deposit slips (front and back);
- b. Copies of checks (front and back);

- c. Credit memoranda, including but not limited to, wire transfer documentation identifying the source of funds (including account number, financial institution, and holder of such account), letters of credit and correspondence; and
 - d. Debit memoranda, including but not limited to, wire transfer documentation identifying the recipient of funds (including account number, financial institution, and holder of such account), banker's acceptances, bank charges, letters of credit, letters of authorization, documents identifying who ordered or authorized the transaction and all correspondence.
4. Without regard to date, for all accounts identified in response to Item 1, above, account opening documents, signature card documentation, corporate resolutions, incorporation documents, corporate or partnership agreements, compliance documentation, and powers of attorney.
5. All documents concerning any transfer of money, stocks, or any other asset from any McGinn Smith Entity to you (including, but not limited to, any loan or repayment of any loan).
6. All documents concerning any transfer of money, stocks, or any other asset to any McGinn Smith Entity from you (including, but not limited to, any loan or repayment or any loan, and any investment).
7. All documents concerning any services or other consideration provided by you to any McGinn Smith Entity.
8. All documents concerning any tax returns filed by you for the tax years 2003 through 2009.
9. Documents sufficient to show all assets and liabilities held, or purchased and/or sold since January 1, 2000, directly or indirectly, by or for the benefit of Lynn A. Smith, including without limitation, bank accounts, brokerage accounts, investments, business interests, loans, lines of credit and real and personal property wherever situated.

10. Documents sufficient to show all assets and liabilities jointly held, or purchased and/or sold since January 1, 2000, directly or indirectly, by or for the benefit of Lynn A. Smith and Smith, including without limitation, bank accounts, brokerage accounts, investments, business interests, loans, lines of credit and real and personal property wherever situated.

11. Documents sufficient to identify all bailees, debtors, and other person and entities that currently are holding any of your assets, funds or property (including, but not limited to, any property owned jointly with Smith).

12. Documents sufficient to identify all credit cards and debit cards that you have used since 2003.

13. Documents sufficient to identify all mortgages to which you are a party.

14. Documents sufficient to identify all safe deposit boxes in your name or under your control.

15. All documents concerning loans by you to McGinn, or loans from McGinn to you.

16. All documents concerning loans by you to Smith, or loans from Smith to you.

17. All documents concerning any transfer of assets, since January 1, 2003, to any member of your Immediate Family.

Dated: New York, New York
May 10, 2010

s/David Stoelting
Attorney Bar Number 516163
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