UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
-vs- 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, GEOFFREY R. SMITH,
Individually and as Trustee of the David L.
and Lynn A. Smith Irrevocable Trust U/A 8/04/04,
LAUREN T. SMITH, and NANCY McGINN,

Defendants,

LYNN A. SMITH, and
NANCY McGINN,

Relief Defendants, and
GEOFFREY R. SMITH, Trustee of the
David L. And Lynn A. Smith Irrevocable
Trust U/A 8/04/04,

Intervenor.
* * * * * * * * * * * * * * * * * * * *

P. Sicluna

EXAMINATION BEFORE TRIAL of PATRICIA SICLUNA, held at Phillips Lytle, LLC, Albany, New York, on November 2, 2011 before NORA B. LAMICA, Court Reporter and Notary Public in and for the State of New York.

APPEARANCES:
Attorneys for Plaintiff:
SECURITIES AND EXCHANGE COMMISSION
Attorneys at Law
3 World Financial Center, Room 400
New York, New York 10281
BY: DAVID STOELTING, ESQ.
BY: KEVIN McGRATH, ESQ.

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Attorneys at Law
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Albany, New York 12210
BY: WILLIAM DREYER, ESQ.

P. Sicluna

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P. Sicluna

authorization that were -- that had been signed by Lynn Smith?

A. I don't recall offhand, no.

Q. And this account at M&T Bank, the one ending in 0-4-6, was that an account -- was that David Smith's?

A. It's a routing number for M&T Bank.

Q. And was this a broker/dealer account?

A. It says it's David Smith's account.

Q. Can you think of why you would be -- and do you know what the Lynn Smith account was, the one ending in 1-dash-7-0-0?

A. It was a broker's account.

(Exhibit PX-313 marked for identification.)

Q. Exhibit 313 is a three-page document and the first page is dated December 28, 2004. It's to McGinn Smith & Co., Inc.. "Dear Sirs: Please accept this letter as authorization to wire $21,000 from the above-referenced account to an account at M&T Bank in the name of M&S Partners." Is that your signature at the bottom?

A. Yes.

Q. So you approved this transfer?

A. Yes.

Q. Do you remember signing this?

A. No.

Q. Do you have a recollection of why $21,000 was transferred from the David and Lynn Smith account to an M&S Partners account?

A. No.

Q. Does looking at this refresh your recollection about approving transfers to and from Lynn Smith?

A. Yes.

Q. Is that something that you did frequently?

A. I don't recall how frequent it was.

Q. Was it something -- did you approve transfers such as this? And just looking at the form, it has your name typed in and Lynn Smith's and David L. Smith's names typed in. Is that because these were forms that were kept on hand so that these transfers could be done without having to create a new form every time?

A. I would think this form was created at the time the transfer was going to be done.

Q. Do you remember there being -- do you remember -- do you remember David McQuade keeping signed letters of authorization in the office?

A. Yes.

Q. Why was that done?

A. I don't know.

Q. How did you come to understand that McQuade kept signed letters of authorization? And just so the record is clear, what I mean is letters of authorization signed by Lynn Smith. How did you become aware of that?

A. Because Dave Smith took letters home to sign -- to have Lynn sign and kept them -- gave them to Dave McQuade to keep in a file.

Q. And how did you come to that understanding?

A. I knew that he took them home to have her sign them. Somebody, either Dave McQuade or myself, had to prepare the LOA for him to give to Lynn for her sign.

Q. And then you recall Mr. Smith bringing back the signed LOAs?

A. Yes.

Q. And how often do you remember -- was that something that happened with some regularity over the years?

A. Yes.

Q. And did you ever keep the LOAs or was it always Mr. McQuade, the signed LOAs?

A. I think I may have kept them as well as him.

Q. And under what -- and then do you recall how they would be used by Mr. Smith?

A. No.

Q. Do you remember David Smith filling in the amount of the transfer and giving it to you and ask you to approve the transfer?

A. No.

MR. DREYER: I didn't hear the answer. I'm sorry.

MR. STOELTING: She said "no".

Q. Did Mr. McQuade have the authority as operations manager to approve wire transfers?

A. Yes. Can I just say something? I think this was Berstein's. They needed approval. When we cleared through NFS, they didn't need an approval.

Q. So when you say approval, you mean approval by a person from McGinn Smith?

A. McGinn Smith.

Q. But they would still need a signature from the account holder, meaning Lynn Smith?

A. Yes.

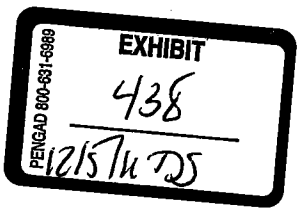
MR. STOELTING: Let's take a short break.

(Whereupon, a brief recess was taken.)

Q. Ms. Sicluna, where do you work now?

A. Edward Jones.

Q. That's the brokerage firm?



Tiffani Filien

From: Tiffani Filien
Sent: Monday, June 22, 2009 2:12 PM
To: 'smithd@mcginnsmith.com'
Subject: Letter
Attachments: Asset Transfer Letter 1_28_09.pdf

Good afternoon Mr. Smith. Attached for your reference is a letter addressed to you and your wife, dated January 28, 2009, summarizing a proposed transfer of assets.

Thank you and please let me know if you have any questions or if you have trouble opening the attachment.

Tiffani

Tiffani A. Filien
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Amy L. Farino**

Of Counsel
Arfley L. Masters, Jr.
Michael P. Mellone

January 28, 2009

VIA PERSONAL DELIVERY

Mr. and Mrs. David L. Smith
REDACTED
Saratoga Springs, New York 12866

Re: Estate Planning

Dear David and Lynn:

This letter summarizes the proposed transfer of assets we recently discussed which will further your estate planning and asset protection objectives. Enclosed are three asset ownership worksheets which illustrate the changes in ownership discussed below. The first worksheet shows your assets as they are currently owned. The second worksheet shows the first set of transfers to be made immediately. The third worksheet shows the ownership of assets six (6) months after the initial transfers.

Because the David L. Smith Lifetime QTIP Trust (the "QTIP Trust") was funded with assets which belonged to David, those assets must be distributed out of the trust and back to David. This transfer may be done pursuant to Article III, Section A., Paragraph 3. of the QTIP Trust. Once the assets are back in David's name, David will make a gift of those assets to Lynn. Lynn will hold these assets for approximately six (6) months and will then transfer the assets to the QTIP Trust.

In addition to the above transfer, we also recommend that David transfer the $410,000 note receivable and his interests in Capital Center Credit Corp. and Mr. Cranberry, LLC to Lynn. Again, after approximately six (6) months Lynn will transfer these assets to the QTIP Trust. It should be noted that Lynn will need to file a gift tax return for any transfers she makes to the QTIP Trust. No gift tax will be payable, however, because there is a marital deduction available for gifts made between spouses. We have contacted Ron Simons, CPA and informed him that any transfers made to the QTIP Trust in 2008 do not require a gift tax return.

It is important to note that should either of you file for bankruptcy or be sued by a creditor subsequent to the transfers, these transfers will be scrutinized to determine if they were fraudulently conveyed. In order to avoid these transfers from being characterized as

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Lavelle
& Finn
LIMITED LIABILITY PARTNERSHIP
Attorneys At Law

fraudulent conveyances you must: i) not have actual intent to delay or defraud creditors; ii) not make transfers which leave you with insufficient assets to satisfy your debts; iii) not engage in or become engaged in a business for which your assets remaining after the transfer constitute an unreasonably small capital; and iv) not intend to or reasonably believe that you will incur debts after the transfers for which your remaining assets are insufficient to repay.

We also discussed the possibility of transferring ownership of your principal residence and the Vero Beach property to Lynn's name alone. At this time, it is more beneficial for you to own those properties jointly as tenants by the entirety. When titled as tenants by the entirety these assets are non-probate property and will pass by law to the surviving spouse upon the first spouse's death. In addition, each spouse is treated as owning an undivided 100% interest in the property which means that the consent of both spouses is required in order to sell or mortgage the property. Tenants by the entirety also offers protection against the creditors of one spouse. Although a creditor of one spouse can obtain a lien on that spouse's interest in the property, the lien will only survive if the debtor spouse is the surviving spouse and becomes the sole owner of the property. Finally, courts do not have the authority to order the sale of property owned as tenants by the entirety and, therefore, if one spouse files for bankruptcy the court cannot order the sale or transfer of the property.

Once you have had a chance to review this information please do not hesitate to contact me with any questions or if you need assistance with the transfers. Thank you.

Very truly yours,

LAVELLE & FINN, LLP

By: _____
Martin S. Finn, JD, CPA, LL.M.

Enclosures
MSF/ale

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION	:	
	:	
Plaintiff,	:	
	:	Case No. 1:10-CV-457
vs.	:	(GLS/CFH)
	:	
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, GEOFFREY R. SMITH,	:	
Individually and as Trustee of the David L. and	:	
Lynn A. Smith Irrevocable Trust U/A 8/04/04,	:	
LAUREN T. SMITH, and NANCY McGINN,	:	
	:	
Defendants,	:	
	:	
LYNN A. SMITH and	:	
NANCY McGINN,	:	
	:	
Relief Defendants,	:	
- and-	:	
	:	
GEOFFREY R. SMITH, Trustee of the	:	
David L. and Lynn A. Smith Irrevocable	:	
Trust U/A 8/04/04,	:	
	:	
Intervenor.	:	

RECEIVER'S REPORT REGARDING SALE OF SMITH SACANDAGA LAKE PROPERTY

Pursuant to the Court's Memorandum-Decision and Order dated November 22, 2013 (Docket No. 647) and the Order in Aid of Administration of Memorandum-Decision and Order (Docket No. 647) dated December 23, 2013 (Docket No. 657) ("Administration Order"), the Receiver made preparations for and listed the Smith Sacandaga Lake Property for sale

pursuant to the Notice to Potential Purchasers for the Smith Sacandaga Lake Property Regarding Further Offers and Bidding Procedures (Docket No. 682), as follows:

1. The Receiver's real estate broker, CMK & Associates Real Estate ("CMK"), listed the property for sale on the multiple listing service system as of February 18, 2014 and both before and after that listing actively solicited further offers for the property. CMK responded to inquiries and showing requests. As described in paragraph 3 of the Administration Order, the Receiver was already in possession of a stalking horse offer consisting of three contracts for the simultaneous purchase of the entire property against which higher and better offers could be made.

2. No competing offer for the property was made to the Receiver.

3. On March 12, 2014, the Receiver delivered the stalking horse contracts, a pro-forma Closing Statement, and explanation of the purchase offers as required by paragraph I.A. of the Administration Order to the (a) Smith Trust trustee, (b) counsel for the Smith Trust, (c) counsel for Lynn Smith, and (d) the Securities and Exchange Commission. No objections to the stalking horse offer were filed or received by the March 14, 2014 5:00 p.m. (Eastern Time) deadline.

4. Consequently, the Receiver has accepted the stalking horse offer consisting of three Purchase and Sale Agreements (one for each parcel) requiring a simultaneous closing based on an aggregate sale price of $575,000 (the listing price) less the five percent real estate commission plus a one-half of one percent closing fee which represents one-half of the closing fee being split evenly by the buyer and the Receiver, as seller. The net proceeds would be approximately $552,379.13 less $2,186 (one-half of one percent closing fee) and $2,186 (transfer tax) if the sale were closed as of March 12, 2014. The closing price is subject to real property tax proration as of the actual closing date. The only contingencies to closing are the purchaser obtaining a mortgage loan on the main house parcel as to which the buyer has

provided a pre-qualification letter from the mortgage lender, and a simultaneous closing of the three contracts for all parcels.

5. The closing is expected to occur around June 2014.

Dated: March 19, 2014

PHILLIPS LYTLE LLP

By /s/ William J. Brown
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Doc #01-2762198.1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION	:	
	:	
Plaintiff,	:	
	:	Case No. 1:10-CV-457
vs.	:	(GLS/CFH)
	:	
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, GEOFFREY R. SMITH,	:	
Individually and as Trustee of the David L. and	:	
Lynn A. Smith Irrevocable Trust U/A 8/04/04,	:	
LAUREN T. SMITH, and NANCY McGINN,	:	
	:	
Defendants,	:	
	:	
LYNN A. SMITH and	:	
NANCY McGINN,	:	
	:	
Relief Defendants. and	:	
	:	
GEOFFREY R. SMITH, Trustee of the	:	
David L. and Lynn A. Smith Irrevocable	:	
Trust U/A 8/04/04,	:	
	:	
Intervenor.	:	

CERTIFICATE OF SERVICE

I, Karen M. Ludlow, being at all times over 18 years of age, hereby certify that on March 19, 2014, a true and correct copy of the Receiver's Report Regarding Sale of Smith Sacandaga Lake Property was caused to be served by e-mail upon all parties who receive electronic notice in this case pursuant to the Court's ECF filing system, and by First Class Mail on March 19, 2014 to the parties indicated below:

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Albany, NY 12207

Dated: March 19, 2014

/s/ Karen M. Ludlow
Karen M. Ludlow

(Whereupon, the Witness is excused.)

THE COURT: The government may call its next witness.

MR. BELLISS: Tim Radice.

TIMOTHY RADICE, having been called as a Witness, being first duly sworn, was examined and testified as follows under oath:

DIRECT EXAMINATION BY MR. BELLISS:

Q. Good morning, Mr. Radice. How are you today?

A. Doing good.

Q. Could you tell the jury where you live?

A. 5 Brunridge (phonetically) Street, Armonk, New York.

Q. Are you married?

A. Yes.

Q. Do you currently work?

A. Yes.

Q. Where do you work?

A. New York Life Mainstay Investments. It is a side of New York Life, the investment side.

Q. How long have you been with New York Life?

A. October I started, so only a couple of months now.

Q. What did you do before that?
A. I was a commodities trader.
Q. Where did you trade commodities?
A. On the floor of the New York Board of Trade, later the ICE Exchange. I was an OJ and cocoa trader.
Q. Did you have any particular commodity that you traded?
A. Yes, orange juice and cocoa. I go back and forth.
Q. Let's talk about your relationship with McGinn, Smith & Company, Inc.
A. Sure. I knew --
Q. Let me ask you a question first, and then you can tell us.
A. I am sorry.
Q. How did you first come to have a relationship with McGinn, Smith?
A. I knew Jeff Smith. He was a clerk when I was a clerk down there. We were in frequent contact with each other, talked about things, and that's how I knew the company.
Q. Who is Jeff Smith?
A. He is one of the owners' of the company son.
Q. Was he your primary point of contact through McGinn, Smith for McGinn, Smith investments?

A. Yes.

Q. Did you ever have any discussions with him about your investment objectives?

A. I don't remember a particular one other than the obvious, I would like to make money.

Q. Did he ever present you with opportunities to invest in McGinn, Smith products?

A. Yes.

Q. How would he typically present one to you?

A. He would frequently talk about different deals they had going on. He had a bunch of other people that I knew on the trading floor that had gotten into products when I was still clerking. When I was clerking I really didn't have any money to invest at the time.

So I would hear about and talk about these products, and at that point, it was really pitched at me. He would just be talking to somebody else about it. And eventually when I started trading and I had a little bit of money to invest, that's when I had asked him if he had anything. He said this is one we are doing right now. I don't remember the specifics of that exact one, but it was something like that.

Q. Focusing on now about the spring of 2008, did you have discussions with Jeff Smith about an investment opportunity called Firstline Trust 07 Series B?

A. Yes.

Q. How did those discussions come about?

A. I believe at the time I heard about other people doing these deals. I said, hey, do you have any deals going on right now? You know, it sounds like it is something interesting, sounds like, you know, it is a good opportunity. He said, yes, this is one of our deals. It is security company deal.

Q. What was your understanding of how the Firstline deal worked, what was the underlying investment?

A. They loaned money to a security company, the money that they brought in from the investors, you either had to put in ten thousand or twenty-five thousand dollars. And then they took that money and they -- well, that was the minimum you had put in. Then they loaned that money to the alarm company. They used it for whatever they needed the money for, and then they would pay a percentage back to -- on the original money.

Q. I am going to show you Exhibit GA8 and the screen is going to pop up in front of you. Please take a moment and look at the folder there and see if you recognize that document. Is that in fact the private placement memorandum for Firstline Trust 07 Series B?

A. Yes.

Q. Did you end up making an investment in this

particular trust?

A. Yes.

Q. I show you Exhibit GF52. What is Exhibit GF52?

A. It looks like basically my trade confirmation that they invested me into this trade.

Q. So you did, in fact, make an investment for twenty-five thousand dollars in Firstline Trust 07 Series B and you made your trade on or about April 24, 2008; is that correct?

A. That sounds right.

MR. BELLISS: If we could go back to the private placement memorandum, GA8, please, Ron.

BY MR. BELLISS, CONTINUED:

Q. Looking at the top half of the first page there, Mr. Radice, what was the interest rate promised to you as an investor in this investment?

A. Eleven percent.

Q. What was the maturity term of the investment, is it sixty months?

A. Yes.

Q. Scrolling down to the bottom half of the first page, it says underwriting discount 6.0 percent, what did you take that to mean?

A. That the expenses associated with this would be six percent.

Q. If we could go to page five. Bringing up the highlighted section, the use of proceeds section, take a moment and please read that to yourself, Mr. Radice.

A. Okay.

Q. Moving to page seven, again, if you could read the highlighted paragraph to yourself under the use of proceeds section.

A. Okay.

Q. Based on the provision we have just looked at, is it fair to say that investor money would be loaned to a Utah company that also happened to be called Firstline?

A. No, it doesn't say that.

Q. Okay. If we could go back to page five, take a moment and read that highlighted section beginning with the trust fund.

A. Okay.

Q. Does that refresh your recollection on the connection of this Utah company?

A. Yes, I am sorry.

Q. Was it your understanding that the Utah company had some alarm contracts that were being financed?

A. Yes.

Q. Did you think your investment money would be used or spent according to the use of proceeds section that we have just been looking at?

A. Yes.

Q. Did Jeff Smith tell you that Mr. Smith and Mr. McGinn were planning to use more than three hundred thousand dollars of investor money raised by the trust to pay themselves above and beyond the fees disclosed in the private placement memorandum?

A. No.

Q. Is that information that would have been significant to you in making the decision whether to invest?

A. Yes.

Q. Did Jeff Smith tell you that Mr. Smith and Mr. McGinn were planning to use more than three hundred thousand dollars of investor money to make low interest loans to themselves?

A. No.

Q. Is that information that would have been significant to you in deciding whether to invest?

A. Yes.

Q. Did Jeff Smith tell that you Mr. McGinn and Mr. Smith did use more than three hundred thousand dollars of investor money raised by the trust to pay themselves above and beyond the fees disclosed in the private placement memorandum?

A. No.

Q. Is that information that would have been significant to you?

A. Yes.

Q. Did Jeff Smith tell that you Mr. McGinn and Mr. Smith used more than three hundred thousand dollars of investor money to make low interest loans to themselves?

A. No.

Q. Is that information that would have been significant to you in deciding whether to invest?

A. Yes.

Q. At the time that you made your investment in this particular one, where did you think the money used to make your monthly interest payments would have come from?

A. Proceeds from the company. The company paying back their debt.

Q. Did you think that your monthly interest payments might come from McGinn, Smith investments unrelated to Firstline?

A. No.

Q. If interest payments to you and other Firstline investors were coming from other unrelated McGinn, Smith investments, is that something you would have wanted to have known prior to deciding to invest?

A. Yes.

Q. Prior to making your investment in Firstline,

did Jeff Smith or anyone from McGinn, Smith tell you that an alarm company called ADT had filed a multi-million dollar lawsuit against Firstline Security, Inc., the company borrowing investor money?

A. No.

Q. Is that information that would have been significant to you in deciding whether to invest?

A. Yes.

Q. Prior to making your investment in Firstline, did Jeff or anyone at McGinn, Smith tell you that Firstline, the company that had borrowed investor money had filed for bankruptcy in January of 2008?

A. No.

Q. Is that information that would have been significant to you in deciding whether to invest?

A. Absolutely.

Q. Prior to making your investments, did Mr. Smith, that is Jeff Smith, tell you that the company that had borrowed investor money had stopped making repayments on the money it borrowed from investors?

A. No.

Q. Is that information that would have been significant for you?

A. Yes.

Q. Did you ever find out about the Firstline

bankruptcy?

A. Eventually, yes.

Q. How did you find out?

A. I believe the first time I found out was when I received a letter in the mail, I think was the first I heard of it.

Q. I show you Exhibit GF65. Take a moment and look at that letter, please. Mr. Radice, what is this letter?

A. I believe this is the letter that they sent to say that basically the company filed bankruptcy, yes.

Q. Is there an attached memorandum to the cover letter?

A. Yes.

Q. From a Joseph B. Carr, general counsel to McGinn, Smith?

A. Yes.

Q. What was your reaction when you received this letter identifying the problems with ADT, the bankruptcy?

A. I guess what you would naturally assume is that this is not good. This is not going to work. This is not going to end well for me. Yes. I mean, the money I invested is not going to be returned to me. I believe in here they say that, they asked for additional funds to be paid if you wanted to have a chance to secure your initial investment.

Q. What was your reaction to that?

A. Yes, that didn't seem like something that would be a good idea to do.

Q. Did you end up making any additional investments in Firstline?

A. No.

Q. When you received this memorandum advising that Firstline had filed for bankruptcy in January of 2008, did that trigger anything in your mind about the timeline of your investment?

A. Not right away. It was later on.

Q. What happened?

A. I went back to work after receiving this letter and had some conversations with other people that were invested in this, and they mentioned that how quickly after the deal was done it had gone into bankruptcy. And that made me think to myself, I didn't get in this deal when it was originally offered. I got in almost a year later. I wonder if it was bankrupt already after I got in, which obviously would be a problem. So then after that conversation, I went home that day and brought up all my old statements and confirmations and this letter and looked at the dates and tried to figure out exactly what had happened.

Q. Had you, in fact, purchased your interest after

the bankruptcy?

A. Yes, four months after the date on this letter.

Q. After you discovered the timeline of events, did you have any further communications with Jeff Smith?

A. Yes, I don't remember how soon after. I think it was relatively soon after. He was going to come down to the floor and speak with everybody, just kind of give them an update of what was going on.

So when he came down to speak with everybody, I pulled him aside and said, you know, there is something wrong here. You put me in an investment that was already bankrupt. Like, you can't obviously do that.

And he said, you know, no problem. We will take care of it. Don't worry. Something must have gotten screwed up, like if this has actually happened. Don't worry. We will take care of it. You know, we will get you your money back.

Q. Looking at the bottom paragraph that's up on the screen.

MR. BELLISS: Can you blow that up a little, Ron?

BY MR. BELLISS, CONTINUED:

Q. Just take a moment and read that to yourself Mr. Radice, if you could.

A. Okay.

Q. During any of your conversations with Jeff Smith, did he identify where monthly interest payments to you and other Firstline investors were, in fact, coming from?

A. No, he did not. Honestly I didn't ask. I probably should have. It seems to be a very kind of common sense question, but at the time really all I was concerned about was why I was in an investment that was already bankrupt and the quickest possible way to get my money back.

Q. Did you, in fact, get your principal back?

A. I did eventually get my principal back.

Q. Let me show you Exhibit GF54. If you could flip to the third page. What are the third and fourth pages of that exhibit, Mr. Radice?

A. It looks like my basically agreement that I would not hold them accountable for anything like as far as a lawsuit goes assuming they gave me my money back.

Q. If Jeff Smith had not gotten you your money back, what were you going to do?

A. I probably would have had to file a lawsuit. It was something I really didn't want to have to get involved in. I hadn't really gone down that road too far because every time I talked to him, he told me that I was going to get my money back. So I chose to believe him on that and

hadn't taken any steps toward a lawsuit at that point.

Q. Looking at the first sentence up on the screen, it talks about twenty-two thousand, two hundred and thirty-four dollars, was that the balance of the principal that essentially you were owed?

A. Yes, that was -- yes, I mean, they made some interest payments on the thing so I had already taken some money out of the account that was there in cash and that was the rest of the money that they owed to make it whole.

Q. If we go to page two, did you sign this release promising not to sue McGinn, Smith?

A. Yes.

Q. Did you sign it on or about January 20, 2010?

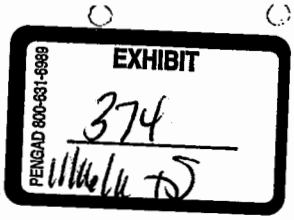
A. Yes.

MR. BELLISS: Thank you, Mr. Radice. No further questions, Judge.

THE COURT: Defense may cross exam. Ms. Owens.

CROSS-EXAMINATION BY MS. OWENS:

Q. Hi, Mr. Radice. So you just told Mr. Belliss that one of the reasons you wanted to invest in Firstline was because you wanted to make money. And the was eleven percent interest rate on the junior trust something that was attractive to you?



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x Index No.

IAN MEYERS,

Plaintiff,

COMPLAINT 03 CV 9748 (KMW)

-against-

INTEGRATED ALARM SERVICES GROUP., INC. MCGINN SMITH & COMPANY, INC.; M&S PARTNERS, TIMOTHY MCGINN, DAVID SMITH, FIRST INTEGRATED CAPITAL CORP., PRICEWATERHOUSE COOPERS LLP, GERSTEN SAVAGE KAPLOWITZ WOLF & MARCUS LLP, and LYNN A. SMITH, AND FRIEDMAN BILLINGS RAMSEY & CO., INC., MARYANN MCGINN, BRIAN SHEA,

JURY TRIAL DEMANDED

Defendants.

----------x

Plaintiffs, respectfully allege as follows:

JURISDICTION AND VENUE

1. This Court has federal question jurisdiction of this action pursuant to 28 U.S.C. §1331 as this claim is brought under 15 U.S.C. §§77a et seq. and 17 C.F.R. § 240.10b-5 with jurisdiction granted under 15 U.S.C. §77v. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the claims under the laws of the State of New York, the laws of Delaware and the common law for breach of contract, quantum meruit, unjust enrichment, appraisal and rescission and the since the claims are so related to claims in the action within the Court's original jurisdiction they form part of the same case or controversy under Article III of the United States Constitution. This Court has personal jurisdiction over each of the Defendants because each conducts systematic and continuous business in the State of New York, County of New York, and since a substantial portion of the acts and tortious acts alleged herein took place in the State of New York, County of New York. This Court has

personal jurisdiction over each of the Defendants because the claims against the Defendants arise out of tortious acts that occurred or had effect in the State of New York, County of New York.

2. This court also has jurisdiction under 28 U.S.C. § 1332 since the parties hereto are citizens of different states and the amount in controversy exceeds $75,000.

3. Venue in this court is founded on 28 U.S.C. 1391 (b) since one or more Defendants maintain and operate a business in the County, City and State of New York.

PARTIES

Plaintiff

4. IAN MEYERS ("Meyers") is an individual having an address of REDACTED REDACTED . Meyers is the owner of 275,000 shares of First Integrated Capital Corp., Inc. ("FICC" or the "Company").

Defendants

5. Defendant Integrated Alarm Services Group, Inc. ("IASG") is a Delaware Corporation with its principal place of business located at One Capital Center, 99 Pine Street, Albany, New York 12207.

6. Defendant MCGINN SMITH & COMPANY, INC. ("MCGINNSMITH"), is a New York corporation, authorized to do business in the state of New York, and maintains and does business from its principal place of business located at One Capital Center 99 Pine Street, Albany, New York 12207 and is made a defendant here since the acts of the corporation, its officers or third persons as were fully set forth, have undermined the rights of the Plaintiff shareholder to exercise his relative voice in corporate affairs, including, upon information and belief, sales of FICC assets through its offices located on Maiden Lane in the City, State, and County of New York.

7. Defendant M&S PARTNERS is a partnership doing business in the state of New York, and maintains and does business from its principal place of business located at One Capital Center 99 Pine Street, Albany, New York 12207.

8. Defendant First Integrated Capital Corp. is a Delaware Corporation with its principal place of business located at One Capital Center, 99 Pine Street, Albany, New York 12207.

9. Defendant Friedman Billings Ramsey & Co., Inc. is, upon information and belief, a corporation with its principal place of business located at 1001 Nineteenth Street North, Arlington, Virginia 22209 and doing business at 555 Madison Avenue, New York, NY 10022 ("FBR" or "the Underwriter").

10. Upon information and belief, Defendant Gersten Savage Kaplowitz Wolf & Marcus LLP ("Gersten Savage") is a New York limited liability partnership with its principal place of business located at 101 East 52nd Street, 9th Floor, New York, New York 10022.

11. Upon information and belief, Pricewaterhousecoopers LLP is a Delaware limited liability partnership registered to do business in New York with its principal executive offices located at 1177 Avenue of the Americas, New York, New York 10036.

12. Defendant Timothy McGinn ("McGinn") is an individual whose last known place of employment is One Capital Center, 99 Pine Street, Albany, New York 12207.

13. Defendant MaryAnn McGinn is an attorney admitted to practice in the State of New York whose last known place of employment is One Capital Center 99 Pine Street, Albany, New York 12207.

14. Defendant Brian Shea is an individual whose last known place of employment is One Capital Center 99 Pine Street, Albany, New York 12207.

15. Defendant David Smith ("Smith") is an individual whose last known place of employment is One Capital Center 99 Pine Street, Albany, New York 12207.

16. Defendant Lynn A. Smith is an individual whose last known address is c/o McGinn Smith, One Capital Center 99 Pine Street, Albany, New York 12207.

FACTUAL BACKGROUND

17. On or around March, 2000, McGinn and Smith formed First Integrated Capital Corp. (FICC) a Delaware corporation.

18. FICC was set up to operate "four discrete but related financial services businesses. Exhibit A (FICC Private Placement Memorandum at 6).

19. FICC's four businesses were 1. Community Investment Banking: Joint ventures formed with commercial banks in various growth markets; 2. Asset Recovery and Collection; 3. High Yield Asset Generation (the alarm or security monitoring business); and 4. Internet Based Investment Banking (OnLine Capital, LLC). Exhibit A (FICC Private Placement Memorandum).

20. McGinn and Smith contributed assets "valued at $7,000,000 in return for 2,800,000 shares of Common Stock of First Integrated Capital Corp." Exhibit A at 9.

21. The bulk of the assets McGinn and Smith contributed to FICC were (a) a 20% interest in KC Acquisition corp. dba **"King Central"**, one of the largest and most respected (alarm monitoring) contract central stations" (the **"Central Station Assets"**) see Exhibit B, (chart showing FICC 20% interest); and (b) a 50% interest in various retail alarm monitoring contracts created through joint ventures between Thomas Few and M&S Partners (the **"Retail Contracts"**). These assets are referred to collectively hereinafter as **"The Alarm Assets"**.

22. In addition, McGinn and Smith contributed four million dollars in the stock of Security Associates International ("SAI") and pledged a revenue stream of $25 per retail alarm contract purchased by FICC.

Meyers' Employment With FICC

23. McGinn and Smith recruited Ian Meyers to work for FICC.

24. McGinn and Smith represented that FICC would own all of the Alarm Assets, was a company that would have their "full attention" as management, and that their current and future Alarm Assets would provide a valuable basket of earning assets for FICC.

25. On or around May 1, 2000, Meyers received a one-page written document signed by McGinn offering him the positions of Vice Chairman of FICC and President of Pointe Capital. Exhibit C (Letter of McGinn dated May 1, 2000).

26. The offer included a compensation package of THREE HUNDRED SIXTY THOUSAND ($360,000) DOLLARS per annum for a three-year term and 275,000 shares of common stock of FICC.

27. A true copy of Meyers' share certificate no. C7 representing 275,000 shares of FICC dated November 30, 2000 is attached hereto as Exhibit "D".

28. On or around May 1, 2000, Meyers accepted McGinn's offer and became Vice Chairman of FICC.

29. Meyers remains Vice Chairman and a director of FICC to this day.

FICC Fall 2000 Offering

30. On or around June 27, 2003, McGinn and Smith made a private stock offering which sought to sell 3,000,000 shares of convertible preferred stock in FICC at a price of $5 per share (fully

convertible into 1.25 shares of FICC common). Exhibit A (FICC Private Placement Memorandum).

31. Upon information and belief, McGinn and Smith broke escrow at slightly above the minimum of $4,000,000 in capital, and, upon information and belief, issued 861,000 shares.

32. Upon information and belief, the ownership structure following the issuance of FICC stock was as follows:

Common Shareholders	Pre-Offering/ Non-Converted	Post-Offering/ Fully Converted
Timothy M. McGinn	43.41%	32.55%
David L. Smith	43.41%	32.55%
Ian H. Meyers	8.53%	6.39%
Thomas Few	3.10%	2.32%
Paul Zindell	1.55%	1.16%
Series "A" Preferred	0.00%	25.03%
Total	100.0%	100.0%

33. Upon information and belief, post-offering, there were 4,301,250 common shares of FICC on a post-conversion basis.

34. Meyers' 275,000 shares represented over eight and one-half percent ownership in FICC on a non-converted basis and over six percent on a fully-converted basis.

FICC's Assets Prior to the IASG IPO

35. On or around June 27, 2003, IASG conducted an initial public offering in which certain assets of FICC were purportedly sold to the public. See Exhibit E ("IASG Prospectus"), (the "IASG IPO").

36. Prior to the IASG IPO, FICC's most important assets were the Retail Contracts, and the Central Station Assets, and the revenue stream accruing from the payment of $25 for each alarm contract purchased and at least four million dollars worth of SAI stock.

37. FICC owns 50% of Payne Security Group, LLC, Guardian Group, LLC and Palisades Group, LLC (respectively "Payne", "Guardian" and "Palisades"). See Exhibit F (chart detailing ownership of Guardian Group LLC).

38. McGinn, Few and Smith controlled Payne, Guardian and Palisades.

39. FICC owned a pro-rata share of alarm contracts which were entered into by entities using the trade names Payne Security, Guardian Group, and Palisades.

40. Such contracts were originated either by entities using the trade names Payne Security, Guardian and Palisades Partners or purchased from alarm dealers who had originated such contracts through the three entities.

41. As of October 26, 2000, Palisades owned 15,000 retail monitoring accounts and that number was growing at the rate of 2,400 per month.

42. The Retail Contracts obligate the consumer to pay a fixed monthly fee (typically $30) for monitoring services, thereby creating a valuable revenue stream for the contract owner.

43. Alarm dealers must pay a contract central station for providing monitoring services to its end users.

44. Such payment is typically four to five dollars per month, creating a valuable revenue stream for the Central Station.

McGinn & Smith Neglect FICC

45. McGinn neglected FICC right from the start, upon information and belief, spending no

more than a few hours each month on FICC business.

46. Smith spent no time at all and neglected all of the administrative duties he had agreed to handle, allowing the first joint venture to start without the requisite licenses and insurance policies.

47. Upon information and belief, McGinn and Smith took in excess of $500,000 annually in management fees from FICC. See Exhibit E (FICC prospectus at 20).

48. During this period, McGinn and Smith failed to follow corporate formalities, using FICC and Pointe Capital as personal slush funds.

49. McGinn Smith failed to reimburse FICC and Pointe Capital for McGinn Smith expenses and strong-armed Pointe Capital into investing in McGinn Smith ventures.

50. There was a single FICC Board of Directors meeting in April, 2001.

51. During this time, McGinn and Smith diverted all corporate opportunities away from FICC and into entities in which they had greater ownership interests.

52. McGinn and Smith acquired additional alarm assets and financed them through other entities.

53. During this period, McGinn and Smith earned in excess of $750,000 in fees for securing a loan for Securities Associates International, which, rather than paying such fees to FICC, they simply stole.

54. During this period, and contrary to their covenants to FICC, McGinn and Smith continued to build their personal alarm assets, financing portfolios of retail contracts with lenders such as Key Bank, N.A. and LaSalle Bank using non-FICC entities in the process, generating in excess of $1,000,000 in compensation for themselves annually.

55. Further, McGinn used his position as Vice Chairman of Pointe Financial Corp. to have Pointe Bank purchase debt he underwrote (SAI and King Central financings) and further line his pockets in violation of Regulation O.

Commingling of FICC Retail Alarm Monitoring Assets

56. Upon information and belief, from October, 2000, through June 2003, McGinn and Smith commingled the Retail Contracts of FICC with those of other entities that they owned or controlled, along with entities co-owned or controlled by Tom Few.

57. Upon information and belief and as set forth more fully below, McGinn and Smith removed valuable revenue-generating assets from FICC and commingled them with non-performing and revenue-losing assets to enrich themselves personally in a series of self-dealing transactions.

58. Upon information and belief, such commingling and self-dealing was done with the knowledge of and assistance of PricewaterhouseCoopers LLP, Gersten Savage, FBR, Brian Shea, MaryAnn McGinn and Lynn Smith.

59. Upon information and belief, such commingling led to significant retail alarm assets disappearing from FICC's balance sheets and being diverted to entities owned by McGinn, Smith and Few.

60. On June 27, 2003, the IASG prospectus claimed that IASG owned 39,000 retail alarm contracts. See Exhibit E.

61. Upon information and belief, FICC had a 50% ownership in such assets.

62. At the rate of $30 per month, the 39,000 Retail Contracts yield $1,170,000 per month in recurring monthly revenue ("RMR").

63. To value such Retail Contracts, the custom in the industry is to apply a factor of 36 to RMR, giving an asset valuation of $42,120,000.

64. Subtracting the debt ($37,760,000) associated with these assets yields an asset value of $9,360,000.

65. Accordingly, 50% of $9,360,000 or $4,680,000 in assets in the form of the 50% interest in retail contracts are missing from FICC's balance sheet.

66. Such assets should appear on FICC's balance sheet, but instead were purportedly transferred to IASG for grossly inadequate consideration without the approval of FICC's shareholders and directors or fair consideration being paid.

67. Since PricewaterhouseCoopers LLP prepared the IASG IPO, it knew or should have known that FICC has such ownership interest and that FICC's shareholders and directors had not approved of any such grossly inadequate transfer.

68. Since Gersten Savage was counsel to IASG and prepared the IASG IPO, it knew or should have known that FICC has such ownership interest and that FICC's shareholders and directors had not approved of any such grossly inadequate transfer.

FICC's Central Station Assets

69. From on or around October, 2000, through July, 2003, FICC owned 20% of the common stock of King Central. Exhibit B. This was diluted down to 16% based upon King Central's September 2002 acquisition of Criticom. See Exhibit G (chart showing ownership structure of King Central Aquasition Corp).

70. King Central owned 500,000 wholesale alarm monitoring contracts whereby it provides monitoring services to end users and is paid a fee of four to five ($4-5) dollars per month per

contracts for providing such services. See Exhibit E, Prospectus at 1.

71. RMR for the 500,000 wholesale alarm monitoring assets is approximately $2,100,000.

72. The industry standard multiple for calculating the value of wholesale alarm monitoring contracts is 30.

73. Accordingly, the total value of King Central's alarm monitoring assets should have been $63,000,000. Subtracting the debt associated with these assets yields an asset value of $38,300,000.

74. FICC owned 16% of King Central, or approximately $6,128,000 in assets.

75. Such assets have disappeared from FICC's balance sheet.

76. Such assets should appear on FICC's balance sheet, but instead were purportedly transferred to IASG without the approval of FICC's shareholders and directors, or fair consideration being paid.

77. PricewaterhouseCoopers LLP knew or should have known that FICC has such ownership interest and that FICC's shareholders and directors had not approved of any such transfer.

Morlyn Financial Group LLC

78. According to the IASG Prospectus:

> Morlyn Financial Group LLC was founded in May 2000 to assist Dealers who were interested in selling their alarm monitoring contracts to IASI. Morlyn originates alarm monitoring contracts for acquisition and provides due diligence, billing and other related services. In connection with the acquisition of Morlyn, in January 2003, we issued an aggregate of 17,000 shares of our common stock to Messrs McGinn, Few Sr. and Smith.

79. Upon information and belief, the shareholders and directors of FICC were never informed of Morlyn's existence or activities.

80. Morlyn, McGinn and Smith usurped corporate opportunities by systematically purchasing or financing Retail Contracts through one or more competiting entities, in effect, trading away from FICC, billed huge amounts for "due diligence" and upon information and belief, engaged in other self-dealing practices designed to bilk the FICC shareholders.

81. Upon information and belief, McGinn and Smith used Morlyn to loot the companies and to skim lucrative alarm contracts away from FICC and to use FICC's corporate resources to originate lucrative alarm contracts, yet keep them for themselves by diverting them to Morlyn.

Accounting Procedures: Appropriate Standards of Valuation and Due Diligence For the Assets of FICC

82. Since FICC owned pro-rata percentages of the Retail Contracts of Palisades, Payne and Guardian, any reasonably diligent underwriter, accountant or attorney conducting due diligence on the IASG assets prior to the IPO should have reviewed FICC's private placement memorandum of October, 2000 to view its assets and balance sheets as of that time. Exhibit E.

83. Accountants could simply review the books and records of the three above-referenced entities to track the number contracts that each owned at any point in time.

84. On a monthly basis, calculations should have been made as to which entity originated which contract so as to determine how many new contracts had been originated by each entity.

85. There are two sources that accountants could review to determine such information: electronic records and hard copies of Retail Contracts (together the "Master Files").

86. During the course of due diligence, the underwriters, accountants and attorneys should

have audited a Master File disk with the name of all accounts. All bad accounts should be removed in making value calculations.

87. During the course of due diligence, the underwriters, accountants and attorneys should have audited a "Palisades" file cabinet containing all hard copies of the alarm monitoring contracts, the same for Payne and Guardian.

88. Since the business kept both electronic and hard copy records, in the ordinary course of business at any point in time, the system should show a precise record of the Retail Contract owned by those three entities.

89. As stated previously, FICC owned 50% of such Retail Contracts.

McGinn Commingles Retail and Wholesale Alarm Contracts

90. McGinn and Smith contributed all of their Retail Contracts and their entire interest (or 20%) in the Central Station Assets to FICC in October, 2000.

91. Although McGinn and Smith purported to own such Retail Contracts through differing levels of ownership via Palisades, Payne, Guardian, Morlyn LLC and other retail origination entities, in fact, upon information and belief, McGinn and Smith commingled the assets of these corporations, making it impossible to differentiate any contracts in which FICC had less than a 50% interest.

92. Upon information and belief, none of the Defendants, particularly PricewaterhouseCoopers LLP, nor Gersten Savage, nor FBR ever reviewed the Master File to ascertain which contracts were owned by which entities and ultimately what Retail Contracts were owned by FICC.

Fall 2001: The IASG IPO

93. By Fall 2001, upon information and belief, one of FICC's four businesses, Online

Capital, an internet investment banking venture ceased doing business, and McGinn and Smith, with the aid of Defendants MaryAnn McGinn and Shea, concealed this failure from investors and fired Tom Bates, Online Capital's President.

94. FICC concealed the failure of Online Capital from Meyers, who was at all times Vice Chairman of FICC, and from other FICC investors.

95. On or around this time, the Preferred investors in FICC started becoming restless with FICC's non-performance.

96. On or around this time, it had become clear to McGinn and Smith that the only way to monetize the assets they had looted, and to get their friends and wealthy investors out of a failed FICC investment would be to conduct an IPO involving the Alarm Assets.

97. Since their personal assets were hopelessly commingled with those of FICC, they decided to simply ignore FICC's ownership interests.

98. Also, an IPO would offer McGinn an opportunity to have a high-paying CEO position which would help him finance an extravagant and profligate lifestyle.

The FBR Contract

99. In desperation, McGinn and Smith, with the aid of one or more Defendants, decided to contract with Friedman Billings Ramsey ("FBR") a Virginia broker-dealer to take certain assets public through an initial public offering ("IPO") of an entity called Integrated Alarm Services Group, Inc. ("IASG").

100. Upon information and belief, the accounting firm of PricewaterhouseCoopers LLP conducted the due diligence and preparation of financial statements for the IASG IPO.

101. Upon information and belief, Defendant Gersten Savage conducted the due diligence for the IASG IPO. Part of Gersten Savage's duty was to determine and advise both that IASG owned the assets it claimed.

102. McGinn and Smith, with the aid of one or more Defendants, concealed all valuations of FICC's assets by FBR from Meyers and the other shareholders.

103. In December 2001, McGinn and Smith, with the aid of one or more Defendants, and Few entered into an agreement with FBR whereby "FBR would act as financial advisor and lead underwriter for McGinn Smith & Co., Inc., King Central and any other formed entity in connection with the proposed offering."

104. Among the assets that McGinn and Smith, with the aid of Defendants, and Few decided to take public were the Retail Contracts and Central Station Assets owned by FICC.

105. As set forth above, pro rata shares of Retail Contracts and Central Station Assets had already been contributed to and owned by FICC.

106. Upon information and belief, and from a reading of the Prospectus, FICC received grossly inadequate consideration for the Retail Contracts and never received any consideration for the Central Station Assets.

107. Upon information and belief, no impartial directors or shareholders of FICC ever approved the sale of the Retail Contracts or Central Station Assets during a duly noticed meeting.

108. Upon information and belief, simple due diligence would have revealed to PricewaterhouseCoopers LLC that neither FICC's directors nor its shareholders had approved any sale of the Retail Contracts or Central Station Assets and to the extent any purported transactions occurred, that such transactions were both interested and involved grossly inadequate consideration.

109. Upon information and belief, simple due diligence would have revealed to Gersten Savage that neither FICC's directors nor its shareholders had approved any sale of the Retail Contracts or Central Station Assets and to the extent any purported transactions occurred, that such transactions were both interested and involved grossly inadequate consideration.

110. Upon information and belief, simple due diligence would have revealed to FBR that neither FICC's directors nor its shareholders had approved any sale of the Retail Contract or Central Station Assets and to the extent any purported transactions occurred, that such transactions were both interested and involved grossly inadequate consideration.

False and Misleading Statements in the IASG Prospectus

111. Upon information and belief, simple due diligence by any of the Defendants would have revealed that the statement

> Palisades Group LLC was the owner of approximately 38% of the alarm monitoring contracts underlying the trusts. In January 2003, Palisades exchanged all of its ownership interests for our stock and distributed such stock to its members, TJF Enterprises, LLC and First Integrated Capital Corporation. In connection with the acquisition of Palisades, we issued an aggregate of 25,000 shares of our common stock. This acquisition was accounted for under the purchase method of accounting. It is anticipated that Palisades will be liquidated concurrent with this offering. In January 2003, Payne Security Group, LLC and Guardian Group, LLC were acquired by us and became our wholly-owned subsidiaries. In connection with the acquisition of Payne

Security Group, LLC, we issued an aggregate of 50,250 shares to TJF Enterprises, LLC and First Integrated Capital Corporation.

was entirely false, since no meeting of FICC's Board of Directors ever took place nor did Meyers, as a stockholder of FICC, receive any of the IASG stock allegedly distributed. Exhibit E (6/27/2003 IASG Prospectus).

112. Upon information and belief, the consideration recited in the 6/27/2003 IASG Prospectus was grossly inadequate with respect to the valuable cash-producing Retail Contracts owned by FICC.

113. Upon information and belief, and as set forth more fully below, McGinn, Smith and several accomplices converted the Central Station Assets and engaged in self-dealing transactions ultra vires.

Preparation of the IASG IPO

114. From January through December 2002, McGinn and Smith all but abandoned FICC, devoting all of his time to preparing the IASG IPO, but continued to draw in excess of $500,000 in annual compensation from FICC.

115. From May 2001 through September, 2003, FICC held no Board of Directors or shareholders meetings.

116. Upon information and belief, McGinn and Smith, with the aid of one or more Defendants, engaged in a series of transactions which purported to re-sell assets that were already owned by the shareholders of FICC.

117. Upon information and belief, McGinn and Smith, with the aid of one or more Defendants, commenced a series of self-dealing mergers and acquisitions unauthorized by the

shareholders and Board of Directors of FICC.

PricewaterhouseCoopers LLP Conceals IASG Insolvency

118. Upon information and belief, on or around October, 2002, PricewaterhouseCoopers LLP informed McGinn and Smith that IASG and its bundle of assets were insolvent.

119. Upon information and belief, PricewaterhouseCoopers LLP informed McGinn and Smith that it would be unwilling to provide a "going concern" letter to McGinn and Smith that would be necessary for the IASG IPO to take place.

120. PricewaterhouseCoopers LLP informed McGinn and Smith that in order for PricewaterhouseCoopers LLP to provide the "going concern" letter, which would permit the IPO to take place, either McGinn or Smith or an outside investor would have to provide a large infusion of capital.

121. PricewaterhouseCoopers LLP concealed this information from all shareholders and directors of FICC.

122. Upon information and belief, and without disclosing such information to the shareholders and directors of FICC, PricewaterhouseCoopers LLP demanded that Lynn Smith infuse $6,000,000 into IASG and/or King Central in the form of a note or loan in exchange for issuing a "going concern" letter.

123. Upon information and belief, in excess of $500,000 of the $6,000,000 invested by Lynn Smith went to pay fees outstanding to PricewaterhouseCoopers LLP.

124. PricewaterhouseCoopers LLP concealed IASG/King Central's chronic inability to pay their creditors, to keep their books properly, to keep accounts segregated, and IASG/King Central's siphoning assets away from FICC shareholders, all in exchange for receiving large fees from the cash

infused by Lynn Smith.

125. Upon information and belief, Gersten Savage should have discovered IASG's insolvency and IASG/King Central's chronic inability to pay their creditors, to keep books properly, to keep accounts segregated, and IASG/King Central's siphoning assets away from FICC shareholders, such facts were material and should have been disclosed to investors.

126. The IASG prospectus stated that six million dollars of funds to be raised in would be spent as follows:

Use of Proceeds: * * * [. . .]

> Repayment of promissory notes to Lynn A. Smith, the wife of one of our directors, bearing interest at 6.25% and 12% per annum, and due in March 2004 and January 2004, respectively. One of the notes ($3.0 million) is debt incurred by KC Acquisition, and the other ($3.0 million) is debt incurred by IASI prior to its acquisition in January. A portion ($2.0 million)of the proceeds of the $3.0 million indebtedness incurred by IASI was loaned by IASI to KC Acquisition.

$ 6.0 million (IASG Prospectus at 12).

127. Such statement was materially false and misleading, since it concealed the fact that PricewaterhouseCoopers LLP directed McGinn and Smith to make a cash infusion to conceal the inability of the IASG assets to generate enough cash flow to operate and to pay amounts currently due lenders and other creditors.

128. Further, PricewaterhouseCoopers LLP knew or should have known that this was a "window dressing" transaction and that IASG would not use Lynn Smith's money other than to pay fees currently due and would have no bearing on IASG's solvency.

129. Such statement was made with the intent of defrauding the investing public, to conceal self-interested transactions, and to enrich all Defendants at the expense of the directors, shareholders and the investing public.

M&S Partners Alleged Tender Offer

130. On or around December 13, 2002, McGinn wrote to the FICC preferred shareholders with the news that "FICC has received a tender offer for all its preferred stock from M&S Partners. Exhibit H (letter of Timothy M. McGinn dated 12/13/2002) ("December 2002 McGinn Letter").

131. Upon information and belief, no such tender offer existed - McGinn was merely engaging in an act of self-dealing to convince investors to give up valuable rights.

132. The December 2002 McGinn letter claimed that Price Waterhouse Coopers was engaged to audit FICC's finances for 1999, 2000, 2001 and the period ending September 30, 2002.

133. No such audits were ever disclosed to FICC directors or common shareholders, nor did FICC common shareholders or directors receive communications from PricewaterhouseCoopers LLP.

134. Upon information and belief, no such audits were ever receive by anyone at FICC.

135. Upon information and belief, no valuations, fairness opinions from independent legal counsel or other descriptions of these transactions were ever submitted to FICC's shareholders or directors.

136. Meyers, a director and shareholder of FICC, never saw the terms of a tender offer and was never notified of one as a stockholder.

137. M&S Partners is a company owned by McGinn and Smith which had owned the Alarm Assets prior to such assets being contributed to FICC.

138. On December 13, 2002, the preferred shareholders owned 25.03% of the common stock of FICC.

Conversion of FICC Assets by M&S and IASG

139. M&S Partners then allegedly "merged its security industry business with KC Acquisition Corp (dba King Central) to form Integrated Alarm Services Group, Inc. ("IASG")." Exhibit H December 2002 McGinn Letter at 1.

140. No Board of Directors meeting was held or approved such transaction.

141. Such transaction constituted self-dealing on the part of McGinn and Smith, with the aid of one or more Defendants .

142. The "security industry business" referred to in the McGinn Letter, is the assets known as the Retail Contracts and Central Station Assets.

143. The McGinn Letter further stated "As a result, M&S is hereby offering to acquire each share of FICC preferred for a consideration of $7 per share, payable in shares of IASG, calculated at the IPO price." Since there was no compelling business reason to acquire the preferred stock at a premium to the common stock, Meyers relied upon the valuation implied by McGinn's offer.

144. Based on the SEVEN ($7) DOLLAR offer price, the 861,000 preferred shares that represented a 25.03% ownership interest valued FICC's bundle of assets at TWENTY-FOUR MILLION SEVENTY-NINE THOUSAND ($24,079,000) DOLLARS.

145. Based on the SEVEN ($7) DOLLAR offer price, Meyers' shares in FICC were worth ONE MILLION FIVE HUNDRED THIRTY-NINE ($1,538,655) THOUSAND DOLLARS.

146. The foregoing valuations were based on McGinn's offer, but Plaintiff has no way of ascertaining the validity of such valuations.

147. Meyers attempted numerous times to get information on any proposed tender offers and the terms of the IPO including pricing and timing, but such information was never provided by Defendants.

The March 2003 McGinn Letter

148. On March 20, 2003, McGinn wrote to the preferred shareholders of FICC to report that he and PricewaterhouseCoopers LLP were "making progress, albeit slow and painful on the initial public offering of Integrated Alarm Services Group, Inc." Exhibit I at 1 (the "March 2003 McGinn Letter").

149. In the March 2003 McGinn Letter, McGinn wrote to the preferred shareholders "we have previously discussed an offer to purchase each preferred share of FICC at a nominal consideration of $7.00 of IASG stock for each share of FICC preferred."

150. This offer was never communicated to Meyers, nor was it submitted to FICC's Board of Directors for approval.

151. McGinn failed to disclose such information or the existence of this letter to the directors of FICC, the holders of common shares or to Meyers.

152. Plaintiff does not know whether McGinn or Smith accepted this offer in whole or in part.

153. No vote, meeting documentation or approval of this transaction was ever provided to or secured from the Directors or shareholders of FICC.

154. The March 2003 McGinn Letter informs the FICC preferred shareholders that while "we believe that our story will be well received by institutional investors, there is no guarantee that we will achieve mid point pricing on the IPO." Exhibit I at 2.

155. The March 2003 McGinn Letter offers the holders of preferred stock a recompense based on where the IASG IPO is priced.

July 2003

156. Meyers made numerous requests of McGinn and Smith to give him an estimate of the value of his equity in FICC by email and registered mail.

157. Meyers learned, on or around July, 2003 via the FBR website that the IPO was scheduled "firm" for 7/23/2003 after the website had previously posted a "TBD" transaction date.

158. Despite due demand by Meyers in July, 2003, FICC's General Counsel, Defendant Mary Ann McGinn (Timothy McGinn's wife) refused to reveal any detail about the IASG IPO's impact upon FICC's common shareholders.

159. On July 17, 2003 Meyers obtained copies of McGinn's correspondence with the preferred shareholders.

160. On July 23, 2003, IASG went public at a price of $9.25 per share.

161. Based upon the valuation that McGinn accorded FICC's preferred shareholders in correspondence that was concealed from Meyers, Meyers would have been entitled to, at a minimum, 145,728 IASG shares with a market value of $1,347,984.

September 12, 2003

162. After receiving no response to the demand letter, Meyers, through counsel, contacted FICC General Counsel Mary Ann McGinn inquiring as to FICC's assets and his shares therein.

163. On September 12, 2003, Ms. McGinn informed James Dodrill, Esq.: "His stock isn't worth anything" . . . . "None of the other common shareholders have been converted, and neither will Ian [Meyers]."

164. The underwriters, auditors, legal counsel and Founders had a fidiciary duty to the common shareholders of FICC to ensure that adequate and fair consideration was paid to FICC for the assets which it sold in the IASG IPO and to insure not only the fairness of the series of transactions, but that such transactions had been approved by FICC's Board of Directors.

165. Instead, with the help of the lawyers, auditors, Founders and officers of IASG, IASG simply stole the assets of FICC and resold them to the public to enrich themselves and the Founders.

AS AND FOR A FIRST CLAIM

FILING A FALSE REGISTRATION STATEMENT

166. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

167. This claim is brought under Section 22(a) of the Securities Act of 1933, as amended (the "Securities Act") 15 U.S.C. §77v(a), to enforce a liability created by Section 11 of the Securities Act, 15 U.S.C. § 77k.

168. On or around June 27, 2003, there became effective a registration statement on Forms S-1 (the "Registration Statement") filed with the Securities Exchange Commission (the "SEC") pursuant to the Securities Act covering a public offering (the "IASG IPO").

169. This action arises from offers and sales of the shares in the IASG IPO and other acts and transaction relating thereto.

170. Upon information and belief, each Defendant participated in such offers and sales within the meaning of Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a).

171. On information and belief, when the Registration Statement became effective and at all

times relevant in this action, the Registration Statement and the prospectus included therein (the "Prospectus") contained untrue statements of material facts and omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading.

172. These material untruths and omissions included, but may not have been limited to, those stated in the preceding paragraphs.

173. Each Defendant permitted its name to be included in such Registration Statement.

174. Plaintiff has brought this action within one year after the discovery of the untrue statements and omissions, or after such discovery should have been made by the exercise of reasonable diligence; within three years after the securities were offered bona fide to the public; and in general within the time prescribed by law.

175. As a result of the foregoing, Plaintiff demands payment in an amount to be determined at trial against Defendants jointly and severally but in no case less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A SECOND CLAIM:

CONTROLLING PERSON LIABILITY

176. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

177. This claim is brought under Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a) to enforce a liability created by Sections 11 and 15 of the Securities Act, 15 U.S.C. § 77k and o.

178. McGinn, MaryAnn McGinn, Smith and Lynn A. Smith each own of record or beneficially substantial amounts of IASG stock and hold management and other interests in IASG.

179. By reasons of such holdings, management positions and ownership, McGinn, MaryAnn

McGinn, Smith and Lynn A. Smith jointly and severally controlled IASG within the meaning of Section 15 of the Securities Act.

180. On information and belief, all of the defendants named in this Claim controlled IASG by or through stock ownership, agency or otherwise or pursuant to or in connection with an agreement or understanding, direct or indirect, with one or more other persons or with one or more of each other, within the meaning of Section 15 of the Securities Act; and each of these defendants severally participated in such control.

181. On information and belief, at all times relevant in this action, each of the defendants named in this count had knowledge of or reasonable grounds to believe in the existence of the facts by reason of which the liability of the controlled person or persons is alleged to exist.

182. As a result of the foregoing, Plaintiff demands payment in an amount to be determined at trial against Defendants jointly and severally but in no case less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A THIRD CLAIM:

UNDERWRITER LIABILITY

183. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 100 as though set forth fully at length herein.

184. This count is brought under Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a) against each of the above-named underwriters to enforce a liability created by Section 12(2) of the Securities Act, 15 U.S.C. § 771(2).

185. Plaintiff was to receive shares in the IASG IPO pursuant to the Prospectus in exchange for his shares in FICC.

186. On information and belief, each of the underwriters, in connection with its offers and sales of the Shares, sent through the mails copies of the Prospectus and otherwise used means or instruments of transportation or communication in interstate commerce.

187. Each of the underwriters offered and sold the shares by means of the Prospectus.

188. On information and belief, and as more fully set forth above, the Prospectus contained untrue statements of material facts and omitted to state material facts necessary to make the statements therein not misleading; and no circumstances existed which detracted from or mitigated the untruthfulness or misleading character of such statements and omissions.

189. Plaintiff has brought this action within one year after the discovery of the untrue statements and omissions, or after such discovery of the untrue statements and omissions, or after such discovery should have been made by the exercise of reasonable diligence and in general within the time prescribed by law.

190. As a result of the foregoing, Plaintiff demands payment in an amount to be determined at trial against Defendants jointly and severally but in no case less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A FOURTH CLAIM

VIOLATION OF SECURITIES LAW 10B-5

191. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 100 as though set forth fully at length herein.

192. This claim is brought under Section 27 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), 15 U.S.C. §78aa, against each of the defendants to enforce rights arising under Section 10(b) of the Exchange Act 15 U.S.C. §78j(b) and Rule 10b-5 promulgated

thereunder, 17 C.F.R. §240.10b-5.

193. As set forth above, Defendants purported to sell assets to the investing public that belonged to FICC.

194. The defendants employed and caused others to employ means or instrumentalities of interstate commerce or the mails in effecting the sale of common shares sold in the IASG IPO.

195. Defendants knew of the untrue statements or omissions in the Registration Statement; and each of the Defendants knew or should have known of such untrue statements or omissions in the Registration Statement.

196. Plaintiff is entitled to a share of the assets described in the Registration Statement by virtue of his ownership of 275,000 shares of FICC, which shares were not purchased or converted by IASG following the IPO.

197. Defendants concealed from the investing public the insolvent nature of the bundle of assets to enrich themselves and to take from FICC valuable, cash-producing assets without consideration or approval by FICC's Board of Directors or shareholders.

198. As set forth above with particularity, Defendants made false and misleading statements in connection with the sale of securities to the public with the intent of defrauding Plaintiff of the value of his shares in FICC.

199. Plaintiff relied on such statements.

200. Such false and misleading statements caused Plaintiff's valuable FICC shares to be rendered worthless.

201. Defendants knew such statements to be false at the time such statements were made and intended Plaintiff to rely on such statements.

202. Defendants actively concealed material information from the shareholders of FICC and from the investing public and knowingly failed to exercise due diligence in preparing the IASG IPO in exchange for being paid off in self-dealing transactions and receiving excessive fees, commissions and legal fees in connection with the IASG IPO, with the intent of deceiving the public and the shareholders of FICC.

203. Due to such fraudulent statements and transactions, which were contained, inter alia, in the above-referenced filings with the SEC, FICC's assets were converted and its stock rendered valueless.

204. Such fraudulent statements and omissions were made by instrumentalities of interstate commerce and through the facilities of a national security exchange.

205. Such fraudulent statements and omissions were made with the intent to mislead purchasers of securities.

206. Plaintiff has brought this action within the time prescribed by law.

207. As a result of the foregoing, Plaintiff demands payment of the lost value of the assets represented by his ownership of FICC stock in an amount to be determined at trial against Defendants jointly and severally but in no case less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A FIFTH CLAIM:

BREACH OF FIDUCIARY DUTY

208. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

209. Defendants McGinn, MaryAnn McGinn, Brian Shea, Smith and Lynn Smith were

shareholders, directors and officers of FICC and a network of closely-held corporations and were under a duty to deal fairly in good faith and with loyalty to FICC and not to compete with FICC or profit at FICC's expense or place private interests before those of FICC or in conflict with those of FICC. Ability Search v. Lawson, 556 F. Supp. 9 (S.D.N.Y. 1981) aff'd (2d Cir. 1982).

210. By engaging in the transactions set forth more fully above from the period October, 2000 to the present and setting up entities such as Morlyn LLC and using a series of companies to originate retail alarm contracts, to purchase alarm monitoring contracts and pay themselves vast consulting fees, said Defendants breached their duty of good faith and fair dealing with FICC.

211. As a result of the foregoing, Plaintiff has been damaged by Defendants acting jointly and severally in an amount to be determined at trial but no less than THREE MILLION ($3,000,000) DOLLARS, plus interest, damages, attorneys fees and punitive damages.

AS AND FOR A SIXTH CLAIM:

SELF-DEALING IN BREACH OF THE CORPORATE OPPORTUNITY DOCTRINE

212. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

213. Defendants McGinn, MaryAnn McGinn, Brian Shea, Smith were employed by FICC and were under an obligation not to appropriate business opportunities belonging to FICC. American Federal Group, Ltd. v. Rothenberg, 136 F.3d 897 (2d Cir. 1998).

214. From October, 2000 to the present, during the course of their employment with FICC, said Defendants learned of business opportunities to originate retail alarm contracts, acquire wholesale monitoring contracts and otherwise engage in lucrative opportunities in businesses related to FICC.

215. As more fully set forth above, said Defendants usurped such lucrative opportunities,

siphoning off cash-generating assets into entities not owned by FICC's minority common shareholders.

216. Such transactions were to the detriment of FICC and to Plaintiff.

217. As a result of the foregoing, Plaintiff has been damaged by Defendants acting jointly and severally in an amount to be determined at trial but no less than THREE MILLION ($3,000,000) DOLLARS, plus interest, damages, attorneys fees and punitive damages.

AS AND FOR A SEVENTH CLAIM

CONVERSION

218. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

219. As set forth above, Defendants Integrated Alarm Services Group, Inc., McGinn Smith & Company, Inc., M&S Partners, McGinn, Smith, First Integrated Capital Corp., PricewaterhouseCoopers LLP, Gersten Savage and Lynn A. Smith did, without authority, intentionally exercise control over the property of Plaintiff by transferring the assets of FICC without consideration.

220. As a result of the foregoing, Plaintiff has been damaged by Defendants acting jointly and severally in an amount to be determined at trial but no less than THREE MILLION ($3,000,000) DOLLARS, plus interest, damages, attorneys fees and punitive damages.

AS AND FOR AN EIGHTH CLAIM:

FRAUD

221. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

222. As set forth more fully above, Plaintiff Ian Meyers went to work for FICC and gave up

valuable employment opportunities in exchange for, inter alia, 275,000 shares of FICC and the position of Vice Chairman.

223. As set forth more fully above, McGinn and Smith represented to Plaintiff that FICC owned valuable assets, including a 20% interest in King Central, one of the largest and most respected (alarm monitoring) contract central stations" b. a 50% interest in various retail alarm monitoring contracts created through joint ventures between Tom Few and M&S Partners (the "retail contracts") and four million dollars worth of SAI stock..

224. Defendants McGinn and Smith made such statements with intent to defraud Meyers.

225. Relying on such representations, Plaintiff joined FICC, believing FICC's assets to be substantial.

226. Without consulting Meyers or FICC's Board of Directors or shareholders, McGinn and Smith conspired with the other Defendants to subsequently transfer FICC's assets to IASG without providing fair and just consideration.

227. As a result of the foregoing, Plaintiff has been damaged in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees, and damages.

AS AND FOR A NINTH CLAIM:

FRAUDULENT CONVEYANCE

VIOLATION OF DEBTOR/CREDITOR LAW § 274

228. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

229. Defendants made the aforementioned transfers without transfer of fair consideration.

230. The capital remaining in FICC is unreasonably small.

231. By Defendants' actions, Plaintiff has been damaged in an amount to be determined but not less than THREE MILLION ($3,000,000) DOLLARS plus interest, attorneys fees and punitive damages.

AS AND FOR A TENTH CLAIM:
VIOLATION OF DEBTOR/CREDITOR LAW § 273

232. Plaintiff repleads and realleges each of the preceding paragraphs as if more fully alleged herein.

233. Defendants made the aforementioned transfers with actual intent to render FICC insolvent.

234. Defendants transferred and received assets without fair consideration which rendered the corporation insolvent and / or made the transfers while the corporation was insolvent.

235. By reason of the foregoing, Plaintiff is entitled to Judgment declaring that all transfers made between any Defendant without fair consideration or which rendered any Defendant insolvent void and the Judgment herein be declared a lien on said property.

236. As a result of the foregoing, Plaintiff has suffered damages to be determined at trial, but not less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A ELEVENTH CLAIM:

VIOLATION OF DEBTOR/CREDITOR LAW § 275

237. Plaintiff repleads and realleges each of the preceding paragraphs as if more fully alleged herein.

238. Defendants made the aforementioned transfers believing that they would render FICC insolvent.

239. Defendants transferred and received assets without fair consideration which rendered the corporation insolvent and / or made the transfers while the corporation was insolvent.

240. By reason of the foregoing, Plaintiff is entitled to Judgment declaring that all transfers made between any Defendant without fair consideration or which rendered any Defendant insolvent void and the Judgment herein be declared a lien on said property.

241. As a result of the foregoing, Plaintiff has suffered damages to be determined at trial, but not less than THREE MILLION ($3,000,000) DOLLARS, plus interest, attorneys fees and punitive damages.

AS AND FOR A TWELFTH CLAIM:

RESCISSION

242. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

243. Plaintiff never received notice of FICC's intention to sell all or substantially all of its

assets nor did Plaintiff receive notice of the terms of such sale.

244. Any such sale was a fraudulent transfer under the applicable provisions of N.Y.S. Bus. Corp. Law.

245. Based on the foregoing, Plaintiff shareholder is entitled to the equitable remedy of rescission and the return of all FICC assets to FICC and the fees and other emoluments garnered therefrom to be disgorged by the various Defendants. Cachules v. 116 East 57th Street, Inc., 125 N.Y.S.2d 97 (Sup. Ct. Spec. Term N.Y. Co. 1953).

AS AND FOR A THIRTEENTH CLAIM:

APPRAISAL AND PAYMENT FOR SHARES

246. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

247. Plaintiff never received notice of any proposed transaction regarding the sale or transfer of FICC's assets.

248. Plaintiff demands an appraisal and judgment in the amount of the fair market value of his 275,000 shares in FICC as of July 28, 2003, in an amount to be determined at trial, but in any event in an amount not less than THREE MILLION ($3,000,000) DOLLARS.

AS AND FOR A FOURTEENTH CLAIM

UNJUST ENRICHMENT / QUANTUM MERUIT

249. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged

herein.

250. Defendants' self-dealing, breaches of trust, breaches of fiduciary duty, usurpation of corporate opportunities have unjustly enriched Defendants at the expense of Plaintiff.

251. Due to Defendants' self-dealing, breaches of trust, breaches of fiduciary duty, usurpation of corporate opportunities, Plaintiff's 275,000 shares of FICC have been rendered worthless.

252. Plaintiff demands judgment in the amount by which Defendants were unjustly enriched, in an amount to be determined at trial, but not less than THREE MILLION ($3,000,000).

AS AND FOR A FIFTEENTH CLAIM
SELF DEALING
(8 Del.C. § 144(a))

253. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

254. By virtue of their positions of control and authority as officers and/or directors and/or controlling persons of FICC and IASG, Defendants were able to control the contents of the financial reports and financing documents and presentations to analysts pertaining to FICC and IASG and substantially participated in all aspects of the acts and conduct complained of including, but not limited to, the preparation, issuance and dissemination of materially false and misleading information to Plaintiff.

255. Defendants' selective and misleading dissemination of the terms of any transactions between the various entities permitted Defendants to engage in self-dealing transactions, breaches of fiduciary duties, breaches of trust, and usurpation of corporate opportunities outlined above.

256. The personal gains realized by Defendants' actions constitute self-dealing under the

common law and according to 8 Del. C. § 144(a).

257. IASG sacrificed the rights of the minority shareholders for the benefit of the officers and directors of the company.

258. By reason of the foregoing, Plaintiff is entitled to damages against Defendants in an amount not yet ascertained, but which will be proved at trial, in no case less than THREE MILLION ($3,000,000) DOLLARS together with interest thereon.

AS AND FOR A SIXTEENTH
CLAIM
BREACH OF FIDUCIARY DUTY

259. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

260. The relationship between McGinn and Smith, with the aid of Defendants, and Directors of FICC and Defendant IASG its officers, directors and/or majority shareholders of IASG is fiduciary in nature and imposes on Defendants the obligation of the highest loyalty and utmost good faith to Plaintiff, who is a common minority shareholders of FICC, in all matters affecting the management, administration and control of Plaintiffs' interest in FICC including, but not limited to, the management, administration, and control of Plaintiffs' Common Shares in FICC.

261. The actions and conduct of Defendants as set forth above constitute a breach of their fiduciary duties to Plaintiff.

262. Defendants' actions and conduct as aforesaid were wanton, willful and intentional, and were undertaken by Defendants in a callous and intentional disregard of Plaintiff's good faith and

economic and physical well being.

263. The relationship between the Defendants as the officers, directors and/or majority shareholders of FICC imposes on Defendants the obligation of the highest duty of loyalty and utmost due care to Plaintiff, who is a common minority shareholder of FICC, in all matters affecting the management, administration and control of Plaintiff's interest in FICC including, but not limited to, the management, administration, and control of Plaintiff's Common Shares in FICC.

264. The actions and conduct of Defendants as set forth above constitute a breach of the implied obligations of loyalty and due care Defendants owed to Plaintiff.

265. By reason of the foregoing, Plaintiff is entitled to damages against Defendants in an amount not yet ascertained, but which will be proved at trial, together with interest thereon, but in no case less than THREE MILLION ($3,000,000) DOLLARS and Plaintiff is further entitled to exemplary and punitive damages against Defendants.

AS AND FOR A SEVENTEENTH CLAIM
ACCOUNTANT MALPRACTICE
AGAINST PRICEWATERHOUSE COOPERS LLP

266. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

267. As set forth above, Defendant PricewaterhouseCoopers LLP was retained by IASG to audit its books and failed to communicate with Plaintiff, an FICC director or to ascertain that FICC assets had been acquired by IASG prior to approving an IPO and signing off on a prospectus.

268. PricewaterhouseCoopers LLP was retained from funds flowing from assets owned by

FICC creating a fiduciary relationship between the minority shareholders of FICC and PricewaterhouseCoopers LLP.

269. PricewaterhouseCoopers LLP's knowledge may not be imputed to the minority shareholders of FICC, since PricewaterhouseCoopers LLP was acting adversely to FICC and on behalf of McGinn, Smith and its own account all of which were adverse to the interests of the FICC shareholders.

270. The representations and/or omissions made by Defendants were known by Defendants to be false when made and PricewaterhouseCoopers LLP had knowledge that the IASG IPO would render FICC's common shares owned by Meyers worthless.

271. Defendants' aforesaid conduct was intentional, transgressed generally accepted standards of morality and/or was willful, wanton and malicious and was intended to harm Meyers .

272. By reason of the foregoing, Meyers is entitled to damages against PricewaterhouseCoopers LLP in an amount not yet ascertained, but which will be proved at trial, and in no case less than THREE MILLION ($3,000,000) DOLLARS together with interest thereon, and Plaintiff is further entitled to exemplary and punitive damages against Defendants.

AS AND FOR A EIGHTEENTH CLAIM
ATTORNEY MALPRACTICE: GERSTEN SAVAGE

273. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein..

274. Gersten Savage had knowledge or should have known of IASG's lack of title to the FICC assets.

275. Gersten Savage was retained by IASG from funds flowing from assets owned by FICC, creating an attorney/client relationship and fiduciary relationship between Gersten Savage and the minority shareholders of FICC.

276. Gersten Savage failed to review the FICC documentation which would have uncovered that IASG did not have title to FICC's assets.

277. By its actions and omissions, as set forth more fully above, Gersten Savage permitted IASG to sell assets to the public which FICC owned, to the detriment of FICC minority shareholders.

278. By reason of the foregoing, Plaintiff is entitled to damages against Gersten Savage in an amount not yet ascertained, but which will be proved at trial, and in no case less than THREE MILLION ($3,000,000) DOLLARS together with interest thereon, and Plaintiff is further entitled to exemplary and punitive damages.

AS AND FOR A NINETEENTH
CLAIM:
ULTRA VIRES ACT:
RESTRUCTURING AND CHANGE OF CONTROL WITHOUT SHAREHOLDER
NOTIFICATION AND APPROVAL

VIOLATION OF DEL. GENERAL CORPORATION LAW 242

279. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

280. Defendants consummation of the IASG IPO constitutes a change of control and restructuring of FICC.

281. By virtue of the IASG IPO, new entities control FICC including the board of directors.

282. By virtue of the IASG IPO, the articles of incorporation of the company were amended and altered so as to change the voting rights and value of stock.

283. Defendants failed to provide proper notice to the FICC shareholders of the transaction.

284. Defendants failed to allow the Plaintiff and other minority shareholders to vote on the transaction.

285. Pursuant to Delaware General Corporations Law, a corporation must notice a special meeting of the shareholders entitled to vote if the certificate of incorporation is amended to alter the corporate structure.

286. Upon information and belief, the IASG IPO substantially altered the corporate structure including diluting common shareholders, issuing additional shares, issuing additional classes of shares, and changing corporate control and management.

287. The Plaintiff as a minority shareholder, failed to approve the issue of the IASG IPO.

288. Defendants failed to call a shareholders meeting for the purpose of the vote.

289. As a result, the actions taken by Defendant in the IASG IPO were ultra vires and void.

290. As a result of the foregoing, Plaintiff demands compensation in the amount of dilution caused by the IASG IPO entered into without shareholder approval or notice in an amount to be determined but in no case less than THREE ($3,000,000) DOLLARS.

AS AND FOR A TWENTIETH
CLAIM
APPRAISAL RIGHTS OF MINORITY SHAREHOLDERS
8 Del. 262

291. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

292. Plaintiffs as minority shareholders have the right to a court determination as to the value of their shares, and the valuation of their shares in the IASG IPO.

293. As previously alleged IASG failed to consider the companies fundamentals including its assets when determining the valuation of shares for the IASG IPO.

294. IASG failed to consider the equity already invested in the company. IASG failed to consider its income, good will, and customers base.

295. Upon information and belief, IASG failed to obtain an opinion from an professional or expert in valuation.

296. Plaintiff demands that the court appraise, evaluate and set the value of the shares of IASG pre- IASG IPO, and issue an order compensating Plaintiff for the loss in value equity in the Company due to the IASG IPO.

AS AND FOR A TWENTY-FIRST CLAIM:

PIERCING THE CORPORATE VEIL

297. Plaintiff repleads and realleges each of the preceding paragraphs as if fully alleged herein.

298. Defendants McGinn, MaryAnn McGinn, Brian Shea, Smith and Lynn Smith controlled FICC and and a number of competing entities more fully set forth above in which they

owned interests which interests conflicted with the interests of the minority shareholders of FICC.

299. Said Defendants exercised such control over FICC and the conflicted entities that FICC became the mere instrumentality of such Defendants, who are the real actors.

300. Said Defendants used such control to commit fraud and other wrongs as set forth above.

301. As set forth above, Plaintiff suffered unjust loss and injuries due to such fraud warranting disregard of the corporate form and imposition of personal liability on Defendants. In re: Vebeliunas, 332 F.3d 85 (2d Cir. 2003).

302. By reason of the foregoing, Plaintiff is entitled to damages against Defendants jointly and severally in an amount not yet ascertained, but which will be proved at trial, in no case less than THREE MILLION ($3,000,000) DOLLARS together with interest thereon.

WHEREFORE, Plaintiff prays for judgment against Defendants:

On the First Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Second Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Third Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys

fees and punitive damages.

On the Fourth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Fifth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees, and punitive damages.

On the Sixth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Seventh Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Eight Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Ninth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages..

On the Tenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys

fees and punitive damages.

On the Eleventh Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest, attorneys fees and punitive damages.

On the Twelfth Cause of Action, Plaintiff demands rescission and the return of all FICC assets to FICC and the fees and other emoluments garnered therefrom to be disgorged by the various Defendants.

On the Thirteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS.

On the Fourteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS.

On the Fifteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS, together with interest.

On the Sixteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS in addition to exemplary and punitive damages against Defendants.

On the Seventeenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS together with interest, and in addition to exemplary and punitive damages against Defendants.

On the Eighteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS together with interest, and in

addition to exemplary and punitive damages.

On the Nineteenth Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS.

On Twentieth Cause of Action, Plaintiff demands that the court appraise, evaluate and set the value of the shares of IASG pre-IASG IPO, and issue an order compensating Plaintiff for the loss in value equity in the Company due to the IASG IPO.

On the Twenty-First Cause of Action, Plaintiff demands judgment in an amount to be determined at trial but not less than THREE MILLION ($3,000,000) DOLLARS together with interest thereon.

Dated: December 9, 2003
New York, New York

Respectfully submitted,
DOWD & MAROTTA LLC

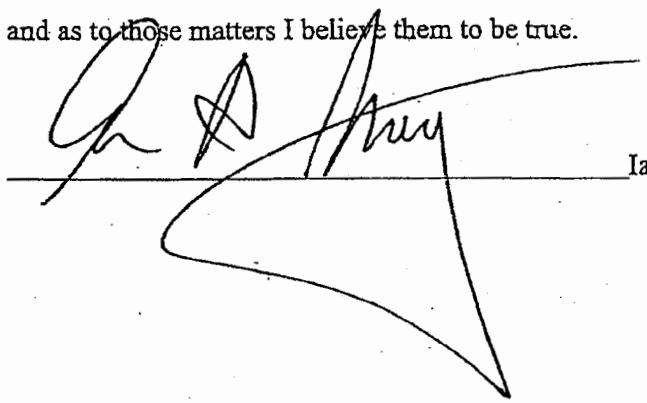
By: _____
Raymond J. Dowd (RD-7508)
277 Broadway, Suite 1310
New York, New York 10007
Counsel for Plaintiff
Tel: (212) 349-1200
Fax: (212) 349-4056

DECLARATION

IAN MEYERS, being duly sworn, deposes and says:

1. That I am the Plaintiff in the above-referenced action herein.

2. I swear under penalties of perjury of the laws of the United States of America that I have read the annexed Complaint and know of the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.



Ian Meyers

David Smith File

McGinnSmith
& Company, Inc.

Investment Bankers • Investment Brokers

99 Pine Street
Albany, NY 12207
518-449-5131
Fax 518-449-4894
www.mcginnsmith.com

January 7, 2009

Mr. Martin Finn
Lavelle & Finn, LLP
29 British American Blvd.
Latham, New York 12110-1405

Dear Marty,

Enclosed please find the financial statement for Lynn and me as of August 2008. For purposes of tax planning and liability exposure I have broken the major assets down between the two of us, taking out the retirement accounts and trusts.

Asset	Lynn	Dave
Cash and Securities	1,707,000	846,000 *
McGinn, Smith & Co.		1,000,000
Loan receivables	818,000	410,000
Real Estate	2,400,000}	1,700,000}
- Mortgages	670,000}	670,000}
Net	1,730,000	1,030,000
Cash value LI		141,000
	$4,255,000	**$3,427,000**

* $346,000 is in a 100% owned C-Corp.
$500,000 is in an LLC of which I own 10%

As regards to the Trusts, I have deposited $330,000 since the August statement to the Q-TIP Trust. My understanding was that we wanted to get that value to approximately $1,000,000, which is where it currently stands. Per our last meeting, you wanted to review that because of a misunderstanding you had regarding the allocation of

QTIP Trust - Deposits made to this account since inception date of 5/24/07
Acct# REDACTED 0892

Date	Amount	Method of deposit
5/24/2007	$ 350,000.00	Check
6/13/2007	$ 25,000.00	Check
6/21/2007	$ 17,500.00	Check
7/6/2007	$ 4,250.00	Check
7/17/2007	$ 250,000.00	Wire
10/16/2007	$ 4,250.00	Check
10/23/2007	$ 30,000.00	Check
11/2/2007	$ 50,000.00	Check
12/20/2007	$ 62,000.00	Check
2/20/2008	$ 30,000.00	Check
6/23/2008	$ 15,000.00	Check
7/7/2008	$ 40,000.00	Check
7/9/2008	$ 16,087.50	Check
10/9/2008	$ 70,000.00	Check
10/9/2008	$ 230,000.00	Check
10/15/2008	$ 30,000.00	Check

- replaced wire out of 6/15/07

TOTAL: $ 1,224,087.50

250,000 6/15/07 wire out

$974,087.50

DAVID L. SMITH
LYNN A. SMITH

FINANCIAL STATEMENT
August 2008

ASSETS:	
Cash & Securities	$7,170,262
Investments:	
McGinn, Smith & Company, Inc.	$1,000,000
Retirement Accounts	$332,653
Loan Receivables	$1,303,000
Real Estate Investments	
Vero Beach, FL Dave + Lynn	$2,400,000
Lake Front Adirondack Park Lynn	700,000
	$3,100,000
Residence Dave + Lynn	$1,000,000
Cash Value Life Insurance	$141,000
TOTAL ASSETS:	$14,046,915
LIABILITIES:	
Mortgage on Residence	$445,120
Mortgage on real estate Vero Beach	$902,786
TOTAL LIABILITIES	$1,347,906
NET WORTH	$12,699,009

Brokerage Accounts

Dave and Lynn Smith REDACTED 1353		$558.17
David L. Smith Lifetime QTIP TR. REDACTED 0892		669,386.20
David L. Smith and Lynn Smith IRREV. TR. REDACTED 9671 McGinn, Smith Pine St. Capital Partners	3,370.427.80 576,328.00	3,946,755.80
Lynn Smith REDACTED 0916 CMET	$1,557,149.14 150,000.00	1,707,149.14
Capital Center Credit Corp. 100% owned by David L. Smith		346,413.00
Other Investments Mr. Cranberry 500,000		500,000.00

David L. Smith

$7,170,262.00

Loan Receivables

Loans:	Tom Livingston	$15,000	Dave
	Tim McGinn	818,000	Lynn
McGinn Smith & Co., Inc.		115,000	Dave
Coventry Resources		160,000	Dave
McGinn, Smith Capital Holdings		20,000	Dave
FICC		75,000	Dave *
TMM (Part of MS Partners)		100,000	Dave
		$1,303,000	

* probably uncollectable
will write off in 2009

Dave $410,000
Lynn 818,000

FROM THE DESK OF THOMAS LIVINGSTON

McGinn Smith Co., Inc.
99 Pine St.
Albany, New York 12207
518-449-5131

McGINN SMITH CO. INC.

Fax

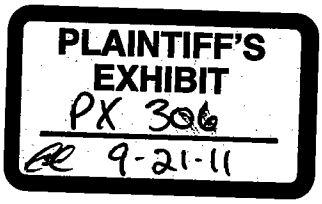
To: David Goldstein **From:** Tom Livingston

Fax: **Pages:**

Phone: 212 - 354 - 8113 **Date:** 2/4/08

Re: Resignation **CC:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**



February 4, 2008

alseT IP Management, LLC
45 Broadway, Suite 2640
New York, NY 10006

alseT IP Associates, LLC
45 Broadway, Suite 2640
New York, NY 10006

alseT IP Management, LP
45 Broadway, Suite 2640
New York, NY 10006

David Kennedy
45 Broadway, Suite 2640
New York, NY 10006

Steve Willis
45 Broadway, Suite 2640
New York, NY 10006

RE: Resignation

Sirs:

Newton Advisors LLC ("Newton") hereby resigns from its position as managing member of alseT IP Management, LLC ("alseT Management") and alseT IP Associates, LLC ("alseT Associates"; together with alseT Management, the "Companies") and any other management, administrative or other position held in the Companies by Newton, its designees or its affiliates, effective as of the date of this letter.

1. Economic Interest. In connection with Newton's resignation, Newton and Thomas Livingston ("TL"), a managing member of Newton, hereby disavows any economic or management interest in the Companies or any affiliate thereof (collectively with the term Companies, "alseT persons") or their respective activities, now existing and forever, and TL resigns from any management, administrative or other position he holds in the Companies, effective as of the date of this letter.

2. Resignation. Additionally, pursuant to Section 3(a) of the employment agreement between TL and alseT IP Management LP ("alseT LP") dated September 21, 2005 (the "Employment Agreement"), TL hereby resigns from and terminates his employment with alseT LP, effective as of the date of this letter. In accordance

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with Section 3(f) of the Employment Agreement, TL acknowledges that, effective as of the date of this letter, he shall cease to receive or be entitled to any and all compensation, including, among other things, any accrued and unpaid salary or bonus, deficiency deferred compensation and any other benefits from alseT LP and will have no rights to any compensation for any date or period on or prior to the date hereof, or any future compensation of any kind.

3. Payments. No payment of any kind will be made, due or owing to Newton or TL, in any way, at any time or from any of the Companies or any of its affiliates, in connection with (a) the unconditional resignation of TL from alseT LP under the Employment Agreement, (b) the resignation and withdrawal of Newton from the Companies as set forth in paragraph 1 above, (c) the withdrawal of TL as set forth in paragraph 2 above, (d) the representations and covenants of Newton and TL hereunder, and (e) any claim for "back" or "past" compensation or other recompense of any kind or for any reason, including a claim in any profits or revenues of the Companies or any of their affiliates, in each case now and forever.

4. Treatment of Certain Payments. Newton, TL and the Companies understand and agree that the payments pursuant to paragraph 3 will be treated as a buy-out of Newton and TL's interests in the Companies and any of its affiliates. To the fullest extent permitted by law, Newton and TL shall indemnify and save harmless each alseT Person from and against (i) any and all U.S. Federal, state, or local taxes that may be imposed on any alseT Entity with respect to such payments pursuant to paragraph 3 and (ii) any claims, liabilities, damages, losses, costs and expenses (including amounts paid in satisfaction of judgments, in compromises and settlements, as fines and penalties and legal, auditing, accounting or other costs and reasonable expenses of investigating or defending against any claim or alleged claim) of any nature whatsoever, known or unknown, liquidated or unliquidated, that may be imposed on any alseT Person arising from any and all taxes, claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in relation to such payments.

5. Responsibility for Taxes. TL shall be responsible for any and all federal, state, local and other taxes imposed on TL with respect to the amount set forth in paragraph 3 and TL shall indemnify any of the alseT Persons and hold each harmless from any and all costs, interest, penalties and other amounts imposed by federal, state or local taxing authorities arising from TL's failure to pay such taxes.

6. Acknowledgement of Certain Contractual Obligations. Newton and TL acknowledge that Sections 10.5 (Confidentiality), 10.12 (Division of Property), 10.13 (Other Covenants of Limited Partners) and 10.14 (Irreparable Harm) of the limited partnership agreement of alseT IP Management LP and Sections 9.5 (Confidentiality), 9.13 (Restrictive Covenants of the Members Relating to Post-Termination Period) and 9.14 (Irreparable Harm) of the limited liability company agreement of alseT IP Management LLC shall continue in full force and effect in accordance with the terms thereof as of the date hereof; provided, that the 12-

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month restriction on contacts contained in Section 10.13(ii) of such agreements shall be limited to companies that were on the Company's deal log as of August 1, 2008. In addition, and for the avoidance of doubt, Newton and TL acknowledge that the confidentiality provisions referred to above include a prohibition on the use of any confidential information for any reason and that after expiration of the 12-month period referred to in the proviso in the preceding sentence, an activity that is "competitive" with the Company and the alseT Entities is restricted to investing or providing, or managing third-party capital that invests in or provides, financing directly or indirectly secured by intellectual property or cash flows and royalties derived therefrom.

7. Mutual Complete Release

Newton and TL, for and in consideration of the payments described herein, for itself, himself, their respective heirs, assigns, executors, and administrators (individually and collectively, the "Releasors"), hereby releases and forever discharges each of the alseT Persons and their respective parent and affiliates companies, subsidiaries, divisions, predecessors and/or successors and assigns and their respective directors, shareholders, employees, partners, members, managers, officers, agents, and attorneys, past and present (individually and collectively, the "Released Parties"), from any and all manner of action, claim, suit, cause of action, debt, sum of money, contract, covenant, controversy, agreement, promise, damages, judgment and demand whatsoever, in law or in equity, known or unknown, including but not limited to any cause of action under the following in each case as amended and as applicable: the Age Discrimination in Employment Act of 1967; Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993; the Civil Rights Act of 1866; the Worker Adjustment and Retraining Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; and their state or local counterparts, including without limitation, or any other federal, state or local constitution, statute, ordinance, or regulation; or under any public policy, contract or tort, or under any common law cause of action whatsoever including but not limited to any cause of action for wrongful discharge; or arising under any practices or procedures of any alseT Person; or any claim for breach of contract, breach of any implied covenant of good faith and fair dealing and violation of public policy, or any claim for costs, fees or other expenses, including attorneys' fees, incurred in these matters, that the Releasors ever had or now have by reason of any matter, cause or thing whatsoever, and more particularly, but not exclusively, by reasons of any claims arising from or relating to TL's employment with the alseT IP, the termination of his employment with the alseT IP, or any matter or thing done or said during the course of his employment with the alseT IP, the termination of his employment with the alseT IP or the negotiation of this Agreement. This release includes, but is not limited to, rights arising out of alleged violations of any contracts, express or implied, including but not limited to any employment agreement, the limited partnership agreement of alseT IP Management LP, the

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limited liability company agreement of alseT IP Associates LLC, the limited liability company agreement of alseT IP Management LLC and all of the admission letters executed between TL and any of the Entities.

Each of the alseT Persons, for and in consideration of the settlement described herein, for itself and the Released Parties as described in paragraph 7 above, hereby releases and forever discharges the Releasors as described in paragraph 7 above, from any and all manner of action, claim, suit cause of action, debt, sum of money, contract, covenant, controversy, agreement, promise, damages, judgment and demand whatsoever, in law or in equity, including but not limited to any federal, state or local constitution, law, statue ordinance, executive order or regulation of any common law cause of action whatsoever, against Newton and TL that the Released Parties ever had or now has by reason of any matter, cause or thing whatsoever, and more particularly, but not exclusively, by reason of any claims arising from or relating to Newton's role as managing member of the Companies, TL's employment with alseT IP, the termination of his employment with alseT IP, or any matter or thing done or said during the course of his employment with alseT IP, the termination of his employment with the alseT IP, or the negotiation of this Agreement. This release and waiver does not waive or release any rights or claims that the Released Parties may have which arise after the date the execution this Agreement, including any breach by TL of Sections 10.5 (Confidentiality), 10.12 (Division of Property), 10.13 (Other Covenants of Limited Partners) and 10.14 (Irreparable Harm) of the limited partnership agreement of alseT IP and Sections 9.5 (Confidentiality), 9.13 (Restrictive Covenants of the Members Relating to Post-Termination Period) and 9.14 (Irreparable Harm) of the limited liability company agreement of alseT Management, or to any action by any of the alseT Entities to enforce the terms of this Agreement.

8. Right to Sue. Nothing contained herein shall prevent an alseT Person, Newton or TL from suing to enforce their respective rights under this Agreement.

9. Satisfaction of Claims. The parties understand, agree and intend that, upon Newton's and TL's acceptance of the terms of this Agreement, Newton and TL will have received complete satisfaction of any and all claims, whether known, suspected, or unknown, that he may have or had against the Releasees, and he thereby waives any and all relief not explicitly provided for herein.

10. Acknowledgements; Knowing Waiver.

    a. Newton, TL and David Smith confirm that, in addition to consulting with counsel (or knowingly not doing so) concerning their respective lawful remedies and rights as well as the meaning and significance of this Agreement, each of them has also carefully read and fully understands the provisions of this Agreement, including the release and waiver of claims (and specifically TL with respect to the release and the covenant not to sue it contains), and has had the opportunity to negotiate its terms, and in no

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event was subjected to any undue influence or coercion in agreeing to these terms.

b. Each of the alseT Entities confirms that, in addition to consulting with its counsel concerning its lawful remedies and rights as well as the meaning and significance of this Agreement, each of the alseT Entities has also carefully read and fully understands the provisions of this Agreement, including the release and waiver of claims.

c. Newton, TL and David Smith expressly agree that each of them is solely responsible for compensating any lawyers with respect to their respective purported legal fees as related to the subject matter hereof and any actual or potential claims against any alseT Person.

11. No Other Claims. Newton and TL each represent that neither not filed any complaints, charges, or lawsuits against any of the Releasees or any of the their respective officers, directors, members, partners, employees or agents with any governmental agency or any court, and that neither Newton nor TL will do so at any time hereafter for any event which occurred up through and including the date of this Agreement.

12. Binding Agreement. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, representatives, successors, and assigns.

13. Mutual Non-Disparagement.

Newton and TL, on the one hand, and Senior Management (as defined herein) of each of the alseT Entities and each of such alseT Entities, on the other hand, each agree that they shall not make any negative or disparaging statements to any third party, including the media, about, or intentionally do anything that damages any of the parties hereto, their services or reputation, officers, employees or financial status, or that damages any party hereto in any of its business relationships, provided, however, that this paragraph shall not apply to his compliance with any duly issued subpoena or other compulsory legal program or the enforcement of rights hereunder pursued in good faith or communications within the organization of a party hereto made to another member of such party's organization or agent or advisor on a need-to-know basis.

The Companies shall, in response to any check of references by a potential employer of TL, acknowledge that TL was the co-founder, president, principal and a managing member of the Companies from September 2005 through the date of this letter and shall not accuse TL of wrongful or unfair conduct in relation to the alseT Entities or suggest in any way that the termination of TL's employment from alseT IP and/or Newton's withdrawal as set forth in paragraph 1 above was in any way a result of anything other than by resignation and withdrawal of TL.

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Senior Management of each of the Entities agree that, to the extent the aforementioned statements are made to anyone within any of the Entities on a need-to-know basis, those individuals will be informed of and told to adhere to the terms of this Section. Senior Management of the Entities agree that in the event that any of them receive any inquiry from a prospective employer or any other person regarding TL's relationship to the Entities or the termination of TL's employment with alseT IP or withdrawal from any of the Entities, they will respond only that TL resigned or withdrew to pursue other interests. TL agrees that he will refer all requests for references to any member of Senior Management. For purposes of this paragraph, "Senior Management" shall mean Stephen I. Willis, David Kennedy, Yoav Millet and Larry Rosenberg Each of the alseT Entities represents that these are the individuals who may have reviewed the terms of this Agreement and/or have detailed knowledge regarding the negotiations leading up to this Agreement.

14. Mutual Confidentiality; Non-Disclosure.

The Parties recognize and acknowledge each other's interest in the confidentiality of this Agreement.

Newton, TL and each of the asleT Entities promise and agree not to disclose, either directly or indirectly, in any manner whatsoever, any information of any kind regarding either: (i) the negotiations leading up to this Agreement; (ii) the substance or the existence of any belief the respective party or any other person may have that the Newton and TL Releasees or the alseT Releasees have engaged in or ratified any unlawful conduct; or (iii) the terms and amount of this Agreement, to any person within the Entities on a need-to-know basis, except that GSS and its advisors may be provided with this Agreement and Senior Management may discuss this matter with GSS in a manner consistent with paragraph 13 hereto, notwithstanding other provisions in this Agreement, or to any "third party or other entity," as defined below, including, but not limited to, representatives of local, state, or federal agencies, members of the press and media, present and former officers, employees, and agents of the Entity Releasees, and other members of the public, except pursuant to compulsion by court order or other binding governmental authority.

For the purpose of implementing a full and complete release and discharge of the Entities, Newton and TL expressly acknowledge that this Agreement is intended to include in its effect, without limitation, all claims which Newton or TL does not know or suspect to exist in his favor at the time of execution hereof, and that this Agreement contemplates the extinguishment of any such claim or claims. IN EXECUTING THIS AGREEMENT, NEWTON AND TL EXPRESSLY REPRESENT THAT EACH IS DOING SO VOLUNTARILY AND OF HIS OWN FREE WILL AND THAT HE IS OF SOUND MIND AT THE TIME OF SAID EXECUTION.

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15. Ownership of Claims.

Newton and TL represent and warrant that they own all potential claims that are the subject of this Agreement and that each has the sole and exclusive right to settle and compromise such claims. TL further represents and warrants that he has not conveyed, assigned or transferred to any person or entity any of the claims, demands, rights, damages, actions, liabilities, causes of actions, covenants, suits or judgments contained in this Agreement. Newton represents and warrants that the only interest holders in Newton are TL and Dave Smith , there are no parties holding debt securities and no material contracts between Newton and TL on the one had, and another person., on the other hand.

Each of the Entities represents and warrants that it owns all claims that are the subject of this Agreement and that it has the sole and exclusive right to settle and compromise such claims. Each of the Entities further represents and warrants that it has not conveyed, assigned or transferred to any person or entity any of the claims, demands, rights, damages, actions, liabilities, causes of actions, covenants, suits or judgments contained in this Agreement.

16. Sole and Entire Agreement. The Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof, except as expressly stated in paragraphs 1 and 3 of this Agreement.

17. Severability. The terms and provisions of this Agreement are acknowledged by the parties hereto to be required for the reasonable protection of the other. The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, the other paragraphs shall remain fully valid and enforceable. This Agreement shall survive the termination of any arrangements contained herein.

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18. Parties to the Agreement. For the avoidance of doubt, Mr. David Smith is signing this Agreement solely (i) with respect to the matters in paragraph 10 hereof in which he is referenced and (ii) in his capacity as a managing member of Newton, acknowledging his consent to Newton's actions, representations and warranties contained herein.

Sincerely,

Newton Advisors LLC

By: _____
Name: Thomas Livington
Title: Managing Member

By: _____
Name: David Smith
Title: Managing Member

_____
Thomas Livingston

ACKNOWLEDGED AND AGREED
effective as of the date first above written:

alseT IP Management, LLC

By: _____
Name:
Title: Managing Member

alseT IP Associates, LLC

By: _____
Name:
Title: Managing Member

alseT IP Management, LP

By: alseT IP Management, LLC
its general partner

By: _____
Name: David Kennedy
Title: Managing Member

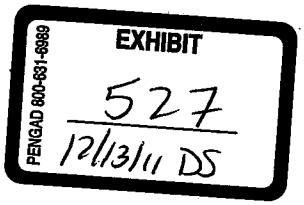
By: _____
Name: Stephen Willis
Title: Managing Member

LOANS FROM CCCC TO COVER TRUST SHORTAGES

	Jul-00	Aug-00	Sep-00	Oct-00	Nov-00	Dec-00
rs			4,500	3,960	11,500	
fw			3,056	12084	16050	
se	3,200	4,600	5,000		5,300	5,650
jsn						
nec						
tvt	1,800	2,200	5,400	3,745	2,100	7,600
mmt	5,000	4,900	7,300	3,600		17,000
fdd	35,000	46,098	19,357		47,956	18,700
kdp						
ntn	12,900	13,100	11,850	13,025	12,900	11,850
sih	12,667	40,201	6,151	4,786		5,900
			21,791	4296	10736	
tbd	4,800	8,200	10,000	5,650	2,800	7,900
jdf					2350	4,450
ckg	33,000	18,672	2,811	14,605	14,686	26,000
			44,892			
ttt	20,000	22,200	27,600	3,702	24,800	24,600
		19,600	20,000	23,950	17,800	20,000
				20,000		
lyc	5,000	5,300	7,700	7,500	5,060	5,100
	5,100	5,000	5,060	5,060		
gtv	21,000	13,220	4,879	5,855		
			26,920			
tmc	31,400	27,724	41,815	4,866	32,744	32,200
jal	9,200	11,900	10,150	9,950	9,300	10,000
rspn						
bel	20,400	31,500	32,500	5,610	14,600	47,800
		17,700	16,600	18,060		
od	4,200	8,500	10,900	7,850	875	716
	19,000	20,300	19,100	20,250	6,700	13,800
	955				19450	
td	6,219	39,642	6,259	30,566	11,585	19,200
			9,616			
bc	17,800	31,450	37,900	30,875	31,100	32,400
	16,550	16,500	14,800	16,150	15,700	16,500
mtp	16,082	46,855	5,762	5,021	21,401	27,200
			26,269			

LOANS FROM CCCC TO COVER TRUST SHORTAGES

	Jul-00	Aug-00	Sep-00	Oct-00	Nov-00	Dec-00
cpd	3,490	4,200	5,600	5,000	6,650	4,300
	5,500	5,400	5,400	5,400	2,450	5,400
SASB		9,400	11,900		9,000	
MFD	41,683	34,549	13,988	9,192	48,112	22,200
capital rsv			7,017			
capital	37,254	62,076	85,481	79,543	109,182	63,300
msd	16,000	3,556	20,297	5,660	18,640	11,400
	4,700	234		13,596		
	5,842					
slp	7,001	21,000	17,889	7,336	19,482	1,000
ppmc	17,550	17,600	17,500	17,100	16,100	16,600
mon				18,280		2,700
						2,200
kwd	3,000					2,500
ktw	203	19,792	13,779			
	17,600					
RHA		4,900	5,400	5150	5550	5,500
flb			27,000	17000	17600	
eos			4,600	13700		13,500
sec part					5400	6,950
	461,096	638,070	701,787	477,973	595,659	512,116
less held						



PURCHASE AGREEMENT

AGREEMENT made as of the 31st day of December, 2004, by and between **FIRST EXCELSIOR INCOME NOTES, LLC,** with its principal office at Capital Center, 99 Pine Street, Albany, New York 12207 (the "Seller"), and, **THIRD ALBANY INCOME NOTES, LLC** with its principal office at Capital Center, 99 Pine Street, Albany, New York 12207 (the "Buyer") (collectively, the "Parties").

WHEREAS, the Seller is a New York limited liability company which holds certain portfolios of residential security monitoring contracts purchased from Security Participation Trust IV on December 1, 2004 (the "Contract Portfolios"); and

WHEREAS, the Buyer desires to purchase the Contract Portfolios on the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of One Dollar ($1.00) and other good and valuable consideration paid by each of the Parties to the other, the receipt of which is hereby acknowledged, it is agreed as follows

ARTICLE 1
DEFINITIONS

The capitalized terms referred to below have the meanings indicated (and other capitalized terms are defined elsewhere in this Agreement):

"Acquired Assets" means the assets, properties and rights to be sold by Seller and purchased by Buyer as described in Article 2.

"Agreement" means this Asset Purchase Agreement and the schedules and exhibits hereto and the other agreements attached hereto or made a part of this Agreement.

"Ancillary Agreements" means the Bill of Sale, Assignment and Assumption Agreement and any other agreement delivered pursuant to this Agreement.

"Applicable Law" means all laws, statutes, treaties, rules, codes, ordinances, regulations, permits, certificates, orders and licenses of any Governmental authority, interpretations of any of the foregoing by a Governmental Authority having jurisdiction or any arbitrator or other judicial or quasi-judicial tribunal (including without limitation those pertaining to health, safety and the environment)

"Assumed Liabilities" means those Liabilities of Seller described in section 2.3.

"Bill of Sale, Assignment and Assumption Agreement" means the Bill of Sale, Assignment and Assumption Agreement between Buyer and Seller in the form attached hereto as Exhibit A.

"Closing" means the actual delivery of the instruments for conveyance for the Acquired Assets, and the exchange and delivery by the parties of the other documents and instruments contemplated by this Agreement. The effective time of the Closing shall be 12:01 A.M., Eastern Daylight Savings Time, on the Closing Date.

"Closing Date" means December 31, 2004, unless the parties agree upon another date as the Closing Date.

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Contracts" has the meaning referred to in Section 2.1(a).

"Excluded Assets" means those assets of Seller described in Section 2.2.

"Excluded Liabilities" means those Liabilities of Seller described in Section 2.4.

"GAAP" means generally accepted accounting principles as in effect in the United States from time to time.

"Governmental Authority" means any supranational, national, federal, state, departmental, county, municipal, regional or other governmental authority, agency, board, body, instrumentality or court in whatever country having jurisdiction in whole or in part over Seller or the Business.

"Liability" means any liability, whether known or unknown, asserted or unasserted, absolute or contingent, whether accrued or unaccrued, liquidated or unliquidated, and whether due or to become due, including any liability for Taxes.

"Operating Permits" means all of the permits, licenses, certifications, approvals, authorities or other franchises granted by any Governmental Authority or other third party required or appropriate for the continued operation of the Business in the manner heretofore operated.

"Purchase Price" means the purchase price specified in Section 3.1.

"Taxes" means all state, local or foreign taxes, social security contributions, fees, imposts, levies or other assessments, including, without limitation, all net income, gross receipts, sales, use, ad valorem, value added, transfer, recording, franchise, profits, inventory, capital stock, license, withholding, payroll, stamp, occupation and property taxes, customs duties or other similar fees, assessments and charges, however denominated, together with all interest, penalties, surcharges, additions to tax or additional amounts imposed by any Governmental Authority, and any transfer liability in respect of any of the foregoing taxes.

ARTICLE 2
PURCHASE AND SALE OF ASSETS

2.1 The Acquired Assets. On the terms and subject to the provisions of this Agreement, Seller agrees to sell, transfer and deliver to Buyer on the Closing Date, and Buyer agrees to purchase from Seller for the Purchase Price, the following assets, properties, rights and interests of the Seller wherever located (collectively, the "Acquired Assets"):

(a) All rights of Seller under original monitoring contract instruments and all other original documents executed by the end user of monitoring services (the "Subscriber"), agreements, commitments and other arrangements specifically identified on Schedule 2.1(a) (collectively, the "Contracts"); provided, however, that if the assignment of any such Contract requires the consent of the other parties thereto, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof, but Seller and Buyer shall use their best efforts to obtain the written consent of the other parties to such assignment; and failing such consent, Buyer and Seller shall mutually agree on a method by which Seller will continue to execute any such Contract upon the direction and for the risk and benefit of Buyer;

(b) All books, records, documents, files, lists and other printed or written materials, whether stored electronically or otherwise, concerning the Contracts (except those relating to (i) solely Excluded Assets, or (ii) the organization, maintenance and legal existence of Seller); Buyer shall maintain all business records of Seller transferred hereunder for a period of three (3) years following the Closing Date and shall make such records available to Seller at its reasonable and timely request for any reasonable purpose; provided, however, that Seller shall be responsible for all costs of copying such records;

(c) All prepaid expenses, all claims, refunds, causes of action, rights of recovery and warranty rights; and

(d) All rights, title and interest of Seller in and to all warranties and guaranties given to, assigned to or benefiting Seller regarding the acquisition, management or maintenance of any of the Acquired Assets.

2.2 Excluded Assets. Notwithstanding the provisions of Section 2.1, the Acquired Assets shall not include the following: the records referred to in Section 2.l(b)(i) and (ii) above (the "Excluded Assets"), cash and cash equivalents, and accounts receivable.

2.3 Assumed Liabilities. On the terms and subject to the conditions of this Agreement, Buyer agrees to on the Closing Date assume, pay and discharge when due the following agreements, obligations and liabilities of Seller (the "Assumed Liabilities") and no others: Seller's liabilities and obligations under the executory portion of any Contract, i.e. the portion which is to be performed after the Closing Date, but not including any liability or obligation relating to portions performed or to be performed on or before the Closing Date. If the assumption by Buyer of any of the Assumed Liabilities requires the consent of any third party, Seller and Buyer shall use their best efforts to obtain the written consent of such third parties to

the assumption.

2.4 Excluded Liabilities. Buyer shall have no responsibility for any agreements, liabilities or obligations of Seller of any nature whatsoever which are not specifically included in the Assumed Liabilities, whether similar or dissimilar to the Assumed Liabilities, whether now existing or hereafter arising, and whether known or unknown to Buyer or Seller (the "Excluded Liabilities"), including, without limitation, all of the following:

(a) any Liability arising out of any event that occurred, or services performed by Seller on or prior to the Closing Date, or Seller's ownership of its assets or the operation of its business on or prior to the Closing Date;

(b) any Liability resulting from, arising out of, relating to, in the nature of, or caused by any breach of an agreement or promise (including, without limitation, any Contract), breach of warranty, tort or infringement by Seller or any of its affiliates;

(c) any Liability of the Seller or any of its affiliates for Taxes relating to the operation of its business or the ownership of the Acquired Assets on or prior to the Closing;

(d) any obligation to defend or indemnify any person by reason of the fact that such person was a director, officer, employee, trustee or agent of Seller, or any of its affiliates, or was serving at the request of Seller, or any of its affiliates, as a partner, shareholder, member, trustee, director, governor, officer, employee, or agent of another entity, and whether such obligation is pursuant to any statute, charter document, by-law, agreement, or otherwise;

(e) any obligation to pay deferred compensation to any current or former director, trustee, officer or employee of Seller, or any of its affiliates, for services prior to the Closing Date;

(f) Liabilities related to or arising out of Seller's liabilities to employees or former employees of Seller or any of their respective affiliates;

(g) Liabilities arising out of any litigation or administrative or arbitration proceeding to which Seller, the Trustee or any of their respective affiliates is a party or any claims by or against Seller, the Trustee or any of their respective affiliates arising from facts or circumstances existing on or prior to the Closing Date;

(h) Liabilities resulting from any violation by Seller, or any employee, director, trustee, or agent of Seller, or any of their respective affiliates, or any predecessor for which Seller or any of their respective affiliates may be liable, of any Applicable Law, including, without limitation, those applicable to discrimination in employment, employment practices, wage and hour, retirement, labor relations, occupational safety, health, trade practices, environmental matters, competition, pricing, product warranties, product liability and product advertising;

(i) Liabilities incurred by Seller or any of its affiliates under or in connection with

this Agreement or the transactions provided for herein, including without limitation all fees and expenses of legal counsel, accountants, experts, or any investment banker, business broker, finder, or other advisor retained by Seller or any of affiliate; and

(j) Liabilities arising under any promissory note or agreements governing or securing indebtedness for borrowed money or the deferred purchase price of any property, or under any lease which in accordance with GAAP would be classified as a capital lease.

To the extent Buyer becomes liable to pay or perform any such Excluded Liability, Seller agrees to indemnify Buyer with respect thereto pursuant to the provisions of Article 9 of this Agreement.

ARTICLE 3
PURCHASE PRICE

3.1 Purchase Price. The total purchase price for the Acquired Assets (the "Purchase Price") shall consist of:

(a) the assumption by Buyer at the Closing of the Assumed Liabilities; and

(b) the payment by Buyer at the Closing of $1,953,541.00, to be paid to Seller in cash by wire transfer to a bank account designated by Seller in a written notice delivered to Buyer prior to the Closing.

3.2 Allocation of Purchase Price. The parties agree to allocate the Purchase Price among the Acquired Assets for all purposes (including financial accounting and tax purposes) in accordance with Schedule 3.2 attached. Seller and Buyer shall cooperate with each other in filing any returns or reports required to be filed by each of them under Applicable Law with respect to such allocation.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF SELLER AND TRUSTEE

To induce Buyer to enter into this Agreement, Seller represents and warrants to Buyer that except as otherwise specifically stated in the Disclosure Schedule attached hereto as Schedule 4 (the "Disclosure Schedule"), the following are true and correct on the date hereof and will be true and correct as of the Closing Date:

4.1 Authority of Seller; Ownership. The execution, delivery and performance of this Agreement and the Ancillary Agreements by the Seller and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements has been duly authorized by Seller and does not and will not conflict with, result in a default of, constitute a default under, or create in any part the right to accelerate, terminate, modify, or cancel, or require any notice under, (i) any provision of the Operating Agreement or other governing documents of

Seller, (ii) any laws, rules or regulations to which the Seller or any of its assets may be subject, (iii) any agreement, contract, lease, license, instrument, or other arrangement to which the Seller is a party or by which it is bound or to which any of its assets is subject.

4.2 **Organization and Qualification of Seller.** Seller is a limited liability company lawfully existing and in good standing under the laws of the State of New York with full power and authority to own its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.

4.3 **Binding Nature of Agreement.** This Agreement has been duly and validly executed and delivered by Seller and each Ancillary Agreement contemplated hereby when executed and delivered will be, the legal, valid and binding obligation of Seller enforceable in accordance with its respective terms, except as such may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, and by general equitable principles.

4.4 **Good Title.** Seller has, and at Closing, Buyer will receive, good and marketable title to the Acquired Assets to be sold by Seller hereunder, free and clear of all claims, liens, encumbrances or interests of third parties.

4.5 **Tax Matters.** Seller has filed with the appropriate Governmental Authorities all tax returns and tax reports (including, but not limited to, those pertaining to income taxes, excise taxes, sales and use taxes, payroll taxes, real property taxes, tangible and intangible personal property taxes, and franchise taxes) required to be filed by it. All such tax returns and reports were correct and complete in all material respects. All Taxes, interest, penalties, and additions shown or claimed to be due thereon have been paid. No material claim has been made by a Governmental Authority in a jurisdiction where Seller does not currently file a tax return or report that it is or may be subject to taxation by that jurisdiction. There are no liens or other encumbrances of any kind on any of the assets of Seller that arose in connection with any failure (or alleged failure) to pay any Tax. Seller has not been a member of an affiliated group (within the meaning of Section 1504 of the Code) filing a consolidated federal tax return. Seller is not currently the subject of any tax audit, nor has Seller received notice of any audit. There are no agreements for the extension of the periods for the assessment or collection of any Taxes, and no statute of limitations in respect of Taxes relating to Seller has been waived.

4.6 **Litigation.** There are no legal actions, suits, arbitrations or other legal, administrative or other governmental proceedings or investigations pending or, to the best knowledge of the Seller, threatened against Seller. Seller is not subject to any judgment, order or decree, and is not a party to any lawsuit or proceeding, which might have a material adverse effect on the business of the Seller or render it unable in any material respect to acquire any property or conduct business (in the manner presently conducted) in any jurisdiction.

4.7 **Compliance with Laws. Seller** is in compliance in all material respects with all Applicable Laws.

4.8 **Permits, Certifications and Licenses.** Each Operating Permit required to be

obtained for the operation of the business of the Seller and the ownership of its assets is in full force and effect, except to the extent that failure to obtain an Operating Permit would not have a material adverse effect on Seller. There is no threatened or pending action which could result in any revocation of any Operating Permit which would materially and adversely affect the business of the Seller as presently conducted.

4.9 Books and Records. The records of Seller to be purchased by Buyer pursuant to Section 2.1(b) are, and will be as of the Closing Date, true and complete in all material respects.

4.10 Contract Portfolios. All Contracts comprising the Contract Portfolios to be purchased by Buyer pursuant to Section 2.1(a) and delivered by Seller are valid contracts and are in full force and effect pursuant to the terms and conditions of each such Contract. There are no defaults or any condition which could form the basis of a claim of default at present or through the passage of time in any of the said Contracts. Said Contracts have not been modified in any respect, except to the extent that such modifications are disclosed on the face of the Contracts delivered to Buyer. Seller has performed all its obligations required to be performed by it and it is not in default or breach under any Contract.

4.11 Consents and Approvals. Except for those listed in Section 4.11 of the Disclosure Schedule, no consent, authorization, order, or approval of or filing with any Governmental Authority or other entity or person, including without limitation, consents from parties to the Contracts, is required for the execution and delivery of this Agreement.

4.12 Brokers or Agents. Seller has not employed or dealt with any brokers, consultants or investment bankers in connection with the transactions contemplated hereby, other than those whose fees, commissions and expenses which shall be payable by Seller.

4.13 Material Omissions. No representation or warranty by the Seller in this Agreement nor any written statement, certificate or schedule furnished to or to be furnished by any Member or Seller to Buyer pursuant to this Agreement or in connection with the transactions contemplated herein, contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading in light of the circumstances.

All representations and warranties herein and all obligations in this Article 4 shall survive the termination of this Agreement.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF BUYER

To induce Seller to enter into this Agreement, Buyer represents and warrants to Seller as follows:

5.1 Authority of Buyer- Ownership. The execution, delivery and performance of

this Agreement and the Ancillary Agreements by Buyer and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements has been duly authorized by all necessary company and Member action on the part of Buyer and does not and will not conflict with, result in a default of, constitute a default under, or create in any part the right to accelerate, terminate, modify, or cancel, or require any notice under, (i) any provision of the Articles of Organization, Operating Agreement or other governing documents of Buyer, (ii) any laws, rules or regulations to which Buyer or any of its assets may be subject, (iii) any agreement, contract, lease, license, instrument, or other arrangement to which Buyer is a party or by which it is bound or to which any of its assets is subject.

5.2 **Organization and Qualification of Buyer.** Buyer is a limited liability company lawfully existing and in good standing under the laws of New York with full power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.

5.3 **Binding Nature of Agreement.** This Agreement has been duly and validly executed and delivered by Buyer and is, and each Ancillary Agreement contemplated hereby to which the Buyer is a party when executed and delivered will be, the legal, valid and binding obligation of Buyer, enforceable in accordance with its respective terms, except as such may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, and by general equitable principles.

ARTICLE 6
COVENANTS

Between the date of this Agreement and the Closing Date, the Seller shall (i) use all reasonable efforts to preserve for Buyer the goodwill and existing relationships which Seller has for purposes of the conduct of its business; (ii) conduct its business only in the usual and ordinary course; (iii) use all reasonable efforts to satisfy the conditions precedent to the Closing provided in Articles 7; and (iv) prior to the earlier of the Closing or the termination of this Agreement, the Seller shall not directly or indirectly solicit, initiate or knowingly encourage (including by way of furnishing information) inquiries or submission of proposals or offers from any person relating to the sale of all of any portion of the business of the Seller, including the Acquired Assets, or any equity interest in, or any business combination with the Seller. Between the date of this Agreement and the Closing Date, the Buyer will use all reasonable efforts to satisfy the conditions precedent to the Closing provided in Article 7.

ARTICLE *7*
CONDITIONS PRECEDENT TO CLOSING

7.1 **Conditions Precedent to Buyer's Obligations.** The obligations of Buyer under this Agreement are subject to fulfillment prior to or at Closing of each of the following conditions, unless waived in writing by Buyer:

(a) **Representations and Warranties.** Each of the representations and warranties made by the Seller in this Agreement, or in any instrument, schedule, certificate or writing

delivered by Seller pursuant to this Agreement, shall be true and correct in all material respects when made and as of the Closing Date.

(b) **Satisfactory Completion of Due Diligence.** The Buyer shall have completed its due diligence investigation of the Seller and the Business, and the results of such investigation shall have been satisfactory to the Buyer in its sole discretion.

(c) **Financing.** The Buyer shall have obtained financing for the transactions under this Agreement on terms that are acceptable to Buyer in its sole discretion.

(d) **Other Matters.** All proceedings and actions taken in connection with the transactions contemplated hereby and all certificates, opinions, agreements, instruments and documents mentioned herein or incident to any such transactions shall have been delivered and shall be reasonably satisfactory in form and substance to Buyer and its counsel.

7.2 **Conditions Precedent to Seller's Obligations.** The obligations of the Seller under this Agreement are subject to fulfillment prior to or at the Closing of each of the following conditions, unless waived in writing by Seller:

(a) **Representations and Warranties.** Each of the representations and warranties made by Buyer in this Agreement or in any instrument, schedule, certificate or writing delivered by Buyer pursuant to this Agreement, shall be true and correct when made and shall be true and correct at and as of the Closing Date as though such representation and warranties were made or given on and as of the Closing Date.

(b) **Other Matters.** All proceedings and actions taken in connection with the transactions contemplated hereby and all certificates, opinions, agreements, instruments and documents mentioned herein or incident to any such transactions shall have been delivered and shall be reasonably satisfactory in form and substance to the Seller and its counsel.

ARTICLE 8
CLOSING DOCUMENTS

8.1 **Deliveries of Seller.** Seller and the Member shall deliver to Buyer on the Closing Date all of the following, executed as appropriate:

(a) releases, termination statements or satisfactions, as appropriate, as to all security interests, liens, claims or other encumbrances created or suffered to exist by Seller with respect to the Acquired Assets;

(b) all necessary consents, if any, for the assignment to Buyer of the Acquired Assets;

(c) all documents, instruments or writings required to be delivered to Buyer at or prior to Closing pursuant to this Agreement, and such other certificates of authority and documents as Buyer may reasonably request.

8.2 Deliveries of Buyer. Buyer shall deliver to Seller on the Closing Date all of the following, executed as appropriate:

(a) the Purchase Price payable to Seller at Closing in accordance with Section 3.1;

(b) a Certificate executed by the Secretary of Buyer certifying as to attached copies of the Buyer's articles of organization and resolutions of Buyer's members approving this Agreement and setting forth the names of each of the officers of Buyer authorized to execute this Agreement and all documents, certificates and agreements ancillary hereto, together with their specimen signatures;

(c) all other documents, instruments or writings required to be delivered to Seller at or prior to Closing pursuant to this Agreement, and such other certificates of authority and documents as Seller may reasonably request.

ARTICLE 9
INDEMNIFICATION

9.1 Indemnification by Seller. Seller agrees to defend, indemnify and hold Buyer and its directors, officers, members, successors and assigns harmless from and against any and all damages, claims, suits, liabilities, fines, penalties, costs, losses, diminution in value, deficiencies, and expenses (including without limitation reasonable counsel fees) of any kind or nature whatsoever, whether or not involving a third-party claim (collectively "Buyer Damages") which may be sustained or suffered by Buyer arising from or related to:

(a) a breach of any representation, warranty or covenant made by Seller in this Agreement or any other agreement, certificate or document delivered by or on behalf of Seller or any Member of Seller to Buyer pursuant to this Agreement;

(b) any claim arising in connection with any services provided by, Seller before the Closing Date; and

(c) obligations relating to the Seller's business or Acquired Assets arising or accruing prior to the Closing which have not been expressly assumed by Buyer.

9.2 Indemnification by Buyer. Buyer agrees to defend, indemnify and hold the Seller and Seller's directors, officers, Trustee, successors and assigns harmless from and against any and all damages, claims, suits, liabilities, fines, penalties, costs, losses, diminution in value, deficiencies, and expenses (including without limitation reasonable counsel fees) of any kind or nature whatsoever, whether or not involving a third-party claim (collectively "Seller Damages") which may be sustained or suffered by Seller arising from or related to:

(a) a breach of any representation, warranty or covenant made by Buyer in this Agreement or any other agreement, certificate or document delivered by or on behalf of Buyer to

Seller pursuant to this Agreement;

(b) any claim arising in connection with any services provided by, Buyer on or after the Closing Date; and

(c) obligations relating to the Acquired Assets arising or accruing after the Closing Date which have not been retained by Seller.

Any Seller Damages and Buyer Damages may be referred to generically as "Damages."

9.3 Procedure for Indemnification Claims.

(a) The party seeking indemnification under Article 9 of this Agreement (the "Indemnified Party") shall give prompt notice to the other party (the "Indemnifying Party") of any Damages as to which indemnification is sought under this Agreement.

(b) In the case of any third-party claim, the Indemnified Party shall permit the Indemnifying Party, at the Indemnifying Party's sole cost and expense, to assume the defense of any claim or any litigation resulting from such claim. Failure by the Indemnifying Party to notify the Indemnified Party of its election to defend any such action within fifteen (15) days after notice thereof shall be deemed a waiver by the Indemnifying Party of its right to defend such action. If the Indemnifying Party assumes the defense of any such claim or litigation resulting therefrom, the Indemnifying Party shall defend or settle such claim or litigation and hold the Indemnified Party harmless from and against any and all losses, damages and liabilities caused by or arising out of any settlement or any judgment therefrom. The Indemnifying Party shall not, in the defense of such claim or any litigation resulting therefrom, consent to the entry of any judgment or enter into any settlement (except with the written consent of the Indemnified Party), which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all liability in respect to such claim or litigation. If such defense is unsuccessful or abandoned by the Indemnifying Party, then, upon the Indemnifying Party's failure to pay an amount sufficient to discharge any such claim or judgment, the Indemnified Party may pay and settle the same and the Indemnifying Party's liability shall be conclusively established by such payment.

(c) If the Indemnifying Party shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may defend against and settle such claim or litigation in such manner as it may, in its sole discretion, deem appropriate, and the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of all reasonable expenses, legal or otherwise, incurred by the Indemnified Party in connection with the defense against or settlement of such litigation. If no settlement is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such claim or such litigation and of all reasonable expenses, legal or otherwise, incurred by the Indemnified Party in the defense thereof.

9.4 Limitations on Indemnification. Notwithstanding the other provisions of this Article 9, the rights of a party to indemnification under this Agreement shall be limited as

follows:

(a) The representations and warranties contained in this Agreement shall survive until the third anniversary of the Closing Date, and no claim for indemnification under this Agreement shall be permitted unless it is asserted in writing on or before the third anniversary of the Closing Date; provided, however, that the foregoing limitations shall not apply to the representations and warranties set forth in Sections 4.4 (Good Title) and 4.5 (Tax Matters), which shall survive the Closing for a period equal to the applicable statutes of limitation.

(b) In calculating Damages there shall be deducted any amount which has been recovered by the Indemnified Party in money or money's worth from insurance or from a third party as a result of the Damages.

(c) No party to this Agreement shall be entitled to indemnification until the total amount of its Damages (after deduction of all insurance proceeds and third-party recoveries by the Indemnified Party) exceeds $25,000 of Damages, after which the Indemnified Party shall be entitled to seek recovery of all Damages in excess of $25,000.

ARTICLE 10
MISCELLANEOUS

10.1 Taxes. Seller shall pay out of the Purchase Price any income or capital gain tax imposed by any Governmental Authority or any county or municipality therein, relating to the transactions contemplated by this Agreement.

10.2 Expenses. Each party to this Agreement shall pay all expenses incurred by him or it relating to the transactions contemplated by this Agreement, including without limitation, the fees and expenses of his or its legal, accounting and financial advisors.

10.3 Termination. This Agreement may be terminated at any time prior to the Closing Date, as follows:

(a) by the mutual consent of the Seller and Buyer;

(b) by either the Buyer on the one hand, or the Seller on the other, if there has been a material misrepresentation, breach of warranty or breach of covenant on the part of the other in the representations, warranties and covenants set forth in this Agreement;

(c) by the Buyer on the one hand, or the Seller on the other, if the transactions contemplated by this Agreement have not been consummated by December 31, 2004; provided that neither will be entitled to terminate this Agreement pursuant to this Section 10.3(c) if such party's willful breach of this Agreement has prevented the consummation of the transactions contemplated by this Agreement; or

(d) by the Buyer if after the date hereof an event shall have occurred which, so far as may reasonably be foreseen, would render unlikely the satisfaction of any condition to the

Buyer's obligation to close the transaction contemplated in this Agreement.

In the event of termination of this Agreement by either the Buyer, on the one hand, or the Seller on the other, as provided in this Section 10.3, all provisions of this Agreement shall terminate and shall be of no further force or effect; provided, however, that the liability of any party for any breach by such party of the representations, warranties, covenants or agreements of such party set forth in this Agreement occurring prior to the termination of this Agreement shall survive the termination of this Agreement for a period of one year from the date of such termination and, in addition, in any action for breach of contract in the event of a termination of this Agreement, the prevailing party shall be reimbursed by the other party to the action for reasonable attorneys' fees and expenses relating to such action.

10.4 Survival. The representations, warranties, covenants and other provisions of this Agreement, the Ancillary Agreements and the other documents delivered at the Closing shall survive the Closing (subject to any express time limitation as to indemnification rights) and shall not be affected by any knowledge or investigation or by the acceptance of any certificate or opinion.

10.5 Non-Waiver. The failure in any one or more instances of a party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right conferred by this Agreement, or the waiver by any party of any of the terms, covenants, conditions or rights conferred by this Agreement, shall not be construed as a subsequent waiver or any such terms, covenants, conditions or rights, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred. No waiver shall be effective unless it is in writing, dated after the date of this Agreement, and signed by an authorized representative of the waiving party.

10.6 Notices. All notices required or permitted to be given under this Agreement shall be in writing and will be deemed given when delivered in person, or three business days after being deposited in the United States mail, postage prepaid, registered or certified mail, addressed as set forth below or on the next business day after being deposited with a nationally recognized overnight courier service addressed as set forth below or upon dispatch if sent by facsimile with telephonic confirmation of receipt from the intended recipient to the facsimile number set forth below:

If to Seller addressed to:

First Excelsior Income Notes, LLC
Capital Center, 99 Pine Street
Albany, New York 12207
Fax No.:

If to Buyer addressed to:

Third Albany Income Notes, LLC

Capital Center, 99 Pine Street
Albany, New York 12207
Fax No.;

or to such other respective addresses as may be designated by notice given in accordance with the provisions of this Section, except that any notice of change of address will not be deemed given until actually received by the party to whom directed.

10.7 Entire Agreement; Amendment. This Agreement, including the schedules and exhibits, constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and understandings relating to the subject matter hereof, whether written or oral. This Agreement shall not be amended, altered, enlarged, supplemented, abridged, modified, or any provisions waived, except by a writing duly signed by all of the parties hereto.

10.8 Time of the Essence. Time is of the essence as to the performance of all obligations created under this Agreement.

10.9 Benefit; Assignability. This Agreement shall be enforceable by, and shall inure to the benefit of, the parties to this Agreement and their respective successors and assigns, provided no party may assign its rights or obligations under this Agreement without the consent of the other parties; provided, however, that the Buyer may assign its rights under this Agreement and the Ancillary Agreements to any entity affiliated with Buyer.

10.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one agreement.

10.11 Publicity and Disclosures. No press releases or public disclosure, either written or oral, of the transactions contemplated by this Agreement, shall be made without the prior knowledge and consent of Buyer, except as required by law.

10.12 No Third-Party Rights. Nothing expressed or implied in this Agreement is intended, nor shall be construed, to confer upon or give any person, firm or corporation, other than Buyer, Seller and the Trustee, any rights or remedies under or by reason of this Agreement.

10.13 Headings. The descriptive headings of the Articles and Sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

10.14 Governing Law. This Agreement shall be construed under and governed by the laws of the State of New York.

10.15 Remedies; Arbitration.

(a) The rights, remedies, powers and privileges provided in this Agreement are cumulative and not exclusive and shall be in addition to any and all rights, remedies, powers and privileges granted by law, rule, regulation or instrument. The parties agree that, in addition to

any other relief afforded under the terms of this Agreement or by law, Buyer, Seller shall have the right to enforce this Agreement by injunctive or mandatory relief to be issued by or against the other parties, it being understood that both damages and specific performance shall be proper modes of relief and are not to be understood as alternative remedies.

(b) Without prejudice to each party's right to seek injunctive or mandatory relief from a court, the parties agree that all other disputes arising under this Agreement or any of the Ancillary Agreements, or any alleged breach hereof or thereof, shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Each arbitration shall be conducted in Albany, New York, and judgment on the arbitrator's award may be entered in any court having jurisdiction. If it is determined by the arbitrator that one party has generally prevailed on the issues, then the other party shall bear the cost of the arbitration proceedings, including without limitation the arbitrator's compensation and expenses and the reasonable attorneys fees of the prevailing party; otherwise, the cost of the arbitrator's compensation and expenses shall be borne by Buyer.

10.16 Further Assurances. At the Closing and from time to time after the Closing, at the request of the Buyer and without further consideration (except for any reasonable out-of-pocket expenses necessarily incurred by Seller or a Member), the Seller shall promptly execute and deliver to the Buyer such certificates and other instruments of sale, conveyance, assignment and transfer, and take such other action, as may reasonably be requested by the Buyer more effectively to confirm any obligation assumed by the Buyer pursuant to this Agreement and to sell, convey, assign and transfer to and vest in Buyer or to put Buyer in possession of the Acquired Assets and all benefits related thereto. To the extent that any consents, waivers or approvals necessary to convey the Acquired Assets to the Buyer are not obtained prior to Closing, the Seller shall (a) provide to the Buyer, at the request of the Buyer, the benefits of any such Asset, and hold the same in trust for the Buyer; (b) cooperate in any reasonable and lawful arrangement, approved by the Buyer, designed to provide such benefits to the Buyer; and (c) enforce and perform, at the request of the Buyer, for the account of the Buyer, any rights or obligations of the Seller arising from any such Acquired Asset against or in respect of any third person, including the right to elect to terminate any contract, arrangement or agreement in accordance with the its terms thereof upon the advice of the Buyer.

IN WITNESS WHEREOF, this Purchase Agreement is executed as of the date set forth above.

FIRST EXCELSIOR INCOME NOTES, LLC

By: _____
Its _____

THIRD ALBANY INCOME NOTES, LLC

By: _____
Its _____

EXHIBITS

A Bill of Sale, Assignment and Assumption Agreement

SCHEDULES

2.1(a) Contracts
3.4 Purchase Price Allocation
4 Disclosure Schedule

EXHIBIT A