

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

AUG 13 2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

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

Defendants, and

LYNN A. SMITH,

Relief Defendant.
-----X

LAWRENCE K. BAERMAN, CLERK
ALBANY

10 Civ. 00457 (GLS/DRH)

**STIPULATION
AND PROPOSED ORDER**

IT IS HEREBY STIPULTED AND AGREED, by and among plaintiff Securities and Exchange Commission (the "Commission") and each of Timothy M. McGinn and David L. Smith (the "Defendants"), by their undersigned counsel, that the Defendants' time to answer or otherwise respond to the amended complaint filed on August 2, 2010 (docket No. 100) shall be extended to August 30, 2010.

Dated: New York, New York
August 12, 2010

GUSRAE KAPLAN BRUNO
& NUSBAUM PLLC

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UNITED STATES SECURITIES
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SO ORDERED


United States Magistrate Judge

8/13/10