

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :
  
:
  
  *Plaintiff,* :
  
:
  
  v. :
  
:
  
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.* :
  
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**Case No.: 1:10-cv-457  
(GLS)(DRH)**

**NOTICE OF APPEARANCE**

The undersigned hereby enters his appearance for the limited purpose of Defendants Timothy M. McGinn’s and David L. Smith’s compliance with Paragraph V of the April 20, 2010 “Order to Show Cause, Temporary Restraining Order, and Order Freezing Assets and Granting Other Relief.” I certify that I am admitted to practice in this Court.

Dated: Albany, New York  
April 30, 2010

**GREENBERG TRAUERIG, LLP**

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