

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Hearing on Motion for Preliminary Injunction
Thursday, June 10, 2010 at 9:15 AM**

SECURITIES AND EXCHANGE COMMISSION
Plaintiff,

vs.

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

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

**CR: Bonnie Buckley
CRD: Cindy Mezoff**

Appearances:

**David P. Stoelting
Kevin P. McGrath
Lara Mehraban**

Securities and Exchange Commission

Michael Koenig

**Timothy M. McGinn
David Smith**

James Featherstonhaugh

Lynn A. Smith

Jill A. Dunn

**David M. Wojeski
as Trustee of David L.
and Lynn A. Smith
Irrevocable Trust U/A
8/04/04**

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9:15 AM: McQuade testimony resumes. James Featherstonhaugh questions witness.

9:27 AM: Cross-Examination- Jill Dunn

9:29 AM: Re-Direct- David Stoelting

Judge Homer asks a few questions of witness.

9:30 AM: WITNESS FOR PLAINTIFF
Timothy R. Welles

Direct Examination by Kevin McGrath

9:40 AM: Cross-Examination- James Featherstonhaugh

10:12 AM: Cross-Exam - Jill Dunn

10:25 AM: Kevin McGrath- Re-Direct.

10:28 AM: Cross-Exam - James Featherstonhaugh

10:30 AM: Recess for 15 minutes.

10:47 AM: WITNESS FOR PLAINTIFF
LYNN A. SMITH

Direct-Examination- Stoelting

Witness is shown p-72

12:52 PM: Recess until 2

2:03 PM: Court meets. Smith testimony continues.

3:04 PM: Cross-Exam - Jill Dunn
shows witness intervenor exhibit 7

3:20 PM: Re-Direct Exam- David Stoelting

3:42 PM: Re-Cross Exam - Jill Dunn
Plaintiff rests

3:45 PM: Recess for 15 min

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SEC vs McGinn

4:00 PM: Court meets

WITNESS FOR DEFENDANT LYNN SMITH
JOHN D'ALEO

Direct Exam James Featherstonhaugh

4:45 PM: Direct Exam- Jill Dunn

5:17 PM: Recess until 10:15 PM tomorrow.