

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff-Appellee,

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,

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

NOTICE OF APPEAL

Defendants, and

LYNN A. SMITH,

Relief Defendant-Appellant.

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

Intervenor.

Notice is given that Appellant-Relief Defendant Lynn A. Smith hereby appeals to the United States Court of Appeals for the Second Circuit from each and every part of the Order of the District Court, Northern District of New York (Magistrate Judge Homer, D.) entered in this action on the 7th day of July, 2010, which granted Plaintiff-Appellee's Motion for a Preliminary Injunction Continuing the Asset Freeze as to Relief Defendant

Lynn A. Smith's stock account, Vero Beach home and checking account.

DATED: September 1, 2010

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By: 

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