

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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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, NANCY McGINN,

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

**NOTICE OF APPEAL**

*Defendants,*

GEOFFREY R. SMITH, Trustee of the David L. and  
Lynn Smith Irrevocable Trust U/A 8/04/04, GEOFFREY  
R. SMITH, LAUREN T. SMITH, and

*Defendants-Appellants,*

LYNN A. SMITH and NANCY McGINN,

*Relief Defendants,*

GEOFFREY R. SMITH, Trustee of the David L. and  
Lynn A. Smith Irrevocable Trust U/A 8/04/04,

*Intervenor.*

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Notice is given that Relief Defendant/Defendant-Appellant, 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, U.S. Magistrate David R. Homer entered in this action on the 20<sup>th</sup> day of July 2011 which

granted the Securities and Exchange Commission's Motion for Sanctions against Mrs. Smith and ordered her to disgorge \$996,080.

DATED: September 14, 2011

**Featherstonhaugh, Wiley & Clyne, LLP**

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