

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/ Alison B. Cohen

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McGinn and David L. Smith*