



Affidavit of Service of Summons or Subpoena: Personal or Alternative Methods: Corp. or Ind.: Military Service, 10 pt. type, 1-95

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COURT UNITED STATES DISTRICT COURT FOR THE COUNTY OF NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff(s)

against

McGINN, SMITH & CO., INC. ET AL.,

Defendant(s)

Index No. 10 CIV. 457 (GLS/DRH)

AFFIDAVIT OF SERVICE OF SUMMONS (AND COMPLAINT)

SEE ATTACHED RIDER

STATE OF NEW YORK, COUNTY OF SARATOGA

SS: The undersigned, being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides in THE STATE OF NEW YORK

That on 8/14/10 at 7:33A. M., at 26 PORT HURON DRIVE, NISKAYUNA, NEW YORK 12309

deponent served the within summons, and complaint on NANCY MCGINN defendant therein named,

SEE ATTACHED RIDER

- INDIVIDUAL 1. [X] by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.
CORPORATION 2. [ ] a corporation, by delivering thereat a true copy of each to personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof.
SUITABLE AGE PERSON 3. [ ] by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state.
AFFIXING TO DOOR, ETC. 4. [ ] by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there

MAILING TO RESIDENCE USE WITH 3 OR 4 5A. [ ] Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.
MAILING TO BUSINESS USE WITH 3 OR 4 5B. [ ] Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

- DESCRIPTION USE WITH 1, 2, OR 3 [X] Male [X] White Skin [ ] Black Hair [ ] White Hair [ ] 14-20 Yrs. [ ] Under 5' [ ] Under 100 Lbs.
[ ] Female [ ] Black Skin [ ] Brown Hair [ ] Balding [ ] 21-35 Yrs. [ ] 5'0"-5'3" [ ] 100-130 Lbs.
[ ] Yellow Skin [X] Blonde Hair [ ] Mustache [X] 36-50 Yrs. [X] 5'4"-5'8" [X] 131-160 Lbs.
[ ] Brown Skin [ ] Gray Hair [ ] Beard [ ] 51-65 Yrs. [ ] 5'9"-6'0" [ ] 161-200 Lbs.
[ ] Red Skin [ ] Red Hair [ ] Glasses [ ] Over 65 Yrs. [ ] Over 6' [ ] Over 200 Lbs.

Other identifying features:

USE IN NYC CIVIL CT. [ ] The words "CONSUMER CREDIT TRANSACTION" were prominently displayed at the top of the summons(es) and the additional legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f).

MILITARY SERVICE [X] I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on 8/10/10

MARK E. McCLOSKEY Notary Public, State of New York Qualified in Schenectady County No. 01MC6042335 Commission Expires May 22, 2014

PRINT NAME BENEATH SIGNATURE STEPHEN MOESKE

License No. ....

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X Civil Action No.  
10 Civ. 457 (GLS/DRH)

Securities and Exchange Commission,

Plaintiffs,

RIDER TO  
AFFIDAVIT  
OF SERVICE

- against -

McGinn, Smith & Co., Inc., et al.,

Defendants.

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List of Document Served:

- Letter to Nancy McGinn dated August 6, 2010;
- Amended Complaint;
- Summons in a Civil Action addressed to Nancy McGinn;
- Order to Show Cause dated August 3, 2010;
- Declaration of David Stoelting dated August 3, 2010, with attached exhibits;
- Supplemental Declaration of Roseann Daniello dated August 2, 2010, with attached exhibits; and
- Memorandum of Law in Support of Plaintiff's Application for an Order to Show Cause and Emergency Relief.