

**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,

Defendants, and

LYNN A. SMITH,

Relief Defendant, and

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

Intervenor.

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

NOTICE OF SPECIAL APPEARANCE

PLEASE TAKE NOTICE that Iseman, Cunningham, Riester & Hyde, LLP ("ICRH"), hereby appears as special counsel on behalf of David M. Wojeski, Trustee of David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04, at a hearing (together with related trial-level proceedings, such as court conferences, the "Evidentiary Hearing") currently scheduled for November 16, 2010, in the United States District Court for the Northern District of New York.

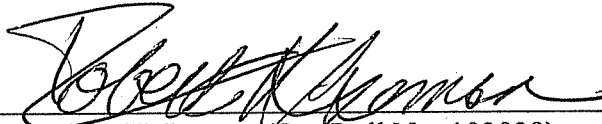
PLEASE TAKE FURTHER NOTICE that ICRH demands that all notices given in connection with the Evidentiary Hearing and all papers served or required to be served in the case, be given to and served upon counsel, at the address set forth below:

Iseman, Cunningham, Riestler & Hyde, LLP
9 Thurlow Terrace
Albany, New York 12203
Telephone: (518) 462-3000
Facsimile: (518) 462-4199

PLEASE TAKE FURTHER NOTICE that this appearance does not cover any other proceedings in the captioned matter and does not include any appeals or ancillary proceedings.

Dated: November 8, 2010
Albany, New York

Respectfully Submitted,



Robert H. Iseman (Bar Roll No. 103039)
Richard A. Frankel (Bar Roll No. 103734)
James P. Lagios (Bar Roll No. 511501)

ISEMAN, CUNNINGHAM, RIESTER & HYDE, LLP
Attorneys for David M. Wojeski, Trustee of David L. and
Lynn A. Smith Irrevocable Trust U/A 8/04/04
9 Thurlow Terrace
Albany, New York 12203
(518) 462-3000