

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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,
LYNN A. SMITH, DAVID M. WOJESKI, Trustee
of the David L. and Lynn A. Smith Irrevocable Trust
U/A 8/04/04, GEOFFREY R. SMITH, LAUREN
T. SMITH, and NANCY McGINN,

Case No.: 1:10-CV-457
(GLS/DRH)

STIPULATION AND
PROPOSED ORDER

Defendants,

LYNN A. SMITH and NANCY McGINN,

Relief Defendants, and

DAVID M. WOJESKI, Trustee of the David L.
and Lynn a. Smith Irrevocable Trust U/A 8/04/04,

Intervenor.

IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff Securities and Exchange Commission and the undersigned counsel, on behalf of their respective clients, that the time to answer or otherwise respond to the Amended Complaint filed on August 2, 2010 shall be extended to September 30, 2010.

IT IS FURTHER stipulated that the undersigned counsel, on behalf of their respective clients, hereby waive service or acknowledge prior waivers of service pursuant

to FRCP 4(d). The aforesaid Defendants, including Lynn Smith as Relief Defendant, shall retain all defenses or objections to the lawsuit or to jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

Date: August 25, 2010

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SO ORDERED


United States Magistrate Judge

8/26/10