

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**SECURITIES AND EXCHANGE COMMISSION,**

*Plaintiff,*

v.

**10 Civ. 475 (GLS)**

**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,**

*Defendants, and*

**LYNN A. SMITH,**

*Relief Defendant.*

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**DECLARATION OF SERVICE**

I, David Stoelting, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a senior trial counsel in the New York Regional Office of plaintiff Securities and Exchange Commission.

2. On April 20, 2010, copies of the following documents were served on Joseph Carr, Esq., at 99 Pine Street, Albany NY; Mr. Carr represented that he had been authorized to accept service of these documents on behalf of all Defendants and the Relief Defendant:

- Complaint;
- Summonses for each Defendant and Relief Defendant;

- Memorandum of Law in Support of Application for Emergency Relief;
- Appendix of Exhibits in Support of Emergency Application;
- Declaration of Lara Shalov Mehraban;
- Declaration of Roseann Daniello;
- Declaration of Israel Maya;
- Order to Show Cause.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
April 22, 2010

**s/ David Stoelting**

Attorney Bar Number: 516163

Attorney for Plaintiff

Securities and Exchange Commission

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