

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee,

vs.

McGINN, SMITH & CO., INC.,
McGINN, SMITH ADVISORS, LLC,
McGINN, SMITH CAPITAL HOLDINGS CORP.,
FIRST ADVISORY INCOME NOTES, LLC,
FIRST EXCELSIOR INCOME NOTES, LLC
FIRST INDEPENDENT INCOME NOTES, LLC,
THIRD ALBANY INCOME NOTES, LLC,
TIMOTHY M. McGINN, AND DAVID L. SMITH,
LYNN A. SMITH, NANCY McGINN,

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

NOTICE OF APPEAL

Defendants,

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

Defendants-Appellants,

LYNN A. SMITH and NANCY McGINN,

Relief Defendants,

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

Intervenor.

Notice is given that Defendant/Intervenor-Appellant, Geoffrey R. Smith, successor trustee of the David L. and Lynn A. Smith Irrevocable Trust U/A 8/04/04 and its beneficiaries, Geoffrey R. Smith and Lauren T. Smith, hereby appeals to the United States Court of Appeals for the Second Circuit from that part of the Order of the District

Court, Northern District of New York, U.S. Magistrate David R. Homer entered in this action on the 20th day of July 2011, granting the Court-appointed Receiver for the McGinn-Smith properties sole authority to sell or rent the Trust's real property as a consequence of the Relief Defendant/Defendant's inability to satisfy the terms of the Order by September 1, 2011.

DATED: September 14, 2011

Featherstonhaugh, Wiley & Clyne, LLP

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Trust U/A 8/04/04, and
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