

Exhibit 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

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,

**RELIEF DEFENDANT'S
RESPONSE TO
PLAINTIFF'S FIRST
REQUEST FOR
PRODUCTION
OF DOCUMENTS**

**Civil Action No.: 1:10-CV-457
(GLS/DRH)**

Defendants, and

LYNN A. SMITH,

Relief Defendant.

The Relief Defendant, Lynn A. Smith, by and through her attorneys, Featherstonhaugh, Wiley & Clyne, LLP, as and for a response to First Request for Production of Documents of Plaintiff dated May 10, 2010, states generally that she has extremely limited access to any records responsive to Plaintiff's demand for production of documents. Plaintiff Securities and Exchange Commission is well aware that virtually all of Relief Defendant Lynn A. Smith's documents were seized on 4/20/2010 by agents of the United States Department of Justice. An inventory listing of items seized from Relief Defendant Lynn A. Smith's Saratoga Springs, New York home is annexed hereto and made a part hereof as Exhibit A. In particular, Relief Defendant, Lynn A. Smith, calls Plaintiff's attention to the records seized under control numbers 28 and 29 which

likely contained materials responsive to many of Plaintiff's requests. Nevertheless, Plaintiff is producing with this response brokerage records, tax returns, and other miscellaneous papers responsive to the requests herein. Responding directly to the requests contained in the document we would state as follows:

1. No documents currently in the possession of Relief Defendant Lynn A. Smith other than those enclosed are responsive to this request.

2. No documents currently in the possession of Relief Defendant, Lynn A. Smith, other than those enclosed are responsive to this request. Relief Defendant Lynn A. Smith believes that documents responsive to this request are currently in the possession of the United State Department of Justice at its offices in Albany, New York.

3. Relief Defendant Lynn A. Smith is not in possession of any documents responsive to this request.

4. Relief Defendant Lynn A. Smith is not in possession of any documents responsive to this request.

5. Other than the documents provided herewith Relief Defendant Lynn A. Smith is not currently in possession of any documents responsive to this request.

6. Relief Defendant Lynn A. Smith is not currently in possession of any documents responsive to this request other than those included herewith but believes that such documents exist and that they are currently in the possession of either FINRA, the Securities and Exchange Commission, or the United States Department of Justice

7. Other than the documents provided herein and those documents in the possession of FINRA, the Securities and Exchange Commission, or the United States

Department of Justice, Relief Defendant Lynn A. Smith has no additional documents responsive to this demand.

8. Relief Defendant Lynn A. Smith has enclosed herewith all tax returns currently in her possession.

9. A description of the assets and liabilities of Relief Defendant Lynn A. Smith has previously been provided to the Plaintiff herein. Other than the documents enclosed herewith and those in the possession of the Plaintiff, FINRA, or the United States Department of Justice, Relief Defendant Lynn A. Smith has no additional documents responsive to this demand.

10. Relief Defendant Lynn A. Smith has no documents in her possession responsive to this demand however she would state affirmatively that she did have a joint checking account, during a portion of this time period.

11. Relief Defendant Lynn A. Smith has no documents responsive to this demand.

12. Relief Defendant Lynn A. Smith has no documents responsive to this demand other than the credit cards themselves which are listed below:

- a. Macy's, Account No. [REDACTED] 0511
- b. Exxon-Mobil, Account No. [REDACTED] 4926
- c. Saks Fifth Avenue, Account No. [REDACTED] 128
- d. American Express-McGinn Smith, Account No. [REDACTED] 2969

32062

- e. Chase Visa, Account No. [REDACTED] 8827
- f. Citi Master Card, Account No. [REDACTED] 3413

g. Relief Defendant Lynn A. Smith believes she may have had other various retail credit cards since 2003 but the current time has no documentation or specific recollection of any such additional cards.

13. Relief Defendant Lynn A. Smith herewith encloses a payment stub which relates to her residence in Saratoga Springs, New York and an additional one which relates to her residence in Vero Beach, Florida. All additional documentation is in the possession of Plaintiff, FINRA or the United States Department of Justice.

14. Relief Defendant Lynn A. Smith states affirmatively that there are no safe deposit boxes in her name.

15. Relief Defendant Lynn A. Smith states that she has provided herewith the loan documentation currently in her possession however she believes that additional loan documentation exists and is currently in the possession of the United States Department of Justice at their office in Albany, New York or in the possession of Plaintiff or FINRA

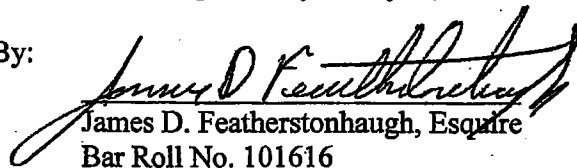
16. Relief Defendant Lynn A. Smith has no documents responsive to this request and is unaware of any such loans.

17. Relief Defendant Lynn A. Smith has no documents responsive to this request.

Dated: May 21, 2010

Featherstonhaugh, Wiley & Clyne, LLP

By:


James D. Featherstonhaugh, Esquire
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Inventory Listing of All Items Seized at Search Warrant Site

Site Name: [REDACTED] Saratoga Springs, NY 12866 Residence of David Smith	Investigation Number: 1000232852 Starting Date and Time: 04/20/2010 06:30 AM Ending Date and Time: 04/20/2010 12:20 PM	Report Date: Tuesday, April 20, 2010
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Control #:	1		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Clear plastic container with miscellaneous documents.	
Control #:	2		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Blue plastic container with FIIN notes and legal documents.	
Control #:	3		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Box labeled "LLC Filings".	
Control #:	4		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Box labeled "TAIN, Non-DD, Notes, Legal".	
Control #:	5		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Box labeled "Non-DD, TBF, later".	
Control #:	6		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Box labeled "FEIN #1 Now DD".	
Control #:	7		Evidence Box:
Location:	Upstairs Foyer		Locator Code:
Found:	Upstairs foyer		
Description:	Seized Per Warrant	Box labeled "AASET".	

Control #:	8	Evidence Box:	
Location:	Upstairs Foyer	Locator Code:	
Found:	Upstairs foyer		
Description:	Seized Per Warrant Box labeled "FAIN #1, Files Non-Due Diligencies".		
Control #:	9	Evidence Box:	8
Location:	Utility Closet	Locator Code:	
Found:	2nd Floor utility closet		
Description:	Seized Per Warrant Folder of documents indicating ownership/sale of property.		
Control #:	10	Evidence Box:	
Location:	Utility Closet	Locator Code:	
Found:	2nd Floor utility closet		
Description:	Seized Per Warrant Box of papers labeled "Vero Beach".		
Control #:	11	Evidence Box:	8
Location:	Upstairs Bedroom #1	Locator Code:	
Found:	Top drawer of nightstand next to bed		
Description:	Seized as Contraband Small/personal use amount of marijuana and hash pipe.		
Control #:	12	Evidence Box:	8
Location:	Upstairs Office	Locator Code:	L-1 Cabinet #1
Found:	Accordian folder on 2nd shelf		
Description:	Seized Per Warrant 20 pages of photocopied handwritten letter.		
Control #:	13	Evidence Box:	2
Location:	Upstairs Office	Locator Code:	L-1 Cabinet #1
Found:	Upstairs office		
Description:	Seized Per Warrant Folders containing business information.		
Control #:	14	Evidence Box:	
Location:	Upstairs Office	Locator Code:	L-5 Cabinet #2
Found:	Top of cabinet #2		
Description:	Seized Per Warrant Blue plastic container with miscellaneous financial documents.		
Control #:	15	Evidence Box:	8
Location:	Upstairs Office	Locator Code:	L-6 Cabinet #2
Found:	Bottom drawer of cabinet #2		
Description:	Seized Per Warrant Financial documents.		

Control #:	16	Evidence Box:	8
Location:	Garage Foyer	Locator Code:	
Found:	Shoulder bag on chair in garage foyer		
Description:	Seized Per Warrant Confidential placement memos, TDM verifier documents, TDMM cable documents, thumb drive, business cards.		
Control #:	17	Evidence Box:	8
Location:	Upstairs Office	Locator Code:	L-6 Cabinet #2
Found:	Top drawer of cabinet #2		
Description:	Seized Per Warrant Old passports.		
Control #:	18	Evidence Box:	3
Location:	Upstairs Office	Locator Code:	L-4 Cabinet #2
Found:	Left side drawers of cabinet #2		
Description:	Seized Per Warrant Miscellaneous office documents.		
Control #:	19	Evidence Box:	4
Location:	Upstairs Office	Locator Code:	L-7 Cabinet #2
Found:	Picture/book shelf of cabinet #2		
Description:	Seized Per Warrant Miscellaneous financial documents.		
Control #:	20	Evidence Box:	8
Location:	Upstairs Office	Locator Code:	L-8 Desk
Found:	Upstairs office right desk drawer		
Description:	Seized as Contraband Small/personal use amount of marijuana.		
Control #:	21	Evidence Box:	5
Location:	Master Bedroom Suite	Locator Code:	
Found:	On chair near entry doors		
Description:	Seized Per Warrant 2 accordion folders, stack of documents.		
Control #:	22	Evidence Box:	8
Location:	Master Bedroom Suite	Locator Code:	
Found:	Top desk drawer		
Description:	Seized Per Warrant Password card for investools, CBS.		
Control #:	23	Evidence Box:	6
Location:	Upstairs Office	Locator Code:	L-2 Shelf #1
Found:	Next to shelf #1		
Description:	Seized Per Warrant Miscellaneous documents.		
Control #:	24	Evidence Box:	7
Location:	Upstairs Office	Locator Code:	L-3 Desk
Found:	Top of desk		
Description:	Seized Per Warrant Financial documents.		

Control #:	25	Evidence Box:	1
Location:	Kitchen Office	Locator Code:	E-1 Laptop
Found:	Laptop on top of desk		
Description:	Seized Per Warrant Image of 80gb Toshiba laptop drive serial number Y55W8803S.		
Control #:	26	Evidence Box:	1
Location:	Upstairs Office	Locator Code:	L-3 Desk
Found:	Floor under computer desk		
Description:	Seized Per Warrant Image of 80gb SeaGate hard-drive serial number 3JV6166S.		
Control #:	27	Evidence Box:	8
Location:	Basement Room	Locator Code:	
Found:	Basement closet		
Description:	Seized as Contraband Glass pipe for suspected [REDACTED] use.		
Control #:	28	Evidence Box:	8
Location:	Kitchen Office	Locator Code:	E-2 R. Drawer
Found:	Kitchen desk bottom drawer		
Description:	Seized Per Warrant Credit card and bank statements.		
Control #:	29	Evidence Box:	8
Location:	Kitchen Office	Locator Code:	E-2 R. Drawer
Found:	Kitchen desk top drawer		
Description:	Seized Per Warrant Check registers.		
Control #:	30	Evidence Box:	8
Location:	Kitchen	Locator Code:	
Found:	Blue bookbag on kitchen floor		
Description:	Seized Per Warrant Time Warner service agreement for McGinn Smith Holdings.		
Control #:	31	Evidence Box:	8
Location:	Kitchen Office	Locator Code:	E-1 Desk
Found:	Kitchen desk top		
Description:	Seized Per Warrant Letter.		
Control #:	32	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Plastic container "FINRA"		

Control #:	33	Evidence Box:	8
Location:	Kitchen	Locator Code:	
Found:	Kitchen island top		
Description:	Seized Per Warrant Financial statements for McGinn, Smith, email from Sicluna to David Smith, client listing.		
Control #:	34	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Blue plastic container with Atlantis Strategic Subscriptions.		
Control #:	35	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Blue bin labeled CCIG.		
Control #:	36	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Banker box labeled Extra PPMS.		
Control #:	37	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Plastic box with CGI Group subscription.		
Control #:	38	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Plastic container labeled CCL DD.		
Control #:	39	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Grey bin labeled Atlantis Income Subscriptions.		
Control #:	40	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Plastic container labeled CCIG #1.		
Control #:	41	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Blue plastic container labeled Atlantis Strategic.		

Control #:	42	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Box containing binders and folders.		
Control #:	43	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Clear plastic bin labeled Sent to FINRA.		
Control #:	44	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Clear plastic bin labeled MS Recap & Subscriptions.		
Control #:	45	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Business records and documents.		
Control #:	46	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Bank box labeled CCI, misc. docs.		
Control #:	47	Evidence Box:	
Location:	Garage	Locator Code:	
Found:	Garage floor		
Description:	Seized Per Warrant Banker box labeled Atlantis Strategic.		
Control #:	48	Evidence Box:	9
Location:	Garage	Locator Code:	
Found:	Garage bay		
Description:	Seized Per Warrant Taint box.		
Control #:	49	Evidence Box:	
Location:	Basement Storage	Locator Code:	
Found:	Basement		
Description:	Seized Per Warrant 2003-2007 tax returns, financial statements from McGinn Smith.		