

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

APR 23 2018

LAWRENCE K. BAERMAN, CLERK
ALBANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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

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.
-----X

**AFFIDAVIT OF HAROLD ALBERT SMITH PURSUANT TO ORDER APPROVING
MOTION OF WILLIAM J. BROWN, AS RECEIVER, FOR AN ORDER
DISALLOWING PAPER CLAIMS**

STATE OF PENNSYLVANIA)
COUNTY OF Columbia) ss:

Harold Albert Smith, being duly sworn, deposes and says:

1. I reside at P.O. Box 438, Bloomsburg, Pennsylvania 17815 and am a former investor of McGinn, Smith & Co., Inc. ("McGinn Smith").

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

2. In 2008, I made an investment in TDM Verifier Trust 07 in the principal amount of \$90,000.00 ("TDM 07 Investment"). The TDM 07 Investment may or may not have been rolled into a different investment, TDM Verifier Trust 07R ("TDM 07R Investment").


3. I subsequently requested redemption of the TDM 07 Investment.

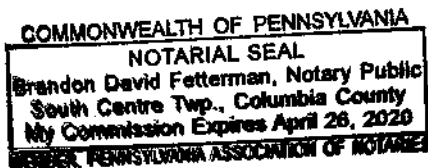
4. I did not receive redemption of the TDM 07 Investment. I did not recover any amounts from McGinn Smith, the TDM 07 Investment, or any other party on account of the TDM 07 Investment.

5. I did not receive a redemption of the TDM 07R Investment. I did not recover any other amounts from McGinn Smith, the TDM 07R Investment, or any other party on account of the TDM 07R Investment.


Harold Albert Smith

Sworn to before me this 18
day of April, 2018


Notary Public



April 18, 2018

William J. Brown
One Canalside
125 Main Street
Buffalo, NY 14203

Dear Mr. Brown:

Thank you for your letter of April 13 as well as the affidavit regarding my lack of receipt of payments on my TDM Verifier 07 or TDM 07R, which I have signed, notarized, and enclosed.

Regarding my Integrated Excellence Senior Trust 08, I received payments after the receipt of which I claimed \$100,485 of principal remaining unpaid in this asset. I believe that I did not receive any payments that would reduce my remaining principal below this amount. May I ask if you have any records of payments on Senior Trust 08 that would reduce my claim from \$100,485 to \$73,492.38?

Sincerely,

Harold Albert Smith

A handwritten signature in black ink, appearing to read "Harold A. Smith", written over the printed name.

CC: Judge Christian Hummel

\$90000

No. R-9

TDM VERIFIER TRUST 07

Albany, New York

Contract Certificate

8.50% Due August 15, 2009

Registered Holder: HAROLD ALBERT SMITH

TDM VERIFIER TRUST 07, A NEW YORK TRUST (THE "TRUST"), FOR VALUE RECEIVED, HEREBY PROMISES TO PAY TO THE CERTIFICATEHOLDER, or assign(s), the Principal Amount of Ninety Thousand Dollars (\$90000) in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, together with interest accrued thereon at the rate of 8.50% per annum in the following manner: Interest on the Certificates at the aforesaid rate will be paid in quarterly installments on the fifteenth (15) day of May 2008 and on the fifteenth (15) day of each subsequent quarter thereafter, to and including the fifteenth day of August 2009.

THIS CERTIFICATE IS ISSUED pursuant and subject to the Declaration of Trust dated as of January 18, 2007 (as amended from time to time, the "Declaration") and the Memorandum dated as of February 23, 2007, and the holder of this Certificate is entitled to all of the benefits thereof. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Declaration.

INTEREST shall be payable by check mailed from the office of the Trustee to the Certificateholder stated above, or assign(s), at the address as it appears on the Certificate Register maintained by the Trustee as of the close of the first business day of the month.

THIS CERTIFICATE HAS NOT BEEN REGISTERED or qualified under the Federal Securities Act of 1933, and is not exempt from applicable state securities laws and may not be sold or transferred without such registration or qualification or exemption therefrom.

THE TRUST MAY, as a condition of payment in full of the principal of and interest of this Certificate, require the Certificateholder to surrender this Certificate. All amounts payable under this Certificate shall be payable without presentment or demand for payment, notice of nonpayment, protest or further notice or demand of any kind, all of which are expressly waived by the Company. This Certificate shall be construed in accordance with and be governed by the laws of the State of New York.

IN WITNESS WHEREOF, TDM VERIFIER TRUST 07 has caused this Certificate to be signed in its name by a trustee thereunto duly authorized, and to be dated as of the date written below.

DATE: 3/17/2008

TDM VERIFIER TRUST 07
By: MCGINN, SMITH CAPITAL HOLDINGS CORP.
not in its individual capacity, but solely as
Trustee under the Declaration of Trust dated
as of January 18, 2007.

By: David L. Smith
David L. Smith, President

DR HAROLD SMITH
127 NORTH ST
BLOOMSBURG PA 17815

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Hon Christian Hummel
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

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