

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 10-CV-457 (GLS/DRH)

-against- :

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

Defendants. :

JILL A. DUNN, ESQ., DAVID M. WOJESKI, THOMAS :
J. URBELIS, ESQ. AND JAMES D. :
FEATHERSTONHAUGH, ESQ., :

Non-Parties. :
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Notice is hereby given that David M. Wojeski, non-party in the above-named case, hereby appeals to the United States Court of Appeals for the Second Circuit from Magistrate Judge David R. Homer’s Memorandum-Decision and Order dated July 20, 2011, granting the Securities and Exchange Commission’s motion for sanctions as against David M. Wojeski and ordering him to disgorge \$13,834.00.

Dated: September 15, 2011

/s/ Fred Knopf
Fred Knopf
Attorney for Non-Party Wojeski/Appellant
Wilson Elser LLP
3 Gannett Drive
White Plains, NY 10604
Tel. 914-323-7000
Fax. 914-323-7001
Email. fred.knopf@wilsonelser.com

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2011, a copy of the foregoing Notice of Appeal was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Fred Knopf
Fred Knopf
Attorney for Non-Party Wojeski/Appellant
Wilson Elser LLP
3 Gannett Drive
White Plains, NY 10604
Tel. 914-323-7000
Fax. 914-323-7001
Email. fred.knopf@wilsonelser.com