

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

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,
LYNN A. SMITH, GEOFFREY R. SMITH, Trustee
of the David L. and Lynn A. Smith Irrevocable Trust
U/A 8/04/04, GEOFFREY R. SMITH, LAUREN
T. SMITH, and NANCY McGINN,

**Case No.: 1:10-CV-457
(GLS/DRH)**

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, hereby certify that on AUGUST 11, 2014, I served a copy of **AFFIDAVIT OF JAMES D. LINNAN, AFFIDAVIT OF DAVID L. EVANS, MEMORANUM OF LAW AND RESPONSE TO PLAINTIFF'S STATEMENT OF MATERIAL FACTS** by delivery by mailing the same in a sealed envelope, with postage prepared thereon, in an official

depository of the United Parcel Services within the State of New York to the last known address
of the addressee as follows:

Nancy McGinn
426 – 8th Avenue
Troy, New York 12182

Dated: Albany, New York
August 11, 2014

Linnan & Fallon, LLP
By /s/ James D. Linnan
James D. Linnan (Bar Roll #102058)
*Attorneys for Geoffrey R. Smith, Trustee of
the David L. and Lynn A. Smith Irrevocable
Trust U/A 8/04/04, Geoffrey R. Smith and
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