

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

*Plaintiff,* :

vs. :

10 Civ. 00457 (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, :

**NOTICE OF  
APPEARANCE**

*Defendants, and* :

LYNN A. SMITH, :

*Relief Defendant.* :

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**TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:**

Please enter my appearance as counsel in this case on behalf of defendants Timothy M. McGinn and David L. Smith. I certify that I am admitted to practice in the United States District Court Northern District of New York.

Dated: New York, New York  
July 28, 2010

**GUSRAE, KAPLAN, BRUNO &  
NUSBAUM PLLC**

By: /s/ Martin H. Kaplan

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McGinn and David L. Smith*