

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

vs. :

Case No. 1:10-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, AND :
DAVID L. SMITH, GEOFFREY R. SMITH, :
Individually and as Trustee of the David L. and :
Lynn A. Smith Irrevocable Trust U/A 8/04/04, :
LAUREN T. SMITH, and NANCY MCGINN, :

Defendants, :

LYNN A. SMITH and :
NANCY MCGINN, :

Relief Defendants. and :

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

Intervenor. :

**NOTICE OF CLOSING OF SALE
OF MCGINN RESIDENCE**

In furtherance of the (i) Order Modifying Asset Freeze to Allow the Sale of Certain Property (Docket No. 276) (“Order Allowing Sale”) and (ii) Order (Docket No. 337) (“Second Order”) (collectively, “Orders”), the Receiver files this Notice to report that the closing of the sale of the

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New York Property (as defined in the Order Allowing Sale) and certain personal property occurred on November 18, 2011. In accordance with the Orders, \$15,000.00 in net sale proceeds were paid to the Receiver with one-half of that amount deposited into a Receiver's account, and the other one-half paid to Nancy McGinn pursuant to the Order Allowing Sale. The real property closing occurred even though the New York Property was overencumbered by liens with the second mortgagee accepting a substantial payment discount from what it was owed and agreeing to release proceeds to the Receiver in return for the Receiver arranging the sale. Personal property proceeds of \$7,450.00 were delivered to Nancy McGinn in accordance with the Second Order.

Dated: November 22, 2011

PHILLIPS LYTTLE LLP

By /s/ William J. Brown

William J. Brown (Bar Roll #601330)

Todd A. Ritschdorff (Bar Roll #512601)

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