

1.10-cv-457

Chris A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

November 27, 2017

Hon. Christian F. Hummel, U.S. Magistrate Judge  
James T. Foley U.S. Courthouse  
445 Broadway, Room 441  
Albany, NY 12207

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED

DEC 06 2017

LAWRENCE K. BAERMAN, CLERK  
ALBANY

Dear Judge Hummel,

The trustees of the Gustafson Family estate have been trying to work with William J Brown regarding the McGinn, Smith & Co. settlement. Mr. Brown has been unresponsive to our communication and we have been provided no status regarding the settlement.

We wanted to inform you of this issue.

Sincerely,

*Chris A. Gustafson, TTE*

Chris A. Gustafson, TTE

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

November 22, 2017

William J. Brown  
Philips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

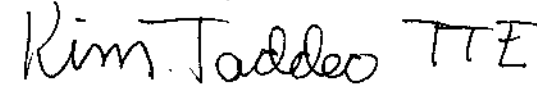
The trustees of the Gustafson Family estate have been communicating with your office since June of 2017. We are writing to follow up on the certified letters we sent and you received on 17 October 2017, 18 September 2017 and 5 July 2017. Enclosed in these letters was the documentation required for the McGinn, Smith & Co. settlement.

Please respond, notifying us that you have received our communications and please provide status on when we can expect settlement for the estate of Donald B. Gustafson.

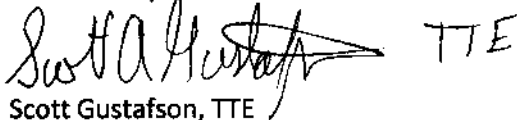
Sincerely,

 TTE

Chris A. Gustafson, TTE

 TTE

Kim Taddeo, TTE

 TTE

Scott Gustafson, TTE

Attached: Reference correspondence dated  
17 October 2017  
14 September 2017  
5 July 2017

CC:

Hon. Christian F. Hummel, U.S. Magistrate Judge  
James T. Foley U.S. Courthouse  
445 Broadway, Room 441  
Albany, NY 12207

Temmerman, Cilley & Kohlmann, LLP  
Jennifer F. Scharre  
2502 Stevens Creek Boulevard  
San Jose, CA 95128

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

October 17, 2017

William J. Brown  
Phillips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

The trustees of the Gustafson Family estate have been working with your office since June of 2017. We are writing to follow up on the certified letter we sent and you received on 18 September 2017. Enclosed in this letter was the documentation for the McGinn, Smith & Co. settlement.

Please respond, notifying us that you have received our communications and provide status on when we can expect settlement for the estate of Donald B. Gustafson.

Sincerely,

*Chris A. Gustafson, TTE* 10/17/2017  
Chris A. Gustafson, TTE

Kim Taddeo, TTE  
*Kim A. Taddeo, TTE* 10/17/2017

Scott Gustafson, TTE  
*Scott A. Gustafson, TTE* 10/17/2017

Attached: Last correspondence dated 14 September 2017

CC: U.S. Securities and Exchange Commission  
Stephanie Avakian  
Division of Enforcement  
100 F Street, N.E.  
Washington, DC 20549-0213

CC: Temmerman, Citley & Kohlmann, LLP  
Jennifer F. Scharre  
2502 Stevens Creek Boulevard  
San Jose, CA 95128

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

September 14, 2017

William J. Brown  
Phillips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

In response to your letter dated 11 August 2017 we have enclosed copies of the following evidence:

- First Advisory Income Notes, LLC
  - Receipt for the \$25,000 investment in First Advisory Income Notes, dated May 23, 2006, showing the purchase was made in the name of the Gustafson Family Trust with Donald B. Gustafson and Beverly J Gustafson as co-Trustees.
  - First Advisory Income Note, 10.25% Secured Junior Note Due 2010, showing the registration was made in the name of The Gustafson Family Trust. Dated May 23, 2006. Note signed by David L. Smith, Managing Partner.
  - Notification of termination of Dividends from David L. Smith, Managing Partner, dated May 13, 2008, showing that The Gustafson Family Trust is the registered owner of the investment.
  - Notification of restructuring plan from David L. Smith, Managing partner, dated October 22, 2008, also showing that The Gustafson Family Trust is the registered owner of the investment.
- First Excelsior Income Notes, LLC
  - Notification of Illiquidity from David L. Smith, Managing partner, dated 10/20, 2008. Notification letter shows the investment is registered to the Gustafson Family Trust.
- Certificate of Trustee for Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson
- Donald B. Gustafson and Beverly J. Gustafson Trust
- Donald B Gustafson and Beverly J. Gustafson Will
- Thomas J. Taboada – document of representation

Please confirm that these are the documents you requested.

The family is not willing to risk loss of the Original Trust that may be incurred shipping the document to your office. We suggest two options:

- 1) We will hand carry the trust to a third party, of your choice, preferably located in the Silicon Valley / San Francisco Bay Area, for verification.
- 2) A co-trustee will hand carry the original documentation to your office for inspection in our presence, by appointment.

Sincerely,

  
Chris A. Gustafson, co-Trustee

**SENDER: COMPLETE THIS SIDE FIRST**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Phillips Lytle LLP  
William Brown  
One Canal Side  
125 Main Street  
Buffalo, NY 14203-2887

2. Article Number (Transfer from service label)

7016 1370 0000 7084 2558

PS Form 3811, July 2016 PSN 7530-02-000-9063

**COMPLETE THE REVERSE SIDE FIRST**

A. Signature  
X *M.A. DICTAL*  Agent  Addressee

B. Received by (Printed Name)  
M.A. DICTAL

C. Date of Delivery  
9-18-17

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery®	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery

7016 1370 0000 7084 2558

Domestic Return Receipt

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BUFFALO NY 14203  
**OFFICIAL USE**

Certified Mail Fee	\$3.35
Postage	\$12.75
Total Postage and Fees	\$18.85

Extra Services & Fees (check box, add amount)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

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2017  
09/14/2017

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City, State, ZIP+4®

PS Form 3809, April 2013 PSN 7530-02-000-9063 See Reverse for Instructions

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

September 14, 2017

William J. Brown  
Philips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

In response to your letter dated 11 August 2017 we have enclosed copies of the following evidence:

- First Advisory Income Notes, LLC
  - Receipt for the \$25,000 investment in First Advisory Income Notes, dated May 23, 2006, showing the purchase was made in the name of the Gustafson Family Trust with Donald B. Gustafson and Beverly J Gustafson as co-Trustees.
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- Certificate of Trustee for Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson
- Donald B. Gustafson and Beverly J. Gustafson Trust
- Donald B Gustafson and Beverly J. Gustafson Will
- Thomas J. Taboada – document of representation

Please confirm that these are the documents you requested.

The family is not willing to risk loss of the Original Trust that may be incurred shipping the document to your office. We suggest two options:

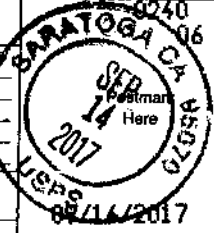
- 1) We will hand carry the trust to a third party, of your choice, preferably located in the Silicon Valley / San Francisco Bay Area, for verification.
- 2) A co-trustee will hand carry the original documentation to your office for inspection in our presence, by appointment.

Sincerely,

  
Chris A. Gustafson, co-Trustee

7016 1370 0000 7084 2558

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For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> ®	
<b>OFFICIAL USE</b>	
Certified Mail Fee	\$3.35
Extra Services & Fees (check box, add fees)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$12.75
<b>Total Postage and Fees</b>	<b>\$18.85</b>
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City, State, ZIP+4®	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	



SENDER: COMPLETE THIS SECTION		ADDRESSEE: COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature                  X <i>MADOLYCH</i> <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span>                  M.D. OLCZAK <span style="float: right;">9-18-17</span></p> <p>D. Is delivery address different from item 1? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>                  If YES, enter delivery address below:</p>	
<p>1. Article Addressed to:</p> <p>Phillips Lytle LLP                  William Brown                  One Canal Side                  125 Main Street                  Buffalo, NY 14203-2887</p> <p>9590 9402 2768 6351 9957 35</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input checked="" type="checkbox"/> Certified Mail®  <input type="checkbox"/> Certified Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7016 1370 0000 7084 2558</p>		<p>restricted Delivery</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9063		Domestic Return Receipt	

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070  
408.867.4640

August 7, 2017

William J. Brown  
Philips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

We have made at least 5 attempts, via phone, to contact your office regarding the McGinn & Smith settlement for the Gustafson Family Trust; messages have not been returned. We also sent a certified letter on July 5<sup>th</sup> which included the Death Certificate for Donald Gustafson and copy of the Certification of Trust for Chris Gustafson, Kim Taddeo and Scott Gustafson.

The family is not willing to risk loss of the Original Trust that may be incurred shipping the document to your office. We suggest two options:

- 1) We will hand carry the trust to a third party, of your choice, preferably located in the Silicon Valley / San Francisco Bay Area, for verification.
- 2) If that is not possible, a member of the family will hand carry the Original Trust to your office for verification; and would need to schedule an appointment with you for verification. This is a significantly more expensive option for the trustees.

Enclosed is a copy of the letter sent on July 5, 2017.

Sincerely,

  
Chris A. Gustafson, TTE

CC: U.S. Securities and Exchange Commission  
Stephanie Avakian  
Division of Enforcement  
100 F Street, N.E.  
Washington, DC 20549-0213

CC: Temmerman, Cilley & Kohlmann, LLP  
Jennifer F. Scharre  
2502 Stevens Creek Boulevard  
San Jose, CA 95128



<b>SENDER - COMPLETE THIS SECTION</b> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front space permits.		<b>COMPLETE THIS SECTION ONLY IF NECESSARY</b> A. Signature X <i>M.A. DeLoach</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Philips Lytle, LLP One Canal Side 125 Main Street Buffalo, NY 14203-2887		B. Received by (Printed Name) M.A. DeLoach	C. Date of Delivery 8-11-17
2. Article Number 17 1000 0000 7752 3149		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)		<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

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<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.49	
Total Postage and Fees	\$6.59	

Sent To: Philips Lytle, LLP  
 Street and Apt. No., or P.O. Box No.: One Canal Side, 125 Main Street  
 City, State, ZIP+4: Buffalo NY 14203-2887

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 1000 0000 7752 3149

Chris A. Gustafson, Kim A. Taddeo, Scott A. Gustafson  
14113 Douglass Lane,  
Saratoga, CA 95070

July 5, 2017

William J. Brown  
Philips Lytle LLP  
One Canalside  
125 Main Street  
Buffalo, NY 14203-2887

Dear Mr. Brown,

We are writing to you regarding the McGinn, Smith & Co settlement. Our father, Donald Bilmont Gustafson, died on May 1, 2017; he was a victim of McGinn, Smith & Co fraud. It is our understanding that he completed the paperwork for the settlement prior to his death.

Our father was a 100% disabled veteran (WWII POW) and was easy prey by operatives like McGinn & Smith.

The three children of Donald B. Gustafson are co-trustees of his estate. As per our discussion with you on June 12, 2017, you requested the original trust, the original certification of trust, and a death certificate. We are not comfortable releasing the original trust. We would like to hand carry the paperwork you required to a third party, of your choice on the west coast, for verification. If that is not possible we would need to hand carry the paperwork to your office for verification; and would need to schedule an appointment with you.

Enclosed is a copy of the Certification of Trust and the death certificate.

Sincerely,

Chris A. Gustafson

Kim A. Taddeo

Scott A. Gustafson

CC: U.S. Securities and Exchange Commission  
Stephanie Avakian  
Division of Enforcement  
100 F Street, N.E.  
Washington, DC 20549-0213

7017 0190 0001 0461 1462

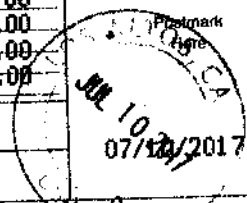
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<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

0136  
10



Postage	\$2.87
Total Postage and Fees	\$6.22

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