

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff-Appellee,

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

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

NOTICE OF APPEAL

Defendants, and

LYNN A. SMITH,

Relief Defendant-Appellant, and

NANCY McGINN,

Relief Defendant, and

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

Intervenor.

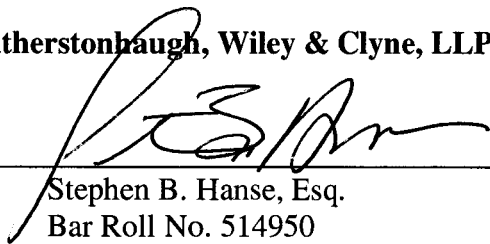
Notice is given that Appellant-Relief Defendant Lynn A. Smith hereby appeals to the United States Court of Appeals for the Second Circuit from each and every part of the Order of the District Court, Northern District of New York (Magistrate Judge Homer, D.)

entered in this action on the 1st day of February, 2011, which granted Plaintiff-Appellee's Motion to Amend the Preliminary Injunction to order the sale of Relief Defendant Lynn A. Smith's Vero Beach property.

DATED: February 11, 2011

Featherstonhaugh, Wiley & Clyne, LLP

By: _____


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