

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
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.

**NOTICE OF FOURTEENTH INTERIM
APPLICATION OF PHILLIPS LYTLE LLP AND THE
RECEIVER FOR ALLOWANCE OF COMPENSATION
AND REIMBURSEMENT OF EXPENSES**

PLEASE TAKE NOTICE that upon the Fourteenth Interim Application of Phillips Lytle LLP and the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Application”), Phillips Lytle LLP (“Phillips Lytle”) will move before the Hon. Christian F. Hummel, United States Magistrate Judge, United States District Court for the Northern District of New York, James T. Foley - U.S. Courthouse, 445 Broadway, Albany, New York 12207-2924, on **April 16, 2020 at 9:30 a.m.**, seeking an Order to be entered approving the

Application of Phillips Lytle and the Receiver for interim compensation and reimbursement of expenses for the six-month period from July 1, 2019 through December 31, 2019 in connection with legal services performed for William J. Brown, Esq., the Receiver for the McGinn Smith Entities and the services of the Receiver. No oral argument is requested.

PLEASE TAKE FURTHER NOTICE that attached is the cover sheet for the Application, indicating the nature and dates of the services rendered by Phillips Lytle and the Receiver, as well as the total amount sought by Phillips Lytle and the Receiver for interim compensation and reimbursement of expenses. The complete Application of Phillips Lytle is filed with the United States District Court and will be available for review electronically at the Office of the Clerk, United States District Court, Northern District of New York, James T. Foley - U.S. Courthouse, 445 Broadway, Room 509, Albany, New York 12207-2924 or online, at the Court's website (www.nynd.uscourts.gov), or at the website of the Receiver (www.mcginnsmithreceiver.com). Copies can also be obtained upon written request to Phillips Lytle.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Application must be made in writing in accordance with the Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the Northern District of New York.

Dated: March 13, 2020

PHILLIPS LYTLE LLP

By /s/ William J. Brown

William J. Brown (Bar Roll #601330)

Catherine N. Eisenhut (Bar Roll #520849)

Attorneys for Receiver

Omni Plaza

30 South Pearl Street

Albany, New York 12207

Telephone No. (518) 472-1224

and

One Canalside
125 Main Street
Buffalo, New York 14203
Telephone No.: (716) 847-8400

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Defendants, :

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GEOFFREY R. SMITH, Trustee of the :
David L. and Lynn A. Smith Irrevocable :
Trust U/A 8/04/04, :

Intervenor. :

**FACE SHEET PURSUANT TO LOCAL RULE 2016-1
FOR FOURTEENTH INTERIM APPLICATION BY ATTORNEYS
FOR RECEIVER AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

APPLICANT'S NAME: Phillips Lytle LLP and William J. Brown, as
Receiver

APPLICANT'S ADDRESS: Omni Plaza
30 South Pearl Street
Albany, New York 12207

DATE APPLICANT APPOINTED: April 20, 2010

NATURE OF SERVICES RENDERED: Legal services rendered for William J. Brown, Receiver, with respect to McGinn, Smith & Co., Inc., et al. and for Receiver services and expenses for the period from January 1, 2019 through June 30, 2019

AMOUNT OF COMPENSATION SOUGHT FOR FEES FROM JULY 1, 2019 THROUGH DECEMBER 31, 2019 \$107,863.39 (including Phillips Lytle and Receiver's fees at pre-arranged discounted hourly rates) at 7.5% for Phillips Lytle and \$225 rather than \$500.00 - \$510.00 per hour for the Receiver

AMOUNT OF COMPENSATION SOUGHT FOR EXPENSES FROM JULY 1, 2019 THROUGH DECEMBER 31, 2019 \$1,068.53

Dated: March 13, 2020

PHILLIPS LYTLE LLP

By /s/ William J. Brown
William J. Brown (Bar Roll #601330)
Catherine N. Eisenhut (Bar Roll #520849)
Attorneys for the Receiver
Omni Plaza
30 South Pearl Street
Albany, New York 12207
Telephone No. (518) 472-1224

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Intervenor. :

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**FOURTEENTH INTERIM APPLICATION OF PHILLIPS LYTLE LLP
AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Phillips Lytle LLP (“Phillips Lytle”) submits this application (“Fee Application”) for allowance of interim compensation and reimbursement of expenses for the six-month period from July 1, 2019 through December 31, 2019 pursuant to Section XIV of this Court’s Preliminary Injunction Order (Docket No. 96). Attached as **Exhibit A** is the Declaration of William J. Brown, Esq. in support of the Fee Application. Phillips Lytle respectfully represents as follows:

INTRODUCTION

1. The Securities and Exchange Commission (“SEC”) commenced this action against McGinn Smith & Co., Inc., et al. in the United States District Court for the Northern District of New York on April 20, 2010 wherein William J. Brown, Esq. was appointed as temporary Receiver for certain of the defendants and other entities in the action (“Receiver”) (Docket No. 5). The SEC’s Complaint was subsequently amended (Docket No. 100 on August 3, 2011 and Docket No. 334 on June 8, 2011), and the Preliminary Injunction Order was entered on July 22, 2010 appointing William J. Brown as the permanent Receiver.

2. During the period from July 1, 2019 to December 31, 2019 (“Fourteenth Interim Period”), Phillips Lytle performed extensive legal services for the Receiver, and the Receiver performed extensive non-legal or quasi-legal functions, which are each more particularly described below and itemized in the detailed time and disbursement records attached as **Exhibit B**.

3. As a public service discount, the legal fees incurred in this case are being performed with a current 7.5% discount on the hourly rates of Phillips Lytle pursuant to a prior agreement with the SEC. Similarly, the Receiver’s hourly rate for this engagement is \$225 per hour rather than his 2019 hourly rate of \$500 - \$510 per hour, again per prior agreement with the SEC.

4. As a result, legal services at full value in this Fourteenth Interim Period total \$110,941.50, while the amount to be paid less the 7.5% discount if this Application is approved is \$102,620.89. The Receiver’s services at full value of \$500 - \$510 per hour in this Fourteenth Interim Period total \$11,775.00, while the amount to be paid if this Application is granted are \$5,242.50 at \$225 per hour. This makes the total amount sought pursuant to this Application to be \$107,863.39 in fees and \$1,068.53 in disbursements.

CASE STATUS

5. As of February 14, 2020, there is \$15,586,532 on hand in Receiver accounts, with approximately \$6,886,444.45 having been distributed to investors with allowed claims through the Fifty-Sixth Payment Schedule of Investor Distributions (not all checks having cleared). The process of issuing first distribution checks representing 10% of allowed claim amounts to investors is continuing as investors provide missing information or signed documents as requested by the Receiver and while claims objection motions filed by the Receiver remain pending. First through Tenth motions to expunge duplicate paper claims and otherwise objectionable claims have also been filed. The Receiver anticipates that the Tenth Claims Objection Motion (Docket No. 1100) is the final claims objection motion to be filed. All post-Receiver obligations are current and paid on a current basis other than the amounts sought in professional fee applications. The monies held in the Receiver's accounts are unencumbered. When this estate was commenced in April 2010, there was \$485,491.63 on hand.

6. Currently, the investor and creditor claims bar date and the equity claims bar dates have passed following the successful administration of claims notice procedures. Judgments in favor of the SEC in its action against David L. Smith, Lynn Smith, the Smith Trust, Geoffrey Smith, Lauren Smith and Timothy McGinn were entered in June and July 2015. The Second Circuit upheld those judgments in a decision on April 18, 2016. The SEC, with the Receiver's assistance, has recently filed and obtained turnover orders on the judgments to collect frozen David Smith, Lynn Smith and Smith Trust assets aggregating more than \$848,162, and Timothy McGinn aggregating \$9,381.17.

7. There are approximately \$124,123,595 in investor claims, some of which have been subject to objection or various grounds. If all the claim objections are sustained, net claims appear to be in the range of \$100,506,405 subject to final Court approval. At present, it

appears likely that relatively small additional collections to further increase investor recoveries are possible, although they remain subject to negotiations and serious contingencies, and other primarily equity positions may be worthless.

8. A Plan of Distribution was filed on December 30, 2015 (Docket No. 847), and a Memorandum-Decision and Order approving the Plan of Distribution was entered on October 31, 2016 (Docket No. 904). With the filing on December 20, 2019 of the Tenth Claims Objection Motion (Docket No. 1100), the Receiver plans to (a) proceed to make final distributions to investors once the Court decides the remaining pending Ninth and Tenth Claims Objection Motions and the Motion for an Order in Aid of Administration dealing with lost and abandoned investor claims (Docket No. 1090), and (b) begin to wrap-up and conclude the estate.

9. The SEC's Standard Fund Accounting Reports are attached to this Application as **Exhibit C**.

SUMMARY OF ACTIVITIES DURING FOURTEENTH INTERIM PERIOD

10. While the legal, non-legal and quasi-legal functions and services performed during the Fourteenth Interim Period are described in greater detail below and in the detailed time and disbursement records attached as Exhibit B, this executive summary is provided to highlight some of the activities and accomplishments during this period.

11. From a cash perspective, the beginning balance of the Receiver's accounts as of June 28, 2019 totaled \$15,101,582, and at the end of the period (December 27, 2019), the balance was \$15,690,369. The successful sales of various businesses previously operated by the Receiver took place in prior periods. Interest income contributed to the maintenance of account values and to pay operating expenses of the Receivership in this period. Account balance differences are due primarily to investor distributions, the Timothy McGinn turnover order (Docket No. 1063), proceeds from the sale of the Smith Saratoga residence (Docket No. 1114),

the Lynn Smith stock account turnover order (Docket No. 1089), and the Smith Trust stock account (Docket No. 1089).

12. On September 12, 2019, the Receiver filed an Eighth Motion to Disallow or Equitably Subordinate the Smith Claims, Offset the Judgment Obligations with Smith Claim Distributions, and Expunge Smith Paper Claims (Docket No. 1067). This Motion was successfully resolved by Summary Order dated January 7, 2020 (Docket No. 1105).

13. On October 11, 2019, the Receiver filed a Ninth Motion to Disallow, Reclassify Certain Disputed Claims, Apply Preferential Payment Offset for Certain Disputed Claims, and Expunge Paper Claims (Docket No. 1075). This Motion is awaiting decision by the Court.

14. On November 13, 2019, the Receiver filed a Motion for an Order in Aid of Administration (Docket No. 1090) to deal with lost or abandoned investor claims after consultation with the SEC in order to establish a final notification period to reallocate recoveries so as to conclude the estate. The Motion is pending.

15. On December 20, 2019, the Receiver filed a Tenth Motion to Disallow Unresolved Paper Claims (Docket No. 1100). This Motion is awaiting decision by the Court.

16. During the Application Period, the Receiver filed four Distribution Payment Schedules as reflected on the Docket of the Court, and paid those Scheduled amounts to investors.

17. First distribution checks are being issued to investors, or IRA custodians on behalf of investors. The checks represent 10% of allowed claim amounts, and that process is continuing as investors provide additional missing information or signed documents as requested by the Receiver. As stated previously on the Receiver's website

(www.mcginnsmithreceiver.com), it is estimated that total distributions to investors with allowed claims will range between approximately 13.5 to 21.7 percent.

18. Beginning with the Twentieth Payment Schedule of First Investor Distributions (Docket No. 968), Investors who received collateral recoveries had their claim files reviewed for eligibility for first distribution payments, and collateral recovery investors began receiving first distribution checks.

19. As is true in all periods, the Receiver continued to deal with various day-to-day issues involving the operation of the estate, the review, calculation and allowance of investor claims, responding to numerous investor claims and questions, and the collection of remaining assets.

COMPENSATION FOR LEGAL SERVICES

20. The legal services rendered by Phillips Lytle during the Fourteenth Interim Period have been categorized into twenty-two (23) separate categories (Categories A through W), as described below:

A. Asset Analysis and Recovery

Category A relates to the recovery of miscellaneous assets regarding Pine Street proceeds, JPMorgan Chase recovery and McGinn Smith Capital Holdings investments at NFS, and communications with SEC regarding the same.

In rendering the services in Category A, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$408.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	0.80	510.00	408.00

B. Claims Administration and Objections

Category B relates to numerous and continuous communications with multiple investors respecting issues involving their specific claims; preparation and causing mailing of investor letters, Investor Questionnaires and W-9 forms to investors; receipt and cataloging of returned Investor Questionnaire packets; ongoing review of received Investor Questionnaires for approval process; extensive research regarding basis to object to investor claims and procedure therefor, and preparation and filing of the Eighth and Tenth claims objection motions; preparation and filing of the Motion for an Order in Aid of Administration; preparation and filing of the Fifty-Second through Fifty-Fifth Payment Schedules of First Investor Distribution, some of which were for Collateral Recovery Investors, attend to mailing of first investor distribution checks to investors, and attend to ongoing review and updating of McGinn Smith Receiver's website.

In rendering the services in Category B, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$86,785.00, plus \$1,020.53 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	46.80	505.51	23,658.00
Holly A. Beecher	0.20	375.00	75.00
Catherine N. Eisenhut	271.10	231.94	62,878.00
Karen A. Kawczynski (P)	1.00	174.00	174.00

C. Asset Disposition

Category C relates to efforts in conjunction with the SEC relating to the sale of the Smith Saratoga home including numerous e-mails and telephone conferences in connection with same.

In rendering the services in Category C, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$8,476.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	16.30	506.50	8,256.00
Karen A. Kawczynski	0.20	175.00	35.00
Pamela C. Kepfer	1.00	185.00	185.00

D. Business Operations

No services were charged to or rendered by Phillips Lytle in Category D during the Fourteenth Interim Period.

E. Case Administration

Category E is a “catch all” category consisting of services performed by Phillips Lytle in connection with this action and primarily consists of services performed which do not fit within one of the other 22 specific categories.

During this time period, this category consists of essentially all of the day-to-day work for the Receiver and his professionals and the handling of the legal affairs of the 82 entities which were initially placed into Receivership by this Court’s Preliminary Injunction Order (Docket No. 96). The detailed descriptions attached include communications and correspondence regarding dealing with various business issues arising in the ordinary course of business, matters relating to financial statement and insurance issues, various legal inquiries and questions raised by the SEC concerning the Receivership and SFAR reports; dealing with insurance issues and questions; research regarding Plan objections; preparation, communications with M&T Bank, KeyBank, Community Bank f/b/a Kinderhook Bank regarding existing accounts; extensive communications with investors on legal questions, and continued review and updating of McGinn Smith Receiver website; review of returned Investor Questionnaires;

preparation of Payment Schedules and review, approval and distribution of distribution checks to investors.

In rendering the services in Category E, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$6,444.00, and \$48.00 in disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	12.50	507.20	6,340.00
Karen A. Kawczynski	0.60	173.33	104.00

F. Employee Benefits/Pensions

Category F relates to the 401K plan of David Smith and communications with the SEC with regard to required minimum distribution, Pension Works and the forms associated therewith.

In rendering the services in Category F, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$306.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	0.60	510.00	306.00

G. Fee/Employment Applications

No reimbursement is sought at this time for services charged to or rendered by Phillips Lytle in Category G during the Fourteenth Interim Period.

H. Fee/Employment Objections

No services were charged to or rendered by Phillips Lytle in Category H during the Fourteenth Interim Period.

I. Accounting/Auditing

No services were charged to or rendered by Phillips Lytle in Category I during the Fourteenth Interim Period.

J. Business Analysis

No services were charged to or rendered by Phillips Lytle in Category J during the Fourteenth Interim Period.

K. Corporate Finance

No services were charged to or rendered by Phillips Lytle in Category K during the Fourteenth Interim Period.

L. Data Analysis

No services were charged to or rendered by Phillips Lytle in Category L during the Fourteenth Interim Period.

M. Status Reports

No services were charged to or rendered by Phillips Lytle in Category M during the Fourteenth Interim Period.

N. Litigation Consulting

No services were charged to or rendered by Phillips Lytle in Category N during the Fourteenth Interim Period.

O. Forensic Accounting

No services were charged to or rendered by Phillips Lytle in Category O during the Fourteenth Interim Period.

P. Tax Issues

Category P consists of services related to conversations in connection with tax issues related to Plan distributions, tax return preparation and certain financial statement issues;

communications and conferences regarding trust tax issues and review and signing of trust tax returns; conferences and communications regarding TDM Cable Funding tax return issues and returns; and review and approval of various IRS and New York State tax returns, miscellaneous other tax forms and dealing with tax and financial professionals on tax issues.

In rendering the services in Category P, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$2,421.50, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	4.70	507.23	2,384.00
Kelly E. Marks	0.10	375.00	37.50

Q. Valuation

No services were charged to or rendered by Phillips Lytle in Category Q during the Fourteenth Interim Period.

R. William J. Brown, as Receiver Function

Category R consists of services related to the function of William J. Brown, as Receiver in his capacity as Receiver. These services, per prior agreement with the SEC, are rendered at \$225 per hour. Thus, while the accrued amount would otherwise be \$11,775.00, the discounted amount to be paid is \$5,242.50. All of the Receiver's travel time is charged to this category and, thus, is at a substantially reduced rate. Travel time is also charged at one-half of the total time travelled unless work associated with these estates is being conducted at that time.

The daily time entries reveal the Receiver's almost daily involvement with the various Receiver entities identified in the various descriptions including for this Application Period almost daily communications with investors to answer questions about assets recovered, the claims process, asset distributions to creditors, weekly review, processing and approval of

payments to vendors and other third parties for services rendered to Receiver operating companies, review and authorization of payroll, review of communications from investors and SEC regarding various and ongoing matters, review of bank statements and accounts, review and deal with NFS statements and Dinosaur Securities statements; maintenance of website and updating of same, review of National Life Insurance annual reports, dealings with and review of statements from M&T Bank, KeyBank and Five Star Bank in connection with the Receivership estate account maintenance, the review of checks and invoices for payment on a weekly basis for those various operating businesses, conferences with third parties regarding claims and related issues, review and deal with Mass Mutual statements, attend to weekly review of payroll requests and substantiation for same, numerous investor communications both by phone, in writing and e-mail, attending to various investor letters.

In rendering the services in Category R, the Receiver expended the time represented below at the hourly rates represented below for a total value of \$11,775.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	23.30	505.36	\$11,775.00 (to be billed and paid at \$5,242.50)

S. SEC vs. McGinn, Smith & Co., Inc., et al.

Category S consists of services related to legal involvement in the SEC's action against McGinn, Smith & Co., Inc. and other parties including review of pleadings, communication with SEC regarding David Smith 401K decision; deal with issues regarding Lynn Smith IRA and communications with Geoffrey Smith regarding same; preparation, drafting and conferences regarding abandoned claims motion; communications with SEC regarding turnover order and information on accounts involved.

In rendering the services in Category S, the following attorneys and paralegals at Phillips Lytle expended the time represented below at the hourly rates represented below for a total value of \$6,101.00, and no disbursement expense:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>RATE</u>	<u>TOTAL</u>
William J. Brown	5.60	509.64	2,854.00
Catherine N. Eisenhut	13.10	240.00	3,144.00
Karen Kawczynski (P)	0.60	171.67	103.00

T. W.J. Brown, as Receiver of McGinn Smith & Co., Inc. vs. Thomas E. Livingston

No services were charged to or rendered by Phillips Lytle in Category T during the Fourteenth Interim Period.

U. Sale of McGinn Niskayuna Property

No services were charged to or rendered by Phillips Lytle in Category U during the Fourteenth Interim Period.

V. Sale of Smith Vero Beach Property

No services were charged to or rendered by Phillips Lytle in Category V during the Fourteenth Interim Period.

W. David L. & Lynn A. Smith Irrevocable Trust

No services were charged to or rendered by Phillips Lytle in Category W during the Fourteenth Interim Period.

X. USA vs. McGinn, Smith & Co. Inc.

No services were charged to or rendered by Phillips Lytle in Category X during the Fourteenth Interim Period.

Y. William J. Brown, as Receiver for Third Albany Income Notes, LLC vs. David Kennedy and Stephen I. Willis

No services were charged to or rendered by Phillips Lytle in Category Y during the Fourteenth Interim Period.

REIMBURSEMENT OF EXPENSES

21. Photocopies made by Phillips Lytle are billed by Phillips Lytle at \$.10 per page, which is based upon Phillips Lytle's costs. Telefax charges are \$1.00 per page for outgoing documents, with no charge for incoming documents. Long distance telephone charges and overnight courier charges are billed at cost. Overnight courier charges are incurred only when necessary as determined by either the Receiver or Phillips Lytle. In addition, there are the usual disbursements of such items as long distance telephone charges, duplicating charges, and UPS charges for checks received and sent to Receivership businesses.

22. Phillips Lytle incurred out-of-pocket expenses for secretarial overtime in connection with this case. These amounts have been written off and no claim for reimbursement of such expenses is being sought herein.

PARTICULAR EXPENDITURES

23. During the Fourteenth Interim Period, there were no substantial charges to report.

CONCLUSION

24. All of the services for which Phillips Lytle now seeks compensation were performed on behalf of the Receiver. No services were performed by Phillips Lytle in any capacity other than as counsel to the Receiver.

25. Phillips Lytle has provided the SEC with copies of Phillips Lytle's and the Receiver's billing statements attached as Exhibit B. Following its pre-filing review of this Fee

Application, the SEC has notified Phillips Lytle and the Receiver the SEC has no objection to the amounts sought by Phillips Lytle or the Receiver pursuant to this Fee Application.

26. As the record in this action clearly indicates, Phillips Lytle has worked persistently and efficiently during the Fourteenth Interim Period to handle various issues for the Receiver, the resolution of which will, to varying degrees, enhance the fair and equitable distribution of the McGinn Smith Entities' proceeds to its creditors. This action has mandated a considerable expenditure of Phillips Lytle resources.

27. Based upon the foregoing, Phillips Lytle and the Receiver represent that they are entitled to the interim compensation and reimbursement of expenses sought herein.

28. Phillips Lytle and the Receiver believe that this Fee Application substantially complies with the substantive requirements of the guidelines for fee applications adopted by the SEC.

NOTICE

29. Notice of this Fee Application is being served on the SEC and all parties who have filed a Notice of Appearance in this action. Additionally, it has been posted on the Receiver's website (www.mcginnsmithreceiver.com) for all investors and creditors to see. Phillips Lytle and the Receiver submit that no other or further notice need be given.

WHEREFORE, Phillips Lytle and the Receiver respectfully request that this Court enter an order allowing and approving Phillips Lytle's and the Receiver's Application for (i) interim compensation in the amount of \$107,863.39, and reimbursement of expenses in the amount of \$1,068.53, for a total of \$108,931.92 for the period of July 1, 2019 through December 31, 2019; and (ii) granting such other and further relief as is just and proper.

Dated: March 13, 2020

PHILLIPS LYTLE LLP

By /s/ William J. Brown

William J. Brown (Bar Roll #601330)

Catherine N. Eisenhut (Bar Roll #520849)

Attorneys for the Receiver

Omni Plaza

30 South Pearl Street

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Telephone No.: (716) 847-8400

Doc #4769392.1

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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Plaintiff, :

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Individually and as Trustee of the David L. and :
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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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**DECLARATION OF WILLIAM J. BROWN IN SUPPORT OF FOURTEENTH
INTERIM APPLICATION OF PHILLIPS LYTLE LLP AND THE RECEIVER FOR
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Pursuant to 28 U.S.C. §1746, William J. Brown declares, under penalty of perjury,

as follows:

1. I am a partner with the law firm of Phillips Lytle LLP (“Phillips Lytle”) and am also the Receiver (“Receiver”) appointed in this action for certain of the Defendants and other entities.

2. I make this declaration in support of the Fourteenth Interim Application of Phillips Lytle and of the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Application”) in connection with Phillips Lytle’s representation of the Receiver in this Case and the Receiver’s services.

3. I have reviewed the Application and, to the best of my knowledge, information and belief, the facts set forth therein are true and correct.

4. The billing rates being charged by Phillips Lytle in connection with the Application are those which were customarily charged by Phillips Lytle during the time periods in question and are comparable to those charged by other firms of comparable size and experience in this geographic area for the prosecution of matters similar to this action. Pursuant to prior agreement, in my capacity as Receiver, I agreed to charge an hourly rate of \$225 rather than my 2019 hourly rate of \$500 - \$510.

5. The compensation and reimbursement of expenses (“Interim Compensation”) for which allowance is sought by Phillips Lytle and the Receiver is reasonable and is sought for actual and necessary services rendered by Phillips Lytle and the Receiver, together with actual and necessary expenses advanced by Phillips Lytle, on behalf of the Receivership entities.

6. The Interim Compensation sought by Phillips Lytle and the Receiver is based upon the nature, the extent and the value of the services rendered. These matters are detailed more particularly in the time itemizations attached to the Application as Exhibit B.

7. Phillips Lytle and the Receiver believe they are entitled to Interim Compensation based on the considerable expenditures of Phillips Lytle and Receiver resources incurred since the onset of this action.

8. Phillips Lytle and the Receiver have no agreement directly or indirectly and no understanding exists with any other person or entity for the sharing of compensation to be received for legal or other services rendered in this action, except as such compensation may be shared by and among the attorneys of Phillips Lytle.

Phillips Lytle and the Receiver respectfully request that this Court authorize the allowance of the Interim Compensation sought pursuant to the Application.

Dated: March 13, 2020

/s/ William J. Brown
William J. Brown

Doc #01-3634196.1

Exhibit B

CATEGORY A

ASSET ANALYSIS & RECOVERY



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
 (716) 847-8400
 FED I.D. #16-0505790

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

Invoice Number 1004322
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00000
 W J Brown

Re: ASSET ANALYSIS & RECOVERY

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/12/19	WJB	Prepare e-mails B Shea regarding receipt and investment of Pine Street proceeds for benefit of L Smith and Smith Trust now being used by Receiver	0.1
12/13/19	WJB	Prepare reply e-mail D Stoelting at SEC regarding location of Pine Street recoveries for former accounts of L Smith and Smith Trust	0.1
12/18/19	WJB	Sandler & O'Neill: Review e-mails regarding account at JPMorgan and prepare letter to recover same from JPMorgan	0.3
12/18/19	WJB	McGinn Smith Capital Holdings: Review NFS Statement and prepare e-mail Rebecca at NFS to liquidate holdings	0.3

CURRENT FEES \$408.00

TOTAL AMOUNT OF THIS INVOICE \$408.00

PAYMENT DUE UPON RECEIPT

CATEGORY B

CLAIMS ADMINISTRATION AND OBJECTIONS



Phillips Lytle LLP

Attorneys at Law
 One Canalside
 125 Main Street
 Buffalo, NY 14203-2887
 Telecopier # (716) 852-6100
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 FED I.D. #16-0505790

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

Invoice Number 1004323
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00001
 W J Brown

Re: CLAIMS ADMINISTRATION & OBJECTIONS

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/09/19	WJB	Allegretta: Review signed Allegretta letter agreement received from S Kramer and hold for receipt of dismissal order	0.2
07/10/19	WJB	Telephone call from F Altman, Esq. regarding Dott claims and review database	0.2
07/24/19	WJB	Respond to M Weinar and L O'Brien letter regarding next steps and claim analysis, analyze claim file	0.1
07/24/19	WJB	M Weinar: Review paper claims in attempt to resolve paper claims vs real claims and revise e-mail M Weinar, L O'Brien regarding same including e-mail to CNE regarding claim analysis follow-up	0.3
07/24/19	WJB	Allegretta: Telephone call from S Kramer regarding whether consent for change of counsel to effect dismissal of collateral recovery lawsuit is permissible and obtain Receiver's approval for same	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/30/19	WJB	Review letter from M Englebert regarding death of Mary Englebert, review Death Certificate and Letters Testamentary for approval and amend investor claims database	0.2
08/06/19	WJB	M Weinar: Conference CNE regarding need to distinguish paper claims from real claims to provide analysis to M Weinar	0.1
08/06/19	WJB	Review letter from M/M Cooper (investors) regarding no contact regarding claims and prepare reply letter regarding information questionnaires after investigating file	0.3
08/06/19	CNE	Review claims 6799 - 6806 and corresponding paper claims	1.4
08/08/19	CNE	Draft letter to investor regarding withdrawal of paper claims	1.1
08/12/19	CNE	Draft explanatory letter and schedule of claims regarding investor's non-duplicate paper claims	0.6
08/13/19	WJB	Review M Weinar claims and revise claim letter to M Weinar describing situation	0.2
08/13/19	CNE	Revise letter to investor regarding withdrawal of paper claims and prepare same for mailing	0.7
08/14/19	WJB	Review M Weinar e-mail regarding status of claims and prepare reply regarding explanatory letter having been sent with process for allowance of claims	0.1
08/14/19	WJB	Review status of unresolved McGinn Smith claims including lost investors, Smith claims, other objectionable claims, review data on amount of claims paid, assess next steps and courses of action, and prepare overall report to SEC in preparation for resolution of Receivership	1.7
08/15/19	WJB	Analyze status of remaining disputed claims; Organize and prepare list of claims process for review in preparation of claims objections with steps to be followed through Reconcile Claims Data Base regarding same; and send email to CNE and staff regarding same	0.9

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/15/19	CNE	Review WJB email regarding next steps as to claims objections and disputed claims; Consider changes to claims database to best describe disputed claims reduced or expunged by court order; Meeting with KML5 regarding changes to database; Call with B Shea regarding other updates to claims database	3.3
08/16/19	WJB	Review CNE email in response to claims objection process and reconciliation of claims data base	0.2
08/16/19	WJB	Conference CNE and staff regarding claims data base and claims objections and preparation for same	0.2
08/16/19	WJB	Prepare email to Brian Shea regarding plan distributions and prepare reply regarding same concerning upcoming process	0.1
08/16/19	CNE	Confer with KML5 regarding sorting and labeling disputed claims; Review remaining disputed claims; Review 2015 Memorandum Decision and Order	4.7
08/19/19	CNE	Review relevant decisions and final judgment regarding Smiths; Draft Smith claims objection	4.2
08/20/19	WJB	Review letter from W & C Cooper regarding missing investor forms, review database and prepare reply letter	0.2
08/20/19	WJB	Conference CNE regarding theories and legal basis for Smith claims objection motion in light of SEC judgment and other matters	0.3
08/20/19	WJB	Revise letter to W & C Cooper regarding Investor Questionnaires	0.1
08/20/19	WJB	Allegretta: Review McNamee Lochner letter and motion to withdraw as attorneys for Allegrettas and JAT Construction and prepare reply letter to State Supreme Court regarding Receiver position on claims allowance	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/20/19	WJB	Research history on L. Smith judgment payment in connection with claims objection, satisfaction of judgment and forward satisfaction of judgment to CNE in connection with claims objection motion	0.2
08/20/19	WJB	Telephone call to R Bove regarding collateral recovery rules in connection with R Bove claims and prepare memo to file regarding same	0.2
08/20/19	WJB	Review materials regarding Smith Trust in connection with G Smith claim objection	0.2
08/20/19	CNE	Work on draft objection to Smith claims	3.6
08/21/19	WJB	Conference with CNE regarding claim objections versus G and L Smith, use of deposition testimony, no consideration for daughter's investments and G Smith obligation to repay \$200,000	0.2
08/21/19	WJB	Allegretta: Revise letter to State Supreme Court regarding McNamee Lochner withdrawal and correct facts regarding claim objection	0.3
08/21/19	WJB	Allegretta: Final revisions to letter to State Supreme Court	0.2
08/21/19	CNE	Research court documents regarding Smith claims; Work on draft objection to Smith claims; Confer with WJB regarding argument for draft objection to Smith claims; Audit remaining disputed claims	5.9
08/22/19	WJB	Review e-mail from D Stoelting regarding Allegretta claim and forward background information to D Stoelting regarding same	0.2
08/22/19	CNE	Work on draft objection to Smith claims; Audit remaining "disputed" claims in preparation for final disputed claims motion	5.9

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/23/19	CNE	Work on draft objection to Smith claims; Draft declaration in support of objection to Smith claims; Draft proposed order granting objection to Smith claims; Prepare exhibits to objection to Smith claims; Review and audit remaining disputed claims	4.8
08/25/19	CNE	Work on draft objection to Smith claims; Email draft objection, together with related pleadings, to WJB	2.5
08/27/19	WJB	Allegretta: Review S Kramer Affirmation concerning withdrawal of McNamee Lochner in State Court	0.1
08/27/19	WJB	Review P McEvoy address change and letter regarding joint claim an dual signature, prepare reply letter regarding same	0.2
08/27/19	WJB	Review letter from C Warren Trainor, Esq. regarding claim of N Morrison and prepare reply regarding treatment of claim, review file and Death Certificate	0.3
08/27/19	WJB	Review e-mail from L O'Brien regarding M Weinar claims, duplicate paper claim questions and forward to CNE for processing	0.1
08/27/19	WJB	Review K Connell claim file and telephone call to K Connell regarding first distribution explanation	0.3
08/27/19	WJB	Prepare initial comments to Smith investor claims objection Memorandum of Law and provide to CNE	0.7
08/27/19	CNE	Respond to investor inquiry regarding paper claims; Audit remaining disputed claims	2.1
08/28/19	WJB	Conference CNE regarding analysis of how to offset Smith investor claims versus judgment amounts and formulation of same	0.3
08/28/19	WJB	Cohen: Review e-mail from B Shea regarding Cohen attorney for claim, e-mail CNE, review file and discuss course of action, claim objection decision	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/28/19	WJB	Review B Shea list of investors for follow-up and work with staff regarding same, prepare reply e-mail B Shea regarding same for completion of Receivership	0.2
08/28/19	CNE	Review WJB comments to draft objection to Smith claims; Confer with WJB regarding draft objection to Smith claims; Revise draft objection to Smith claims; Audit remaining disputed claims	4.9
08/29/19	CNE	Revise draft claims objection motion regarding Smith claims; Audit remaining disputed claims	2.1
09/02/19	CNE	Revise declaration and other supporting documents to conform with revised Smith investor claims objection; Audit remaining disputed claims	1.5
09/03/19	WJB	Review latest version of Memorandum of Law for Smith Family claim objection sent to SEC for review and comment and prepare revisions	0.7
09/03/19	WJB	Extended conference with CNE regarding basis and method for claims objections remaining among investors for various reasons and treatment of claims in database, analysis and courses of action	0.6
09/03/19	WJB	Prepare letter to Schenectady County Surrogate's Court for M Zechner estate information	0.1
09/03/19	CNE	Audit remaining disputed claims; Confer with WJB regarding remaining disputed claims; Revise draft Smith investor claims objection per WJB comments	1.6
09/04/19	WJB	Locate disgorgement amount for Smith Memorandum of Law and prepare e-mail CNE regarding calculation to use	0.1
09/04/19	WJB	Review L Smith transcript in connection with Memorandum of Law for Smith claim objections	0.3
09/04/19	WJB	Evaluate 107 Associates loan for HSK Funding in connection with claims analysis, analyze nature of claim and value of United Security Assurance stock	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/04/19	WJB	Smith Family: Conference call D Stoelting, K McGrath, CNE regarding evaluation of Smith claim objection and SEC comments regarding same	0.4
09/04/19	CNE	Audit remaining disputed claims; Call with SEC regarding draft Smith claims objection; Email B Shea with request for information regarding remaining disputed claims	2.1
09/06/19	CNE	Redraft memorandum of law for Smith claims objection	2.5
09/08/19	CNE	Redraft memorandum of law for Smith claims objection; Respond to investor inquiry regarding claim amounts	3.7
09/09/19	CNE	Redraft memorandum of law regarding Smith claim objection	3.3
09/10/19	WJB	Review revised Memorandum of Law to Smith claim objections	0.4
09/10/19	WJB	Review claims objection list including review of J Zazzali estate litigation trustee claim and HSK file	0.8
09/10/19	WJB	Review P Penchansky claims and prepare letter	0.2
09/10/19	WJB	Revise letter to B Penchansky regarding claims needed for completion of claims file and need for executor information	0.3
09/10/19	WJB	Review B Shea e-mail on discrepant notices and prepare follow-up with staff	0.1
09/10/19	CNE	Revise memorandum of law regarding Smith Claim Objection to incorporate WJB comments; Send draft memorandum of law to SEC for review and comment; Update WJB declaration in support of Smith Claim Objection and related documents; Review and dispose of claims 4511, 4512	2.8
09/11/19	WJB	Review D & J Gargiulo Trust inquiry and prepare reply letter regarding needed documentation regarding Trust Agreement to allow claim	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/11/19	WJB	Review J Klein estate administration issues and prepare letter regarding potential abandonment to N Klein	0.2
09/11/19	WJB	Review claim file and prepare letter M Sokoler regarding need for estate administration and instructions regarding same	0.2
09/11/19	WJB	Extensive review of Steven Zvi Karni claims file	0.6
09/11/19	WJB	Prepare final revisions to Declaration and Memorandum of Law regarding objection to Smith Family claims	0.9
09/11/19	WJB	Review S Karni paper claims and claims register; Prepare letter regarding no claims for Vigilant and Coventry Care	0.3
09/11/19	WJB	Conference CNE regarding remaining chart of disputed claims and how to resolve each one; Telephone conference with Dr. Smith's office and leave message	0.5
09/11/19	WJB	Prepare e-mail B Shea regarding Smith Family claim objection, final claim objection to be made and steps to final distribution and reserve	0.2
09/11/19	CNE	Further revise memorandum of law in support of Smith claim objection; Prepare Smith claim objection and related pleadings for filing	3.1
09/12/19	CNE	Revise draft memorandum of law in support of Smith claim objection to incorporate SEC comment; Prepare Smith claim objection and related documents for filing; Audit remaining disputed claims; Confer with KML regarding missing investor questionnaires	5.1
09/16/19	CNE	Audit remaining disputed claims	1.4
09/17/19	WJB	Smith Family: Participate in settlement conference with G Smith, CNE regarding motion, reasons for same and discussion of L Smith source of funds used for purchases	0.5
09/17/19	WJB	Conference with CNE regarding discussion of various questions relating to disputed claims and how to proceed with same	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/17/19	CNE	Audit remaining disputed claims	2.8
09/18/19	WJB	Smith Family: Review draft e-mail to G Smith claim objection and revise draft	0.2
09/18/19	WJB	Review and revise CNE draft e-mail to SEC on Smith claim objection draft	0.1
09/18/19	WJB	Conference CNE regarding TDM claims objections and vendor asserted paper claims in relation to resolving all pending claims	0.2
09/18/19	WJB	Review Schenectady County Surrogate's Court response regarding M Zechner estate; Prepare letter to fiduciary and counsel regarding potential claims	0.2
09/18/19	CNE	Audit remaining disputed claims; Review records regarding preferential payments to investors; Review remaining paper claimants; Call with B Shea regarding basis for preferential payments; Prepare letter to investor regarding withdrawal of paper claim; Confer with WJB regarding status and next steps for certain filed paper claims	6.0
09/19/19	WJB	Conference CNE regarding G Smith reference regarding Ponzi Scheme and review claim objection in response to G Smith comment	0.1
09/19/19	CNE	Audit remaining disputed claims; Review paper claims in preparation to include in omnibus objection; Confer with WJB regarding open questions on files to include in omnibus claim objection	3.7
09/20/19	WJB	Prepare reply e-mail to G Smith on request to court for extension of time for Smith's to respond to claim objection motion and compliance with local rules	0.1
09/20/19	CNE	Audit remaining disputed claims; Begin drafting final omnibus claims objection motion	3.9

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/23/19	CNE	Review email and documents from B Shea regarding preferential transfers; Revise draft letter to court seeking adjournment of return date on Smith claim objection motion	1.4
09/24/19	WJB	Extended conference with CNE regarding non-charged brokers, evaluating their positions and involvement with sale of Ponzi Scheme investments and decisions on claim objection motions	0.5
09/24/19	CNE	Draft memorandum of law in support of final omnibus claim objection; Call with B Shea regarding preferential payments to certain investors; Confer with WJB regarding investor files and objection status; Follow-up call with B Shea regarding preferential payments to certain investors; Draft exhibits for attachment to final omnibus claims objection	4.3
09/25/19	WJB	Continue review of claim of E Stuart and prepare letter regarding no Receivership entities involved in claims and no distribution will be allowed under Plan of Distribution	0.2
09/25/19	WJB	Conference CNE regarding reclassification treatment of HSK Funding claim and reasons for same	0.1
09/25/19	WJB	Evaluate research and decide on ADT Security Services claim and discuss with CNE	0.5
09/25/19	WJB	Revise letter to E Stuart regarding claims allowance	0.1
09/25/19	WJB	Work on ADT Note analysis claim, review TDM sale motion regarding same and prepare memo to file regarding facts and disposition	0.3
09/25/19	WJB	Review S/E Rabinovich claim file and evaluate for claim objection in light of evidence from SEC, prepare letter to counsel for Rabinovich's regarding no interest in settling claim except for de minimis amount	0.5
09/25/19	WJB	Review CNE e-mails with B Shea on disputed claims of Merriweather and RS Bonding	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/25/19	CNE	Draft final omnibus claims objection motion; Confer with WJB regarding open questions on remaining disputed claims; Email G Smith regarding adjourned dates on Smith claims objection motion	1.5
09/26/19	CNE	Draft final omnibus claims objection	0.7
09/27/19	K-K	Docket hearing date on Smith claim objection	0.2
09/27/19	CNE	Draft final omnibus claim objection; Confer with KML regarding preparation of exhibits for final omnibus claim objection	2.6
09/28/19	CNE	Draft final omnibus claim objection	3.1
09/30/19	CNE	Work on draft final omnibus claims objection motion; Confer with KML regarding preparing exhibits to final omnibus claims objection motion; Email SEC regarding filed version of broker findings of fact	4.4
10/01/19	WJB	Review CNE analysis of L Smith claims and assertion that all money was gifted prior to proven Ponzi Scheme investments, prepare draft reply to G Smith	0.2
10/01/19	WJB	Conference CNE regarding L Smith investments and claims objection to L Smith claims	0.1
10/01/19	WJB	Deal with release of account under Satisfaction of Judgment regarding L Smith and evaluation of proof that objection to her claim should be dismissed	0.2
10/01/19	WJB	Conference CNE regarding investors with pending FINRA proceedings and how to deal with same including Rabinovich Proof of Claim	0.2
10/01/19	CNE	Draft final omnibus claim objection; Confer with WJB regarding open questions on remaining disputed claims; Confer with KML regarding preparation of exhibits for final omnibus claim objection; Correspond with SEC regarding exhibits and findings of fact used in broker trial; Update exhibits for final omnibus claim objection	6.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/02/19	WJB	Telephone call from R Leydecker regarding A Digirolamo regarding Death Certificate, Letters Testamentary, IQ questions, distribution amounts and locate claim and prepare memo to file regarding same	0.4
10/02/19	WJB	Review B Penchansky claim file and prepare letter regarding executor and form completion	0.3
10/02/19	WJB	Prepare letter regarding G/R Blank regarding Power of Attorney and need for original	0.2
10/02/19	CNE	Work on draft memorandum of law in support of final omnibus claim objection motion; Correspond with SEC regarding exhibits in support of final omnibus claim objection; Review SEC exhibits; Review materials provided by G Smith regarding Smith claims objection	5.3
10/03/19	CNE	Draft memorandum of law in support of final omnibus claims objection; Prepare exhibits to final omnibus claims objection; Call with H Glavin regarding claims objection; Review materials provided by Smiths regarding Smith claim objection	5.9
10/04/19	CNE	Confer with WJB regarding Smith materials; Draft email to SEC regarding review of Smith materials and next steps; Review and dispose of claims 5512, 5513, 5536; Draft consent order regarding claim objection	3.4
10/05/19	WJB	Prepare reply e-mail D Stoelting regarding analysis regarding L Smith distributions and source of funds used to purchase investments	0.2
10/07/19	WJB	Review and revise Ninth Claim Objection Memorandum of Law and send comments to CNE	0.8
10/07/19	CNE	Review materials provided by Smiths in response to SEC questions; Revise memorandum in support of final omnibus claims objection per WJB comments; Draft WJB declaration in support of final omnibus claims objection	2.7

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/08/19	WJB	Lauren Smith: Prepare for and participate in conference call with D Stoelting, K McGrath of SEC and CNE regarding L Smith claim objection, background facts regarding dates when gifts were made, existence prior to Ponzi Scheme, amount of evidence to the contrary and Receiver's recommended course of action and discussion of same, discussion of Lynn Smith IRA	0.8
10/08/19	WJB	Smith Family: Review and revise claims objection order	0.3
10/08/19	WJB	Review original Death Certificate for N Cohen and return same including preparation of letter	0.1
10/08/19	WJB	Review R Leydecker and return to A Digirolamo	0.1
10/08/19	WJB	Smith Family: Prepare e-mail from G Smith on divisible claims and prepare reply regarding claims objection is unbundled	0.2
10/08/19	WJB	Smith Family: Conference CNE on how to respond to G Smith questions and process on splitting settlements on Smith Family claim objection	0.1
10/08/19	WJB	Smith Family: Prepare reply e-mail G Smith regarding Receiver not in control of applying monies to SEC judgment	0.1
10/08/19	CNE	Prepare for call with SEC regarding Smith claims objection; Attend call with SEC regarding Smith claims objection; Revise draft final omnibus claim objection motion and supporting declaration; Draft proposed order granting final omnibus claim objection	3.3
10/09/19	WJB	Smith Family: Extended telephone conference with G Smith, CNE regarding negotiations and facts concerning L Smith claim objection, investments as gifts, timing of same and discussion of issues surrounding application of monies to judgment held by SEC	0.5
10/09/19	WJB	Prepare e-mail report to SEC on status of Smith Family claim objection, request for application of amounts to satisfaction of judgment and recommendations of Receiver	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/09/19	WJB	M Blank: Review Power of Attorney, prepare memo to file and conference with HAB regarding procedures regarding Power of Attorney in NYS	0.2
10/09/19	WJB	Smith Family: Prepare reply e-mail to K McGrath at SEC regarding estimated amounts to be applied to G Smith and L Smith judgment if allowed by SEC and locate prior e-mail regarding such numbers and forward same	0.2
10/09/19	WJB	Review draft Ninth Claims objection motion and prepare comments to same and provide to CNE	0.8
10/09/19	WJB	Smith Family: Review SEC e-mail on discretion regarding L Smith claim objection decision and no agreement on application of amounts to judgments and prepare reply regarding same	0.2
10/09/19	WJB	Smith Family: Prepare e-mail G Smith regarding decision on how to proceed with L Smith claim objection versus G Smith and L Smith	0.2
10/09/19	WJB	Smith Family: Review G Smith questions on claim objection process follow-up, prepare reply to same and prepare notification to Court regarding resolution of L Smith claim objection	0.2
10/09/19	WJB	Smith Family: Review and prepare comments to consent order on L Smith claim objection	0.1
10/09/19	CNE	Further revise memorandum of law and declaration in support of final claims objection; Prepare exhibits and ancillary documents to final claims objection for filing; Attend call with G Smith and WJB regarding Smith Claims Objection; Revise consent order regarding Smith Claims Objection	2.0
10/09/19	HAB	Telephone call with W Brown regarding proof of valid Power of Attorney and third party acceptance or copies in lieu of original Power of Attorney	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/10/19	WJB	Smith Family: Review and respond to four e-mails on claims objections and application to judgments with G Smith including answering questions and analyzing same	0.0
10/10/19	WJB	Review final version of L Smith Consent Order	0.1
10/10/19	WJB	Smith Family: Review and respond to three additional e-mails from G Smith regarding clarifications concerning claim objection	0.3
10/10/19	CNE	Prepare final claims objection and ancillary documents for filing; Further revise Smith consent order and send to G Smith	3.2
10/11/19	CNE	Review investor file and record of address; Confer with WJB regarding investor response	1.6
10/14/19	CNE	Email SEC regarding response to L Smith IRA motion; Prepare Lauren Smith Consent Order for filing; Prepare investor correspondence regarding potential FINRA arbitrations; Prepare investor correspondence regarding returned information questionnaires; Prepare investor correspondence regarding filed paper claims	3.0
10/15/19	WJB	Smith Family: Review D Stoelting e-mail regarding L & G Smith claim objection and conference CNE regarding same regarding follow-up	0.1
10/15/19	CNE	Prepare investor correspondence for mailing	1.0
10/16/19	WJB	L Smith: Prepare e-mail SEC to include Receiver's right to file response in extension request to Court	0.1
10/16/19	WJB	Brommel Investments: Telephone call from D Goodwin in Bermuda regarding relationship with R Rogers and Brommel Investments claims	0.2
10/16/19	WJB	Conference CNE regarding paper claim investor notices and notification of claim objection given use of claim numbers without names and resolve with CNE by additional mailing	0.2
10/16/19	K-K	Docket hearing date on ninth claims objection motion	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/16/19	CNE	Prepare supplemental mailing to paper claim investors regarding Ninth Claims Motion	2.0
10/17/19	K-K	Docket last day to reply to response to Smith claim objection	0.2
10/21/19	CNE	Return calls in response to investor inquiries	0.2
10/22/19	WJB	Telephone call from S Cedar regarding claim involving Integrated Alarm Services and CMS Financial, discussion that claims are not part of Receivership and reasons for same and prepare memo to file regarding same	0.2
10/22/19	WJB	Telephone call from B DeLuca regarding remaining collateral recovery efforts in FINRA arbitration in relation to investor claim	0.2
10/22/19	WJB	Review letter from M Butula and K Prior with original Power of Attorney and prepare return letter returning original, examine Death Certificate and Power of Attorney	0.3
10/22/19	WJB	Review letter from M Reilly, Esq. on behalf of Harbour Trust regarding Gargiulo Remainder Trust, prepare reply letter regarding fact that Harbour Trust is prior trustee without power to pursue claims	0.3
10/22/19	WJB	Review letter from M Cohen, Esq. regarding M Zechner claim and prepare reply regarding abandonment	0.2
10/22/19	WJB	Review P Muller Christian Value Network claim objection	0.2
10/22/19	WJB	Allegretta: Prepare e-mail to S Kramer regarding status of claims given pending filing of abandonment motion	0.1
10/23/19	WJB	Prepare e-mail B Shea regarding timing of monthly checks and vacation notice for administrative purposes	0.1
10/23/19	WJB	Review e-mail from M Sokoler regarding Will and Trust Agreement, locate same and prepare reply letter regarding return of original copies	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/23/19	WJB	Review letter from McNamee Lochner regarding M McGinn original Death Certificate and prepare reply letter and process and change status to estate	0.2
10/23/19	WJB	Review Investor Questionnaire of E Saldivar regarding IRA issue and prepare memo to file regarding treatment regarding same	0.2
10/23/19	CNE	Prepare investor correspondence; Confer with WJB regarding SEC response to Lynn Smith motion	0.7
10/29/19	WJB	Review e-mail from L O'Brien Esq. with filed and time-stamped consent to satisfaction of judgment against W Lex and process Dr. Weinar claim	1.0
10/29/19	WJB	Weinar: Review satisfaction of judgment and prior correspondence and respond to CNE regarding claim processing	0.2
10/29/19	WJB	Review e-mail from H Glavin requesting Rabinovich objection deadline extension, calculate and discuss dates with CNE	0.2
10/29/19	WJB	Prepare reply letter to C. Warren Trainor, Esq. regarding checks to N Morrison and lack of receipt, provide date of mailing	0.2
10/29/19	WJB	Review claim of K Siple including original Death Certificate and original Letters Testamentary and return same to J Siple including preparation of letter	0.2
10/29/19	WJB	Review letter from Winchester Fiduciary Services Ltd. re Brommel Investments and prepare email B Shea regarding investigation	0.2
10/30/19	WJB	Discuss Glavin letter to Court requesting extension with CNE and analyze course of action regarding potential response	0.1
10/30/19	WJB	Review B Penchansky claim file for six claims, executor power, IRA issue and approve claims	0.4

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/30/19	WJB	Review Brommel Resources Ltd. claim file	0.2
10/30/19	WJB	Prepare letter to Winchester Fiduciary Services Limited regarding Brommel claims and need independent proof of having paid consideration for McGinn Smith Independent Services Corp. investment	0.2
10/30/19	WJB	Review G Smith request for call on Saratoga house and prepare reply and schedule same	0.1
10/30/19	CNE	Work on draft abandoned claims motion	1.9
10/31/19	CNE	Revise draft motion to abandon claims	4.5
11/01/19	WJB	Conference with CNE regarding lost investor motion and order of aid of administration and how to deal with Fisher Family incomplete claims	0.1
11/01/19	CNE	Revise draft abandoned claims motion; Review investor claims regarding inclusion in abandoned claims motion	2.2
11/04/19	CNE	Revise draft motion to abandon claims; Review claims files for inclusion in draft motion to abandon claims; Email draft motion to abandon claims to D Stoelting and K McGrath for review	7.0
11/05/19	CNE	Confer with KML5 regarding preparation of exhibits to abandoned claims motion; Review investor files for inclusion in abandoned claims motion	2.1
11/06/19	K-K	Docket rescheduled hearing date on ninth claims objection motion	0.2
11/06/19	CNE	Confer with KML5 regarding preparation of exhibits for abandoned claims motion; Draft declaration and proposed order for abandoned claims motion	3.3
11/07/19	CNE	Draft motion and ancillary documents for abandoned claims motion; Revise abandoned claims motion per SEC comments; Confer with KML5 regarding exhibits to abandoned claims motion	2.6

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/08/19	CNE	Revise draft motion to abandon claims and related pleadings	4.2
11/11/19	WJB	Allegretta: Review Justice O'Connor letter approving McNamee Lochner withdrawal and review K Laurilliard proposed Order to do so submitting to Court	0.2
11/11/19	WJB	Alfred B. McGinn: Review McNamee Lochner letter with original Death Certificate and Letters Testamentary, review and return originals and process for claims	0.2
11/11/19	WJB	Wikert: Conference with CNE regarding how to treat Trust Agreements, necessary originals and all amendments and filing that, process through estate with appropriate proof	0.1
11/11/19	CNE	Review and dispose of claims 5767-69, 6838, 5578-80, 5607, 5581-84, 6771-81	1.3
11/12/19	WJB	Review and revise draft Memorandum of Law to deal with abandoned and lost investor claims	2.0
11/12/19	WJB	Conference CNE regarding sorting and allocating list of incomplete investor files for motion in aid of administration	0.1
11/12/19	CNE	Revise abandoned claims motion and related documents per WJB comments	3.0
11/13/19	CNE	Revise draft memorandum of law and declaration in support of abandoned claims motion; Prepare abandoned claims motion, memorandum of law, declaration, and other relevant documents for filing	4.5
11/15/19	CNE	Confer with KML5 regarding investor file question	0.4
11/19/19	WJB	Rabinovich: Preliminary review of Rabinovich response to claim objection; Conference CNE on defenses and facts raised in opposition papers including course of action	0.3
11/19/19	WJB	M Quiroga: Review Death Certificate and Letters Testamentary, approve same and return originals	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/19/19	WJB	Allegretta: Review signed Order discharging McNamee law firm withdrawal, review letter agreement terms and prepare e-mail to S Kramer regarding motion, hearing date and status of letter agreement compliance by Allegrettas	0.3
11/19/19	WJB	Rabinovich: Follow-up conference with CNE regarding offset amounts and offering documents for various Rabinovich investments	0.2
11/19/19	WJB	Allegretta: Review and respond to S Kramer e-mail regarding status of letter agreement compliance and outlining necessary steps and requesting immediate compliance	0.5
11/19/19	WJB	M Pirnat: Telephone call from T Fergas at McCarter and English regarding status of claim and payment	0.1
11/19/19	WJB	M Pirnat: Research status of claim and telephone call to T Fergas, Esq. regarding same	0.1
11/19/19	CNE	Review Rabinovich response to 9th Claims Motion; Review and dispose of Claims 4352, 4353 and 6121; Prepare outline of reply to Rabinovich response; Research regarding law regarding joint tenancy	5.6
11/20/19	WJB	Rabinovich: Review NDNY Local Rules regarding oral argument in light of Rabinovich request for oral argument	0.2
11/20/19	WJB	Allegretta: Review settlement letter agreement and finalize e-mail S Kramer regarding non-performance by Allegretta's	0.2
11/20/19	WJB	Conference with CNE regarding additional paper claims located in files and next steps to confirm no additional claims and consider effect upon pending matters	0.1
11/20/19	WJB	B Fisher: Review lengthy reply letter regarding claims and communicate with CNE regarding same	0.1
11/20/19	WJB	Review Ninth Claims objection motion for further details	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/20/19	CNE	Work on draft reply to Rabinovich objection to Ninth Claims Motion; Research caselaw in support of reply to Rabinovich objection to Ninth Claims Motion; Research case law cited in Rabinovich objection; Confer with WJB regarding paper claims and Ninth Claims Motion; Review claims files in response to SEC question regarding Rabinovich claims	10.2
11/21/19	CNE	Work on draft reply to Rabinovich objection to Ninth Claims Motion; Research caselaw cited in Rabinovich objection; Review dates, timeline of transactions	7.1
11/22/19	WJB	Rabinovich: Work on revisions to Receiver Reply to Rabinovich Response to Ninth Claims Objection Motion	1.9
11/22/19	CNE	Research regarding imputation, actual knowledge caselaw cited in Rabinovich objection; Revise draft reply to Rabinovich objection per WJB comments	8.5
11/24/19	WJB	Review and revise latest version of Receiver's Reply to Rabinovich Response and forward with comments to CNE	0.8
11/25/19	WJB	Review final version of Receiver's Reply and Declaration responding to Rabinovich Response and forward to CNE for filing following modification of Footnote 3	0.3
11/25/19	CNE	Revise reply to Rabinovich objection per WJB comments; Draft revised proposed order for Ninth Claims Motion; Revise draft WJB declaration in support of reply to Rabinovich objection; prepare exhibits to reply to Rabinovich objection; Further revise reply to Rabinovich objection; Finalize reply to Rabinovich objection and related documents for filing; Draft letters to investors with paper claims	6.9
11/26/19	WJB	Allegretta: Review S Kramer letter to Justice O'Connor regarding withdrawal of FINRA claim upon entry of Order granting their appearance in discontinuance process	0.2
11/26/19	WJB	L Ferrero: Review Investor Questionnaires, Power of Attorney and Death Certificate supplied; Review file and prepare reply letter requesting Letters Testamentary	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/26/19	WJB	Conference CNE regarding individual questions on paper claim files remaining, authority to deal with claims and course of action	0.2
11/26/19	WJB	Follow-up conference with CNE regarding additional questions on individual paper claim files	0.2
11/26/19	WJB	Telephone call from D Pietrafesa, CPA regarding Dr. Freshman Seton Hall 1099 and nature of investment	0.2
11/26/19	CNE	Confer with KML5 regarding process used to identify paper claims and whether any remaining paper claims exist; Confer with WJB regarding status of remaining paper claims; Draft letters to remaining investors with paper claims regarding voluntary withdrawal	6.4
11/27/19	WJB	Review B Shea reply regarding return of Brommel money and e-mail CNE to follow-up regarding no claim	0.1
11/27/19	WJB	Conference CNE on facts and how to treat Brommel claim in light of return of money by McGinn and Smith	0.1
11/27/19	CNE	Prepare letters for mailing to investors holding paper claims	4.8
12/02/19	CNE	Call with investor regarding paper claims	0.1
12/03/19	WJB	Review Information Questionnaire from V DePaul O'Brien with changed address and prepare letter regarding follow-up	0.1
12/03/19	WJB	Review Letters Testamentary for R Sokoler claim and prepare letter regarding allowance of claim and return of voluntary administrator certificate to administrator	0.2
12/03/19	WJB	Allegretta: Review Stipulation of Discontinuance filed by Allegretta's counsel and review NY CPLR Rule 3217 and prepare reply e-mail questioning how it applies in this circumstance given appearances; Review S Kramer reply and prepare reply as non-responsive and not in conformance with Rule 3217	0.6

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/03/19	WJB	Allegretta: Prepare e-mail in response to request for extension of time to file response to motion in light of obtaining corrective stipulation of discontinuance	0.2
12/04/19	WJB	Allegretta: Review S Kramer e-mail to J Hacker regarding confirmation of no appearance in state court litigation and prepare allowance of claim e-mail to S Kramer based upon representations	0.3
12/05/19	CNE	Call with investor regarding paper claims; Review correspondence regarding paper claims	0.4
12/09/19	CNE	Review and dispose of claims 4119, 4120, 5351, 5352, 4778, 5447, 5446. 4455-4457	1.1
12/10/19	WJB	Review L Ferrero claim file including probate certificate, prepare return letter providing probate certificate and review and allow claims 4755 and 4756	0.3
12/10/19	WJB	Review claim of A McGinn and approve Claim No. 5752	0.2
12/11/19	CNE	Review status of remaining paper claimants; Confer with WJB regarding same	0.7
12/12/19	CNE	Call with investor regarding paper claims	0.2
12/13/19	CNE	Review investor responses to requests for information; Call with investor regarding paper claim information	3.1
12/16/19	CNE	Review and dispose of claims 5929-5934; Call with investor regarding distributions	0.3
12/17/19	CNE	Review certain investor claims in preparation to make distributions	5.3
12/18/19	WJB	Fishers: Conference CNE regarding handling of more difficult questions concerning allowance of various Fisher claims given potential abandonments and other calculation issues	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/18/19	WJB	Conference CNE regarding additional paper claims disallowance	0.1
12/18/19	CNE	Review preferred investor claims in preparation for processing and distributions; Confer with WJB regarding status of preferred investor claim review, open questions and status of communications with certain paper claimants; Draft motion to disallow certain unresolved paper claims	7.2
12/19/19	CNE	Draft motion to disallow remaining paper claims; Review and process preferred investor claims	4.6
12/20/19	WJB	Review initial draft of final claims objection motion regarding remaining paper claims and prepare revisions; Prepare e-mail CNE regarding same	0.5
12/20/19	WJB	Review revised draft of final claims objection motion and prepare e-mail CNE regarding final comments	0.4
12/20/19	CNE	Revise draft paper claims motion and supporting declaration; Prepare draft paper claims motion and ancillary documents for filing	5.5
12/23/19	CNE	Review preferred investor claims in preparation for processing	6.0
12/24/19	WJB	Review claim of K McGinn to deal with open issues	0.1
12/30/19	K-K	Docket hearing date on tenth claims objection motion	0.2
12/30/19	CNE	Confer with KML5 regarding investor file	0.4
CURRENT FEES			\$86,785.00

FOR COSTS ADVANCED AND EXPENSES INCURRED:

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Overnight Courier WJB - UPS to Chris A. Gustafson, Kim A. Taddeo and Scott A. Gustafson - Re: Claims Administration - McGinn Smith	54.03
Fees PAYEE: Schenectady County Surrogate's Court; REQUEST#: 705362; DATE: 8/28/2019. - Estate file look-up to ascertain name of Executor/Administrator CCR - 10978	30.00
Postage WJB - Postage to Various (11 pieces) - Re: Claims	19.25
Duplicating A1, 400 Page(s)	40.00
Postage WJB - Postage to Various (162 pieces) - Re: Claims	83.60
Duplicating A1, 114 Page(s)	11.40
Duplicating A1, 26 Page(s)	2.60
Postage WJB - Postage to Maureen Buturla - Re: Claims	6.85
Duplicating A1, 31 Page(s)	3.10
Duplicating A1, 14 Page(s)	1.40
Duplicating A1, 3424 Page(s)	342.40
Postage WJB - Postage to Various (190 pieces) - Re: Claims	361.00
Postage CEisenhut - Postage to Various (11) - Re: Claims	19.25
Duplicating A1, 190 Page(s)	19.00
Duplicating A1, 24 Page(s)	2.40
Duplicating A1, 2 Page(s)	0.20
Postage CEisenhut - Postage to Various (16 pieces) - Re: Claims	20.80
Postage WJB - Postage to Peter Ayrton Cheese (Bachelors Farm, Long Reach) - Re: Claims	3.25
CURRENT EXPENSES	<u>1,020.53</u>

TOTAL AMOUNT OF THIS INVOICE \$87,805.53

PAYMENT DUE UPON RECEIPT

CATEGORY C

ASSET DISPOSITION



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Invoice Number 1004324
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00002
 W J Brown

Re: ASSET DISPOSITION

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/09/19	WJB	Saratoga Residence: Review realtor's comparative sale report from 7/8 and recommendations regarding pricing including telephone conference with G Smith regarding same and prepare e-mail to broker requesting attendance at house showing that evening with additional message to owner of brokerage regarding request for discussion concerning sales efforts	0.7
07/09/19	WJB	Saratoga Residence: Prepare e-mail T Roohan at brokerage regarding need for call to discuss performance and extension of listing	0.1
07/10/19	WJB	Saratoga Residence: Telephone call from T Roohan regarding Smith residence and request for him to review process of sale given lack of interest and make recommendations on next steps	0.1
07/10/19	WJB	Saratoga Residence: Review e-mail from T Roohan with values of sold homes and analytics regarding same	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/11/19	WJB	Saratoga Residence: Telephone conference with T Roohan at brokerage regarding recommendations and course of action regarding extension of listing and e-mail M King regarding same	0.2
07/11/19	WJB	Saratoga Residence: Prepare e-mail G Smith regarding approval of extension of listing on short-term basis and reasons for same based upon call with T Roohan and data provided by him	0.4
07/16/19	WJB	Saratoga Residence: Review M King response regarding open house status and consider course of action regarding sale	0.2
07/16/19	WJB	Saratoga Residence: Review G Smith statistics on NYS sales in response to M King report on lack of sales	0.1
07/24/19	WJB	NewMarket Technology: Review IP Voice/NewMarket Technology stock certificate received from NFS, research value and forward to B Shea for further investigation	0.3
07/31/19	WJB	Saratoga Residence: Prepare status e-mail to M Kornstein, D Stoelting regarding price reduction and listing terms and efforts to locate buyer	0.4
07/31/19	WJB	Prepare reply e-mail M King regarding five-bedroom buyer and efforts to complete sale of house	0.1
07/31/19	WJB	Saratoga Residence: Review G Smith comments on listing and procedure following expiration of listing agreement and arrange for conference call	0.1
08/01/19	WJB	Saratoga Residence: Telephone conference with G Smith regarding next steps regarding broker listing renewal and alternative brokers	0.2
08/13/19	WJB	Saratoga Residence: Consider and review broker alternatives for possible broker replacement and consider qualifications, review sale statistics of comparable properties provided by M King, consider alternatives to extending Listing Agreement and prepare e-mail with analysis to G Smith	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/13/19	WJB	Saratoga Residence: Prepare e-mail D Stoelting at SEC regarding status of Saratoga property	0.1
08/14/19	WJB	Saratoga Residence: Prepare reply to D Stoelting at SEC regarding costs associated with listing real property	0.1
08/14/19	WJB	Saratoga Residence: Review G Smith research e-mail regarding sale of residence and reply to G Smith with proposal on how to proceed with continued listing	0.2
08/14/19	WJB	Saratoga Residence: Prepare e-mail M King regarding extending listing terms based upon agreement with G Smith	0.1
08/14/19	WJB	Saratoga Residence: Prepare e-mail on conditions to listing extension	0.1
08/20/19	WJB	Saratoga Residence: Prepare e-mail M Kornstein, D Stoelting regarding new listing arrangements	0.2
09/04/19	WJB	Review M King e-mail regarding ongoing pricing of house and prepare reply, assemble pricing information	0.2
09/06/19	WJB	Saratoga Residence: Locate and forward escrow advance number by bank to G Smith for revised sale price calculation	0.1
09/06/19	WJB	Saratoga Residence: Prepare e-mail M Kornstein requesting confirmation that bank has not made insurance advances and allocation of advances to protect security, review reply and forward information to G Smith	0.2
09/09/19	WJB	Saratoga Residence: Prepare e-mail M King requesting status of September 7 showing	0.1
09/09/19	WJB	Review G Smith e-mail requesting further analysis on bank protective advances for calculation of revised purchase price, review information from bank, prepare e-mail M Kornstein for post-Order advances, prepare e-mail G Smith regarding calculations	0.5

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/09/19	WJB	Saratoga Residence: Review e-mail from M Kornstein with confirmation of bank advance number post entry Order and e-mail G Smith regarding same	0.1
09/10/19	WJB	Saratoga Residence: Review G Smith e-mail regarding price reduction and prepare reply regarding same, prepare e-mail M Kornstein regarding new price for house	0.2
10/08/19	WJB	Saratoga Residence: Prepare e-mail M King regarding extending listing to December 11, 2019 and review G Smith comment regarding same	0.1
10/09/19	K-K	Docket expiration date of listing agreement for Smith Rolling Brook real property	0.2
11/01/19	WJB	Saratoga Residence: Telephone call from G Smith regarding how to deal with listing expiration, roof condition, maintenance repair and proposals going forward	0.2
11/13/19	WJB	Saratoga Residence: Research Saratoga Springs realtors for possible new realtor	0.3
11/13/19	WJB	Saratoga Residence: Prepare e-mail M King (realtor) regarding potential listing removal after reviewing contract and request for list of how showings to date	0.1
11/18/19	WJB	Saratoga Residence: Review G Smith e-mail with Wall Street Journal article on real estate activity in Saratoga and review same, prepare reply	0.1
11/20/19	WJB	Saratoga Residence: Consider next steps, review showing agent list, review Wall Street Journal article on Saratoga Springs real estate received from G Smith, prepare e-mail M King regarding listing extension and intention to terminate	0.2
12/04/19	WJB	Saratoga Residence: Review November 27 and December 2 M King e-mails reporting on market and house showings, consider next steps including preparation of e-mail to G Smith and L Smith regarding interviewing replacement agents	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/04/19	WJB	Saratoga Residence: Review sale of personal property e-mail from M King and e-mail update on replacement of agent and personal property sale to SEC	0.3
12/04/19	WJB	Saratoga Residence: Review D Stoelting e-mail regarding status of sale of house and sale of personal property and prepare reply to SEC	0.1
12/04/19	WJB	Saratoga Residence: G Smith e-mail and prepare reply regarding sale of personal property items prior to sale of residence	0.2
12/04/19	WJB	Saratoga Residence: Review G Smith response regarding furniture sale and prepare e-mail SEC regarding same as to waiting until house sold	0.1
12/11/19	WJB	Saratoga Residence: Review list and qualifications of potential brokers including review of G Smith list of five agents, research list of agents who showed house under Roohan listing agreement	0.4
12/11/19	WJB	Saratoga Residence: Prepare e-mail G Smith regarding new broker recommendations based upon review of his list and brokers who previously showed home and suggested process for interviewing potential new brokers	0.3
12/11/19	WJB	Saratoga Residence: Telephone call from M King regarding request for extension to show to London potential purchaser	0.1
12/13/19	WJB	Saratoga Residence: Telephone call from G Smith to discuss Saratoga listing extension, broker interviews, identity of broker candidates and 12/23 showing for London purchaser	0.3
12/14/19	WJB	Review \$700,000 purchase offer, calculate approximate net proceeds, exchange two e-mails with G Smith and real estate broker regarding offer analysis, questions and course of action	0.8
12/15/19	WJB	Saratoga Residence: Review G Smith objection to sale at \$700,000 and prepare information e-mail to broker requesting additional information to evaluate offer and extension	0.2

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00002 Asset Disposition
March 11, 2020

Invoice Number 1004324

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/15/19	WJB	Saratoga Residence: Prepare e-mail to SEC regarding \$700,000 offer and breaking point calculation	0.1
12/15/19	WJB	Saratoga Residence: Review terms of Order for power of Receiver to sell in light of Smith objection to sale or even presenting counter-offer to \$700,000 offer	0.1
12/15/19	WJB	Saratoga Residence: Prepare e-mail PCK to prepare updated pro forma closing statement to evaluate net proceeds and allocation between Smiths and Receiver	0.2
12/16/19	WJB	Saratoga Residence: Analyze various real property offer amounts and resulting equity in light of accruing real property taxes and prepare e-mail to SEC regarding intentions concerning Receiver's intention to make counter-offer despite Smith objections in light of circumstances	0.4
12/16/19	WJB	Saratoga Residence: Telephone conference with real estate agent Christine Hogan Barton regarding assessment of market, \$700,000 offer, counter-offer possibilities, comparable homes and assessment of overall market and likely outcome of counter-offer	0.3
12/16/19	WJB	Saratoga Residence: Conduct analysis comparison to 8 Rolling Brook sale	0.1
12/16/19	WJB	Saratoga Residence: Telephone conference with D Stoelting of SEC regarding facts and circumstances surrounding \$700,000 offer, comparable home sales, status of market conditions, basis for counter-offer and necessity to unseal Sale Order if Receiver's counter-offer is accepted, analysis, risks and courses of action	0.5
12/16/19	WJB	Saratoga Residence: Prepare e-mail G Smith regarding intention to make \$775,000 counter-offer and reasons for same and review terms of Contract of Sale for modification	0.1
12/16/19	WJB	Saratoga Residence: Review \$700,000 contract offer, make modifications and telephone conference with real estate agent regarding counter-offer proposal	0.4

33474 Brown, William J. as Receiver of McGinn,
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00002 Asset Disposition
March 11, 2020

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/16/19	WJB	Saratoga Residence: Prepare e-mail G Smith regarding calculation on net equity following review and revision to pro forma closing statement	0.2
12/16/19	PCK	Work on revisions to draft closing statement	0.6
12/17/19	WJB	Saratoga Residence: Review G Smith inquiry and prepare e-mail with terms of counteroffer	0.2
12/17/19	WJB	Saratoga Residence: Telephone call from M King regarding receipt of counteroffer and brief review of counteroffer from buyer	0.1
12/17/19	WJB	Saratoga Residence: Compare \$725,000 counteroffer at price per-square-foot to other homes sold in area and conclude on how to proceed	0.3
12/17/19	WJB	Saratoga Residence: Evaluate M King recommendations and comments on counteroffer, review G Smith e-mail request and prepare reply, review conditions to counteroffer and prepare reply counteroffer at \$750,000 and forward to SEC	0.7
12/18/19	WJB	Saratoga Residence: Consider what to do if offer for sale at \$750,000 is not accepted and prepare e-mail G Smith requesting interview dates for broker with L Smith	0.1
12/18/19	WJB	Saratoga Residence: Review C Barton reply on exchanges with buyer's broker and state of counteroffer	0.1
12/21/19	WJB	Saratoga Residence: Review revised offer contract from buyer and e-mail with G Smith terms for personal property taking personal property price off the top of contract and consider same	0.2
12/21/19	WJB	Saratoga Residence: Prepare reply e-mail G Smith regarding no personal property to be sold as part of real estate transaction and prepare e-mail real estate agent terms of counteroffer without personal property	0.1

33474 Brown, William J. as Receiver of McGinn,
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00002 Asset Disposition
March 11, 2020

Invoice Number 1004324

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/21/19	WJB	Saratoga Residence: Review further revised offer from buyer without personal property, prepare e-mail G Smith regarding acceptance of same, prepare e-mail real estate agent regarding same and prepare e-mail SEC regarding same	0.5
12/22/19	WJB	Saratoga Residence: Prepare e-mails to SEC and bank counsel requesting clearance for sale contract, providing same and pro forma closing statement, prepare e-mail closing attorney regarding same, review contract for final sign-off and e-mail G Smith regarding finalization of contract, closing date and closing arrangements, review terms of order for compliance	1.1
12/23/19	PCK	Review contract; Work on revisions to draft closing statement	0.4
12/24/19	WJB	Saratoga Residence: Review M King report on two other potential buyers rejecting residence and prepare reply regarding same and review D Stoelting sign-off on behalf of SEC regarding current \$750,000 offer	0.2
12/24/19	WJB	Saratoga Residence: Reconcile M Kornstein report on taxes paid including preparation of e-mail M Kinum regarding closing approvals are in place, real property taxes adjustment for reimbursement to lender and release of judgment with authority to proceed	0.4
12/30/19	WJB	Saratoga Residence: Prepare e-mail M Kinum regarding closing conditions and non-acceptance of extended delays	0.1
		CURRENT FEES	\$8,476.00
		TOTAL AMOUNT OF THIS INVOICE	\$8,476.00

PAYMENT DUE UPON RECEIPT

CATEGORY E

CASE ADMINISTRATION



Phillips Lytle LLP

Attorneys at Law
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William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 1004325
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00004
 W J Brown

Re: CASE ADMINISTRATION

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/17/19	WJB	Plan: Review and consider course of action on second distribution and other matters in light of approved Plan	0.1
07/30/19	WJB	Review status of investor distributions and prepare investor update regarding same and next steps for Receiver website	0.5
07/31/19	WJB	Review Court-approved Plan of Distribution for treatment of potential abandoned claims and consider how to proceed	0.7
07/31/19	WJB	Review Chambers rules regarding filing of motions, date and service of same and calculate same	0.2
07/31/19	WJB	Further review of authority to abandon assets and procedure for same	0.2
07/31/19	WJB	Prepare e-mail B Shea regarding distributions and agenda to calculate reserve for claim holdback	0.2
08/02/19	WJB	Review D Stoelting e-mail from SEC regarding status of case and prepare reply regarding timing of efforts to complete material wrap-up	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00004 Case Administration
March 11, 2020

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/14/19	WJB	Participate in conference call with D Stoelting, K McGrath of SEC regarding review of disputed claims, allowed claims, lost investors and remaining issues for wrap-up of Receivership and claims distribution, discussion of alternatives, analysis and course of action	0.8
08/14/19	WJB	Forward sample forms used by Receiver with respect to missing investors and IQ forms	0.1
08/20/19	K-K	(Allegretta) Docket return date of McNamee Lochner's motion to withdraw as counsel to Plaintiffs	0.2
08/27/19	WJB	Review D Stoelting e-mail to P Zindel regarding response concerning Allegretta FINRA arbitration	0.1
09/10/19	WJB	Plan: Prepare checklist of items to do for second distribution and wrap-up of Receivership	0.2
09/10/19	WJB	Plan: Continue work on Plan checklist for various unresolved claims and next steps regarding same	0.3
10/16/19	WJB	CMS Financial: Review October 11, 2019 report received from CMS Financial and consider implications	0.1
10/16/19	WJB	Review letter from M Reilly Esq. regarding Gargiulo Charitable Trust claim	0.1
10/16/19	WJB	Further review of CMS Financial status letter and prepare e-mail SEC regarding CMS Financial condition and report on prior collection of bridge loan notes and preferred equity dividends	0.4
10/16/19	K-K	Docket Five Star Bank maturity date	0.2
10/22/19	WJB	L Smith: Review status as to IRA, stock account, claim objection, judgments against L Smith and analysis and course of action	0.8

33474 Brown, William J. as Receiver of McGinn,
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/23/19	WJB	Review D Stoelting e-mail from SEC on L Smith brokerage account and prepare reply and research amount and timing of Pine Street proceeds paid to L Smith	0.3
10/23/19	WJB	Review D Stoelting e-mail regarding amount of monies in pot for distribution to creditors from Smith assets, consider same and prepare reply	0.2
10/23/19	WJB	Telephone call from D Stoelting at SEC regarding Pine Street and Kinderhook turnover orders	0.2
10/23/19	WJB	Analyze Smith Trust RMR stock account statement and send to D Stoelting with explanation for turnover order	0.3
10/23/19	WJB	Telephone call from J Siple regarding estate of father and how to obtain Letters Testamentary	0.1
10/23/19	WJB	Conference CNE on how to deal with three joint accounts of W Ferrero regarding distributions	0.1
10/23/19	WJB	Review draft Third Quarter 2019 SFAR, complete same and forward to SEC	0.3
10/23/19	WJB	Review D Stoelting e-mail from SEC regarding G Smith resignation as Trustee of Smith Trust, locate and same and prepare reply that same was effective as of end of 2016	0.2
10/23/19	WJB	Prepare e-mail CNE regarding motion and order in aid of administration regarding lost and incomplete investors	0.1
10/23/19	WJB	Prepare status update report to SEC on status of claim objections, Plan distribution and motion in aid of administration	0.5
10/23/19	WJB	Locate Smith Trust statements received from G Smith, review same and forward to D Stoelting at SEC	0.2
10/23/19	WJB	Prepare e-mail D Stoelting regarding preparing tax returns for Smith Trust	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/29/19	WJB	T McGinn: Review T McGinn life insurance payment notice, review options and forward to B Shea	0.1
10/30/19	WJB	Plan: Review and approve Fiftieth Payment Schedule and review files for same including revision to Penchansky letter for distribution	0.3
10/30/19	WJB	Plan: Review and approve Fifty-First Payment Schedule and review files for same	0.2
10/30/19	WJB	Review various bank account and financial institution account statements to provide to SEC at their request and prepare transmittal letter to D Stoelting and SEC regarding same	0.5
11/01/19	WJB	Review S Kramer letter to Judge Sharpe regarding Allegretta status and JAT Construction	0.1
11/12/19	WJB	Plan: Review, authorize and sign distribution checks 2761-2791 and distribute to investors	0.1
11/12/19	WJB	Plan: Verify distribution checks versus payment schedules	0.3
11/13/19	WJB	Conference staff regarding pending professional invoices and timing and preparation of fee applications	0.1
11/13/19	WJB	Prepare reply e-mail to W Dreyer regarding D Smith restitution amount per his request	0.2
11/19/19	WJB	Prepare Receiver website update with legal status and status of next distribution and pending motions	0.5
11/20/19	WJB	Revise website legal update regarding distributions and legal status and calculate amount on hand for inclusion in report	0.4
11/20/19	WJB	Revise website update in light of additional paper claims	0.1
11/20/19	WJB	Plan: Review Fifty-Second and Fifty-Third Payment Schedules, reconcile and approve same	0.2
11/20/19	K-K	Docket hearing date on Phillips Lytle and Chiampou fee application	0.2

33474 Brown, William J. as Receiver of McGinn,
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00004 Case Administration
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/26/19	WJB	Prepare list of additional accounts and research regarding same for appropriate turnover order to be submitted by SEC and gather bank statements regarding same	0.4
12/03/19	WJB	Plan: Review and sign distribution checks 2792-2809, review and approve distribution letter to investors and prepare e-mail B Shea regarding receipt	0.4
12/10/19	WJB	Review e-mail from A Guzzetti regarding IRA questions and prepare reply e-mail regarding IRA Services	0.2
12/10/19	WJB	Review S Froot e-mail and prepare reply	0.2
12/11/19	WJB	Plan: Review and approve Payment Schedules Fifty-Fourth and Fifty-Fifth including e-mail to S Kramer regarding inclusion of Allegrettas	0.2
12/12/19	WJB	Attend to issues with Receiver website being unavailable for investors and follow-up regarding same	0.1
12/17/19	WJB	Plan: Prepare e-mail B Shea acknowledging receipt of distribution Check Nos. 2810 through 2837, review, sign and distribute checks to investors with allowed claims	0.3
12/18/19	WJB	Review and handle F Chiappone final installment payment check regarding broker settlement, prepare letter acknowledging receipt and process same for deposit	0.1
CURRENT FEES			\$6,444.00

33474 Brown, William J. as Receiver of McGinn,
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FOR COSTS ADVANCED AND EXPENSES INCURRED:

Postage WJB - Postage to Various (8 pieces) - Re: Fee Applications	22.40
Duplicating A1, 44 Page(s)	4.40
Postage WJB - Postage to Various (8 pieces) - Re: Case Admin	21.20
	<hr/>
CURRENT EXPENSES	48.00

TOTAL AMOUNT OF THIS INVOICE \$6,492.00

PAYMENT DUE UPON RECEIPT

CATEGORY F

EMPLOYEE BENEFITS/PENSIONS



Phillips Lytle LLP

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 FED I.D. #16-0505790

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

Invoice Number 1004326
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00005
 W J Brown

Re: EMPLOYEE BENEFITS / PENSIONS

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/11/19	WJB	Prepare e-mail B Shea for T McGinn SSN and review Pension Works files for identification of assets for turnover	0.3
12/11/19	WJB	Prepare e-mail B Shea inquiring about inclusion of required minimum distributions and pension plan balances	0.1
12/11/19	WJB	Prepare e-mail reply to U.S. Bank internal counsel on turnover order intended from SEC	0.1
12/12/19	WJB	Prepare reply e-mail to A Allen at Pension Works regarding wind down process for 401K	0.1
		CURRENT FEES	\$306.00
		TOTAL AMOUNT OF THIS INVOICE	\$306.00

PAYMENT DUE UPON RECEIPT

CATEGORY P

TAX ISSUES



Phillips Lytle LLP

Attorneys at Law
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William J. Brown, Esq.
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 Buffalo, NY 14203

Invoice Number 1004327
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00015
 W J Brown

Re: TAX ISSUES

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/17/19	WJB	PrimeVision: Review relief penalty notices and file same for future reference	0.1
08/06/19	WJB	Review B Shea, S Curry e-mails on status of various TDM entity tax returns	0.1
08/14/19	WJB	Prepare e-mail to accountant regarding IRS notice regarding alleged unsigned tax returns	0.1
08/28/19	WJB	Prepare e-mail S Curry at Chiampou Travis regarding status of TDM tax returns due to potential Receiver liability	0.1
09/03/19	WJB	Review IRS form letter for receipt of May 15, 2019 letter with McGinn Smith Holdings LLC inquiry	0.1
09/10/19	WJB	Telephone conference call with Chiampou and B Shea regarding filing 2018 TDM Cable Funding NYS and IRS tax return and amending later, if needed	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00015 Tax Issues
March 11, 2020

Invoice Number 1004327

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/13/19	WJB	TDM Cable: Review TDM Cable 2018 NYS and IRS tax returns received from Chiampou Travis, telephone call to accountant regarding questions concerning same, sign and approve same	0.3
09/24/19	WJB	Review NYS administrative expense tax liability; Prepare e-mail Chiampou Travis asking for explanation	0.2
09/25/19	WJB	Review and sign four NYS Powers of Attorney for action on tax issues with NYS for Chiampou Travis and return same	0.2
10/01/19	WJB	Review NYS penalty for 2018 TDM Cable Funding LLC tax return and prepare e-mail Chiampou Travis requesting investigation and abatement of penalty because return timely filed	0.2
10/02/19	WJB	Review S Curry e-mail regarding TDM Cable Funding 2018 penalty and stay due to receivership; Prepare reply with explanation regarding applicable stay and need to deal with penalty	0.2
10/16/19	WJB	Review TDM 2018 IRS penalty notice and prepare e-mail Chiampou Travis for resolution and explanation	0.2
10/23/19	WJB	Review and reply on final tax returns as proposed by B Shea, review Trust expiration schedule and prepare reply e-mail regarding closing out tax returns as quickly as possible	0.3
10/24/19	WJB	Telephone conference with M Schaffstall and other Chiampou accountants, B Shea regarding TDM Cable Funding tax returns, questions regarding treatment of losses, potential impact upon owners and same not being of issue to Receiver, additional planning questions, analysis and course of action regarding completion and/or amendment of TDM Cable Funding federal and state tax returns	0.4
10/30/19	WJB	Prepare e-mail to Chiampou Travis confirming October 24 conference call regarding TDM tax returns obtaining relevant history and timing of filing final tax returns	0.2

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00015 Tax Issues
March 11, 2020

Invoice Number 1004327

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/30/19	WJB	Revise e-mail to Chaiampou Travis confirming October 24 conference call	0.1
11/12/19	WJB	Review, sign and file 2018 TDMM Benchmark Trust 09 IRS and NYS final income tax returns	0.4
11/12/19	WJB	Review, sign and file 2018 final TDM Verifier Trust 11 IRS and NYS income tax returns	0.4
11/12/19	WJB	Review B Shea proposed letter to Partners regarding final tax return filing and prepare e-mail B Shea with comments	0.2
11/19/19	WJB	Review IRS TDM Cable Funding LLC notice of intent to levy and research background regarding same	0.1
11/19/19	WJB	Prepare e-mail Chiampou Travis regarding TDM Cable Funding tax penalty and course of action	0.2
11/22/19	WJB	Review two draft letters from Chiampou to be sent to IRS and NYS regarding TDM Cable Funding and prepare reply e-mail to B Shea regarding same and e-mail to Chiampou regarding questioning whether returns were timely or not	0.2
11/26/19	WJB	Conference KEM regarding 401K taxes for Messrs. McGinn and Smith and possible strategies to defer or minimize same	0.2
11/26/19	KEM	Conference with WJB regarding 401(k) plans of McGinn and Smith	0.1
12/18/19	WJB	Review Chiampou Travis e-mail on TDM Cable Funding and Rogers ownership	0.1
		CURRENT FEES	\$2,421.50
		TOTAL AMOUNT OF THIS INVOICE	\$2,421.50

PAYMENT DUE UPON RECEIPT

CATEGORY R

WILLIAM J. BROWN, AS RECEIVER FUNCTION



Phillips Lytle LLP

Attorneys at Law
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William J. Brown, Esq.
 Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice Number 1004328
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00017
 W J Brown

Re: W.J. BROWN, AS RECEIVER FUNCTION

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/01/19	WJB	Five Star: Review F Hornung e-mail with new proposed rates for rollover investment, review B Shea e-mail and prepare reply, prepare e-mail F Hornung regarding selection of investment	0.3
07/03/19	WJB	Review M&T Distribution Account statement for June 2019 and forward to B Shea for reconciliation and posting	0.1
07/09/19	WJB	Review various bank statements including NYS Insurance Fund payroll report, Five Star Bank CDARS, Five Star Bank checking account, Kinderhook Bank savings and KeyBank and forward all to B Shea for reconciliation and posting	0.6
07/09/19	WJB	Telephone call from D Ayers regarding discussion of second distribution process	0.1
07/09/19	WJB	Review M&T Bank Securities statement and Alarm Traders statement and forward to B Shea for reconciliation and posting	0.1

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00017 W.J. Brown, as Receiver Function
March 11, 2020

Invoice Number 1004328

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/10/19	WJB	Review e-mail from B Shea regarding non-clearing for security reasons of two Gustafson distribution checks and look for contact information in claims distribution file in order to contact parties	0.2
07/10/19	WJB	Prepare letter to C Gustafson, K Taddeo and S Gustafson regarding request to redeposit two checks and offer to pay bank fees in connection with return of items	0.1
07/10/19	WJB	Telephone call from T Tabodea for Gustafson's regarding re-submission of checks	0.1
07/16/19	WJB	Review Five Star Bank new account notice for \$3,090,675 and forward to B Shea for reconciliation and posting and review two CDARS statements regarding reinvestment at maturity	0.2
07/17/19	WJB	Review Albany Times Union articles and consider information concerning McGinn Smith Receivership	0.2
07/17/19	WJB	Telephone call from J Burke regarding timing and discussion of second investor distribution	0.1
07/17/19	WJB	Review, approve and sign vendor checks and return to B Shea	0.2
07/18/19	WJB	Review M&T Bank letter and check from T McGinn account and prepare e-mail SEC regarding same and review response from D Stoelting	0.1
07/23/19	WJB	Telephone call from J Lawson regarding change of address procedure	0.1
07/23/19	WJB	Review National Life Insurance invoice for T McGinn life insurance policy and forward to B Shea	0.1
07/23/19	WJB	Review Kinderhook Bank checking account statement and forward to B Shea for reconciliation and posting	0.1
07/23/19	WJB	Review, revise and approve first and second quarter 2019 SFAR Reports and prepare draft e-mail to D Stoelting at SEC regarding same	0.4

33474 Brown, William J. as Receiver of McGinn,
Smith & Co., Inc., et al
00017 W.J. Brown, as Receiver Function
March 11, 2020

Invoice Number 1004328

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/23/19	WJB	Further review of second quarter 2019 SFAR Reports	0.2
07/24/19	WJB	Review B Shea weekly cash report	0.1
07/24/19	WJB	Review questions from D Stoelting at SEC regarding first and second quarter SFARs for 2019 and prepare reply e-mail including e-mail to B Shea regarding back-up for certain data	0.3
07/30/19	WJB	Review State Insurance Fund payroll report and forward to B Shea	0.1
07/30/19	WJB	Telephone call from A Bajwa regarding second distribution and claims process	0.2
07/30/19	WJB	Review e-mail with M Weinar with follow-up questions regarding claim	0.1
07/30/19	WJB	Retrieve data including numbers of amounts paid and other assets to provide to SEC	0.2
07/30/19	WJB	Prepare e-mail D Stoelting regarding upcoming motions	0.1
08/06/19	WJB	Review Order regarding T McGinn check from M&T turnover to SEC, prepare e-mail B Shea regarding account in which to make deposit, review reply and e-mail SEC regarding same	0.2
08/06/19	WJB	Review e-mail from Chiampou Travis regarding fee application signature and provide instructions on filing fee application	0.1
08/06/19	WJB	Review Chiampou Travis June 30, 2019 fee statement and forward to B Shea for review	0.1
08/06/19	WJB	Review two Community Bank account statements and forward to B Shea for reconciliation and posting	0.1
08/06/19	WJB	Review check details on T McGinn turnover account and deposit arrangements	0.1

33474 Brown, William J. as Receiver of McGinn,
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00017 W.J. Brown, as Receiver Function
March 11, 2020

Invoice Number 1004328

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
08/06/19	WJB	Review M&T Distribution Account statement for July 2019 and forward to B Shea for reconciliation and posting	0.1
08/06/19	WJB	Review M&T Alarm Traders account, Five Star CDARS account statement, NFS delivery of New Market Technology certificate and forward information to B Shea for reconciliation and posting	0.3
08/13/19	WJB	Review M&T Bank account analysis statement and forward to B Shea for reconciliation and posting	0.1
08/13/19	WJB	Review D Stoelting e-mail regarding Smith residence and claim objection discussion and reply to same	0.1
08/14/19	WJB	Review Diamond Storage monthly bill and attend to payment of same	0.1
08/14/19	WJB	Telephone call from R Marquardt regarding total claims distribution explanation	0.2
08/14/19	WJB	Telephone call from R Bove regarding collateral recovery and distribution rules	0.2
08/20/19	WJB	Prepare e-mail SEC regarding plan of approach regarding locating investor phone numbers	0.1
08/21/19	WJB	Review B Shea e-mail regarding investor phone numbers and prepare reply with process to further identify phone numbers and use of database and reply to same	0.2
08/27/19	WJB	Telephone call from K Connell regarding investor questions	0.1
09/03/19	WJB	Review M&T Distribution Account statement and forward to B Shea for reconciliation and posting	0.1
09/04/19	WJB	Outline tasks for calculating collateral recoveries and lost investor efforts	0.1
09/09/19	WJB	Review e-mail from J Hertzberg requesting information on second distribution, prepare reply incorporating July 30 announcement on Receiver's website	0.2

33474 Brown, William J. as Receiver of McGinn,
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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/09/19	WJB	Review follow-up e-mail from J Hertzberg on percentage of distribution amount, review calculations and provide response consistent with information provided to other investors	0.2
09/10/19	WJB	Review KeyBank statement, review Five Star CDARS statement and review M&T Bank Alarm Traders statement and forward to B Shea for reconciliation and approval	0.1
09/10/19	WJB	Prepare e-mail Suzanne at Chiampou Travis for detailed statement	0.1
09/10/19	WJB	Review two Community Bank statements, Five Star Bank statement, Dinosaur Security statement and send to B Shea for reconciliation and posting	0.1
09/11/19	WJB	Conference staff regarding noting claim files for potential abandonment motion	0.1
09/11/19	WJB	Prepare e-mail Chiampou Travis regarding timekeeping records	0.1
09/11/19	WJB	Review and consider preparation of handling of Phillips Lytle and Chiampou Travis fees for first and second quarter 2019	0.1
09/11/19	WJB	Review status, open issues and prepare lists of tasks to accomplish	0.4
09/12/19	WJB	Review draft letter to lost investors enclosing follow-up Information Request in attempt to locate lost investors prior to abandonment motion	0.2
09/12/19	WJB	Review, sign and send missing investor letter for locating missing investors	0.1
09/17/19	WJB	Review, approve and sign monthly checks and forward to B Shea	0.2
09/18/19	WJB	Review letter from G/C Van Glinow, review file for collateral recover evidence and prepare letter describing likely recovery at their request	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/19/19	WJB	Review and revise draft letter to lost investors making final effort with Information Questionnaires	0.1
09/20/19	WJB	Prepare e-mail B Shea with professional fee orders and arranging for payment	0.1
09/24/19	WJB	Prepare letter to KeyBank arranging for issuance of two official checks to pay profession firm claims approved by court	0.1
09/24/19	WJB	Review Five Star CDARS maturity notice and forward to B Shea	0.1
09/24/19	WJB	Attempts to call Dr. Michael Freshman and attempts to identify correct phone number; Review letter from D Dart and prepare reply letter regarding second distribution and acknowledge address change	0.3
09/24/19	WJB	Review McNamee Lochner letter regarding estate of M McGee and prepare letter requesting original Death Certificate	0.2
09/24/19	WJB	Review E Stuart claim file and review history and nature of non-Receivership investments	0.3
09/24/19	WJB	Review e-mail from L O'Brien Esq. regarding Dr. Weinar and forward to CNE for disposition of claim allowance and reporting on investment distributions	0.1
09/25/19	WJB	Prepare e-mail M&T on Treasury Bill rollover after reviewing interest rates and deciding on same	0.2
09/25/19	WJB	Prepare e-mail Five Star Bank on reinvestment of CDARS investment and discussions on interest rates	0.2
09/26/19	WJB	Telephone call from L Sullivan as Executor of Estate of K Glasgow regarding McGinn Smith status and request for review of claim	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
09/28/19	WJB	Review multiple e-mails from G Smith regarding information concerning objection to L Smith claim and emphasize need to receive documents supporting assertion that no monies were deposited after initiation of Ponzi Scheme	0.1
10/01/19	WJB	Review M&T Securities Treasury Bill rollover statement and forward to B Shea	0.1
10/01/19	WJB	Review letter from M Powers and prepare reply regarding status of Receivership	0.2
10/01/19	WJB	Review C Rogers SEI investment for Kavasseri Agneshwar and deal with same	0.2
10/01/19	WJB	Prepare letter Dr. M Freshman regarding contact phone number since phone number provided is not working	0.1
10/01/19	WJB	Telephone call from K Prior regarding J Prior, Proof of Claim and process and prepare Memo to File regarding claim	0.2
10/01/19	WJB	Five Star Bank: Prepare e-mail regarding requiring higher rate for renewal of CDARS investments	0.1
10/01/19	WJB	Telephone call from S Kelly of Harbour Trust regarding Gargiuko claims and need for Trust Agreement and prepare Memo to File regarding discussion	0.3
10/01/19	WJB	Review e-mail from F Hornung of Five Star Bank regarding rollover at higher rate and agreement regarding same	0.1
10/01/19	WJB	Telephone call from M Buturla regarding J&C Prior Power of Attorney and need for Drivers License with Power of Attorney	0.1
10/02/19	WJB	Review status of pending matters	0.1
10/02/19	WJB	Telephone call from K Connell regarding posting distribution on Friday and listen to voicemail message regarding same	0.1
10/02/19	WJB	Telephone call from G Cohen regarding B&N Cohen and how to complete IQ and distribution process	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/08/19	WJB	Review KeyBank, NFS, Dinosaur and M&T Securities statements and forward to B Shea for reconciliation and posting	0.1
10/08/19	WJB	Telephone call from J Powell regarding IQ received and questions on how to complete	0.1
10/08/19	WJB	Review Five Star Bank CDARS statement and M&T Alarm Traders statement and forward to B Shea for reconciliation and posting	0.1
10/10/19	WJB	Review pending professional invoices and assess same	0.3
10/10/19	WJB	Prepare response to R Macfarlan on status of Receivership	0.1
10/11/19	WJB	Review and sign distribution checks to investors	0.1
10/11/19	WJB	Telephone call from J Delaney regarding various questions concerning Plan of Distribution and status of Receivership	0.2
10/15/19	WJB	Review Five Star CDARS purchase confirmation and forward to B Shea for reconciliation and posting	0.1
10/15/19	WJB	Telephone A Digirolamo regarding how to complete Investor Questionnaire and IRA associated questions, review claims database	0.1
10/15/19	WJB	Review letter to M Reilly	0.1
10/15/19	WJB	Review letter to G Von Glinow	0.1
10/15/19	WJB	Review form FINRA letter	0.1
10/15/19	WJB	Telephone call from P Patel regarding status of Receivership and next steps	0.1
10/15/19	WJB	Telephone call from W Hajjar regarding claims and referral to CNE to call back	0.3

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/16/19	WJB	Review Albany Times Union photos of sentencing hearing received from newspaper and related facts, check on prison terms and consider impact	0.2
10/16/19	WJB	Revise letter draft prepared by CNE to paper claim investors regarding claim objection motion	0.2
10/21/19	WJB	Telephone call from Dr. Hajjar regarding follow-up questions on SAI Trust and ineligibility for distributions under Plan of Distribution and broker R Feldman	0.1
10/22/19	WJB	Review, approve and sign monthly checks and forward to B Shea	0.2
10/25/19	WJB	Review e-mail from SEC requesting copies of all financial institution statements, prepare reply regarding delivery date and organize task for same	0.1
10/25/19	WJB	Review draft SEC Order modifying asset freeze as to L Smith IRA, consider comments and prepare reply e-mail with understanding as to how turnover orders will be used	0.2
11/11/19	WJB	Telephone call from E Larsen regarding status and distribution questions, return phone call and discuss same	0.3
11/11/19	WJB	Review Community Bank two checking account statements and Five Star checking account statement	0.1
11/11/19	WJB	Review M&T Bank Alarm Traders statement	0.1
11/11/19	WJB	Review Chiampou Travis October 2019 invoice, review time entries including preparation of reply e-mail to Chiampou Travis regarding how to respond to any investor inquiries and prepare e-mail B Shea to review statement	0.3
11/12/19	WJB	Review, authorize and sign checks and return same to B Shea	0.1
11/12/19	WJB	Review M&T account analysis statement and Five Star statement and forward to B Shea	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/13/19	WJB	Conference CNE regarding A McGinn claim file and documentation needed	0.1
11/14/19	WJB	Review and e-mail B Shea M&T Bank distribution account statement for reconciliation and posting	0.1
11/19/19	WJB	Review issues surrounding D Smith retirement account for execution on same	0.1
11/20/19	WJB	Prepare reply e-mail to R DiLeonardis regarding website status posting	0.1
11/20/19	WJB	Consider how to deal with lost investors who call following receipt of motion and prepare form letter for same	0.2
11/20/19	WJB	Review e-mail from M Sokoler and prepare reply regarding lost investor motion process	0.2
11/20/19	WJB	Review and reply to G Smith on how to change L Smith registration in light of recent marriage	0.1
11/20/19	WJB	Prepare instructions and conference with CNE on how to deal with remaining paper claims	0.1
11/20/19	WJB	Review John Hancock 401K statement for D Smith	0.1
11/26/19	WJB	Telephone call from D Pietrafesa CPA for Dr. Michael Freshman regarding tax treatment of investment	0.1
11/26/19	WJB	Review John Hancock statements received from B Shea regarding Messrs. McGinn & Smith 401K strategy on levy	0.3
11/26/19	WJB	Review material received from C Richardson regarding process and address change	0.1
11/26/19	WJB	Return message to Dr. K Patel and prepare memo to file regarding same	0.1
11/26/19	WJB	Telephone call from Dr. Patel and answering questions and referring him to website as well	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/26/19	WJB	Review weekly cash report and prepare reply e-mail to B Shea regarding status of including recent KeyBank deposits from SEC turnover orders	0.2
11/27/19	WJB	Prepare reply e-mail to AMC regarding EDT retention	0.1
11/27/19	WJB	Telephone call from M Blank regarding R/G Blank claims	0.1
12/03/19	WJB	Review Hartford Insurance bill and prepare e-mail B Shea regarding confirming coverages	0.1
12/03/19	WJB	Review NYS Insurance Fund policy renewal and prepare letter B Shea regarding same	0.1
12/04/19	WJB	Review KeyBank and M&T Distribution Account statements and forward to B Shea for reconciliation and posting	0.2
12/10/19	WJB	Review New York State disability premium bill and send to B Shea	0.1
12/10/19	WJB	Saratoga Residence: Prepare reply e-mail to M King regarding no extension to Listing Agreement other than extending seven days for existing prospects	0.1
12/10/19	WJB	Review information request from J Belton, review database and send letter with Investor Questionnaires	0.1
12/10/19	WJB	Review Five Star Bank CDARS statement and review M&T monthly statement and forward to B Shea for reconciliation and posting	0.1
12/10/19	WJB	Review checks and payments received from B Shea, approve same and distribute checks	0.2
12/10/19	WJB	Review Dinosaur, Five Star Bank business checking, Community Bank money market and checking statements and forward to B Shea for reconciliation and posting	0.2
12/10/19	WJB	Review Chiampou Travis 11/30/19 statement and forward with e-mail on tax return status to B Shea	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/10/19	WJB	Review two checks received from National Financial Services, attempt to identify and prepare e-mail R Tyler at NFS regarding source of payments and whether related to accrued interest on L Smith stock account or related item	0.2
12/11/19	WJB	Review e-mail from M Sokoler and prepare reply regarding distribution amount and process	0.1
12/11/19	WJB	Revise B Shea e-mail to Pension Works regarding wind-up of 401K plan and forward to B Shea	0.2
12/11/19	WJB	Review assets requiring turnover order for submission to SEC	0.1
12/11/19	WJB	Review weekly cash report with increase for turnover orders	0.1
12/11/19	WJB	Review e-mails, attend to administrative details	0.3
12/17/19	WJB	Consider and review Five Star CDARS \$3.1 million renewal, compare rates offered by Five Star and e-mail F Hornung with rollover instructions	0.2
12/17/19	WJB	Conference with IT attorneys regarding data retention at PL of McGinn Smith e-mails	0.2
12/17/19	WJB	Conference D-L regarding McGinn Smith PST files for storage for McGinn Smith e-mails	0.1
12/17/19	WJB	Telephone call from R MacFarlan regarding accessing Receiver's website and necessity to clear cache	0.1
12/17/19	WJB	Review address change request from L McEvoy and P McEvoy, compare signatures and authorize same	0.1
12/18/19	WJB	Telephone call from D Puglisi regarding inability to access Receiver's website, walk through process for deleting cache, status and second distribution timing	0.3
12/18/19	WJB	Review South Street Securities Holdings (fka CMET), 2013 redemption and locate materials and file same	0.2

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
12/24/19	WJB	Review Five Star Bank maturity date notice for \$3.1 million CDARS and forward to B Shea	0.1
12/24/19	WJB	Prepare reply e-mail to J Corrangelo regarding Keebler claim and process regarding Death Certificate and Letters Testamentary	0.2
12/30/19	WJB	Review checks, approve same and return to B Shea	0.1
12/30/19	WJB	Attend to obtaining KeyBank checks for payment of year-end bills including withdrawal of money at bank and distribution letters regarding same	0.7

CURRENT FEES

\$11,775.00

TOTAL AMOUNT OF THIS INVOICE

\$11,775.00

PAYMENT DUE UPON RECEIPT

CATEGORY S

SEC vs. MCGINN SMITH & Co., INC., ET AL.



Phillips Lytle LLP

Attorneys at Law
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 125 Main Street
 Buffalo, NY 14203-2887
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 (716) 847-8400
 FED I.D. #16-0505790

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

Invoice Number 1004329
 Invoice Date 03/11/20
 Client Number 33474
 Matter Number 00018
 W J Brown

Re: SEC V MCGINN SMITH & CO., INC., ET AL

FOR PROFESSIONAL SERVICES RENDERED THROUGH DECEMBER 31, 2019:

<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
07/30/19	K-K	Docket response deadline to SEC's turnover motion	0.2
09/11/19	K-K	Docket deadline to appeal Order denying exemption as to D. Smith's 401K assets	0.2
09/17/19	WJB	Consider appeal period regarding D Smith 401K decision and next steps and prepare e-mail SEC regarding same	0.2
10/07/19	K-K	Docket hearing date on motion to modify asset freeze to allow release of certain property	0.2
10/08/19	WJB	Lynn Smith IRA: Prepare e-mail G Smith for copy of L Smith IRA statement in connection with L Smith motion for release of IRA	0.2
10/08/19	WJB	Lynn Smith IRA: Review G Smith reply regarding IRA statement and questions regarding judgment proof and prepare reply explaining same	0.2
10/08/19	WJB	Lynn Smith IRA: Prepare follow-up e-mail to G Smith requesting IRA statement	0.1

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
10/08/19	WJB	Lynn Smith IRA: Prepare e-mail SEC on status of receipt of L Smith IRA statement and reasons for same	0.1
10/23/19	WJB	Outline terms of lost and incomplete investor motion for transfer of funds to distribution to other creditors, identify legal and practical issues in outline of motion and prepare e-mail CNE regarding same	0.4
10/24/19	CNE	Begin drafting motion to expunge abandoned claims; Confer with KML5 regarding preparation of exhibits to abandoned claims motion; Review and dispose of claim numbers 4757-64, 6364-6368, 5663-5665, 4648, 6494-6498	4.5
10/25/19	CNE	Draft abandoned claims motion	2.9
10/27/19	CNE	Draft abandoned claims motion	1.5
10/28/19	CNE	Draft abandoned claims motion	0.7
10/29/19	WJB	Review Docket entry 1080 for SEC letter and proposed consent order regarding L Smith IRA	0.2
10/29/19	WJB	Review Complete Home Care claim assertion and lost investor motion concepts	0.2
10/29/19	CNE	Confer with WJB regarding investor files and draft abandoned claims motion; Work on draft abandoned claims motion	3.5
10/30/19	WJB	Review Clerk text notice regarding returned mail and prepare e-mail G Smith for correct address for L Smith	0.1
10/30/19	WJB	Review text order on Rabinovich response to claim objection and scheduling of timing by Court	0.1
10/30/19	WJB	Conference CNE regarding questions and issues on lost and incomplete investor motion	0.2
10/31/19	WJB	Prepare initial comments to motion dealing with lost and incomplete investors and forward same to CNE with comments	1.0

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<u>Date</u>	<u>Tkpr</u>		<u>Hours</u>
11/01/19	WJB	Review SEC draft turnover order for L Smith stock account and Smith Trust, prepare reply with comments to SEC	0.3
11/03/19	WJB	Review and prepare comments to motion for abandoned claims	0.6
11/13/19	WJB	Review revised version of Memorandum of Law for abandoned and lost investor claims for motion in aid of administration	0.8
11/20/19	WJB	Conduct research for W Dreyer, Esq. on restitution payments involving D Smith in response to his request and prepare follow-up e-mail regarding payment of \$5,828,692 through date certain	0.3
12/11/19	WJB	Review B Tyler e-mail on source of NFS checks and deposits, prepare e-mail B Shea on where to deposit	0.1
12/11/19	WJB	Finalize e-mail to SEC with schedule of accounts requiring turnover orders with detailed information on accounts	0.5
		CURRENT FEES	\$6,101.00
		TOTAL AMOUNT OF THIS INVOICE	\$6,101.00

PAYMENT DUE UPON RECEIPT

Exhibit C

WILLIAM J. BROWN, ESQ
RECEIVER

PHILLIPS LYTTLE LLP
125 MAIN STREET
BUFFALO, NY 14203
PHONE 716 847 7089

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL DISTRIBUTION FUND

MCGINN, SMITH & CO. INC. ET. AL.
CIVIL COURT DOCKET No.
10-CV-457(GLS/CFH)

REPORTING PERIOD 7/1/2019 TO 9/30/2019

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
Reporting Period 7/1/19 to 9/30/19

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 6/30/2019):	15,135,721	15,135,721	15,135,721
	<i>Increases in Fund Balance:</i>			
Line 2	Business Income		-	-
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income	62,099	62,099	62,099
Line 5	Business Asset Liquidation		-	-
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	9,501	9,501	9,501
Line 8	Miscellaneous - Other		-	-
	Total Funds Available (Lines 1 – 8):	71,600	71,600	71,600
	<i>Decreases in Fund Balance:</i>			
Line 9	Disbursements to Investors	9,771	9,771	9,771
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	95,473	95,473	95,473
Line 10b	Business Asset Expenses	15,837	15,837	15,837
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	<i>Total Third-Party Litigation Expenses</i>			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	Total Disbursements for Receivership Operations	111,310	111,310	111,310
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	<i>Distribution Plan Development Expenses:</i>			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<i>Total Plan Development Expenses</i>			
Line 11b	<i>Distribution Plan Implementation Expenses:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	<i>Total Plan Implementation Expenses</i>			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 – 11):			
Line 13	Ending Balance (As of 9/30/2019):			15,086,240

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
Reporting Period 7/1/19 to 9/30/19

Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund – Net Assets			\$ 15,086,240

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
	Report of Items NOT To Be Paid by the Fund:			
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	<i>Plan Development Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<i>Total Plan Development Expenses Not Paid by the Fund</i>			
Line 15b	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	<i>Total Plan Implementation Expenses Not Paid by the Fund</i>			
Line 15c	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	<i>Investment Expenses/CRIS Fees</i>			
Line 16b	<i>Federal Tax Payments</i>			
	Total Disbursements to Court/Other Not Paid by the Fund:			
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period.....			
Line 18b	# of Claims Received Since Inception of Fund.....			2,781
Line 19	No. of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period.....			3
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			1,854

Receiver: _____
 By: William J. Brown, Receiver
 (signature)
William J. Brown
 (printed name)
Receiver
 (title)
 Date: 10/23/19

WILLIAM J. BROWN, ESQ
RECEIVER

PHILLIPS LYTTLE LLP
125 MAIN STREET
BUFFALO, NY 14203
PHONE 716 847 7089

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL DISTRIBUTION FUND

MCGINN, SMITH & CO. INC. ET. AL.
CIVIL COURT DOCKET No.
10-CV-457(GLS/CFH)

REPORTING PERIOD 10/1/2019 TO 12/31/2019

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis
 Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)
 Reporting Period 10/1/19 to 12/31/19

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 9/30/2019):	15,086,240	15,086,240	15,086,240
	Increases in Fund Balance:			
Line 2	Business Income		-	-
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income	56,448	56,448	56,448
Line 5	Business Asset Liquidation		-	-
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	808,357	808,357	808,357
Line 8	Miscellaneous - Other		-	-
	Total Funds Available (Lines 1 – 8):	864,805	864,805	864,805
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors	279,732	279,732	279,732
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	75,057	75,057	75,057
Line 10b	Business Asset Expenses	16,083	16,083	16,083
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	Total Disbursements for Receivership Operations	91,140	91,140	91,140
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 – 11):			
Line 13	Ending Balance (As of 12/31/2019):			15,580,173

STANDARDIZED FUND ACCOUNTING REPORT for McGinn, Smith Co. Co. Et. Al. - Cash Basis

Receivership; Civil Court Docket No. 10-CV-457(GLS/CFH)

Reporting Period 10/1/19 to 12/31/19

Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund – Net Assets			\$ 15,580,173

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
	Report of Items NOT To Be Paid by the Fund:			
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	<i>Plan Development Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<i>Total Plan Development Expenses Not Paid by the Fund</i>			
Line 15b	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	<i>Total Plan Implementation Expenses Not Paid by the Fund</i>			
Line 15c	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	<i>Investment Expenses/CRIS Fees</i>			
Line 16b	<i>Federal Tax Payments</i>			
	Total Disbursements to Court/Other Not Paid by the Fund:			
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period.....			
Line 18b	# of Claims Received Since Inception of Fund..... 2,781			
Line 19	No. of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period..... 95			
Line 19b	# of Claimants/Investors Paid Since Inception of Fund..... 1,949			

Receiver:

By: William J. Brown, Receiver
(signature)

William J. Brown
(printed name)

Receiver
(title)

Date: January 21, 2020

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
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 FOURTEENTH INTERIM APPLICATION OF
PHILLIPS LYTLE LLP AND THE RECEIVER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Upon the Fourteenth Interim Application of Phillips Lytle LLP (“Phillips Lytle”) and the Receiver (“Receiver”) for Allowance of Compensation and Reimbursement of Expenses dated March 13, 2020 (“Application”) for an order approving the allowance of compensation and reimbursement of expenses; and notice of the Application having been given to the

Securities and Exchange Commission and all parties who have filed a Notice of Appearance in this action 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 determined that sufficient cause exists; it is therefore

ORDERED, that the Application is approved such that (i) compensation for legal and Receiver services rendered between July 1, 2019 and December 31, 2019 ("Fourteenth Interim Period") in the amount of \$107,863.39 is allowed as an interim allowance, and (ii) reimbursement of expenses advanced by Phillips Lytle during the Fourteenth Interim Period in the amount of \$1,068.53 is allowed as an interim disbursement payment; and it is further

ORDERED, that the Receiver is authorized and directed to pay the amounts as allowed pursuant to this Order.

Dated: _____, 2020

HON. CHRISTIAN F. HUMMEL

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF NEW YORK

-----X
 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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CERTIFICATE OF SERVICE

I, Karen M. Ludlow, being at all times over 18 years of age, hereby certify that on March 13, 2020, a true and correct copy of the Notice and Fourteenth Interim Application of Phillips Lytle LLP and the Receiver for Allowance of Compensation and Reimbursement of Expenses (“Fourteenth Interim Application”) was caused to be served by e-mail upon all parties who receive electronic notice in this case pursuant to the Court’s ECF filing system, and by First Class Mail to the parties indicated below:

- **William J. Brown** wbrown@phillipslytle.com, khatch@phillipslytle.com
- **Certain McGinn Smith Investors** apark@weirpartners.com
- **Elizabeth C. Coombe** elizabeth.c.coombe@usdoj.gov, paul.condon@usdoj.gov, CaseView.ECF@usdoj.gov, kelly.ciccarelli@usdoj.gov
- **William J. Dreyer** wdreyer@dreyerboyajian.com, bhill@dreyerboyajian.com, lowens@dreyerboyajian.com, coconnell@dreyerboyajian.com

- **Scott J. Ely** sely@elylawpllc.com,shm@fwc-law.com
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- **Walter Weir** wweir@weirpartners.com,smorris@weirpartners.com
- **Bryan M. Westhoff** bryan.westhoff@kayescholer.com
- **Benjamin Zelsermyer** bzlaw@optonline.net,steincav@aol.com

And, I hereby certify that on March 13, 2020, I mailed, via first class mail using the United States Postal Service, a copy of the Fourteenth Interim Application to the individuals listed below:

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Albany, NY 12203

Charles C. Swanekamp, Esq.
Bond, Schoeneck & King PLLC
Avant Building - Suite 900
200 Delaware Avenue
Buffalo, NY 14202-2107

Dated: March 13, 2020

/s/ Karen M. Ludlow
Karen M. Ludlow