

**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)

EVIDENTIARY HEARING

NOVEMBER 16, 2010

TRUST'S EXHIBIT LIST

I. Exhibits

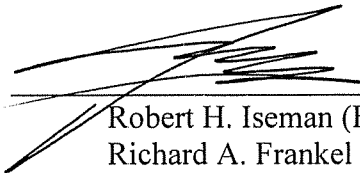
The Trust may introduce some or all of the following documents as exhibits:

1. Declaration of Trust, Made as of the 4th day of August, 2004, between David L. Smith and Lynn A. Smith, and Thomas Urbelis

2. Letter, dated August 4, 2004, from David L. Smith to Thomas Urbelis, regarding Private Annuity Trust
3. Private Annuity Contract Between David L. Smith & Lynn A. Smith, as Transferors and The David L. & Lynn A. Smith Irrevocable Trust U/A Dated August 31, 2004, Transferee
4. Letter, Dated July 27, 2010, from David Stoelting to James D. Featherstonhaugh and Jill Dunn, regarding additional documents received from Thomas Urbelis
5. Documents produced by Plaintiff to the Trust in response to the letter request from Robert H. Iseman to Plaintiff, dated November 11, 2010, as limited by the Court during the November 12, 2010, teleconference.
6. Documents filed with the Court by Plaintiff in connection with Plaintiff's Motion for a Preliminary Injunction.
7. Documents filed with the Court by Plaintiff in connection with the Trust's Motion to intervene.
8. Documents filed with the Court by Plaintiff in connection with Plaintiff's motion for reconsideration of the Court's July 7, 2010, Order, including, without limitation:
 - a. Declaration of David Stoelting, dated August 3, 2010
 - b. Declaration of David Stoelting, dated August 5, 2010
 - c. Declaration of Lara Shalov Mehraban, dated September 14, 2010
 - d. Letter, from David Stoelting to Judge Homer, dated October 21, 2010

Dated: November 12, 2010
Albany, New York

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Robert H. Iseman', is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

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