

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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:
SECURITIES AND EXCHANGE COMMISSION, :
:
: *Plaintiff,* :
:
v. :
:
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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**Case No.: 1:10-cv-457
(GLS)(DRH)**

**CONSENT TO ENTRY OF PRELIMINARY INJUNCTION ORDER BY
TIMOTHY M. MCGINN AND DAVID L. SMITH**

Timothy M. McGinn and David L. Smith, each in their individual capacities, have reviewed the Preliminary Injunction Order filed by Plaintiff, Securities and Exchange Commission, on June 8, 2010 (Docket No. 58), and consent to the entry of the Preliminary Injunction Order as it relates to each of them in their individual capacities.

Dated: Albany, New York
June 8, 2010

GREENBERG TRAURIG, LLP

By: /s/ Michael L. Koenig
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