

Federal Rules of Appellate Procedure Form 1. Notice of Appeal to a Court of Appeals from a Judgment or Order of a District Court.

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/CFH)**

NOTICE OF APPEAL

Defendants,

LYNN A. SMITH and NANCY MCGINN,

Relief Defendants,

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

Intervenor.

Notice is hereby given that Defendant/Relief Defendant, Lynn A. Smith, hereby appeals to the United States Court of Appeals for the Second Circuit from the Order of the District Court, Northern District of New York, Chief Judge Gary L. Sharpe entered in this action on the 30th day of March 2015, granting the Plaintiff, Securities and Exchange Commission's motion for summary judgment on plaintiff's First, Second, Third, Fourth, and Sixth Causes of Action, and

requests for disgorgement of profits in the amount of \$87,433,218 and prejudgment interest in the amount of \$11,668,132.

Dated: April 22, 2015

Featherstonhaugh, Wiley & Clyne, LLP

By: 

Jonathan S. McCardle, Esq.

Bar Roll No. 518819

*Attorneys for Defendant/ Relief Defendant,
Lynn A. Smith*

99 Pine Street, Suite 207

Albany, NY 12207

Tel: (518) 436-0786

TO: David Stoelting
Securities and Exchange Commission
Attorney for Plaintiff
3 World Financial Center, Room 400
New York, NY 10281
Tel: (212) 336-0174
Fax: (212) 336-1324
stoeltingd@sec.gov

Kevin McGrath
Securities and Exchange Commission
Attorney for Plaintiff
3 World Financial Center, Room 400
New York, NY 10281
Tel: (212) 336-0533
Fax: (212) 336-1324
mcgrathk@sec.gov

William J. Dreyer
Dreyer Boyajian LLP
Attorneys for David L. Smith
75 Columbia Place
Albany, NY 12207
Tel: (518) 463-7784
Fax: (518) 463-4039
wdreyer@dreyerboyajian.com

E. Stewart Jones, Jr.
E. Stewart Jones Law Firm
Attorneys for Timothy M. McGinn
28 Second Street
Troy, NY 12181
esjones@esjlaw.com

Nancy McGinn
426 8th Avenue
Troy, NY 12182
nemcginn@yahoo.com

William Brown, Esq.
Phillips Lytle LLP
Attorneys for Receiver
3400 HSBC Center
Buffalo, NY 14203
WBrown@phillipslytle.com

James D. Linnan
Linnan & Fallon
*Attorneys for the David L. and Lynn A. Smith
Irrevocable Trust, Geoffrey Smith and
Lauren T. Smith*
61 Columbia Street
Albany, NY 12210
jdlinnan@linnan-fallon.com