

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

**NOTICE OF MOTION TO ADMIT  
COUNSEL PRO HAC VICE**  
**Civil Case No. 10-CV-457**  
**(GLS/DRH)**

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, DAVID L. SMITH,  
LYNN A. SMITH, DAVID M. WOJESKI, Trustee of  
the David L. and Lynn A. Smith Irrevocable  
Trust UA 8/04/04, GEOFFREY R. SMITH,  
LAUREN T. SMITH, and NANCY McGINN,

Defendants,

LYNN A. SMITH, and  
NANCY MCGINN,

Relief Defendants, and

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

Intervenor.

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**PURSUANT TO RULE** 83.1(d) of the Local Rules of the United States District Court of the Northern District of New York, I, Michael J. Murphy, a member in good standing of the bar of this Court, hereby moves for an Order allowing *pro hac vice* of:

Applicant: Thomas E. Peisch

Firm: Conn, Kavanaugh, Rosenthal, Peisch & Ford, L.L.P.

Address: Ten Post Office Square, Boston, Massachusetts, 02109

Phone No.: (617) 483 8200

Fax No.: (617) 482-6444

for the purpose of appearing as counsel on behalf of Thomas J. Urbelis in the above-captioned case only.

In support of this motion, the undersigned states:

1. Mr. Peisch is admitted to practice in the Commonwealth of Massachusetts (MA Bar No.: 393260) and is in good standing with that court. Mr. Peisch is not currently under suspension or subject to other disciplinary action with respect to the practice of law.
2. Submitted in support of this motion, is the Affidavit of the undersigned, which is attached as Exhibit "A", along with a Certificate of Good Standing from the Court of Last Resort of the licensing jurisdiction in which Mr. Peisch principally practices, which is attached as Exhibit "B".
3. Mr. Peisch has presented a check in the amount of One-Hundred Dollars (\$100.00) to the Clerk of the Court for payment of the administrative fees required to process this motion for admission *pro hac vice*.

**WHEREFORE**, I respectfully request this Court enter an Order of admission *pro hac vice* for Thomas E. Peisch for purposes of this case only.

Dated: February 5, 2011

CARTER, CONBOY, CASE, BLACKMORE,  
MALONEY & LAIRD, P.C.

By: Michael J. Murphy

MICHAEL J. MURPHY

Northern District Bar No.: 102244

Office and P.O. Address

20 Corporate Woods Boulevard

Albany, NY 12211-2362

Phone: (518) 465-3484

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

- against -

**ATTORNEY'S AFFIDAVIT IN  
SUPPORT OF MOTION TO ADMIT  
COUNSEL PRO HAC VICE**  
Civil Case No. 10-CV-457  
(GLS/DRH)

McGINN, SMITH & CO., INC.,  
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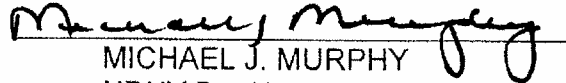
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STATE OF NEW YORK    }  
                                  }ss:  
COUNTY OF ALBANY    }

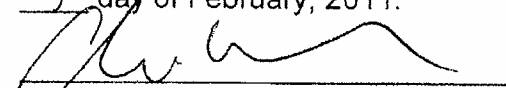
**MICHAEL J. MURPHY, ESQ.**, having been duly sworn, states as follows:

1. I am an attorney and counselor at law and am a director with the law firm of Carter, Conboy, Case, Blackmore, Maloney & Laird, P.C., co-counsel for defendants in the above-referenced action.
2. I am a member in good standing of the bar of the State of New York, and was admitted to practice law on January 1983. I am also admitted to the bar of the United States District Court for the Northern District of New York, and am in good standing with this Court.
3. I am familiar with the proceedings of this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of the motion to admit Thomas E. Peisch, as counsel *pro hac vice*, to represent Thomas J. Urbelis in this matter.
4. Mr. Peisch is an attorney at Conn, Kavanaugh, Rosenthal, Peisch & Ford, LLP, in Boston, Massachusetts.
5. I have found Mr. Peisch to be a skilled attorney and person of integrity. Mr. Peisch is familiar with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of New York.
6. Accordingly, I move this Court for the admission of Mr. Peisch, *pro hac vice*.
7. I respectfully submit a proposed order granting the admission of Mr. Peisch, *pro hac vice*.

WHEREFORE, it is respectfully requested that the motion to admit Thomas E. Peisch, *pro hac vice*, to represent Thomas J. Urbelis in the above captioned matter, be granted.

  
MICHAEL J. MURPHY  
NDNY Bar No.: 102244

Sworn to before me this  
5 day of February, 2011.

  
Notary Public, State of New York

ALAINA K. LAFERRIERE  
Notary Public, State of New York  
No. 02LA6219288  
Qualified in Albany County  
Commission Expires March 22, 2014

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, SS.

BE IT REMEMBERED, that at the Supreme Judicial Court holden at Boston within and for said County of Suffolk, on the day of **December** A.D. **1974**, said Court being the highest Court of Record in said Commonwealth:

Thomas E. Peisch

being found duly qualified in that behalf, and having taken and subscribed the oaths required by law, was admitted to practice as an Attorney, and, by virtue thereof, as a Counsellor at Law, in any of the Courts of the said Commonwealth: that said Attorney is at present a member of the Bar, and is in good standing according to the records of this Court\*.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, this **first** day of **February** in the year of our Lord **two thousand and eleven**



*Maura S. Doyle*  
MAURA S. DOYLE, Clerk

\* Records of private discipline, if any, such as a private reprimand imposed by the Board of Bar Overseers or by any court, are not covered by this certification.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

**ATTORNEY AFFIDAVIT IN  
SUPPORT OF MOTION TO  
ADMIT COUNSEL  
*PRO HAC VICE*  
Civil Case No. 10-CV-457  
(GLS/DRH)**

-against-

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McGINN, SMITH ADVISORS, LLC,  
McGINN, SMITH CAPITAL HOLDINGS CORP.,  
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of the David L. and Lynn A. Smith Irrevocable Trust  
UA 8/04/04, GEOFFREY R. SMITH, LAUREN T.  
SMITH, and NANCY McGINN,

Defendants,

LYNN A. SMITH and NANCY MCGINN,

Relief Defendants, and

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

Intervenor.

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**AFFIDAVIT OF THOMAS E. PEISCH FOR ADMISSION**  
***PRO HAC VICE***



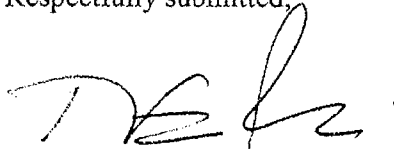
I, Thomas E. Peisch, submit to this Court the below Affidavit for Admission *Pro Hac Vice*, in the above-captioned matter, and, in doing so, declare and state as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts in both State and Federal District Courts. I am a member in good standing in the bars in all of the aforementioned jurisdictions.
2. I am an attorney and partner of the law firm of Conn, Kavanaugh, Rosenthal, Peisch & Ford, L.L.P., located at Ten Post Office Square, Boston, Massachusetts 02109.
3. I am a graduate of Dartmouth College (B.A.) and a graduate of Boston College Law School (J.D.). I am a Member and Past President, of the Massachusetts Defense Lawyers Association (MDLA), a Member of the International Association of Defense Counsel (IADC), and a Member of the Defense Research Institute (DRI).
4. I was initially admitted to the Bar in the Commonwealth of Massachusetts in 1974 and have been a member in good standing ever since my admission.
5. I have never been held in contempt of court or censured in a disciplinary proceeding, suspended or disbarred by any court, admonished by any disciplinary committee or the organized bar, nor am I the subject of any pending complaint before any court.
6. I have read and am familiar with:
  - a. the provisions of the Judicial Code, 28 U.S.C. §§1330-1452, which pertain to the jurisdiction of and venue in the United States District Court;
  - b. the Federal Rules of Civil Procedure for the District Courts;
  - c. the Federal Rules of Criminal Procedure for the District Courts;

- d. the Federal Rules of Evidence for the District Courts;
- e. the Local Rules for the United States District Court for the Northern District of New York;
- f. the New York State Lawyer's Code of Professional Responsibility as adopted from time to time by the Appellate Division of the State of New York, and as interpreted and applied by the United States Supreme Court, the Court of Appeals for the Second Circuit and by this court.


7. I agree to adhere faithfully to the aforementioned rules and responsibilities.

Respectfully submitted,

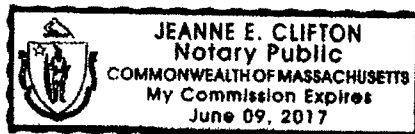


Thomas E. Peisch  
Mass. BBO No. 393260

Sworn to before me this  
7<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Notary Public

550261.1



**UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF NEW YORK**

**IN THE MATTER OF THE APPLICATION OF**

Thomas J. Peisch

**TO BE ADMITTED TO THE UNITED STATES  
DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF NEW YORK**

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**ORDER**

Upon fulfilling the requirements set forth in Local Rule 83.1 of the Northern District of  
New York, Thomas J. Peisch is hereby accepted for

- Permanent Admission to practice in the United States District Court for the Northern District of New York.
- Pro Hac Vice Admission to practice in the United States District Court for the Northern District of New York for the particular case of :  
SEC v. McGinn, Smith & Co. Inc. et al., 10-CV-457 GLS/DRH

IT IS SO ORDERED

Dated : \_\_\_\_\_

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U.S. District Judge  
 U.S. Magistrate Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NEW ATTORNEY E-FILING REGISTRATION FORM  
PLEASE TYPE

This form is used for creating new accounts (**Newly Admitted Attorneys Only**) on the Court's Electronic Case Filing System(ECF).

First Name: Thomas Middle Name: E.

Last Name: Peisch If appropriate, check one: Sr.  Jr.  II  III

Firm Name: Conn Kavanaugh Rosenthal Peisch & Ford, LLP

Firm Address: Ten Post Office Square

City: Boston State: MA Zip Code 02109

Firm Phone Number: (617) 482-8200 Direct Dial Number: (617) 348-8204

Fax Number: (617) 482-6444 Internet E-Mail Address: TPeisch@ckrpf.com

The following information must be completed by attorneys applying for admission and submitted with your petition:

TYPE OF ADMISSION APPLIED FOR:  PERMANENT  PRO-HAC VICE - Case Number Required: 1:10-cv-00457-GLS -DRH

By submitting this printed and signed form, I hereby agree to abide by all Court rules, orders, policies and procedures governing the use of the electronic filing system (CM/ECF). I also consent to service by electronic means in the circumstances permitted under those rules, orders, policies and procedures. I understand that the combination of user i.d. (Bar Roll #) and password will serve as my signature for filing documents pursuant to Rule 11 of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this court. I agree to protect the security of my password and immediately notify the Clerk of Court if I suspect my password has been compromised. Also, as a participating attorney, I will promptly notify the Clerk of Court if there is a change in my personal data, such as name, e-mail address, firm address, telephone number, etc.

Attorney Signature: 

Date: 2/7/11

COURT USE ONLY	
Assigned Bar Roll #	_____
Receipt #	_____
Date of Admission:	____ / ____ / ____
Revised:	____ / ____ / ____ By: _____