

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 MOTION OF WILLIAM J. BROWN, AS RECEIVER,
FOR ORDER IN AID OF ADMINISTRATION (A) APPROVING PROCEDURE
FOR NOTICE AND ABANDONMENT OF CLAIMS OF LOST INVESTORS AND
INVESTORS WITH INCOMPLETE CLAIM FILES, (B) APPROVING
REDISTRIBUTION OF ALLOCATED RECOVERIES TO RECEIVERSHIP
ESTATE FOR BENEFIT OF INVESTORS WITH ALLOWED CLAIMS, (C)
EXPUNGING ABANDONED CLAIMS AND INCOMPLETE CLAIMS AND (D)
DISALLOWING CERTAIN REMAINING PAPER CLAIMS**

Upon the Motion For Order in Aid of Administration (A) Approving
Procedure for Notice and Abandonment of Claims of Lost Investors and Investors with
Incomplete Claim Files, (B) Approving Redistribution of Allocated Recoveries to
Receivership Estate for Benefit of Investors with Allowed Claims, (C) Expunging

Abandoned Claims and Incomplete Claims and (D) Disallowing Certain Remaining Paper Claims (“Motion”); and notice of the Motion having been given to the Securities and Exchange Commission, each of the claimants listed on each Exhibit to the Motion by first class mail at the address contained in the Receiver’s records, and all parties who have filed a Notice of Appearance in this action by ECF, 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 deemed that sufficient cause exists; it is therefore

ORDERED, that the Motion is approved, and it is further

ORDERED, that the Final Notice Procedure,¹ as described in the Motion, is approved, and it is further

ORDERED, that the Receiver is authorized to prominently post on the Receiver’s Website a list of the names of the Lost Investors listed on Exhibit A-1 to the Motion and Incomplete Investors listed on Exhibit A-2 to the Motion holding Abandoned Claims, and it is further

ORDERED, that after the date which is thirty-one days after entry of this Order and the posting of the Lost Investor and Incomplete Investor names on the Receiver’s Website, the Receiver shall file the Abandoned Claims List, and it is further

ORDERED, that the Abandoned Claims on the Abandoned Claims List shall be deemed struck and expunged, and it is further

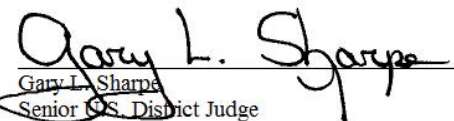
ORDERED, that the Receiver’s rights to supplement the Abandoned Claims List should investors who initially respond to the Final Notice Procedure fail after at least one

¹ Capitalized terms used but not defined herein shall have the meaning assigned to them in the Motion.

more follow-up attempt by the Receiver to properly complete the documentation necessary to allow the Receiver to make a distribution are expressly preserved, and it is further

ORDERED, that each of the Remaining Paper Claims listed on Exhibit B to the Motion are disallowed; and the rights of the Receiver to object on any other basis to the claims of all investors or claimants are expressly preserved.

July 7, 2020
Albany, New York


Gary L. Sharpe
Senior U.S. District Judge