

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
SECURITIES AND EXCHANGE COMMISSION :

Plaintiff,

vs.

Case No. 1:10-CV-457
(GLS/CFH)

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, GEOFFREY R. SMITH, :
Individually and as Trustee of the David L. and :
Lynn A. Smith Irrevocable Trust U/A 8/04/04, :
LAUREN T. SMITH, and NANCY MCGINN, :

Defendants,

LYNN A. SMITH and
NANCY MCGINN,

Relief Defendants. and

GEOFFREY R. SMITH, Trustee of the
David L. and Lynn A. Smith Irrevocable
Trust U/A 8/04/04,

Intervenor.

**NOTICE OF THIRTEENTH INTERIM
APPLICATION OF PHILLIPS LYTLE LLP AND THE
RECEIVER FOR ALLOWANCE OF COMPENSATION
AND REIMBURSEMENT OF EXPENSES**

PLEASE TAKE NOTICE that upon the Thirteenth Interim Application of Phillips Lytle LLP and the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Application”), Phillips Lytle LLP (“Phillips Lytle”) will move before the Hon. Christian F. Hummel, United States Magistrate Judge, United States District Court for the Northern District of New York, James T. Foley - U.S. Courthouse, 445 Broadway, Albany, New York 12207-2924, on **December 19, 2019 at 9:30 a.m.**, seeking an Order to be entered approving the

and

One Canalside
125 Main Street
Buffalo, New York 14203
Telephone No.: (716) 847-8400

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GEOFFREY R. SMITH, Trustee of the :
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Intervenor. :

**FACE SHEET PURSUANT TO LOCAL RULE 2016-1
FOR THIRTEENTH INTERIM APPLICATION BY ATTORNEYS
FOR RECEIVER AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

APPLICANT'S NAME: Phillips Lytle LLP and William J. Brown, as
Receiver

APPLICANT'S ADDRESS: Omni Plaza
30 South Pearl Street
Albany, New York 12207

DATE APPLICANT APPOINTED: April 20, 2010

NATURE OF SERVICES RENDERED: Legal services rendered for William J. Brown, Receiver, with respect to McGinn, Smith & Co., Inc., et al. and for Receiver services and expenses for the period from January 1, 2019 through June 30, 2019

AMOUNT OF COMPENSATION SOUGHT FOR FEES FROM JANUARY 1, 2019 THROUGH JUNE 30, 2019 \$52,410.55 (including Phillips Lytle and Receiver's fees at pre-arranged discounted hourly rates) at 7.5% for Phillips Lytle and \$225 rather than \$500.00 per hour for the Receiver

AMOUNT OF COMPENSATION SOUGHT FOR EXPENSES FROM JANUARY 1, 2019 THROUGH JUNE 30, 2019 \$260.91

Dated: November 13, 2019

PHILLIPS LYTLE LLP

By /s/ William J. Brown
William J. Brown (Bar Roll #601330)
Catherine N. Eisenhut (Bar Roll #520849)

Attorneys for the Receiver
Omni Plaza
30 South Pearl Street
Albany, New York 12207
Telephone No. (518) 472-1224

and

One Canalside
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Relief Defendants. and

GEOFFREY R. SMITH, Trustee of the
David L. and Lynn A. Smith Irrevocable
Trust U/A 8/04/04,

Intervenor. :

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**THIRTEENTH INTERIM APPLICATION OF PHILLIPS LYTLE LLP
AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Phillips Lytle LLP (“Phillips Lytle”) submits this application (“Fee Application”) for allowance of interim compensation and reimbursement of expenses for the six-month period from January 1, 2019 through June 30, 2019 pursuant to Section XIV of this Court’s Preliminary Injunction Order (Docket No. 96). Attached as **Exhibit A** is the Declaration of William J. Brown, Esq. in support of the Fee Application. Phillips Lytle respectfully represents as follows:

INTRODUCTION

1. The Securities and Exchange Commission (“SEC”) commenced an action against McGinn Smith & Co., Inc., et al. in the United States District Court for the Northern District of New York on April 20, 2010 wherein William J. Brown, Esq. was appointed as temporary Receiver for certain of the defendants and other entities in the action (“Receiver”) (Docket No. 5). The SEC’s Complaint was subsequently amended (Docket No. 100 on August 3, 2011 and Docket No. 334 on June 8, 2011), and the Preliminary Injunction Order was entered on July 22, 2010 appointing William J. Brown as the permanent Receiver.

2. During the period from January 1, 2019 to June 30, 2019 (“Thirteenth Interim Period”), Phillips Lytle performed extensive legal services for the Receiver, and the Receiver performed extensive non-legal or quasi-legal functions, which are each more particularly described below and itemized in the detailed time and disbursement records attached as **Exhibit B**.

3. As a public service discount, the legal fees incurred in this case are being performed with a current 7.5% discount on the hourly rates of Phillips Lytle pursuant to a prior agreement with the SEC. Similarly, the Receiver’s hourly rate for this engagement is \$225 per hour rather than his 2019 hourly rate of \$500 per hour, again per prior agreement with the SEC.

4. As a result, legal services at full value in this Thirteenth Interim Period total \$51,406.00, while the amount to be paid less the 7.5% discount if this Application is approved is \$47,550.55. The Receiver’s services at full value of \$500 per hour in this Thirteenth Interim Period total \$10,800.00, while the amount to be paid if this Application is granted are \$4,860.00 at \$225 per hour. This makes the total amount sought pursuant to this Application to be \$52,410.55 in fees and \$260.91 in disbursements.

CASE STATUS

5. As of November 8, 2019, there is \$15,067,019.00 on hand in Receiver accounts, with approximately \$6,756,833.49 having been distributed to investors with allowed claims through the Fifty-First Payment Schedule of Investor Distributions (not all checks having cleared). The process of issuing first distribution checks representing 10% of allowed claim amounts to investors is continuing as investors provide missing information or signed documents as requested by the Receiver. First through Ninth motions to expunge duplicate paper claims and otherwise objectionable claims have also been filed. The Receiver anticipates that the Ninth Claims Objection Motion is the final claims objection motion to be filed. All post-Receiver obligations are current and paid on a current basis other than the amounts sought in professional fee applications. The monies on account in the Receiver's accounts are unencumbered. When this estate was commenced in April 2010, there was \$485,491.63 on hand.

6. Currently, the investor and creditor claims bar date and the equity claims bar dates have passed following the successful administration of claims notice procedures. Judgments in favor of the SEC in its action against David L. Smith, Lynn Smith, the Smith Trust, Geoffrey Smith, Lauren Smith and Timothy McGinn were entered in June and July 2015. The Second Circuit upheld those judgments in a decision on April 18, 2016.

7. There are approximately \$124,123,595 in investor claims, some of which have been or will be subject to objection or various grounds. If the objections are sustained, net claims appear to be in the range of \$100,506,405 subject to final Court approval. At present, it appears likely that relatively small additional collections to further increase investor recoveries are possible, although they remain subject to negotiations and serious contingencies.

8. A Plan of Distribution was filed on December 30, 2015 (Docket No. 847), and a Memorandum-Decision and Order approving the Plan of Distribution was entered on

October 31, 2016 (Docket No. 904). With the filing on October 10, 2019 of the Ninth Claims Objection Motion (Docket No. 1075), the Receiver is proceeding to make final distributions to investors once the Court decides the pending claims objection motions and to conclude the estate.

9. The SEC's Standard Fund Accounting Reports are attached to this Application as **Exhibit C**.

SUMMARY OF ACTIVITIES DURING THIRTEENTH INTERIM PERIOD

10. While the legal, non-legal and quasi-legal functions and services performed during the Thirteenth Interim Period are described in greater detail below and in the detailed time and disbursement records attached as Exhibit B, this executive summary is provided to highlight some of the activities and accomplishments during this period.

11. From a cash perspective, the beginning balance of the Receiver's accounts as of January 4, 2019 totaled \$15,066,157.00, and at the end of the period (June 30, 2019), the balance was \$15,101,582.00. The successful sales of various businesses previously operated by the Receiver took place in prior periods. Interest income contributed to the maintenance of account values and to pay operating expenses of the Receivership in this period. Account balance differences are due primarily to investor distributions.

12. On February 15, 2018, the Receiver filed the Second Motion Disallowing Paper Claims (Docket No. 974). This Motion was successfully resolved by Order dated April 13, 2018 (Docket No. 990).

13. On March 19, 2018, the Receiver filed a Third Motion to Disallow Certain Claims (Broker Claims) ("Broker Claims Motion") (Docket No. 984), and on January 29, 2019, a Supplemental Broker Claims Motion was filed (collectively, "Motions"). The Motions were successfully resolved by Summary Order dated March 6, 2019 (Docket No. 1043).

14. On July 6, 2018, the Receiver filed a Fourth Motion to Disallow Preferred Investor Paper Claims and Applying Preferential Payment Offset (Docket No. 1009). This Motion was successfully resolved by Summary Order dated March 6, 2019 (Docket No. 1042).

15. On October 16, 2018, the Receiver filed a Fifth Motion to Apply Preferential Payment Offset to Certain Preferred Investor Claims (Docket No. 1025). This Motion was successfully resolved by Summary Order dated March 6, 2019 (Docket No. 1042).

16. On April 25, 2019, the Receiver filed a Sixth Motion to Apply Preferential Payment Offset to Lesley Levy Claims and to Equitably Subordinate Lesley Levy Claims (Docket No. 1052). We are awaiting a decision on the Sixth Motion.

17. On May 22, 2019, the Receiver filed a Seventh Motion to Disallow Preferred Investor Paper Claims and to Apply Recovery Offset to Preferred Investor Claims (Investment Fund Redemption) (Docket No. 1056). We are awaiting a decision on the Seventh Motion.

18. During the Application Period, the Receiver filed six Distribution Payment Schedules as reflected on the Docket of the Court, and paid those Scheduled amounts to investors.

19. First distribution checks are being issued to investors, or IRA custodians on behalf of investors. The checks represent 10% of allowed claim amounts, and that process is continuing as investors provide additional missing information or signed documents as requested by the Receiver. As stated previously on the Receiver's website (www.mcginnsmithreceiver.com), it is estimated that total distributions to investors with allowed claims will range between approximately 13.5 to 21.7 percent.

20. Beginning with the Twentieth Payment Schedule of First Investor Distributions (Docket No. 968), Investors who received collateral recoveries had their claim files

reviewed for eligibility for first distribution payments, and collateral recovery investors began receiving first distribution checks.

21. Oral argument was held on August 15, 2017 in the appeal of the SEC's administrative action against certain former McGinn Smith brokers. As reported in the Fourth Written Status Report of the Receiver filed on October 12, 2018, the broker decision needed to be retried pursuant to the U.S. Supreme Court's decision in Lucia v. Securities and Exchange Commission. In December 2018, the Commission accepted the brokers' offers of settlement which, among other things, resulted in over \$286,591 being paid to the Receiver for the benefit of defrauded investors.

22. As is true in all periods, the Receiver continued to deal with various day-to-day issues involving the operation of the estate, the review, calculation and allowance of investor claims, responding to numerous investor claims and questions, and the collection of remaining assets.

COMPENSATION FOR LEGAL SERVICES

23. The legal services rendered by Phillips Lytle during the Thirteenth Interim Period have been categorized into twenty-two (23) separate categories (Categories A through W), as described below:

A. Asset Analysis and Recovery

No services were charged to or rendered by Phillips Lytle in Category A during the Thirteenth Interim Period.

B. Claims Administration and Objections

Category B relates to numerous and continuous communications with multiple investors respecting issues involving their specific claims; preparation and causing mailing of investor letters, Investor Questionnaires and W-9 forms to investors; receipt and cataloging of

returned Investor Questionnaire packets; ongoing review of received Investor Questionnaires for approval process; extensive research regarding basis to object to investor claims and procedure therefor, and preparation and filing of the Sixth and Seventh claims objection motions; preparation and filing of the Forty-Third through Forty-Eighth Payment Schedules of First Investor Distribution, some of which were for Collateral Recovery Investors, attend to mailing of first investor distribution checks to investors, and attend to ongoing review and updating of McGinn Smith Receiver's website.

In rendering the services in Category B, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$30,206.00, plus \$43.85 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	27.30	500.00	13,650.00
Catherine N. Eisenhut	75.10	220.00	16,522.00
Karen A. Kawczynski (P)	0.20	170.00	34.00

C. Asset Disposition

Category C relates to efforts in conjunction with the SEC relating to e-mails and telephone conferences in connection with the sale of the Smith Saratoga home.

In rendering the services in Category C, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$2,250.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	4.50	500.00	2,250.00

D. Business Operations

No services were charged to or rendered by Phillips Lytle in Category D during the Thirteenth Interim Period.

E. Case Administration

Category E is a “catch all” category consisting of services performed by Phillips Lytle in connection with this action and primarily consists of services performed which do not fit within one of the other 22 specific categories.

During this time period, this category consists of essentially all of the day-to-day work for the Receiver and his professionals and the handling of the legal affairs of the 82 entities which were initially placed into Receivership by this Court’s Preliminary Injunction Order (Docket No. 96). The detailed descriptions attached include communications and correspondence regarding dealing with various business issues arising in the ordinary course of business, matters relating to financial statement and insurance issues, various legal inquiries and questions raised by the SEC concerning the Receivership and SFAR reports; dealing with insurance issues and questions; research regarding Plan objections; preparation, communications with M&T Bank, KeyBank, Kinderhook Bank regarding existing accounts; extensive communications with investors on legal questions, and continued review and updating of McGinn Smith Receiver website; review of returned Investor Questionnaires; preparation of Payment Schedules and review, approval and distribution of distribution checks to investors.

In rendering the services in Category E, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$1,936.00, and \$134.98 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	3.60	500.00	1,800.00
Karen A. Kawczynski	0.80	170.00	136.00

F. Employee Benefits/Pensions

Category F relates to the 401K plan of David Smith and communications with the SEC with regard to required minimum distribution and the forms associated therewith.

In rendering the services in Category F, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$100.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	0.20	500.00	100.00

G. Fee/Employment Applications

No reimbursement is sought at this time for services charged to or rendered by Phillips Lytle in Category G during the Thirteenth Interim Period.

H. Fee/Employment Objections

No services were charged to or rendered by Phillips Lytle in Category H during the Thirteenth Interim Period.

I. Accounting/Auditing

No services were charged to or rendered by Phillips Lytle in Category I during the Thirteenth Interim Period.

J. Business Analysis

No services were charged to or rendered by Phillips Lytle in Category J during the Thirteenth Interim Period.

K. Corporate Finance

No services were charged to or rendered by Phillips Lytle in Category K during the Thirteenth Interim Period.

L. Data Analysis

No services were charged to or rendered by Phillips Lytle in Category L during the Thirteenth Interim Period.

M. Status Reports

No services were charged to or rendered by Phillips Lytle in Category M during the Thirteenth Interim Period.

N. Litigation Consulting

No services were charged to or rendered by Phillips Lytle in Category N during the Thirteenth Interim Period.

O. Forensic Accounting

No services were charged to or rendered by Phillips Lytle in Category O during the Thirteenth Interim Period.

P. Tax Issues

Category P consists of services related to conversations in connection with tax issues related to Plan distributions, tax return preparation and certain financial statement issues; communications and conferences regarding trust tax issues and review and signing of trust tax returns; conferences and communications regarding the issuance of K-1's; conferences and communications regarding Seton Hall tax issues and returns; extensive research regarding theft losses from Ponzi schemes; and a substantial amount of time in this category relates to the review and approval of a significant number of IRS and New York State tax returns, various other tax forms and dealing with tax and financial professionals on tax issues.

In rendering the services in Category P, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$11,874.00, and \$66.48 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	14.20	500.00	7,100.00
Kelly E. Marks	4.00	345.00	1,380.00
Koya Choi	16.80	200.00	3,360.00
Karen A. Kawczynski (P)	0.20	170.00	34.00

Q. Valuation

No services were charged to or rendered by Phillips Lytle in Category Q during the Thirteenth Interim Period.

R. William J. Brown, as Receiver Function

Category R consists of services related to the function of William J. Brown, as Receiver in his capacity as Receiver. These services, per prior agreement with the SEC, are rendered at \$225 per hour. Thus, while the accrued amount would otherwise be \$10,800.00, the discounted amount to be paid is \$4,860.00. All of the Receiver's travel time is charged to this category and, thus, is at a substantially reduced rate. Travel time is also charged at one-half of the total time travelled unless work associated with these estates is being conducted at that time.

The daily time entries reveal the Receiver's almost daily involvement with the various Receiver entities identified in the various descriptions including for this Application Period almost daily communications with investors to answer questions about assets recovered, the claims process, asset distributions to creditors, weekly review, processing and approval of payments to vendors and other third parties for services rendered to Receiver operating companies, review and authorization of payroll, review of communications from investors and SEC regarding various and ongoing matters, review of bank statements and accounts, review and

deal with NFS statements and Dinosaur Securities statements; maintenance of website and updating of same, review of National Life Insurance annual reports, dealings with and review of statements from M&T Bank, KeyBank and Five Star Bank in connection with the Receivership estate account maintenance, the review of checks and invoices for payment on a weekly basis for those various operating businesses, conferences with third parties regarding claims and related issues, review and deal with Mass Mutual statements, attend to weekly review of payroll requests and substantiation for same, numerous investor communications both by phone, in writing and e-mail, attending to various investor letters.

In rendering the services in Category R, the Receiver expended the time represented below at the hourly rates represented below for a total value of \$10,800.00, and \$3.90 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	21.60	500.00	\$10,800.00 (to be billed and paid at \$4,860.00)

S. SEC vs. McGinn, Smith & Co., Inc., et al.

Category S consists of services related to legal involvement in the SEC's action against McGinn, Smith & Co., Inc. and other parties including review of pleadings, review motion to modify asset freeze filed by David Smith and preparation and revisions to Receiver's Response to same; communications with SEC in connection with same.

In rendering the services in Category S, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$5,040.00, and \$11.70 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	2.90	500.00	1,450.00
Catherine N. Eisenhut	15.70	220.00	3,454.00
Karen Kawczynski (P)	0.80	170.00	136.00

T. W.J. Brown, as Receiver of McGinn Smith & Co., Inc. vs. Thomas E. Livingston

No services were charged to or rendered by Phillips Lytle in Category T during the Thirteenth Interim Period.

U. Sale of McGinn Niskayuna Property

No services were charged to or rendered by Phillips Lytle in Category U during the Thirteenth Interim Period.

V. Sale of Smith Vero Beach Property

No services were charged to or rendered by Phillips Lytle in Category V during the Thirteenth Interim Period.

W. David L. & Lynn A. Smith Irrevocable Trust

No services were charged to or rendered by Phillips Lytle in Category W during the Thirteenth Interim Period.

X. USA vs. McGinn, Smith & Co. Inc.

No services were charged to or rendered by Phillips Lytle in Category X during the Thirteenth Interim Period.

Y. William J. Brown, as Receiver for Third Albany Income Notes, LLC vs. David Kennedy and Stephen I. Willis

No services were charged to or rendered by Phillips Lytle in Category Y during the Thirteenth Interim Period.

REIMBURSEMENT OF EXPENSES

24. Photocopies made by Phillips Lytle are billed by Phillips Lytle at \$.10 per page, which is based upon Phillips Lytle's costs. Telefax charges are \$1.00 per page for outgoing documents, with no charge for incoming documents. Long distance telephone charges and overnight courier charges are billed at cost. Overnight courier charges are incurred only when necessary as determined by either the Receiver or Phillips Lytle. In addition, there are the usual disbursements of such items as long distance telephone charges, duplicating charges, and UPS charges for checks received and sent to Receivership businesses.

25. Phillips Lytle incurred out-of-pocket expenses for secretarial overtime in connection with this case. These amounts have been written off and no claim for reimbursement of such expenses is being sought herein.

PARTICULAR EXPENDITURES

26. During the Thirteenth Interim Period, there were no substantial charges to report.

CONCLUSION

27. All of the services for which Phillips Lytle now seeks compensation were performed on behalf of the Receiver. No services were performed by Phillips Lytle in any capacity other than as counsel to the Receiver.

28. Phillips Lytle has provided the SEC with copies of Phillips Lytle's and the Receiver's billing statements attached as **Exhibit B**. Following its pre-filing review of this Fee Application, the SEC has notified Phillips Lytle and the Receiver the SEC has no objection to the amounts sought by Phillips Lytle or the Receiver pursuant to this Fee Application.

29. As the record in this action clearly indicates, Phillips Lytle has worked persistently and efficiently during the Thirteenth Interim Period to handle various issues for the Receiver, the resolution of which will, to varying degrees, enhance the fair and equitable

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Doc #4478824.1

Exhibit A

UNITED STATES DISTRICT COURT
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LAUREN T. SMITH, and NANCY McGINN, :

Defendants, :

LYNN A. SMITH and :
NANCY McGINN, :

Relief Defendants. and :

GEOFFREY R. SMITH, Trustee of the :
David L. and Lynn A. Smith Irrevocable :
Trust U/A 8/04/04, :

Intervenor. :

-----X

**DECLARATION OF WILLIAM J. BROWN IN SUPPORT OF THIRTEENTH INTERIM
APPLICATION OF PHILLIPS LYTLE LLP AND THE RECEIVER FOR ALLOWANCE
OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Pursuant to 28 U.S.C. §1746, William J. Brown declares, under penalty of perjury,

as follows:

1. I am a partner with the law firm of Phillips Lytle LLP (“Phillips Lytle”) and am also the Receiver (“Receiver”) appointed in this action for certain of the Defendants and other entities.

2. I make this declaration in support of the Thirteenth Interim Application of Phillips Lytle and of the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Application”) in connection with Phillips Lytle’s representation of the Receiver in this Case and the Receiver’s services.

3. I have reviewed the Application and, to the best of my knowledge, information and belief, the facts set forth therein are true and correct.

4. The billing rates being charged by Phillips Lytle in connection with the Application are those which were customarily charged by Phillips Lytle during the time periods in question and are comparable to those charged by other firms of comparable size and experience in this geographic area for the prosecution of matters similar to this action. Pursuant to prior agreement, in my capacity as Receiver, I agreed to charge an hourly rate of \$225 rather than my 2019 hourly rate of \$500.

5. The compensation and reimbursement of expenses (“Interim Compensation”) for which allowance is sought by Phillips Lytle and the Receiver is reasonable and is sought for actual and necessary services rendered by Phillips Lytle and the Receiver, together with actual and necessary expenses advanced by Phillips Lytle, on behalf of the Receivership entities.

6. The Interim Compensation sought by Phillips Lytle and the Receiver is based upon the nature, the extent and the value of the services rendered. These matters are detailed more particularly in the time itemizations attached to the Application as Exhibit B.

7. Phillips Lytle and the Receiver believe they are entitled to Interim Compensation based on the considerable expenditures of Phillips Lytle and Receiver resources incurred since the onset of this action.

8. Phillips Lytle and the Receiver have no agreement directly or indirectly and no understanding exists with any other person or entity for the sharing of compensation to be received for legal or other services rendered in this action, except as such compensation may be shared by and among the attorneys of Phillips Lytle.

Phillips Lytle and the Receiver respectfully request that this Court authorize the allowance of the Interim Compensation sought pursuant to the Application.

Dated: November 13, 2019

/s/ William J. Brown

William J. Brown

Doc #01-3634196.1

Exhibit B

CATEGORY B

CLAIMS ADMINISTRATION AND OBJECTIONS



Phillips Lytle LLP

Attorneys at Law
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 FED I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993646
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00001
 W J Brown

Re: CLAIMS ADMINISTRATION & OBJECTIONS

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/02/19	WJB	Telephone call from D Stoelting re broker case and applicable case law as a result of Section 17 settlement, discussion of same and background to SEC decision	0.4
01/02/19	CNE	Work on draft supplement to broker claims motion	1.2
01/08/19	CNE	Review and dispose of claims 4247-4249	0.2
01/16/19	WJB	Review R MacFarlan e-mail on why distribution delay given pending motions, prepare reply with explanation and revise same	0.2
01/16/19	WJB	Continue work on supplemental pleading re broker claim objection motion	0.8
01/22/19	WJB	Brokers: Review letters sent to W Munno, Esq., counsel for A Guzzetti and to T Livingston re broker payments	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/22/19	WJB	Review claim file of K Haldeman following phone call and perform research re alleged non-receipt of checks and confirmation that checks went to and were negotiated by IRA trustee; Telephone message K Haldeman re same	0.3
01/22/19	WJB	Telephone call from K Haldeman re distribution of first distribution checks to IRA Services	0.2
01/23/19	WJB	Review message re K Glasgow claim and telephone conference with L Sullivan re Piaker, Letters Testamentary and calculation of collateral recovery and prepare Memo to File re same	0.3
01/23/19	WJB	Brokers: Prepare further revisions to supplement to Third Motion objecting to broker claims	0.9
01/24/19	WJB	Review revised broker supplement pleading	0.1
01/24/19	WJB	Review e-mail from R Bove re Piaker final Order and prepare reply re actual facts and website announcements relevant to his question	0.3
01/29/19	WJB	Brokers: Review revised version of broker Supplement to objection to broker claims, finalize same and prepare for filing	1.1
01/29/19	WJB	Telephone call from J Zepp re taxes paid on NFS settlement, review same and prepare letter to J Zepp re return of principal	0.4
01/29/19	CNE	Review draft supplement to objection to broker claims; Prepare draft supplement for filing	0.7
02/01/19	K-K	Docket deadline to reply to supplement to Broker motion	0.2
02/01/19	CNE	Review and dispose of claims 4316, 4317-4319, 4547-4552, 4553, 4650, 5218-5225, 5733-5736, 5950-5953, 6232, 6444-6446, 6524-6527, 6537, 6701, 6756-6757, 4325-4337, 4324, 4490, 4559 - 4554, 6609, 6036-38	2.2
02/05/19	WJB	Brokers: Review exhibit to broker's supplemental objection	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/05/19	WJB	Review and deal with investor questions on distributions and follow-up and review letter from Kang Law Firm re dismissal of Piaker & Lyons lawsuit and distributions to investors	0.2
02/05/19	WJB	Review Forty-Third Payment Schedule for Piaker plaintiffs and reconcile same and review Forty-Fourth Payment Schedule for Piaker plaintiffs for collateral recoveries and conference with CNE re remaining claims folders	0.5
02/05/19	CNE	Review and dispose of claims 5028-5037, 5038-5040, 5041, 5723-5728, 5729-5732, 5882, 5876-5881	1.0
02/06/19	WJB	Piaker: Conference CNE re treatment of Piaker claims and verifying potential non-disclosure of collateral recoveries by certain investors	0.1
02/06/19	WJB	Review status of A/R Rogers claims	0.1
02/06/19	CNE	Work on letters to investors regarding missing information on investor questionnaires; Confer with WJB regarding missing information on investor questionnaires	0.5
02/07/19	WJB	Brokers: Telephone call to D Stocking of SEC regarding scope of SEC Memorandum of Law regarding broker claim objections	0.1
02/07/19	CNE	Review and revise draft letters to investors regarding missing information	0.2
02/08/19	WJB	Review and examine allowed claims on Payment Schedules Forty-Third and Forty-Fourth, discuss with CNE and work on potential missing investors and clarify same	0.0
02/08/19	WJB	Piaker & Lyons: Perform follow-up review of R Harnish letter and existence of B Bertoglio on Payment Schedule Forty-Third and reasons for same	0.3
02/08/19	WJB	Piaker & Lyons: Review and verify amounts for Piaker & Lyons distributions	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/08/19	WJB	Review final versions of investor Payment Schedules Forty-Third and Forty-Fourth containing substantially all Piaker & Lyons investors and prepare Receiver website announcement re same	0.4
02/08/19	CNE	Work on correspondence to investors regarding missing information	0.2
02/11/19	WJB	Brokers: Telephone conference with D Stoelting at SEC re investor losses and evidence of broker negligence in connection with continuing practices at McGinn Smith in connection with claims objection	0.2
02/11/19	CNE	Review notes on investor files to respond to SEC question on broker claims motion	0.4
02/12/19	WJB	Continue review of Gufstafson claim and issues with same	0.2
02/13/19	WJB	Brokers: Preliminary review of SEC filing regarding evidence against brokers, post same and forward to B Shea	0.4
02/13/19	WJB	Review e-mail from D Stoelting of SEC regarding S Rabinovich claim inquiry and prepare reply regarding status and reasons	0.2
02/14/19	WJB	Gufstafson: Review California probate code section 13100 and voicemail from C Gufstafson; Prepare letter to C Gufstafson regarding treatment of claim in light of lack of probate of estate	0.5
02/15/19	WJB	Telephone message from C Gufstafson regarding follow-up on claims and direction to staff regarding handling of follow-up call in light of February 14 letter	0.1
02/15/19	CNE	Review draft correspondence for investors	0.1
02/19/19	WJB	Two telephone calls from C Dott regarding small estate practice to obtain letters testamentary in order to process claim and steps for same	0.4

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/20/19	WJB	Pine Street: Review data from B Shea on transfers of investors from worthless investments to Pine Street investments	0.1
02/20/19	WJB	Pine Street: Review list of preferred investors and e-mail B Shea regarding same concerning claims objections	0.3
02/26/19	WJB	Review A Rogers returned material and prepare letter regarding necessary to receive Silver Law Firm statements	0.2
02/26/19	WJB	Review Msgr. Wargo St. Joseph the Worker Church claims and letter and reply regarding payments already sent	0.2
02/26/19	WJB	Review R Hamish returned no collateral recovery statement and approval to process claims	0.1
03/01/19	CNE	Review claim nos 4154-4154	0.1
03/05/19	WJB	Review letter from A Rogers re Silver Law Firm information and forward for processing	0.1
03/05/19	WJB	Brokers: Review letter from P Rabinovich to Court regarding broker claim objection and recognition that P Rabinovich does not oppose motion; Prepare e-mail SEC regarding same and course of action and prepare draft letter to Court	0.5
03/05/19	WJB	Review further Gustafson claim file based upon further letter and close examination of Trust Agreement	0.4
03/05/19	WJB	Review Death Certificate and Letters Testamentary for J Aslanian, approve same and prepare letter to Administrator	0.2
03/06/19	WJB	Gustafson: Prepare Declaration for co-Trustees and revise same, prepare cover letter regarding same following further analysis and decision on claim allowance	0.5
03/06/19	WJB	Brokers: Revise letter to Judge Hummel regarding P Rabinovich 2/26 letter regarding withdrawal of any objection and cross-check docket regarding same	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/06/19	WJB	Review and file final version of letter to Judge Hummel regarding P Rabinovich	0.1
03/06/19	WJB	Brokers: Review broker claim order	0.2
03/06/19	WJB	Conference CNE regarding Kogan, Rabinovich and Pine Street claim objections	0.1
03/06/19	WJB	Review Court Order on third, fourth and fifth Motions objecting to claims	0.1
03/06/19	CNE	Review and dispose of claims 4151-4154; Review claim objection orders entered by district court	0.4
03/07/19	CNE	Review orders entered by District Court with respect to third, fourth and fifth claims motions; Email D Stoelting and WJB regarding same	0.6
03/08/19	CNE	Review claim no. 6246	0.2
03/12/19	CNE	Call with B Shea regarding Pine Street investors; Review past email correspondence regarding Pine Street investors	1.0
03/13/19	CNE	Review B Shea materials and investor files regarding Pine Street investors	0.7
03/15/19	CNE	Review claims file and consider bases for objection to certain investor claims	0.7
03/18/19	WJB	Review Death Certificate for K Glasgow and return same	0.1
03/18/19	CNE	Review and dispose of claims 4149 and 5079	0.1
03/19/19	CNE	Email B Shea regarding rate of return on Pine Street investments; Confer with WJB regarding Pine Street investor claim objection; Review B Shea analysis regarding amounts exchanged for Pine Street investments; Review materials in preparation for 3-investor claim objection	1.7

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/20/19	WJB	Review and approve forty-Fifth and Forty-Sixth Payment Schedules including review of R Harnish claim file in connection therewith	0.1
03/20/19	WJB	Pine Street: Prepare e-mail T Wells regarding amount of return to McGinn Smith investor for Pine Street investments in connection with claim objection	0.1
03/21/19	WJB	Pine Street: Prepare follow-up e-mail on internal rate of return to T Wells at Pine Street as foundation to claims objection	0.1
03/21/19	CNE	Call with B Shea regarding pine street investors	0.1
03/26/19	WJB	Telephone call from attorney at Eckert Siemens on behalf of Allegrettas to discuss resolution of SAI claim, FINRA judgment, collateral recovery rules and potential resolution and course of action	0.2
03/26/19	WJB	Prepare for call with counsel for W Ferrero, prepare e-mail to counsel regarding status of conference call; Telephone call from W Charamut, Esq. regarding discussion and potential resolution of Ferrero claim regarding Pine Street activities	0.5
03/26/19	WJB	Telephone call from D Cucharale, Esq. of McNamee Lochner regarding M McGinn and A McGinn (deceased husband) claims, necessary information, reasons for same and prepare memo to file	0.4
03/26/19	CNE	Review and dispose of claims 6246, 6241-6245, 6250-6251	0.4
03/27/19	WJB	Prepare memo to file regarding W Ferrero claims and conference call with W Charamut as counsel for W Ferrero	0.1
03/27/19	CNE	Review records, spreadsheets regarding Pine Street investors for claim objection for preferred investor treatment; Review file and evidence regarding potential claim objection for preferred investor redemption	3.2
04/02/19	WJB	W Ferrero: Telephone call to T Wells regarding Pine Street distributions to W Ferrero	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/02/19	WJB	Conference with CNE regarding Kogan, Levi and Rabinovich transaction following closure of McGinn Smith as broker dealer and form of relief to seek regarding claims	0.2
04/02/19	CNE	Call with B Shea regarding investor spreadsheets prepared by UHY and redemption questions; Confer with WJB regarding argument for certain pending claims objections; Review investor files and materials in connection with pending claims objections	1.4
04/03/19	CNE	Work on draft motion object to preferred investor claims	1.0
04/04/19	CNE	Work on draft memorandum of law for objection to claims of preferred investors	2.6
04/05/19	CNE	Work on draft brief for preferred investor claim objection	2.6
04/08/19	CNE	Work on draft memorandum of law for preferred investor claim objection	1.7
04/09/19	WJB	Pine Street: Research final distributions to investors and e-mail CNE, discuss motion and calculations for offsets with CNE for preferred Pine Street investors	0.5
04/09/19	CNE	Confer with WJB regarding open questions regarding preferred investors; Work on draft claim objections for preferred investors	3.2
04/10/19	WJB	Conference CNE regarding L Levy analysis regarding potential collateral recovery	0.1
04/10/19	WJB	Consider whether claim objections should be brought in connection with L Levy payment and voicemail to Kogan's regarding same	0.3
04/10/19	CNE	Work on claims objections for certain preferred investors	3.3
04/11/19	CNE	Work on draft claim objections for preferred investors	2.7

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/12/19	WJB	Telephone call from Mrs. Kogan regarding status of claims objection and advice regarding under review in connection with L Levy objection	0.1
04/12/19	WJB	Pine Street: Research background of Pine Street investor conversions and send Order dismissing Pine Street from Receivership to D Stocltng of SEC at his request	0.4
04/12/19	WJB	Telephone conference with D Stocltng, CNE regarding facts regarding Pine Street and 401K	0.3
04/12/19	CNE	Work on draft objections and supporting documents to preferred investor claims	3.2
04/15/19	CNE	Work on draft claim objection for preferred investor	2.2
04/16/19	CNE	Review materials and distribution records provided by Fund managers for preferred investor claim objection	1.4
04/17/19	CNE	Call with Fund manager regarding records dating to 2007; Review Fund records	1.2
04/18/19	WJB	Review Sixth Claims Objection Motion regarding L Levy and consider disclosure issues	0.1
04/18/19	CNE	Review materials sent by Fund manager for preferred investor claim objection; Call with Fund manager regarding open questions on provided materials and Fund structure; Consider documentation needed for preferred investor claim objection	1.4
04/23/19	WJB	L Levy: Review publicly filed letters and Albany Times newspaper articles quoting L Levy in order to make decision on public disclosure of name, incorporate into Receiver Declaration	0.7
04/23/19	WJB	Pine Street: Conference CNE regarding select investor questions on exchanges including Thrasher exchange for preparation of claim objection	0.5
04/23/19	WJB	L Levy: Revise Receiver Declaration and other pleadings for claim objection	0.4

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/23/19	CNE	Work on draft Preferred Investor claim objection for Fund investors; Review materials sent by Fund in connection with drafting claim objection; Confer with WJB regarding status of claim objection and analysis of records; Email Fund manager regarding open questions on Fund investments	3.6
04/24/19	WJB	Continue revisions to Memo of Law and Declaration for L Levy claim objection	0.5
04/24/19	CNE	Revise L Levy claim objection memorandum of law per WJB comments; Conform supporting documents for L Levy claim objection to WJB comments; Work on draft claim objection for preferred Fund investors; Revise supporting exhibits for claim objection for preferred Fund investors	6.1
04/25/19	WJB	Review final version of L Levy claim objection, make final revisions and forward to CNE for assembly and filing, review revised Declaration and execute same	0.9
04/25/19	CNE	Prepare exhibits and supporting pleadings for L Levy claim objection; Revise L Levy claim objection memorandum of law and supporting declaration per WJB comments; Finalize L Levy claim objection pleadings and exhibits for filing; Review claim files and prepare exhibits and tables for preferred investor claim objection; Work on draft preferred investor memorandum of law and supporting declaration; Draft supporting pleadings for preferred investor claim objection	6.9
04/26/19	CNE	Work on draft objection to preferred fund investor claims and supporting pleadings	1.1
04/29/19	CNE	Further revise draft memorandum of law and supporting declaration for claim objection for fund investors; Compile exhibits for draft claim objection for fund investors	0.9
04/30/19	WJB	Pine Street: Conference CNE regarding final version of motion and K Meier treatment	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
05/08/19	WJB	Pine Street: Review and prepare comments to Memo of Law for objection against preferred Pine Street objections	0.4
05/08/19	WJB	Review claim of K Meier regarding analysis of One City Center claim, analysis and course of action in connection with Pine Street objection of preferred investors	0.3
05/14/19	WJB	Allegretta: Prepare reply e-mail S Kramer regarding availability for call to discuss Allegretta and JAT claims	0.1
05/15/19	WJB	Prepare reply letter to State Supreme Court regarding Allegretta and JAT claims and application of stay as requested by Hon. Kimberly O'Connor	0.2
05/21/19	WJB	Allegretta: Respond to e-mail from counsel for Allegretta's regarding conference call setup and consider treatment of claim	0.1
05/21/19	WJB	Allegretta: Telephone call from S Kramer, C Graham and R Wang regarding collateral recovery efforts and possible resolution of claims, settlement discussions and course of action	0.3
05/21/19	WJB	Allegretta: Prepare notes on call with counsel regarding settlement efforts and prepare memo to file regarding same following review of claim file and initial thoughts	0.3
05/21/19	WJB	Weinar: Revise letter to L O'Brien, Esq. regarding M Weinar collateral recovery and distribution	0.1
05/22/19	WJB	Pine Street Preferred Investors: Review Seventh Claims Objection as to Pine Street Preferred Investors, review dismissal order for Pine Street, evaluate carried interest and revise Memorandum of Law incorporating considerations regarding same and review revised version	1.7
05/22/19	WJB	Pine Street: Conference CNE regarding basis for inclusion or exclusion of certain investors and review same	0.4
05/22/19	WJB	Pine Street: Review and sign for filing Receiver Declaration	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
05/22/19	CNE	Revise memorandum of law in support of objection to Fund investors claims per WJB comments; Revise draft declaration, motion, and ancillary documents in support of objection to Fund investors claims to conform with memorandum of law; Finalize memorandum of law, motion, declaration and ancillary documents and prepare for filing	3.3
05/23/19	CNE	Draft certificate of service and prepare docket notice scheduling response and reply deadlines for seventh claims objection for service to notice parties	0.7
05/29/19	WJB	Allegretta: Review e-mail from S Kramer, Esq. on behalf of Allegretta's and JAT Construction regarding settlement terms for payment of claim	0.1
05/29/19	WJB	Allegretta: Continue review of Allegretta settlement proposal, review arbitration award and judgment and analyze same	0.3
05/29/19	WJB	Allegretta: Prepare e-mail reply to S Kramer, Esq. on settlement terms for Allegretta's	0.5
06/03/19	CNE	Begin drafting letter agreement for settlement with certain investor claimants	1.1
06/04/19	WJB	Prepare memo to file regarding Kogan claim including review of SEC transcript regarding relationships between Kogans and brokers	0.1
06/04/19	CNE	Draft letter agreement for settlement with certain investor claimants; Draft letter to investor regarding status of claims; Draft letter to preferred investor regarding oversight in service of pleading	2.5

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
06/05/19	CNE	Revise draft letter to preferred investor regarding oversight in service of pleading; Finalize draft letter to preferred investor regarding service and coordinate filing of supplemental certificate of service on court docket; Draft letter agreement for settlement with certain investor claimants; Review judgment obtained by investor claimants seeking distributions; Review claims file of investor claimants seeking distributions	3.9
06/11/19	WJB	Review M/M Kogan paper claim and prepare letter to M/M Kogan regarding allowance of claim	0.3
06/11/19	CNE	Review investor claim file and confer with WJB regarding allowance of investor claim	0.2
06/12/19	WJB	Prepare revisions to Allegretta claim settlement letter	0.5
06/13/19	WJB	Review inquiry from Allegretta attorney regarding status of claim resolution letter agreement and prepare reply	0.1
06/13/19	CNE	Review and dispose of claims 5464, 5465, 5468	0.2
06/19/19	WJB	Allegretta: Work on revised revision of settlement letter regarding claims and prepare e-mail S Kramer regarding same	0.8
06/19/19	WJB	Gustafson: Review claim file and note absence of W-9s and prepare letter to K Taddio, C Gustafson and S Gustafson providing W-9s and requesting signing pending allowance of two claims conditioned upon receipt of forms	0.3
06/19/19	WJB	Review and approve Forty-Seventh Payment Schedule of First Investor Distributions	0.4
06/24/19	CNE	Review comments to Allegretta letter agreement	0.2
06/25/19	WJB	Review proposed revisions to Allegretta claim settlement letter	0.1
06/25/19	CNE	Confer with WJB regarding comments to letter agreement allowing certain investor claims	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
06/26/19	WJB	Allegretta: Review revised claim settlement letter including review of judgment and execute settlement letter	0.3
06/26/19	WJB	Allegretta: Review recently received Albany Law School letter to Judge O'Connor regarding withdrawal of Albany Law School	0.1
06/26/19	CNE	Revisc letter agreement regarding allowance of certain investor claims per comments received by counsel	0.5
CURRENT FEES			\$30,206.00

FOR COSTS ADVANCED AND EXPENSES INCURRED:

Duplicating A1, 7 Page(s)	0.70
Postage WJB - Postage to Various (9 pieces) - Re: Claims	18.45
Postage WJB - Postage to Various (13 pieces) - Re: Claims	24.70
CURRENT EXPENSES	43.85

TOTAL AMOUNT OF THIS INVOICE	\$30,249.85
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PAYMENT DUE UPON RECEIPT

CATEGORY C

ASSET DISPOSITION



Phillips Lytle LLP

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 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993647
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00002
 W J Brown

Re: ASSET DISPOSITION

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/09/19	WJB	Review e-mail from bank counsel re status and prepare reply; Prepare e-mail M King as realtor re Mr. White and action steps	0.2
01/17/19	WJB	Saratoga Residence: Review e-mail from M King re intent to do revised broker analysis of properties and listing agreement	0.1
04/02/19	WJB	Saratoga Residence: Review e-mail from M King on extension of brokerage agreement and prepare reply regarding need for discussion regarding request for same	0.1
04/03/19	WJB	Saratoga Residence: Review comparable house sale analysis prepared by real estate broker, review history of open houses in preparation for call with realtor	0.3
04/03/19	WJB	Saratoga Residence: Telephone conference M King, realtor, regarding comparable analysis, sale price reduction, amount of same, timing of same and general market conditions	0.4

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/03/19	WJB	Saratoga Residence: Prepare e-mail M King regarding termination of listing and reply regarding Receiver intentions concerning short-term but not long-term extension	0.1
04/05/19	WJB	Saratoga Residence: Consider course of action regarding real property listing extension, review Order regarding sale and prepare extension e-mail for one month to May 10 to broker and G Smith	0.3
04/05/19	WJB	Saratoga Residence: Edit and sign real property listing extension and forward to broker at her request	0.1
04/09/19	WJB	Saratoga Residence: Work on calculations for new pricing of house and telephone call to G Smith regarding same	0.4
04/09/19	WJB	Saratoga Residence: Prepare e-mail M Kornstein regarding Smith house sale efforts	0.2
04/10/19	WJB	Saratoga Residence: Revise e-mail and status report to M Kornstein	0.3
04/10/19	WJB	Saratoga Residence: Review D Stoelling reply e-mail	0.1
04/16/19	WJB	Saratoga Residence: Prepare e-mail M King for listing price and terms adjustment	0.1
04/17/19	WJB	Saratoga Residence: Review two e-mails from M King with information on pricing and listing and comparable homes	0.2
04/17/19	WJB	Saratoga Residence: Review e-mail to G Smith on effort to adjust pricing	0.1
04/17/19	WJB	Saratoga Residence: Review broker materials sent to G Smith and forwarded by him to Receiver for consideration of efforts by broker regarding showings, contacts and listing price	0.4
04/24/19	WJB	Saratoga Residence: Prepare for 3pm call from G Smith and review G Smith e-mail regarding call and adjournment of same	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/24/19	WJB	Saratoga Residence: Review e-mail from G Smith postponing conference call and rescheduling and prepare reply regarding same	0.1
04/29/19	WJB	Saratoga Residence: Prepare reply e-mail to M Kornstein regarding status and upcoming conversation with G Smith regarding potential price reduction	0.1
04/30/19	WJB	Saratoga Residence: Telephone call to G Smith regarding price reduction and agreement on same, next steps	0.3
05/07/19	WJB	Saratoga Residence: Review listing extension documents, review and sign same electronically and forward to real estate broker and G Smith regarding July 10, 2019 approval	0.2
05/07/19	WJB	Saratoga Residence: Prepare status e-mail on sale to M Kornstein regarding price reduction and listing extension	0.1
05/14/19	WJB	Saratoga Residence: Review broker's report on open house and plans for further sale efforts; Review G Smith e-mail on conference call timing and reply to same	0.1

CURRENT FEES \$2,250.00

TOTAL AMOUNT OF THIS INVOICE \$2,250.00

PAYMENT DUE UPON RECEIPT

CATEGORY E

CASE ADMINISTRATION



Phillips Lytle LLP

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 FED I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993648
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00004
 W J Brown

Re: CASE ADMINISTRATION

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/09/19	WJB	Prepare e-mail B Shea re broker payments and account to make deposits	0.1
01/11/19	WJB	Prepare letter G Abramson confirming receipt of W Lex payment in satisfaction of amount due under SEC decision and attend to deposit of same	0.3
01/17/19	WJB	Review published reports including Law 360 on settlement by SEC with former McGinn Smith brokers and consider implications re claims objection	0.1
01/23/19	WJB	Brokers: Review letter and \$8,836.83 check from F Chiappone as installment payment and check Order on installment payments and prepare confirming letter to F Chiappone re receipt	0.3
01/29/19	WJB	Review Piaker action docket at Second Circuit re any petitions for certiorari having been filed	0.2

33474 Brown, William J. as Receiver of McGinn,
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00004 Case Administration
November 14, 2019

Invoice Number 993648

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/01/19	WJB	Prepare investor update for website re review and allowance of Piaker & Lyons investor claims based upon there being no petition for certiorari filed	0.2
02/09/19	WJB	Prepare e-mail SEC re payment of Piaker & Lyons payments to investors given no appeal to Supreme Court and aggregate sum of all investor distributions to date	0.2
02/14/19	WJB	Review distribution checks received from B Shea, prepare acknowledgment e-mail for receipt of checks 2694-2738, review accuracy of same, sign and distribute to investors	0.9
02/14/19	WJB	Review and sign Piaker distribution letters to investors	0.1
02/15/19	WJB	Plan: Review and deal with question on collateral recovery issues surrounding Mayberry claims, revisions and necessary follow-up steps	0.1
03/06/19	WJB	Plan: Review list of uncashed checks from B Shea and prepare reply e-mail regarding same	0.1
03/07/19	K-K	Docket deadline to respond to D. Smith motion	0.2
03/26/19	WJB	Plan: Prepare e-mail B Shea regarding acknowledging receipt of distribution checks 2739-2748, review, sign and distribute checks to investors	0.3
03/27/19	WJB	Review, approve, sign and transmit to SEC SFAR for periods of 7/1/18-9/30/18 and 10/1/18-12/31/18	0.7
04/26/19	K-K	Docket hearing date on L. Levy's claim objection	0.2
05/21/19	K-K	Docket expiration date of NYS Insurance Fund insurance policy	0.2

33474 Brown, William J. as Receiver of McGinn,
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00004 Case Administration
November 14, 2019

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05/23/19	K-K	Docket hearing date on motion to disallow preferred investor paper claims	0.2
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CURRENT FEES	\$1,936.00
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FOR COSTS ADVANCED AND EXPENSES INCURRED:

Professional Services VENDOR: HSBC CC IT Dept/4231; INVOICE#: 4231/022719; DATE: 2/27/2019	134.98
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CURRENT EXPENSES	<u>134.98</u>
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TOTAL AMOUNT OF THIS INVOICE	\$2,070.98
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PAYMENT DUE UPON RECEIPT

CATEGORY F

EMPLOYEE BENEFITS/PENSIONS



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
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 FED I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993649
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00005
 W J Brown

Re: EMPLOYEE BENEFITS / PENSIONS

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/17/19	WJB	Review D Smith 401K reply letter re Required Minimum Distribution and forward to SEC	0.1
03/05/19	WJB	Review and sign authorization form 5500 and forward to IRA Services with e-mail to B Shea regarding same	0.1

CURRENT FEES \$100.00

TOTAL AMOUNT OF THIS INVOICE \$100.00

PAYMENT DUE UPON RECEIPT

CATEGORY P

TAX ISSUES



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
 (716) 847-8400
 FED. I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993650
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00015
 W J Brown

Re: TAX ISSUES

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/10/19	WJB	Discuss with staff incorporating social security numbers into report for tax entity for preparation of 2008 tax return	0.1
01/15/19	WJB	Review IRS and NYS filing extensions received from Chianpou Travis for Fortress Trust 08 and locate prior tax return history	0.1
02/05/19	WJB	Review, sign and return to Chianpou Travis 17 different NYS Form IT-204 and 17 Form TR-579 for electronic filing for filing fee payment for 17 McGinn Smith LLC entities for 2018	1.2
02/14/19	WJB	Review Fortress Trust 08 K-1's and approve for distribution	0.1
02/14/19	WJB	Review B Shea reply regarding Fortress Trust K-1's	0.1
02/15/19	WJB	Deal with Fortress Trust K-1 cover letter and other issues regarding mailing of K-1's to investors	0.2

33474 Brown, William J. as Receiver of McGinn,
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00015 Tax Issues
November 14, 2019

Invoice Number 993650

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/18/19	WJB	Review R Lankes e-mail from Chiampou regarding Seton Hall investor tax issues regarding out-of-state residents, withholding possibilities and consider ramifications; Prepare e-mail KEM regarding tax assistance regarding same	0.5
02/18/19	WJB	Seton Hall: Prepare follow-up e-mails on tax advice concerning withholding issues and non-residence	0.1
02/18/19	KEM	Research in connection with NYS non-resident estimated tax payments and receiver issues, review emails re same	0.9
02/18/19	K-C	Conference with KEM re: situations that constitute "reasonable cause" which exempts tax penalty under New York State law	0.2
02/19/19	WJB	Prepare e-mail B Shea regarding prior delivery of non-resident tax forms as possibility and request for search regarding same	0.1
02/19/19	WJB	Participate in conference call with Chiampou Travis tax accountant and B Shea regarding final Seton Hall tax return and issues regarding non-resident partners, requirement for form and consequences of same regarding unpaid taxes	0.6
02/19/19	WJB	Conference KEM regarding following-up on cancellation of indebtedness income resulting from Seton Hall and course of action regarding non-resident partners	0.2
02/19/19	WJB	Prepare e-mail B Shea regarding non-resident partners for Seton Hall and Chiampou Travis research	0.1
02/19/19	KEM	Teleconference with WJB re receiver/estimated tax issues	0.3
02/19/19	K-C	Conference with KEM re: situations that constitute "reasonable cause" which exempts tax penalty under New York State law	3.8
02/20/19	WJB	Prepare e-mail Chiampou Travis regarding NYS tax form for all entities and questions on disclosure regarding out of state residents and consider same	0.3

33474 Brown, William J. as Receiver of McGinn,
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/20/19	WJB	Review, approve and sign NYS and IRS 2018 tax returns for Mr. Cranberry with corrected information	0.4
02/20/19	WJB	Review, approve, sign and file 2018 NYS and IRS TDM Verifier Trust 09 returns	0.3
02/20/19	WJB	Review, approve, sign and file 2018 Fortress Trust 08 IRS and NYS tax returns	0.3
02/20/19	WJB	Seton Hall: Work on letter to partners for distribution of non-resident form for B Shea	0.1
02/20/19	WJB	Seton Hall: Work on revised tax letter to out-of-state investors and prepare e-mail B Shea, KEM regarding same	0.3
02/20/19	WJB	Conference with KEM regarding comments to Seton Hall letter and discuss same	0.2
02/20/19	KEM	Conference with WJB re nonresident estimated taxes, review letter re same	0.2
02/20/19	K-C	Research situations that constitute "reasonable cause" which exempts tax penalty under New York State law; Research tax issues related to theft losses from Ponzi schemes	1.4
02/21/19	KEM	Research in connection with receiver/estimated tax options	0.6
02/21/19	K-C	Continue researching situations that constitute "reasonable cause" which exempts tax penalty under New York State law; Continue researching tax issues related to theft losses from Ponzi schemes	1.5
02/23/19	KEM	Research in connection with estimated tax/receivorship issues	1.7
02/24/19	WJB	Prepare e-mail B Shea regarding status of review of extent to which limited partners need to sign NYS tax form and review reply regarding status of investigation and likely partners subject to same	0.1

33474 Brown, William J. as Receiver of McGinn,
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November 14, 2019

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/25/19	WJB	Seton Hall: Conference with KEM regarding partnership liability research for non-resident partners, evaluate tax liabilities and courses of action	0.4
02/25/19	WJB	Prepare e-mail Chiampou Travis regarding pending matters	0.2
02/25/19	WJB	Review, approve and sign TDMM Cable Jr. Trust 09 2018 IRS and NYS tax returns and prepare e-mail and letter to Chiampou regarding modified signatures	0.4
02/25/19	WJB	Review, approve and sign TDMM Cable Sr. Trust 09 2018 IRS and NYS tax returns and prepare e-mail and letter to Chiampou regarding modified signatures	0.4
02/26/19	WJB	Revise letter to R Lankes of Chiampou regarding correct titles to be used in tax returns	0.1
02/26/19	WJB	Revise letter R Lankes at Chiampou regarding errors in tax return information	0.2
02/26/19	WJB	Review NYS Department of Taxation and Finance inquiry regarding GPV Associates	0.2
02/26/19	WJB	Review Chiampou Travis e-mail on partnership cancellation of indebtedness income and prepare e-mail to Chiampou regarding T McGinn being resident of New York	0.4
02/26/19	KEM	Conference with WJB re domicile issues for imprisoned owners	0.1
02/26/19	K-C	Continue researching situations that constitute "reasonable cause" that exempts tax penalty under New York State law; Continue researching tax issues related to theft losses from Ponzi schemes	1.5
03/03/19	KEM	Review email re COD income and estimated tax payments	0.2
03/04/19	K-C	Continue researching (i) situations that constitute "reasonable cause" under Section 658 of New York tax law, and (ii) tax issues related to theft losses from Ponzi schemes	2.5

33474 Brown, William J. as Receiver of McGinn,
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November 14, 2019

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/05/19	WJB	Review e-mail from B Shea with one more Scton non-resident form and request for follow-up; Prepare e-mail staff regarding same	0.1
03/05/19	WJB	Review R Lankes summary status e-mail regarding several tax returns and prepare reply as to each one regarding March 15 filing deadline, extensions and arrangements regarding same	0.4
03/05/19	WJB	Review 2018 IRS and NYS MSFC Security Holdings LLC tax returns and e-file authorizations and approve same	0.3
03/05/19	WJB	Review, sign and approve 2018 TDM Verifier Trust 07R IRS and NYS income tax returns and e-file authorizations	0.3
03/05/19	WJB	Review, sign and approve 2018 McGinn Smith Capital Holdings Corp. IRS and NYS income tax returns and e-file authorizations	0.3
03/05/19	WJB	Prepare e-mail R Lankes regarding receipt of courier packages for three tax returns and coordination on processing of same	0.3
03/05/19	WJB	Review, sign and approve 2018 TDMM Cable IRS and NYS income tax returns and e-file authorizations	0.3
03/05/19	WJB	Review, sign and approve 2018 M&S Partners IRS and NYS income tax returns and e-file authorizations	0.3
03/05/19	WJB	Review, sign and approve 2018 McGinn Smith Firstline Funding LLC IRS and NYS income tax returns and e-file authorizations	0.3
03/06/19	WJB	Review, approve and sign 2018 McGinn Smith Transaction Funding Corp. IRS/NYS taxes and e-file authorizations	0.5
03/06/19	K-C	Continue researching (i) situations that constitute "reasonable cause" under Section 658 of New York tax law, and (ii) tax issues related to theft losses from Ponzi schemes	1.5

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00015 Tax Issues
November 14, 2019

Invoice Number 993650

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/07/19	K-C	Continue researching (i) situations that constitute "reasonable cause" under Section 658 of New York tax law, and (ii) tax issues related to theft losses from Ponzi schemes	1.2
03/18/19	WJB	Review 2018 extensions for Seton Hall and McGinn Smith Holdings LLC filed by Chiampou	0.1
03/19/19	WJB	Prepare reply e-mail to R McHugh on status of Seton Hall K-1's	0.1
03/19/19	K-C	Review IRS notices regarding tax treatment of loss due to Ponzi schemes	3.2
03/26/19	WJB	Review, approve, sign and file 2018 TDMM Benchmark Trust IRS and NYS returns and e-file authorizations	0.3
03/26/19	WJB	Review, approve, sign and file 2018 TDM Verifier Trust 11 IRS and NYS returns and e-file authorizations following review of entity list	0.4
03/26/19	WJB	Review, approve, sign and file 2018 McGinn Smith & Co. Inv. IRS and NYS returns and e-file authorizations	0.4
03/27/19	WJB	Seton Hall: Review non-resident tax forms returned by Seton Hall investors and verify that all forms have been signed including preparation of letter to Mr. Gorman for identification and two e-mails to B Shea on the same subject respecting form IT-2658E	0.5
03/27/19	WJB	Seton Hall: Telephone call from B Shea regarding Seton Hall tax discussion of non-resident partners and course of action regarding final return	0.2
03/27/19	WJB	Prepare e-mail R Lankes at Chiampou to prepare Seton Hall return and K-1s and forward to B Shea	0.1
03/27/19	WJB	Review R Lankes e-mail on analysis concerning non-resident investors and no need to complete further out-of-state investor form for NYS	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00015 Tax Issues
November 14, 2019

Invoice Number 993650

Page 7 of 7

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/03/19	WJB	Review, sign and file 2018 IRS and NYS McGinn Smith Holdings tax returns	0.3
04/03/19	WJB	Review, sign and file 2018 IRS and NYS Seton Hall tax returns	0.3
05/02/19	WJB	Review IRS inquiry form concerning McGinn Smith Holdings and prepare e-mail Chiampou Travis regarding completion of same	0.2
05/08/19	K-K	Docket date for completion of McGinn Smith Holdings LLC IRS inquiry	0.2
05/15/19	WJB	Review Chiampou Travis revised draft McGinn Smith Holdings IRS inquiry response and prepare reply to R Lankes regarding question on 2013 TIN corrections	0.2
05/15/19	WJB	Prepare draft reply letter to IRS regarding McGinn Smith Holdings response to IRS information inquiry	0.1
05/15/19	WJB	Review revised response from Chiampou Travis for IRS respecting McGinn Smith Holdings	0.1

CURRENT FEES

\$11,874.00

FOR COSTS ADVANCED AND EXPENSES INCURRED:

Postage WJB - Postage to Various - Re: Taxes

66.48

CURRENT EXPENSES

66.48

TOTAL AMOUNT OF THIS INVOICE

\$11,940.48

PAYMENT DUE UPON RECEIPT

CATEGORY R

WILLIAM J. BROWN, AS RECEIVER FUNCTION



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
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 FED I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993651
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00017
 W J Brown

Re: W.J. BROWN, AS RECEIVER FUNCTION

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/02/19	WJB	Review Order on Eleventh Interim Fee Application, forward to B Shea and process	0.1
01/02/19	WJB	Prepare e-mail DMP re status of certificate for Receiver's website	0.1
01/07/19	WJB	Review payroll, approve same and prepare e-mail B Shea re same	0.1
01/08/19	WJB	Prepare e-mail B Shea re Phillips Lytle Eleventh Fee Application check and deposit ticket along with available balance	0.1
01/08/19	WJB	Review M&T Securities brokerage statement and review J Zuchlewski explanation re treasury bill conversion, excess funds and analysis	0.3
01/08/19	WJB	Review M&T Securities statement and forward to B Shea re confirmation of transaction	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00017 W.J. Brown, as Receiver Function
November 14, 2019

Invoice Number 993651

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/08/19	WJB	Review Five Star CDARS checking account statement; Prepare e-mail F Hornung at Five Star re matured investments and proof of same	0.1
01/08/19	WJB	Review NYS Insurance Fund disability audit benefits and prepare e-mail B Shea re responding to same	0.1
01/08/19	WJB	Review Kinderhook Bank statement, M&T statements, M&T Securities maturity redemption notice, KeyBank statement, Five Star CDARS statements, NSF statements, Dinosaur Securities statement and prepare e-mails B Shea attaching statements for reconciliation and posting and with direction to liquidate Dinosaur Securities Holdings as may be available to do so	0.4
01/08/19	WJB	Review e-mail from F Hornung of Five Star Bank with two CDARS renewals and e-mail same to B Shea	0.1
01/09/19	WJB	Review files for prior contact information for A Guzzetti for purposes of B Shea contacting him to liquidate securities	0.2
01/09/19	WJB	Review check request, approve checks, sign and return same to B Shea	0.2
01/09/19	WJB	Review Kinderhook savings statement and forward to B Shea for reconciliation and posting	0.1
01/10/19	WJB	Review B Shea e-mail re lack of ability to contact A Guzzetti re Dinosaur Securities, e-mail staff re location efforts	0.1
01/10/19	WJB	Telephone conference with CEO at Dinosaur Securities re A Guzzetti contacts and reasons for call	0.1
01/11/19	WJB	Review two Five Star Bank CDARS purchase confirmations and monthly CDARS statement, forward to B Shea for reconciliation and posting	0.2
01/15/19	WJB	Review M&T Account Analysis statement and forward to B Shea for reconciliation and posting	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00017 W.J. Brown, as Receiver Function
November 14, 2019

Invoice Number 993651

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/15/19	WJB	Review request from B Shea for letter of reference and character for Canadian Consulate in connection with entry to Canada, prepare and revise same and forward to B Shea	0.9
01/15/19	WJB	Review e-mail from K Riell re J Riell estate, review file and prepare reply re distribution timing and status and Florida probate order	0.2
01/16/19	WJB	Prepare e-mail B Shea re A Guzzetti contact information as investigated in order to deal with Dinosaur statements	0.1
01/22/19	WJB	Review letter from R Tornas requesting change of address and process same	0.1
01/23/19	WJB	Review status of various files and prepare current projects list	0.4
01/26/19	WJB	Review e-mail from J Spurrier requesting distribution following Piaker dismissal and inquiry re process; Prepare reply with reference to November announcement on Receiver's website	0.2
02/05/19	WJB	Telephone call from W Siegford of Lancaster, PA re principal not interest being returned by Receiver	0.1
02/05/19	WJB	Review Five Star Bank IRS 1099 Form and forward to B Shea	0.1
02/05/19	WJB	Review letter from C Robbins re Piaker dismissal and prepare reply letter re same	0.2
02/05/19	WJB	Review E Myers letter re Piaker & Lyons dismissal and prepare letter re same	0.2
02/05/19	WJB	Telephone call from I Nemeth re Piaker & Lyons dismissal and course of action	0.1
02/05/19	WJB	Review D/K Shannon letter and prepare reply re Piaker & Lyons	0.2
02/06/19	WJB	M&T: Telephone call from Annette at M&T Bank regarding dormant account, complete form and return to M&T	0.1

33474 Brown, William J. as Receiver of McGinn,
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00017 W.J. Brown, as Receiver Function
November 14, 2019

Invoice Number 993651

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/06/19	WJB	Review Five Star CDARS business checking statement and Five Star CDARS IRS Form 1099 and forward to B Shea for reconciliation and posting	0.2
02/07/19	WJB	Prepare e-mail B Shea re preparation for Piaker & Lyons distribution checks	0.1
02/08/19	WJB	Review monthly statements for Kinderhook Bank money market account, M&T Bank Alarm Traders account and Dinosaur Securities and forward to B Shea for review and posting	0.1
02/12/19	WJB	Review Kinderhook Bank merger notice, consider same and prepare e-mail B Shea re same and intention to transfer deposits	0.2
02/12/19	WJB	Review Kinderhook Bank checking statement, KeyBank statement and M&T Bank distribution account statement and forward to B Shea for reconciliation and posting	0.2
02/12/19	WJB	Review letter from F/S Vcro re status of distribution and timing and prepare reply	0.2
02/13/19	WJB	Telephone call from J McHugh as to whether there will be more distributions and discuss same and refer him to Receiver website	0.2
02/19/19	WJB	Prepare e-mail B Shea regarding Pine Street conversions and disallowance of claims	0.1
02/20/19	WJB	Telephone call from D Ayers regarding Silver Law Firm statements and Investor Questionnaire questions	0.1
02/25/19	WJB	Review letter from Msgr. Wargo regarding Piaker & Lyons and process for claims allowance	0.1
02/25/19	WJB	Review payroll, approve same and return to B Shea	0.1
02/26/19	WJB	Review R McFarlan status inquiry on 1/7/19 check response and if any follow-up needed	0.2

33474 Brown, William J. as Receiver of McGinn,
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
02/26/19	WJB	Review background to GPV Associates and prepare e-mail B Shea regarding connections to McGinn Smith	0.2
03/04/19	WJB	Review Five Star statement and forward to B Shea for reconciliation and posting	0.1
03/05/19	WJB	Telephone call from L Sullivan regarding IRA Services, IRA payment and how to handle same, referral to accountant and also discussion of mother's estate	0.2
03/06/19	WJB	Prepare reply letter to T McGinn questions regarding status of Receivership	0.2
03/06/19	WJB	Telephone call from H Starr regarding confirming proceeds constitute IRA proceeds for TD Ameritrade	0.2
03/06/19	WJB	Complete Kinderhook Bank dormant account form and prepare cover letter regarding same	0.2
03/06/19	WJB	Telephone call from investor regarding change of address process and status of Receivership	0.1
03/06/19	WJB	Telephone conference with C Hector of FTC regarding next steps following Second Circuit decision and return of mandate	0.2
03/18/19	WJB	Review, approve and forward checks to B Shea	0.1
03/18/19	WJB	Telephone call from R/S Tormas regarding request for letter to Social Services regarding investor distribution and agreement on receipt of letter requesting such information from Receiver	0.1
03/18/19	WJB	Review and approve Chiampou Travis 2/1 - 2/28 billing statement and B Shea approval of same	0.1
03/18/19	WJB	Review KeyBank and M&T Bank statements and forward to B Shea for reconciliation and posting	0.1
03/27/19	WJB	Telephone call with B Shea regarding next steps in Receivership moving towards closure of estate	0.1

33474 Brown, William J. as Receiver of McGinn,
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00017 W.J. Brown, as Receiver Function
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/27/19	WJB	Review letter from H Crist regarding amount due on claims as a result of expenses spent in Piaker litigation and prepare reply letter explaining collateral recovery rules	0.2
03/27/19	WJB	Review J Zuchlewski e-mail from M&T Bank regarding rates on treasury bills for maturing investment, review same including B Shea analysis and prepare re-investment instructions to M&T Bank	0.2
03/27/19	WJB	Review Chiampou Travis bills and pending status	0.2
04/02/19	WJB	Review Five Star investment renewal proposal and prepare reply to Five Star regarding requested investment for new period	0.2
04/02/19	WJB	Review M&T Bank redemption of investment and confirmation of same and forward to B Shea	0.1
04/02/19	WJB	Review Kinderhook Bank statement, CDARS maturity at Five Star and forward both to B Shea	0.1
04/02/19	WJB	Telephone call from M Weinar regarding dealing with Lex judgment and potential dismissal of action and requested information regarding same	0.2
04/03/19	WJB	Review E King claim and reserves for disputed claims	0.1
04/09/19	WJB	Review M&T McGinn Smith Holdings, Five Star Money Market CDARS and NSF bank statements plus KeyBank statement and forward all to B Shea	0.1
04/09/19	WJB	Review Distribution Account statement, M&T Securities statement and two Kinderhook bank statements and forward to B Shea for review and posting	0.1
04/09/19	WJB	Review Chiampou Travis 3/2019 statement and forward to B Shea for review and approval	0.1
04/09/19	WJB	Review Five Star account notice, confirm information and forward to B Shea for reconciliation	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00017 W.J. Brown, as Receiver Function
November 14, 2019

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/12/19	WJB	Prepare e-mail B Shea regarding IRS refund on McGinn Smith Holdings refund check and deposit status	0.1
04/16/19	WJB	Review, approve and sign checks and forward to B Shea for distribution	0.2
04/16/19	WJB	Review e-mail from B Shea confirming refund for McGinn Smith Capital Holdings Corp. 2018 tax return and deposit per Shea instructions	0.2
04/16/19	WJB	D Smith: Prepare e-mail D Stoelting re G Smith request for SEC and Receiver pleadings regarding D Smith 401K	0.1
04/16/19	WJB	Telephone call from P Belzano regarding IRA Services refusal to return his IRA contributions	0.2
04/16/19	WJB	Review KeyBank rate of interest on deposits, arrange meeting with KeyBank officer and prepare e-mail B Shea regarding recommendation concerning rates of interest	0.2
04/17/19	WJB	Review and approve payroll and forward to B Shea	0.1
04/23/19	WJB	Conference M Wachowiak and M O'Brien of KeyBank regarding increasing of interest rate on KeyBank deposits for McGinn Smith	0.1
04/23/19	WJB	Telephone call from M Weinar regarding relinquishment of judgment versus Lcx and review of file	0.1
04/23/19	WJB	Analysis of KeyBank rates of interest in anticipation of meeting with KeyBank officers	0.1
04/23/19	WJB	Follow-up telephone call to M Weinar regarding Lcx judgment in connection with collateral recovery rule	0.2
04/23/19	WJB	Telephone call from Westchester County attorney regarding collateral recovery rule	0.1
04/24/19	WJB	Prepare letter to M Weinar regarding collateral recovery termination to process claims	0.1

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November 14, 2019

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/24/19	WJB	Prepare letter M Wachowiak at KeyBank regarding selection of Money Market account rate and transfer of funds	0.2
04/24/19	WJB	Telephone call with U.S. Attorney's office in Syracuse regarding source of two restitution checks received from U.S. Treasury	0.1
04/24/19	WJB	Telephone call from M Devens at District Court regarding two restitution checks and referral to U.S. Attorney's Office	0.1
04/30/19	WJB	Telephone call from J Rostron regarding status of next distribution	0.1
04/30/19	WJB	Review new KeyBank account documents and complete same and return to KeyBank with Receivership Order as authority to open account	0.7
04/30/19	WJB	Telephone call to Asst. US Attorney regarding source of restitution checks and referral to L. Ducar regarding same and lack of answer	0.1
05/01/19	WJB	Complete KeyBank Know Your Customer forms for opening of new investment account and return to C Rybecki at KeyBank	0.2
05/02/19	WJB	Review KeyBank docuSign for new investment account and complete same	0.2
05/07/19	WJB	Review Five Star Money Market CDARS account statement, M&T Bank statements and KeyBank statements and forward to B Shea for reconciliation and posting	0.2
05/08/19	WJB	Prepare e-mail B Shea regarding two McGinn Smith restitution checks received from Treasury Department, instructions on accounting and preservation of records, and attend to deposit into Receiver account	0.3
05/08/19	WJB	Review Five Star Bank CDARS statement and Kinderhook checking account statement and forward to B Shea for posting and reconciliation	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
05/08/19	WJB	Telephone call from L Ducar at U.S. Attorney's Office regarding allocation of restitution check payments	0.1
05/08/19	WJB	Prepare e-mail SEC and B Shea regarding allocation of prison wages for U.S. Treasury checks received by Receiver	0.1
05/08/19	WJB	Review letter from L Sharkey regarding estate of J Schmitt concerning final distribution and prepare reply regarding no early distribution	0.2
05/09/19	WJB	Review and consider e-mail from B Shea regarding D Smith and T McGinn future restitution payments and future out-of-prison income for capture by estate	0.1
05/14/19	WJB	Follow-up e-mail to L Ducar at U.S. Attorney's Office on request for information on D Smith and T McGinn restitution check allocation and existence of third check	0.1
05/14/19	WJB	Review Kinderhook Bank tiered savings account statement and M&T Bank Distribution Account statement and forward to B Shea for reconciliation and posting	0.1
05/14/19	WJB	Forward copy of restitution check number 3 for D Smith, T McGinn to B Shea and deposit evidence	0.1
05/15/19	WJB	Review purported e-mail from R Mcfarlane and prepare reply letter regarding possible phishing e-mail and inviting transmittal in different fashion	0.1
05/15/19	WJB	Prepare e-mail to KeyBank to close existing 7109 Alarm Traders account	0.1
05/15/19	WJB	Review B Shea cash report and prepare e-mail B Shea regarding description of Kinderhook accounts	0.2
05/21/19	WJB	Review bills received from B Shea, approve same and prepare letter B Shea regarding same	0.2
05/21/19	WJB	Review letter regarding D Smith continuing motion from R Mcfarlan and investor reaction to same, prepare reply letter	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
05/21/19	WJB	Review NYS Insurance Fund letter regarding pharmacy benefits and forward to B Shea	0.1
05/21/19	WJB	Review State Insurance Fund renewal policy, tickle expiration date and forward to B Shea	0.1
05/21/19	WJB	Review letter from M Weiner with request for distribution, identify former counsel, L O'Brien, and prepare letter to counsel for collateral recovery explanation	0.2
05/22/19	WJB	Prepare e-mail to counsel for W Ferris regarding no Pine Street objection but reserving other rights	0.1
05/22/19	WJB	Attend to administrative detail	0.2
05/22/19	WJB	Prepare reply e-mail to B Coffin on second distribution status	0.1
05/29/19	WJB	Review D Stoelting e-mail on T McGinn M&T Bank account proceeds and prepare reply regarding treatment	0.1
05/30/19	WJB	Review follow-up questions from counsel for Allegretta's and JAT and prepare responses to same	0.1
05/31/19	WJB	Allegretta's: Prepare reply e-mail S Kramer questioning whether Allegretta's have agreed to settlement proposal in light of substantial efforts previously made in order to deal with them	0.1
06/04/19	WJB	Conference CNE regarding service issues concerning R Thrasher, course of action, letter regarding Death Certificate and Letters Testamentary, review claims file	0.1
06/04/19	WJB	Review Five Star Bank CDARS checking account statement and forward to B Shea for reconciliation and posting	0.1
06/04/19	WJB	Review R Thrasher letter and revise same	0.1
06/04/19	WJB	Telephone call from B Kogan regarding claim allowance status	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
06/05/19	WJB	Review KeyBank Alarm Traders new account statements and forward to B Shea for reconciliation and posting	0.1
06/05/19	WJB	Review M&T Bank Distribution Account statement and forward to B Shea for reconciliation and posting including follow-up on uncashed checks	0.1
06/05/19	WJB	Review June 1 cash report	0.1
06/05/19	WJB	Review B Shea questions on checks for KeyBank account and prepare reply	0.1
06/11/19	WJB	Review multiple Receiver bank statements including M&T, Five Star CDARS, Dinosaur, Kinderhook Bank and Distribution Account and forward to B Shea for reconciliation and posting	0.3
06/11/19	WJB	Review NYS Insurance Fund Workers' Compensation statement and forward to B Shea	0.1
06/18/19	WJB	Review letter to Judge Sharpe by investor concerning beliefs regarding D Smith 401K	0.1
06/18/19	WJB	Deal with KeyBank account charges inappropriately made	0.1
06/18/19	WJB	M&T: Review situation with closing and transfer of certain accounts and prepare e-mail A Buscella regarding closing and transferring McGinn Smith Holdings account into other Receiver account	0.2
06/19/19	WJB	Allegretta: Review Albany Law School letter dated May 5, 2010 sent by Allegretta counsel regarding claim settlement matters	0.2
06/19/19	WJB	Brokers: Check on broker agreement with SEC for status of F Chiappone payment under installment plan order	0.2
06/19/19	WJB	Continue review of R Macfarlan letter to Judge Sharpe and prepare reply	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
06/20/19	WJB	Review draft letter to F Chiappone acknowledging second installment payment and provide instructions for deposit of check and proof of same to B Shea	0.1
06/24/19	WJB	Prepare e-mail to M&T regarding maturing treasury bond and investment options	0.1
06/25/19	WJB	Review article on Treasury Bond interest yields in considering renewal options for receivership investments	0.1
06/25/19	WJB	Review M&T bond investment maturity; Telephone conference with J Zuchlewski at M&T regarding rates and fees, interest projections for T Bill renewal	0.3
06/25/19	WJB	Telephone call from J Lawson regarding discussion of second distribution and how determined	0.2
06/25/19	WJB	Prepare follow-up letter to L. O'Brien regarding M Weiner claim	0.1
06/25/19	WJB	Analyze renewal rates for T Bills with varying maturities and prepare e-mail B Shea regarding rate selection	0.4
06/25/19	WJB	Five Star: Analyze maturity notice for \$3.3 million CDARS, prepare e-mail B Shea regarding same and e-mail F Hornung at Five Star Bank regarding renewal rates	0.2
06/26/19	WJB	Review three completed W-9s for Gustafson family and approve same	0.1
06/27/19	WJB	Review and reply to e-mail from W Stauffer regarding status of case and timing of second distribution	0.1
06/27/19	WJB	Review distribution checks, sign and distribute same along with enclosure letters	0.2

CURRENT FEES

\$10,800.00

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FOR COSTS ADVANCED AND EXPENSES INCURRED:

Duplicating AI, 39 Page(s)

3.90

CURRENT EXPENSES

3.90

TOTAL AMOUNT OF THIS INVOICE

\$10,803.90

PAYMENT DUE UPON RECEIPT

CATEGORY S

SEC vs. MCGINN SMITH & Co., INC., ET AL.



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
 (716) 847-8400
 FED I.D. #16-0505790

William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 993652
 Invoice Date 11/14/19
 Client Number 33474
 Matter Number 00018
 W J Brown

Re: SEC V MCGINN SMITH & CO., INC., ET AL

FOR PROFESSIONAL SERVICES RENDERED THROUGH JUNE 30, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
01/23/19	K-K	Docket rates for installment payments from F. Chiappone	0.2
03/01/19	WJB	Check on reply date to D Smith motion regarding exemptions	0.1
03/07/19	WJB	Review D Smith motion regarding exemptions and conference CNE regarding processing regarding same	0.2
03/07/19	CNE	Review D Smith motion to modify asset freeze; Email D Stoelting with request for call to discuss D Smith motion	0.5
03/12/19	CNE	Call with D Stoelting regarding Smith motion to modify asset freeze	0.1
03/18/19	CNE	Review Smith motion and brief for modification of asset freeze	1.2
03/19/19	WJB	D Smith: Conference CNE regarding response to D Smith motion concerning exemptions	0.1

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November 14, 2019

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
03/19/19	CNE	Review D Smith motion and related court orders; Consider bases for Receiver's response to D Smith motion; Confer with WJB regarding Receiver response to D Smith motion	1.1
03/20/19	CNE	Call with D Stoelting regarding response to Smith motion	0.2
03/21/19	CNE	Draft reply to Smith Motion to modify asset freeze	4.1
03/22/19	CNE	Work on draft objection to Smith motion to modify asset freeze	2.2
03/24/19	CNE	Work on draft objection to Smith motion to modify asset freeze	1.3
03/26/19	WJB	Review draft Joinder and SEC position and provide comments to CNE	0.5
03/26/19	CNE	Revise objection to D Smith motion to modify asset freeze per WJB comments	0.2
03/27/19	CNE	Email draft response to D Smith motion to D Stoelting	0.1
03/29/19	CNE	Call with D Stoelting regarding response to D Smith motion to modify asset freeze	0.2
04/01/19	CNE	Email D Stoelting regarding request for extension	0.1
04/02/19	WJB	Review D Stoelting letter to Court requesting extension of time to reply to D Smith motion regarding 401K plan exemption and other multiple e-mails regarding same including preparation of e-mail to B Shea regarding Required Minimum Distribution information	0.2
04/02/19	WJB	Conference CNE regarding SEC request for discussion of whether settling with D Smith over Required Minimum Distributions makes sense and terms of same	0.2
04/02/19	CNE	Call with D Stoelting regarding response to Smith motion to modify asset freeze	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
04/03/19	K-K	Docket hearing date on D. Smith motion to modify asset freeze	0.2
04/11/19	WJB	Telephone conference with D Stoelting regarding form of order regarding D Smith 401K, check local rules regarding proposed form of Order and discuss L Smith judgment	0.2
04/11/19	WJB	Search 10/6/11 Order granting judgment relief against L Smith and review Receiver's second report and prepare reply to D Stoelting with payment amounts received by other third parties but nothing from L Smith in connection with judgment	0.3
04/11/19	CNE	Review SEC's draft opposition to D Smith motion to modify asset freeze; Update Receiver's joinder per SEC opposition brief	1.5
04/12/19	WJB	Review SEC draft brief concerning D Smith 401K, review and revise Joinder to be filed by Receiver	0.5
04/12/19	CNE	Call with WJB and D Stoelting regarding response to D Smith motion to modify asset freeze; Update Receiver's response to D Smith motion; Review SEC opposition to D. Smith motion; Finalize Receiver's response to D Smith motion for filing	2.6
04/19/19	K-K	Docket revised date for second installment payment from F. Chiappone	0.2
04/23/19	WJB	D Smith: Review D Smith letter to Court requesting extension of time to reply to SEC pleading regarding 401K release	0.1
05/07/19	K-K	Docket deadline for D. Smith to reply to response to asset freeze motion	0.2
05/10/19	CNE	Review D Smith reply brief	0.1
05/15/19	WJB	D Smith 401K: Review L Smith letter to Judge Sharpe intervening and adopting statements of D Smith regarding 401K distribution and review S Smith Brief in opposition to SEC response	0.5

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
06/26/19	WJB	Review draft turnover order for T McGinn received from SEC and prepare reply with one comment to D Stoelting	0.0

CURRENT FEES	\$5,040.00
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FOR COSTS ADVANCED AND EXPENSES INCURRED:

Postage WJB - Postage to Various (9 pieces) - Re: SEC vs. McGinn Smith & Co.	11.70	
CURRENT EXPENSES		11.70

TOTAL AMOUNT OF THIS INVOICE	\$5,051.70
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PAYMENT DUE UPON RECEIPT

Exhibit C

WILLIAM J. BROWN, ESQ
RECEIVER

PHILLIPS LYTTLE LLP
125 MAIN STREET
BUFFALO, NY 14203
PHONE 716 847 7089

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL DISTRIBUTION FUND

MCGINN, SMITH & CO. INC. ET. AL.
CIVIL COURT DOCKET No.
10-CV-457(GLS/CFH)

REPORTING PERIOD 1/1/2019 TO 3/31/2019

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Ft. AL - Cash Basis
 Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
 Reporting Period 1/1/19 to 3/31/19

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 6/30/2018):	15,098,467	15,098,467	15,098,467
	<i>Increases in Fund Balance:</i>			
Line 2	Business Income		-	-
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income	50,728	50,728	50,728
Line 5	Business Asset Liquidation		-	-
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	277,754	277,754	277,754
Line 8	Miscellaneous - Other			
	Total Funds Available (Lines 1 – 8):	328,482	328,482	328,482
	<i>Decreases in Fund Balance:</i>			
Line 9	Disbursements to investors	226,563	226,563	226,563
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	121,163	121,163	121,163
Line 10b	Business Asset Expenses	17,903	17,903	17,903
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	Total Disbursements for Receivership Operations	139,066	139,066	139,066
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	<i>Distribution Plan Development Expenses:</i>			
	1. Fees:			
	Fund Administrator.....			
	Independent Distributor Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisors.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	<i>Distribution Plan Implementation Expenses:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisors.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 – 11):			
Line 13	Ending Balance (As of 9/30/2018):			15,061,320

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
Reporting Period 1/1/19 to 3/31/19

Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund – Net Assets			\$ 15,061,320
OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
	Report of Items NOT To Be Paid by the Fund:			
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund			
Line 15b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund			
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	Total Disbursements to Court/Other Not Paid by the Fund:			
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period.....			
Line 18b	# of Claims Received Since Inception of Fund.....			2,781
Line 19	No. of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period.....			77
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			1,851

Receiver:
 By: William J. Brown
 (signature)
William J. Brown
 (printed name)
Receiver
 (title)
 Date: 7/23/19

WILLIAM J. BROWN, ESQ
RECEIVER

PHILLIPS LYTTLE LLP
125 MAIN STREET
BUFFALO, NY 14203
PHONE 716 847 7089

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL DISTRIBUTION FUND

MCGINN, SMITH & CO. INC. ET. AL.
CIVIL COURT DOCKET No.
10-CV-457(GLS/CFH)

REPORTING PERIOD 4/1/2019 TO 6/30/2019

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
 Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
 Reporting Period 4/1/19 to 6/30/19

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 3/31/2019):	15,061,320	15,061,320	15,061,320
	Increases in Fund Balance:			
Line 2	Business Income		-	-
Line 3	Cash and Securities		-	-
Line 4	Interest/Dividend Income	53,955	53,955	53,955
Line 5	Business Asset Liquidation	17,636	17,636	17,636
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	14,774	14,774	14,774
Line 8	Miscellaneous - Other			
	Total Funds Available (Lines 1 - 8):	86,365	86,365	86,365
	Decreases in Fund Balance:			
Line 9	Disbursements to investors		-	-
Line 10	Disbursements for Receivorship Operations			
Line 10a	Disbursements to Receiver or Other Professionals		-	-
Line 10b	Business Asset Expenses	11,964	11,964	11,964
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	Total Disbursements for Receivorship Operations	11,964	11,964	11,964
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisors.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisors.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 - 11):			
Line 13	Ending Balance (As of 6/30/2019):			15,136,721

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
Reporting Period 4/1/19 to 6/30/19

Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund – Net Assets			\$ 15,135,721
OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
	Report of Items NOT To Be Paid by the Fund:			
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund			
Line 15b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund			
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	Total Disbursements to Court/Other Not Paid by the Fund:			
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period.....			
Line 18b	# of Claims Received Since Inception of Fund.....			2,781
Line 19	No. of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period.....			-
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			1,851

Receiver:
 By: William J. Brown, Receiver
 (signature)
William J. Brown
 (printed name)
Receiver
 (title)
 Date: 7/23/19

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

vs. :

Case No. 1:10-CV-457
(GLS/CFH)

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, GEOFFREY R. SMITH, :
Individually and as Trustee of the David L. and :
Lynn A. Smith Irrevocable Trust U/A 8/04/04, :
LAUREN T. SMITH, and NANCY McGINN, :

Defendants, :

LYNN A. SMITH and :
NANCY McGINN, :

Relief Defendants. and :

GEOFFREY R. SMITH, Trustee of the :
David L. and Lynn A. Smith Irrevocable :
Trust U/A 8/04/04, :

Intervenor. :

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**ORDER APPROVING THIRTEENTH INTERIM APPLICATION OF
PHILLIPS LYTLE LLP AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Upon the Thirteenth Interim Application of Phillips Lytle LLP (“Phillips Lytle”) and the Receiver (“Receiver”) for Allowance of Compensation and Reimbursement of Expenses dated November 13, 2019 (“Application”) for an order approving the allowance of compensation and reimbursement of expenses; and notice of the Application having been given to the

Securities and Exchange Commission and all parties who have filed a Notice of Appearance in this action and all creditors of the McGinn Smith Entities and other parties in interest via the Receiver's website, which notice is deemed good and sufficient notice; and the Court having determined that sufficient cause exists; it is therefore

ORDERED, that the Application is approved such that (i) compensation for legal and Receiver services rendered between January 1, 2019 and June 30, 2019 ("Thirteenth Interim Period") in the amount of \$52,410.55 is allowed as an interim allowance, and (ii) reimbursement of expenses advanced by Phillips Lytle during the Thirteenth Interim Period in the amount of \$260.91 is allowed as an interim disbursement payment; and it is further

ORDERED, that the Receiver is authorized and directed to pay the amounts as allowed pursuant to this Order.

Dated: _____, 2019

HON. CHRISTIAN F. HUMMEL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

vs. :

Case No. 1:10-CV-457
(GLS/CFH)

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, GEOFFREY R. SMITH, :
Individually and as Trustee of the David L. and :
Lynn A. Smith Irrevocable Trust U/A 8/04/04, :
LAUREN T. SMITH, and NANCY MCGINN, :

Defendants, :

LYNN A. SMITH and :
NANCY MCGINN, :

Relief Defendants. and :

GEOFFREY R. SMITH, Trustee of the :
David L. and Lynn A. Smith Irrevocable :
Trust U/A 8/04/04, :

Intervenor. :

-----X

CERTIFICATE OF SERVICE

I, Karen M. Ludlow, being at all times over 18 years of age, hereby certify that on November 14, 2019, a true and correct copy of the Notice and Thirteenth Interim Application of Phillips Lytle LLP and the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Thirteenth Interim Application”) was caused to be served by e-mail upon all parties who receive electronic notice in this case pursuant to the Court’s ECF filing system, and by First Class Mail to the parties indicated below:

- **William J. Brown** wbrown@phillipslytle.com,khatch@phillipslytle.com
- **Certain McGinn Smith Investors** apark@weirpartners.com
- **Elizabeth C. Coombe** elizabeth.c.coombe@usdoj.gov, paul.condon@usdoj.gov ,CaseView.ECF@usdoj.gov,kelly.ciccarelli@usdoj.gov
- **William J. Dreyer** wdreyer@dreyerboyajian.com, bhill@dreyerboyajian.com, lowens@dreyerboyajian.com,coconnell@dreyerboyajian.com

- **Scott J. Ely** sely@elylawpllc.com,shm@fwc-law.com
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- **Bryan M. Westhoff** bryan.westhoff@kayescholer.com
- **Benjamin Zelsermyer** bzlaw@optonline.net,steincav@aol.com

And, I hereby certify that on November 14, 2019, I mailed, via first class mail using the United States Postal Service, a copy of the Thirteenth Interim Application to the individuals listed below:

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Bond, Schoeneck & King PLLC
Avant Building - Suite 900
200 Delaware Avenue
Buffalo, NY 14202-2107

Dated: November 14, 2019

/s/ Karen M. Ludlow
Karen M. Ludlow