

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

10 Civ. 00457 (GLS/DRH)

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

Defendants, and

LYNN A. SMITH,

Relief Defendant.

**NOTICE OF
APPEARANCE**

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TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

Please enter my appearance as counsel in this case on behalf of defendants Timothy M. McGinn and David L. Smith. I certify that I am admitted to practice in the United States District Court Northern District of New York.

Dated: New York, New York
August 12, 2010

**GUSRAE, KAPLAN, BRUNO &
NUSBAUM PLLC**

By: /s/ Martin P. Russo

Martin P. Russo, Esq.

120 Wall Street

New York, New York 10005

Tel: (212) 269-1400

Bar Roll No. 516389

*Attorneys for defendants Timothy M.
McGinn and David L. Smith*