

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

*Plaintiff,*

v.

10 Civ. 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,*

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

*Intervenor,*

UNITED STATES OF AMERICA,

*Intervenor.*

**ORDER GRANTING GOVERNMENT’S MOTION  
TO STAY DISPOSITIVE MOTIONS AND TRIAL**

On March 5, 2012, the United States Attorney’s Office for the Northern District of New York requested leave to file a motion to intervene and a motion to stay dispositive motions and

trial in this case pending completion of the related criminal proceedings, *United States v. Timothy M. McGinn and David L. Smith*, 12-CR-28 (DNH). On March 15, 2012, during a hearing on the Government's request, the Court granted the Government's motion to intervene and, after learning that the Securities and Exchange Commission and the Receiver took no position on the motion to stay and the other parties consented to the motion to stay, the Court directed the Government to file a proposed order.

WHEREFORE, it is hereby **ORDERED** that the motion to stay dispositive motions and the trial pending completion of the related criminal proceedings, 12-CR-28 (DNH) is **GRANTED**, and it is further **ORDERED** that the stay does not affect any of the activities or responsibilities of the Receiver pursuant to the Orders of this Court including, without limitation, the Preliminary Injunction Order (Dkt. No. 96).

DATED: March \_\_, 2012  
Albany, NY

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David R. Homer  
United States Magistrate Judge