

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. :

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**ORDER APPROVING AMENDED SECOND INTERIM APPLICATION OF
PHILLIPS LYTLE LLP AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Upon the Amended Second Interim Application of Phillips Lytle LLP (“Phillips Lytle”) and the Receiver (“Receiver”) for Allowance of Compensation and Reimbursement of Expenses dated November 12, 2011 (Docket No. ____) (“Application”) for an order approving the allowance of compensation and reimbursement of expenses; and notice of the Application

having been given to the Securities and Exchange Commission and all parties who have filed a Notice of Appearance in this action and all creditors of the McGinn Smith Entities and other parties in interest via the Receiver's website, which notice is deemed good and sufficient notice; and the Court having determined that sufficient cause exists; it is therefore

ORDERED, that the Application is approved such that (i) compensation for legal and Receiver services rendered between August 1, 2010 and December 31, 2010 ("Second Interim Period") in the amount of \$121,456.64 is allowed as an interim allowance, and (ii) reimbursement of expenses advanced by Phillips Lytle during the Second Interim Period in the amount of \$9,324.23 is allowed as an interim disbursement payment; and it is further

ORDERED, that the Receiver is authorized and directed to pay the amounts as allowed pursuant to this Order.

Dated: Dec. 23, 2011



HON. DAVID R. HOMER

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