

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

*Plaintiff,* :

vs. :

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

McGINN, SMITH & CO., INC., :  
McGINN, SMITH ADVISORS, LLC :  
McGINN, SMITH CAPITAL HOLDINGS CORP., :  
FIRST ADVISORY INCOME NOTES, LLC, :  
FIRST EXCELSIOR INCOME NOTES, LLC, :  
FIRST INDEPENDENT INCOME NOTES, LLC, :  
THIRD ALBANY INCOME NOTES, LLC, :  
TIMOTHY M. McGINN, AND :  
DAVID L. SMITH, GEOFFREY R. SMITH, :  
Individually and as Trustee of the David L. and :  
Lynn A. Smith Irrevocable Trust U/A 8/04/04, :  
LAUREN T. SMITH, and NANCY McGINN, :

*Defendants,* :

LYNN A. SMITH and :  
NANCY McGINN, :

*Relief Defendants. and* :

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

*Intervenor.* :

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**NOTICE OF FILING OF FIRST SUPPLEMENTAL LIST OF ABANDONED AND  
EXPUNGED CLAIMS**

PLEASE TAKE NOTICE that pursuant to the Order Approving Motion of William J. Brown, as Receiver, for Order in Aid of Administration (A) Approving Procedure for Notice and Abandonment of Claims of Lost Investors and Investors with Incomplete Claim Files, (B) Approving Redistribution of Allocated Recoveries to Receivership Estate for Benefit of

Investors with Allowed Claims, (C) Expunging Abandoned Claims and Incomplete Claims, and (D) Disallowing Certain Remaining Paper Claims dated July 7, 2020 (Docket No. 1128) (“Order”),<sup>1</sup> the Receiver filed the initial Abandoned Claims List on August 12, 2020 (Docket No. 1143); and

PLEASE TAKE FURTHER NOTICE that pursuant to the Order, the Receiver has the right to supplement the Abandoned Claims List should investors who initially responded to the Final Notice Procedure fail after at least one follow-up attempt by the Receiver to properly complete the documentation necessary to allow the Receiver to make a distribution to such investors; and

PLEASE TAKE FURTHER NOTICE that on or about August 11, 2020, the Receiver sent to twenty-two investors who submitted a completed Information Questionnaire or otherwise contacted the Receiver regarding their claim(s) a letter (“Follow-up Notice”) informing those investors that they had not submitted the properly completed documentation required by the Receiver to make a distribution on account of their claim(s); and

PLEASE TAKE FURTHER NOTICE that, as of the date hereof, fourteen investors have not responded to the Follow-up Notice and/or have not submitted the properly completed documentation required by the Receiver to make a distribution on account of their claim(s); and

PLEASE TAKE FURTHER NOTICE that the Receiver has now filed the first supplemental list of investors owning Abandoned Claims on the attached Schedule 1, which shall constitute the Abandoned Claims List; and

PLEASE TAKE FURTHER NOTICE that the Abandoned Claims owned by the investors listed on the Abandoned Claims List are deemed struck and expunged subject to the rights of the Receiver to further supplement the Abandoned Claims List in accordance with the terms of the Order or as otherwise permitted by the Court.

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<sup>1</sup> All capitalized terms used but not defined herein shall have the meaning assigned to them in the Order.

Dated: September 30, 2020

PHILLIPS LYTTLE LLP

By           /s/ Catherine N. Eisenhut            
          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

Doc #9118600.4

**SCHEDULE 1**

**Abandoned Claims List Filed Aug. 12, 2020**

Kavaserry S. Agneshwar	Cameron Goode
Kavasseri Agneshwar	Marie Goulden
Elizabeth Z. Atkinson	Mark Greenberg
Sadie Bann	Pamela Harris
Mark C. & Kim A. Barabas	Matthew Henderson
Carroll S. & Patricia D. Barton	Samuel Hood
Patricia Barton	Marvin Huyck
Leland P. Beebe Trust VA DTD	Stanley Ingalls
Margaret Bosley Tr.	Olga Irwin
Michael Boyle	Dona Lisa Johnson
Millard Brown	Dorothy Joly
Barry Butler	Deborah Jones-Taylor
C.T.W. Fund, Inc., Atn: Wm. E. Moore	Molly Kantor
A. Peter & Susan Calusic	Grace Karian
Peter Cheese	Richard King
Robert K. & Dorothy Collins JTWROS	Claude Lataillade
Barbara Butler & William & Timothy Conway	Claude & Vicki Lataillade
Ralph D'Abbraccio	Vicki Lataillade
Kenneth Dale	Carmen Lefebvre
Kenneth H. & Mary S. Dale	Bernard Lieberman
Mary Dale	Janice Londino
Mary Dean	Paul & Arlee Maier
John Desimony	Kenneth Male
John & Marilyn Desimony JTWROS	Thomas Mallon
James Didham	J. Howard McIsaac
Robert Dorfman	Elizabeth A. McCullough
Henry Doyle	John J. McLaughlin
Mary Doyle	Robert C. Mead
Maude Harnden Dunlap Trust,	Medical Imaging of Lehigh Valley PC
Christopher G. Gray TTEE	John Meriwether
Wayne Dyer	John Mesko
Wayne R. Dyer	Rita Meyers Trust
Lillian F. Eagan	Diane Morrone
ENERGY Insurance Brokers	Diane Morrone C/F Gianna Vassallu
Family Ear Nose & Throat Services PLC	North American Globex Fund
Griselda Gadsby	Ruth Peck
Adrian Gonyea	Dr. Jeffrey Perkins
	Mark Phelps

Orlando Pozzuoli  
Madeline Renteria  
Grace M. & Warren Reynolds JTWROS  
Roberti Associates Global, LLC  
Bryce Romer  
John A. Ruch  
Jason Salgado  
Paul Sealock  
Dorothy Seaman  
Kiran & Prajakta Shah  
Raymond James Assoc fbo  
AlexanderSinclair  
David A. & Martha Burton Smith  
Sally C. Stout  
James F. Thomas  
Thomas C. Sullivan, MD Inc.  
Kate Thursby  
Linda Trigoboff  
Onecepora Vaflor  
Joyce Vanderzee  
Betty Varsoke  
Christopher Vassalluzzo  
Sophie Weinback Tr.  
Richard S. & Margaret R. Williams  
Helen K. Windbiel  
Gretchen Wright  
James Yeager  
J. Michael Young  
Zapletucker, LLC  
Brommel Resources Ltd.  
Emily Cohen  
Norman Cohen  
Complete Home Care  
Kenneth W. & Karie A. Deming  
Elizabeth Duke Estate, Barbara  
Reppenhagen, Executrix  
Estate of Mary T. Mary McDowell  
Northeastern Subcontractors  
Association Inc.  
Janette Powell  
Nancy Prescott  
Timothy Radice

Jill F. Sack  
John Scarzafava, Esq.  
Richard Spera  
Joseph Stanzione  
Toltec Research Ltd.

**Supplement to Abandoned Claims List**

Richard Arpino  
Alfred Bloom  
Trust UW Alfred J. Bloom, Article Sixth  
fbo Nancy B. Crucetti, Nancy B.  
Crucetti and Margaret Bloom,  
Co-TTEES  
Gerald Canuso  
Eugene W. Gage  
James & Diana L. Gargiulo  
James V. & Frances Gargiulo  
Arthur J. Hannan Estate, Timothy M.  
McGinn, Executor  
John J. Klein  
Harold Morgan  
George Palmer  
John A. Ruch  
Ruth E. Wikert Ttee  
Smith Family Trust