

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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, DAVID L. SMITH,
LYNN A. SMITH, DAVID M. WOJESKI, 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,

LYNN A. SMITH, and
NANCY MCGINN,

Relief Defendants, and

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

Intervenor.

**ORDER GRANTING MOTION OF THE UNITED STATES
TO STAY FILING OF DISPOSITIVE MOTIONS AND TRIAL**

On March 5, 2012, the United States filed a request pursuant to Local Rule 7.1(b)(2) requesting a pre-motion conference regarding its proposed motion to intervene to stay briefing of dispositive motions and trial in *SEC v. McGinn, Smith & Co., Inc. et al.*, 10 CV 457 (N.D.N.Y.) (the “civil case”) pending completion of the related criminal proceedings, *United States v. Timothy*

M. McGinn and David L. Smith, 12-CR-028 (N.D.N.Y.) (DNH); and

WHEREAS, on March 15, 2012, the Court conducted a hearing in which the United States and all of the parties to this case appeared, including the Court-appointed Receiver, and all parties consented to the motion to intervene; all defendants and relief defendants consented to the motion to stay; and the SEC and the Receiver took no position on the motion to stay;

WHEREFORE, it is hereby,

ORDERED that the motion of the United States to intervene is GRANTED; and

ORDERED that the motion to stay briefing of dispositive motions and the trial in the SEC Action is GRANTED.

DATED: March __, 2012
Albany, NY

David R. Homer
United States Magistrate Judge