

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

**CERTIFICATE OF SERVICE**

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,

1:10-CV-457  
(GLS/RFT)

Defendants and

LYNN A. SMITH,

Relief Defendant.

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I hereby certify that on November 5, 2010, I electronically filed the foregoing Notice of Motion to Intervene and Lift Temporary Restraining Order, Affidavit of Benjamin W. Hill, Esq., and Memorandum of Law in Support of Motions to Intervene and Lift Temporary Restraining Order with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

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Trustee of the David L. and Lynn A. Smith  
Irrevocable Trust U/A 8/04/04,  
Geoffrey R. Smith, Lauren T. Smith  
99 Pine Street  
Suite 210  
Albany, NY 12207

s/Elizabeth A. Panza

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Elizabeth A. Panza

Sworn to before me this  
5<sup>th</sup> day of November, 2010.

s/Catherine M. Slusarz

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Notary Public- State of New York  
No. 4977639  
Qualified in Schenectady County  
Commission Expires February 11, 2011