

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, 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,
and U.S. ATTORNEY'S OFFICE FOR ND/NY.

Intervenors.

NOTICE OF APPEAL

NOTICE is hereby given that defendants, Geoffrey R. Smith, Lauren T. Smith and
Geoffrey R. Smith, Trustee of the David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04,
hereby appeal to the United States Court of Appeals for the Second Circuit from the
Memorandum-Decision and Order dated March 30, 2015 (Docket Nos. 807 and 816) of the
Honorable Gary L. Sharpe, granting the plaintiff's motion for summary judgment on plaintiff's

Complaint, and each and every part thereof as it pertains to Geoffrey R. Smith, Trustee of the David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04, Geoffrey R. Smith and Lauren T. Smith, and from the Order of the Court directing that the Smith Trust assets be applied to satisfy the disgorgement order, and from the Order of the Court denying the Smith Trust motion for summary judgment.

Dated: Albany, New York
April 25, 2015

Respectfully submitted,

Linnan & Fallon, LLP

By /s/ James D. Linnan

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Smith Irrevocable Trust U/A 8/04/04,
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