

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

10 Civ. 457 (GLS)
(DRH)

McGINN, SMITH & CO., INC.,
McGINN, SMITH ADVISORS LLC,
McGINN, SMITH CAPITAL HOLDINGS CORP.,
FIRST ADVISORY INCOME NOTES, LLC,
FIRST EXCELSIOR INCOME NOTES, LLC,
FIRST INDEPENDENT INCOME NOTES, LLC,
THIRD ALBANY INCOME NOTES, LLC,
TIMOTHY M. MCGINN; AND
DAVID L. SMITH,

Defendants, and

LYNN A. SMITH,

Relief Defendant.

**NOTICE OF APPEARANCE
AND REQUEST FOR NOTICES**

PLEASE TAKE NOTICE that Phillips Lytle LLP files this Notice of Appearance and Request for Notices on behalf of William J. Brown, the Receiver appointed in this action (“Receiver”) on behalf of defendants 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 and Third Albany Income Notes, LLC, and respectfully requests that all notices given or required to be given, and all papers served or required to be served in this case, and in all proceedings arising under or related thereto, including, but not limited to notices, applications, motions, petitions, orders, pleadings,

complaints or demands, be given to and served upon the following:

William J. Brown, Esq.
Phillips Lytle LLP
3400 HSBC Center
Buffalo, NY 14203
Telephone: (716) 847-8400
Facsimile: (716) 852-6100

Dated: June 18, 2010

PHILLIPS LYTLE LLP

By /s/ William J. Brown
William J. Brown
Todd A. Ritschdorff
Suite 3400
One HSBC Center
Buffalo, New York 14203-2887
Telephone No. (716) 847-8400

and

Omni Plaza
30 South Pearl Street
Albany, New York 12207
Telephone No. (518) 472-1224

Attorneys for William J. Brown, Receiver