

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

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

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.
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**ORDER APPROVING SIXTH CLAIMS MOTION OF WILLIAM J. BROWN,
AS RECEIVER, FOR AN ORDER (A) APPLYING PREFERENTIAL
PAYMENT OFFSET TO LESLEY LEVY CLAIMS AND (B) EQUITABLY
SUBORDINATING LESLEY LEVY CLAIMS**

Upon the Sixth Motion of William J. Brown, as Receiver, for an Order (a)
Applying the Preferential Payment Offset to Lesley Levy Claims and (b) Equitably
Subordinating Lesley Levy Claims (“Motion”); and notice of the Motion having been given
to the Securities and Exchange Commission and Levy, by first class mail, and all parties
who have filed a Notice of Appearance in this action by ECF, and all creditors of the
McGinn, Smith entities and other parties in interest via the Receiver’s website, which notice

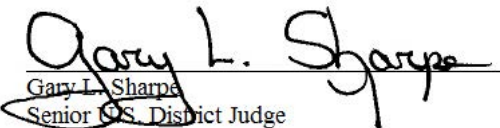
is deemed good and sufficient notice; and the Court having deemed that sufficient cause exists; it is therefore

ORDERED, that the Motion is approved, and it is further

ORDERED, that the application of the Preferential Payment Offset to reduce the distributions to Levy is approved as set forth on Exhibit A to the Motion, and it is further

ORDERED, that the remainder of the Levy Claims, after application of the Preferential Payment Offset, shall be equitably subordinated to the Investor B Claim, and the rights of the Receiver to object on any other basis to the claims of all investors or claimants, including Levy and Investor B, are expressly preserved.

January 7, 2020
Albany, New York


Gary L. Sharpe
Senior U.S. District Judge