

**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; AND
DAVID L. SMITH,**

Defendants, and

LYNN A. SMITH,

Relief Defendant.

ORDER REGARDING PINE STREET ENTITIES

IT IS ORDERED that Pine Street Capital Partners, LP, Pine Street Capital Partners LLC, and Pine Street Capital Management LLC (collectively the "Pine Street Entities"), which were included on Exhibit A to the Order to Show Cause dated April 20, 2010, are hereby removed from Exhibit A and shall not be part of the Receivership.

Pending final disposition of this action, and considering that the Pine Street Entities hold assets under the control and authority of the Receiver, the Pine Street Entities shall:

- (1) provide the Receiver with a minimum of ten (10) days' notice of any distribution from the Pine Street Entities, including distributions for payment of quarterly

management fees and how such fees were calculated, and the Receiver may disallow any distribution;

(2) distribute to accounts controlled by the Receiver any payments to: (i) David L. Smith, Lynn A. Smith or the David L. Smith and Lynn A. Smith Irrevocable Trust dated August 4, 2004, which will be held by the Receiver in segregated accounts, or (ii) any MS Entity;

(3) provide the Receiver with monthly bank statements for the Pine Street Entities;

(4) cooperate with the Receiver and provide the Receiver with monthly updates;

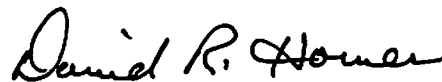
(5) allow the Receiver to conduct audits of the Pine Street Entities at his discretion; and

(6) copy the Receiver on all communications to limited partners.

The Commission or the Receiver may, upon good cause, move for an Order amending or rescinding this Order Regarding Pine Street Entities.

SO ORDERED:

Dated: June 9, 2010



Daniel R. Hower
UNITED STATES MAGISTRATE JUDGE