

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 FOURTEENTH INTERIM APPLICATION OF
CHIAMPOU TRAVIS BESAW & KERSHNER LLP
FOR APPROVAL OF FEES**

PLEASE TAKE NOTICE that upon the Fourteenth Interim Application of

Chiampou Travis Besaw & Kershner LLP (“Chiampou”) for Approval of Fees (“Application”),

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

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Plaintiff,

vs.

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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.

-----X

**FOURTEENTH INTERIM APPLICATION OF CHIAMPOU TRAVIS BESAW
& KERSHNER LLP FOR APPROVAL OF FEES**

Chiampou Travis Besaw & Kershner LLP (“Chiampou”), accountants for William J. Brown, as Receiver, submits this application (“Application”) for an order approving interim fees pursuant to Section XIV of this Court’s Preliminary Injunction Order (Docket No. 96) for the five-month period from October 1, 2020 through February 28, 2021 (“Application Period”). In support of this Application, Chiampou respectfully represents:

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), and the Preliminary Injunction Order was entered on July 22, 2010 appointing William J. Brown as the permanent Receiver.

2. Prior to the Petition Date, Chiampou did not provide accounting or tax services to McGinn Smith. Chiampou was selected by the Receiver following due diligence and interviews with several accounting and tax preparation firms.

3. Based on Chiampou’s expertise and the Declaration of Michael Schaffstall dated April 7, 2021, 2020, a copy of which is attached to this Application as **Exhibit A**, Chiampou was retained by the Receiver to provide primarily tax but also some minimal accounting and consulting services on behalf of the Receiver.

4. Specifically, Chiampou was retained to prepare the necessary tax and information returns needed to be filed by the Receivership which included not only pre-receivership periods for which no returns had been filed but also all post-Receivership periods.

5. Chiampou commenced its post-petition services to the Receiver in May 2010 in connection with advice on accounting and bank account procedures. During the Application Period, Chiampou has worked preparing the annual 2020 tax returns. Chiampou has also prepared notice responses for various entities and completed research regarding the filing of final returns for various entities. During the Application Period, Chiampou has prepared 2 federal and 13 state returns.

6. All services for which compensation is sought herein were rendered by Chiampou to the Receiver solely in connection with this action and not on behalf of the creditors, individual equity holders or other person.

7. Prior to the filing of this Application, Chiampou made thirteen interim applications for compensation and expense reimbursement for professional services provided in

conjunction with services provided to the Receiver in the above referenced action. Orders were entered on May 16, 2011 approving the first interim fee application of Chiampou in the amount of \$56,949.02, on December 27, 2011 approving the second interim fee application of Chiampou in the amount of \$29,885.37, on August 22, 2012 approving the third interim fee application of Chiampou in the amount of \$57,339.23, on October 2, 2013 approving the fourth interim fee application of Chiampou in the amount of \$70,351.23, on January 5, 2016 approving the fifth interim fee application of Chiampou in the amount of \$109,947.90, on November 28, 2016 approving the sixth interim fee application of Chiampou in the amount of \$16,828.39, on September 21, 2017 approving the seventh interim fee application of Chiampou in the amount of \$16,086.03, on October 2, 2018 approving the eighth interim fee application of Chiampou in the amount of \$541.20, on September 20, 2019 approving the ninth interim fee application of Chiampou in the amount of \$37,661.63, on December 30, 2019 approving the tenth interim fee application of Chiampou in the amount of \$22,385.51, on April 21, 2020 approving the eleventh interim fee application of Chiampou in the amount of \$17,505.26, on August 21, 2020 approving the twelfth interim fee application of Chiampou in the amount of \$27,364.55, and on December 17, 2020 approving the thirteenth interim fee application of Chiampou in the amount of \$514.

8. During the Application Period, Chiampou received no payment or promises for payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with this action, and there is no agreement or understanding between Chiampou and any other person, other than members of the firm, for the sharing of compensation to be received for services rendered in this action.

9. Chiampou performed its responsibilities in a cost-effective manner commensurate with providing the high quality professional advice required by the Receiver.

10. Chiampou's professional fees and expenses are broken down into monthly invoices summarized as follows and which are set forth by day, professional, and task as evidenced in attached **Exhibit B**.

<u><i>Period Covered</i></u>	<u><i>Amount</i></u>
10/01/20 - 10/31/20	\$1,068.00
11//01/20 - 11/30/20	\$2,182.00
12/01/20 - 12/31/20	\$3,346.80
01/01/21 - 01/31/21	\$3,020.00
02/01/21 - 02/28/21	\$9,013.26
TOTAL	<u><i>\$18,630.06</i></u>

11. Chiampou maintains records of the time expended by person as well as the actual out-of-pocket expenses incurred. Chiampou prepared and rendered this fee application describing activities performed by day by professional.

12. Upon Chiampou's knowledge and belief, the compensation sought for approval herein is commensurate with the customary compensation charged by comparably skilled accountants . The hourly fees charged to clients are dependent upon the experience of the individuals assigned to the engagement.

13. The amounts requested by Chiampou are fair and reasonable given:
(a) the complexity of the matters; (b) the actual time expended; (c) the nature and extent of services rendered; and (d) the value of such services.

14. Chiampou believes this request for compensation is justified given the complexity of this case and the commensurate value of Chiampou's professional fees for the Application Period. Phillips Lytle has provided the SEC with a copy of this Application. Following its pre-filing review of this Application, the SEC has notified Phillips Lytle and the Receiver that the SEC has no objection to the amounts sought by Chiampou pursuant to this Application.

15. Chiampou accordingly makes this Application to the Court for compensation.

NOTICE

16. 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. The Receiver submits that no other or further notice need be given.

WHEREFORE, Chiampou respectfully requests compensation of \$18,630.06 for fees during the Application Period, and for such other and further relief as is proper.

Dated: April 7, 2021

CHIAMPOU TRAVIS BESAW & KERSHNER LLP

By /s/ Michael Schaffstall

Michael Schaffstall
45 Bryant Woods North
Amherst, New York 14228
Telephone No. (716) 630-2400

Dated: April 7, 2021

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

Doc #9525442.1

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

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LAUREN T. SMITH, and NANCY McGINN, :

Defendants, :

LYNN A. SMITH and :
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Relief Defendants. and :

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

Intervenor. :

-----X

**DECLARATION OF MICHAEL SCHAFFSTALL IN SUPPORT OF FOURTEENTH
INTERIM APPLICATION OF CHIAMPOU TRAVIS BESAW & KERSHNER LLP
FOR ALLOWANCE OF COMPENSATION**

Pursuant to 28 U.S.C. § 1746, Michael Schaffstall declares, under penalty of
perjury, as follows:

1. I am a partner with the accounting and consulting firm of Chiampou Travis Besaw & Kershner LLP (“Chiampou”).
2. I make this declaration in support of the Fourteenth Interim Application of Chiampou for Allowance of Compensation (“Application”) in connection with Chiampou’s services for the Receiver in this action.
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 Chiampou in connection with the Application are those which were customarily charged by Chiampou 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.
5. The compensation and reimbursement of expenses (“Interim Compensation”) for which allowance is sought by Chiampou is reasonable and is sought for actual and necessary services rendered by Chiampou, together with actual and necessary expenses advanced by Chiampou, on behalf of the Receivership entities.
6. The Interim Compensation sought by Chiampou 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. Chiampou believes it is entitled to Interim Compensation based on the considerable expenditures of Chiampou’s resources incurred since the onset of its engagement.
8. Chiampou has no agreement with any other person or entity for the sharing of compensation to be received for accounting or other services rendered in this action,

except as such compensation may be shared by and among the accountants and consultants of Chiampou.

9. Chiampou respectfully requests that this Court authorize the allowance of the Interim Compensation sought pursuant to the Application in the amount of \$18,630.06.

Dated: April 7, 2021

/s/ Michael Schaffstall

Michael Schaffstall

Doc #9525445.1

Exhibit B

McGinn Smith - WIP Detail - 10/01/2020 - 10/31/2020

	Date		Hours	Billing Price	Billing Price Total
Phillips Lytle					
	10/5/2020	Call with Mike Schaffstall to discuss 2008 IRS notice for PrimeVision Communications of Keys. Call with collections agency to discuss steps for abatement request.	0.50	160.00	80.00
	10/13/2020	Preparing Power of Attorneys for PrimeVision entities related to IRS notices received for 2008 - 2012	1.00	160.00	160.00
			<u>1.50</u>		<u>240.00</u>
McGinn Smith & Co. Inc.					
Curry, Suzanne					
	10/5/2020	Call with Mike Schaffstall regarding client question about impact of final tax returns. Preparation for call by preparing reduction of tax attributes workpaper for discussion. Research corporate insolvency guidance.	1.00	160.00	160.00
	10/6/2020	Call with Mike Schaffstall and Garret Alexin regarding corporation insolvency. Emailing Brian Shea for further details to provide potential tax liability.	0.50	160.00	80.00
	10/15/2020	Research and discussions with Mike Schaffstall and Garret Alexin regarding potential tax liability for final return.	1.00	160.00	160.00
Schaffstall, Mike					
	10/5/2020	Insolvency exemption election	0.50	330.00	165.00
	10/6/2020	Cancellation of Debt income analysis	0.50	330.00	165.00
Alexin, Garret					
	10/6/2020	Cancellation of Debt income analysis	0.33	330.00	110.00
	10/15/2020	Cancellation of Debt income analysis	0.25	330.00	82.50
			<u>4.08</u>		<u>922.50</u>
McGinn Smith Holdings, LLC					
Curry, Suzanne					
	10/5/2020	Call with Mike Schaffstall regarding client question about impact of final tax returns. Preparation for call by preparing reduction of tax attributes workpaper for discussion.	0.50	160.00	80.00
	10/22/2020	Updating and sending 12/31/19 Trial Balance for NEI Capital to Brian Shea.	0.25	160.00	40.00
			<u>0.75</u>		<u>120.00</u>
TDM Cable Funding LLC					
Sheehan, Jillian					
	10/8/2020	Preparing Power of Attorney forms for three remaining PrimeVision entities for the period 2008-2012	0.50	105.00	52.50
			<u>0.50</u>		<u>52.50</u>
TOTAL FEES INCURRED					\$ 1,335.00

McGinn Smith - WIP Detail - 10/01/2020 - 10/31/2020

Date	Hours	Billing Price	Billing Price Total
Less Discount			(267.00)
TOTAL INVOICE AMOUNT			<u>\$ 1,068.00</u>

Rec'd 12/7/20



McGinn Smith & Co., Inc.

Attn: Mr. William J. Brown
c/o Phillips Lytle LLP
One Canalside
125 Main Street
Buffalo, NY 14203

Invoice No.	10420377
Date	12/1/2020
Client No.	7148.0

Invoice

For professional services rendered from November 1, 2020 through November 30, 2020 per detailed attachment

2,182.00

BALANCE DUE

\$2,182.00

Payable when rendered. Make checks payable to Chiampou Travis Besaw & Kershner LLP.
Please include invoice number on all correspondence and checks.

45 Bryant Woods North | Amherst, NY 14228 | Phone 716.630.2400 | Fax 716.630.2401 | ctbk.com

Tax Identification number 16-1468002

Thank you

McGinn Smith - WIP Detail - 11/01/2020 - 11/30/2020

al	Date	Hours	Billing Price	Billing Price Total
Phillips Lytle Curry, Suzanne	11/10/2020	2.00	160.00	320.00
	11/11/2020	1.00	160.00	160.00
	11/12/2020	0.50	160.00	80.00
	11/17/2020	2.75	160.00	440.00
	11/19/2020	2.75	160.00	440.00
	11/20/2020	0.75	160.00	120.00
	11/30/2020	1.50	160.00	240.00
	11/10/2020	0.50	330.00	165.00
	11/11/2020	0.75	330.00	247.50
	11/17/2020	0.50	330.00	165.00
Schaffstall, Mike	11/19/2020	0.50	330.00	165.00
	11/23/2020	0.50	330.00	165.00
		<u>14.00</u>		<u>2,707.50</u>
	TOTAL FEES INCURRED			\$ 2,707.50
	Less Discount			(541.50)
Expenses - FedEx Charges			\$ 16.00	
TOTAL INVOICE AMOUNT			\$ <u>2,182.00</u>	

Rec'd 1/8/21



McGinn Smith & Co., Inc.
 Attn: Mr. William J. Brown
 c/o Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice No. 10420686
 Date 12/31/2020
 Client No. 7148.0

Invoice

For professional services rendered from December 1, 2020 through
 December 31, 2020 per detailed attachment

3,346.80

BALANCE DUE

\$3,346.80

Payable when rendered. Make checks payable to Chiampou Travis Besaw & Kershner LLP.
 Please include invoice number on all correspondence and checks.

45 Bryant Woods North | Amherst, NY 14228 | Phone 716.630.2400 | Fax 716.630.2401 | ctbk.com

Tax Identification number 16-1468002

Thank you

McGinn Smith - WIP Detail - 12/01/2020 - 12/31/2020

	Date		Hours	Billing Price	Billing Price Total
Phillips Lytle					
Curry, Suzanne					
	12/1/2020	Drafting letter to IRS Taxpayer Advocate in response to PrimeVision notices. Meeting with Michael Schaffstall to discuss response.	1.00	160.00	160.00
	12/2/2020	Updating letter to IRS for PrimeVision entities notices for comments from William Brown & Brian Shea.	0.25	160.00	40.00
	12/3/2020	Faxing response to PrimeVision IRS notices to Taxpayer Advocate.	0.25	160.00	40.00
	12/9/2020	Call with Taxpayer Advocate regarding abatement request approval for PrimeVision entities.	0.25	160.00	40.00
	12/15/2020	Forwarding notices for Primevision entities to Taxpayer Advocate.	0.50	160.00	80.00
	12/16/2020	Preparing response for 2017 IRS notice for TDM Cable Funding.	0.25	160.00	40.00
			<u>2.50</u>		<u>400.00</u>
McGinn Smith & Co. Inc.					
Andrews, Jill					
	12/17/2020	Review 2020 tax workpapers for McGinn Smith & Co	2.60	145.00	377.00
	12/18/2020	Review 2019 tax workpapers for McGinn Smith & Co	0.70	145.00	101.50
Burke, Kathryn					
	12/8/2020	Rolled binder, input 2020 balance sheet.	0.75	130.00	97.50
	12/16/2020	Worked on tax attributes workpaper, entering journal entries to write off balance sheet.	3.00	130.00	390.00
	12/17/2020	Updated tax journal entries for notes on tax attribute workpaper, NOL and insolvency.	2.00	130.00	260.00
	12/18/2020	Updated the tax journal entries for insolvency.	0.50	130.00	65.00
Curry, Suzanne					
	12/7/2020	Planning meeting with tax preparation team to start preparing 2020 returns.	0.50	160.00	80.00
			<u>10.05</u>		<u>1,371.00</u>
TDM Cable Funding LLC					
Curry, Suzanne					
	12/15/2020	Preparing response to IRS notice for 2017.	1.00	160.00	160.00
Schaffstall, Michael					
	12/16/2020	Reviewed IRS notice response - 2018.	0.50	330.00	165.00
			<u>1.50</u>		<u>325.00</u>

McGinn Smith - WIP Detail - 12/01/2020 - 12/31/2020

	Date	Hours	Billing Price	Billing Price Total
McGinn Smith Holdings, LLC Andrews, Jill	12/7/2020	0.50	145.00	72.50
	12/16/2020	2.40	145.00	348.00
	12/17/2020	0.50	145.00	72.50
	12/18/2020	3.60	145.00	522.00
Burke, Kathryn	12/8/2020	2.00	130.00	260.00
	12/11/2020	2.25	130.00	292.50
	12/17/2020	4.00	130.00	520.00
		<u>15.25</u>		<u>2,087.50</u>
	TOTAL FEES INCURRED			\$ 4,183.50
	Less Discount			(836.70)
	TOTAL INVOICE AMOUNT			<u>\$ 3,346.80</u>

Rec'd 2/5/21



McGinn Smith & Co., Inc.
 Attn: Mr. William J. Brown
 c/o Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice No. 10421008
 Date 2/2/2021
 Client No. 7148.0

Invoice

For professional services rendered from January 1, 2021 through
 January 31, 2021 per detailed attachment

3,020.00

BALANCE DUE

\$3,020.00

Payable when rendered. Make checks payable to Chiampou Travis Besaw & Kershner LLP.
 Please include invoice number on all correspondence and checks.

45 Bryant Woods North | Amherst, NY 14228 | Phone 716.630.2400 | Fax 716.630.2401 | ctbk.com

Tax Identification number 16-1468002

Thank you

McGinn Smith - WIP Detail - 01/01/2021 - 01/31/2021

	Date		Hours	Billing Price	Billing Price Total
Phillips Lytle Curry, Suzanne	1/5/2021	Updating files for PrimeVision IRS notice abatement approvals. Call with Taxpayer Advocate.	0.75	165.00	123.75
	1/11/2021	Reviewing 2017 IRS notice for TDM Cable Funding, LLC. Attempted to contact IRS representative.	0.50	165.00	82.50
	1/13/2021	Call with IRS to request abatement of penalties on 2017 notice for TDM Cable Funding, LLC.	1.00	165.00	165.00
	1/20/2021	Reviewing IRS penalty removal letters from IRS for 2008 - 2012 PrimeVision entities.	0.25	165.00	41.25
Schaffstall, Michael	1/25/2021	Reviewed TDM Cable notice.	0.25	335.00	83.75
			<u>2.75</u>		<u>496.25</u>
McGinn Smith Holdings, LLC Curry, Suzanne	1/25/2021	Reviewing 2020 consolidated financial statements.	0.35	165.00	57.75
	1/25/2021	Reviewing 2020 consolidated financial statements.	1.75	165.00	288.75
Gross, Lynne	1/7/2021	Secondary review of Form 1099 MISC/NEC - checking address	0.65	165.00	107.25
	1/8/2021	Sign and send Form 1099s	0.25	165.00	41.25
Krantz, Kevin	1/5/2021	Form 1099 Preparation	2.50	110.00	275.00
Noone Rachel	1/5/2021	Reviewed Form 1099s.	1.25	135.00	168.75
			<u>6.75</u>		<u>938.75</u>
McGinn Smith & Co. Inc. Alexin, Garret	1/28/2021	Review and discussion of insolvency with Suzanne Curry.	0.92	335.00	307.08
Andrews, Jill	1/4/2021	Team planning meeting	0.20	150.00	30.00
	1/19/2021	Review McGinn Smith & Co 2020 final year tax returns	0.80	150.00	120.00
	1/20/2021	Review of 2020 final tax return for McGinn Smith & Co	2.70	150.00	405.00
	1/26/2021	Team planning meeting	0.25	150.00	37.50
Burke, Kathryn	1/15/2021	Input return information into tax software	3.00	135.00	405.00
Curry, Suzanne	1/11/2021	Reviewing cancellation of debt research to prepare 2020 tax return workpapers.	0.50	165.00	82.50
	1/13/2021	Review 2020 tax return workpapers. Research reduction of tax attributes presentation for a C Corporation.	2.00	165.00	330.00
	1/25/2021	Review 2020 tax return.	2.50	165.00	412.50
	1/26/2021	Call with team about return presentation.	0.25	165.00	41.25
	1/28/2021	Call with Garret Alexin to discuss presentation of insolvency on 2020 return.	0.50	165.00	82.50
	1/29/2021	Updating return.	0.50	165.00	82.50
			<u>14.12</u>		<u>2,335.83</u>
		TOTAL FEES INCURRED			\$ 3,770.83
		Less Discount			(755.93)
		Postage Fees - 1/31/21			5.10
		TOTAL INVOICE AMOUNT			<u>\$ 3,020.00</u>

rec'd 3/5/21



McGinn Smith & Co., Inc.
 Attn: Mr. William J. Brown
 c/o Phillips Lytle LLP
 One Canalside
 125 Main Street
 Buffalo, NY 14203

Invoice No. 10421235
 Date 3/2/2021
 Client No. 7148.0

Invoice

For professional services rendered from February 1, 2021 through February 28, 2021 per detailed attachment

9,013.26

BALANCE DUE

\$9,013.26

Payable when rendered. Make checks payable to Chiampou Travis Besaw & Kershner LLP.
 Please include invoice number on all correspondence and checks.

45 Bryant Woods North | Amherst, NY 14228 | Phone 716.630.2400 | Fax 716.630.2401 | ctbk.com

Tax Identification number 16-1468002

Thank you

McGinn Smith - WIP Detail - 02/01/2021 - 02/28/2021

	Date		Hours	Billing Price	Billing Price Total	
Phillips Lytle Curry, Suzanne	2/1/2021	Responding to Brian Shea's email regarding PrimeVision entity formation dates.	0.25	165.00	41.25	
	2/28/2021	Reviewing correspondence from outstanding NYS notices.	0.75	165.00	123.75	
			<u>1.00</u>		<u>165.00</u>	
McGinn Smith Holdings, LLC Andrews, Jill	2/2/2021	Review 2020 tax workpapers and update balance sheet	6.60	150.00	990.00	
	2/3/2021	Review 2020 tax workpapers and make updates	0.30	150.00	45.00	
	2/5/2021	Review & update 2020 tax workpapers	1.40	150.00	210.00	
	2/8/2021	Review & update 2020 tax workpapers	1.30	150.00	195.00	
	2/9/2021	Review 2020 tax workpapers and make updates	0.80	150.00	120.00	
	2/9/2021	Review and update 2020 tax return	3.40	150.00	510.00	
	2/15/2021	Reviewed 2020 tax workpaper updated for elimination entries	2.10	150.00	315.00	
	Burke, Kalfryn	2/1/2021	Input balance sheet and profit & loss for Alarm Traders and MS Holdings. Updated entry for cancellation of debt write off	4.08	135.00	551.25
2/4/2021		Updated workpapers for profit and loss journal entry amounts	1.00	135.00	135.00	
2/5/2021		Updated and rolled retained earnings	0.33	135.00	45.00	
2/8/2021		Input consolidated balance sheet and profit and loss into return	5.00	135.00	675.00	
2/9/2021		Updated consolidated profit and loss as well as the return for bond interest, updated balance sheet amounts	0.67	135.00	90.00	
2/12/2021		Updated balance sheet and profit & loss for elimination entries	0.50	135.00	67.50	
2/13/2021		Worked on adjusting some entities from adjusting entries to elimination entries	1.50	135.00	202.50	
2/24/2021		Updated return for more information that was received, broke out bad debt into more detail, updated partner residency in NYS for new addresses.	3.25	135.00	438.75	
Curry, Suzanne		2/3/2021	Reviewing questions from return preparer. Requesting additional information from Brian Shea.	0.5	165.00	82.50
		2/4/2021	Call with Brian Shea about cash consolidation accounts and open items.	0.25	165.00	41.25
	2/10/2021	Review 2020 consolidating financial statements.	2.25	165.00	371.25	
	2/10/2021	Call with Mike Schaffstall to discuss consolidated financial statements. Emailing Brian Shea for additional information.	0.5	165.00	82.50	
	2/11/2021	Call with Katie Burke to discuss changes to consolidated financial statement.	0.15	165.00	24.75	
	2/17/2021	Call with Mike Schaffstall to discuss intercompany activity.	0.35	165.00	57.75	
	2/21/2021	Reviewing 2020 consolidated financial statements and tax return.	6	165.00	990.00	
	2/22/2021	Review 2020 tax workpapers. Call with Mike Schaffstall.	1.25	165.00	206.25	
	2/23/2021	Call with Brian Shea about consolidated financial statements.	0.25	165.00	41.25	
	2/24/2021	Meeting with Mike Schaffstall and Katie Burke to discuss updates to 2020 tax return.	0.75	165.00	123.75	
	2/25/2021	Reviewing tax return	0.5	165.00	82.50	
	2/26/2021	Updating 2020 tax return.	1	165.00	165.00	
	2/28/2021	Updating 2020 tax return and sending draft to Brian Shea for review.	0.25	165.00	41.25	
	Gross, Lynne	1/31/2021	E-file 1099s/document IRS name/close in XCM	0.10	165.00	16.50
	Heil, Remington	2/19/2021	Initial review, make changes to NY IT-204-LL	0.75	135.00	101.25
Peunic, Alan	2/16/2021	IT-201-LL prep	1.30	110.00	143.00	

McGinn Smith - WIP Detail - 02/01/2021 - 02/28/2021

	Date		Hours	Billing Price	Billing Price Total
Schaffstall, Michael	2/10/2021	Reviewing receivable treatment	0.5	335.00	167.50
	2/22/2021	Review of write off	1	335.00	335.00
	2/24/2021	Write-off treatment	1	335.00	335.00
	2/27/2021	Review of 2020 return	2.5	335.00	837.50
	2/28/2021	Review of elections for 2020 return	1	335.00	335.00
	2/1/2021	Tax Processing Fee			100.00
			<u>54.38</u>		<u>9,270.75</u>
McGinn Smith & Co. Inc.					
Alexin, Garret	2/25/2021	Review and discussion with Suzanne Curry	0.42	335.00	139.58
	2/27/2021	Discussion with Mike Schaffstall	0.50	335.00	167.50
Curry, Suzanne	2/1/2021	Reviewing prior year returns for treatment of cash consolidation account.	1.00	165.00	165.00
	2/24/2021	Updating 2020 tax return.	2.00	165.00	330.00
	2/28/2021	Updating 2020 tax return and sending draft to Brian Shea for review,	0.25	165.00	41.25
Schaffstall, Michael	2/17/2021	Review of return	0.50	335.00	167.50
	2/27/2021	Review of final return	2.00	335.00	670.00
	2/1/2021	Tax Processing Fee			100.00
			<u>6.67</u>		<u>1,780.83</u>
		TOTAL FEES INCURRED			\$ 11,216.58
		Less Discount			(2,203.32)
		TOTAL INVOICE AMOUNT			<u>\$ 9,013.26</u>

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

vs. :

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

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

Defendants, :

LYNN A. SMITH and :
NANCY McGINN, :

Relief Defendants. and :

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

Intervenor. :

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**ORDER APPROVING FOURTEENTH INTERIM APPLICATION
OF CHIAMPOU TRAVIS BESAW & KERSHNER LLP
FOR APPROVAL OF FEES**

Upon the Application of Chiampou Travis Besaw & Kershner LLP (“Chiampou”) for Approval of the Fourteenth Interim Application for Fees dated April 7, 2021 (“Application”) for an order approving accountant’s fees and 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 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 compensation for services rendered between October 1, 2020 through February 28, 2021 in the amount of \$18,630.06 is allowed as an interim allowance, and it is further

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

Dated: _____, 2021

Hon. Christian F. Hummel
United States Magistrate Judge

Doc #9525451.1

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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CERTIFICATE OF SERVICE

I, Karen M. Ludlow, being at all times over 18 years of age, hereby certify that on April 8, 2021, a true and correct copy of the Fourteenth Interim Application of Chaimpou Travis Besaw & Kershner LLP for Approval of Fees (“Chiam pou Fourteenth Fee 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
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- **Bryan M. Westhoff** bryan.westhoff@kayescholer.com
- **Benjamin Zelsermyer** bzlaw@optonline.net, steincav@aol.com

And, I hereby certify that on April 8, 2021, I caused to be mailed, via first class mail using the United States Postal Service, a copy of the Chiampou Fourteenth Fee Application to the individuals listed below:

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Albany, NY 12203

David G. Newcomb
Judith A. Newcomb
224 Independence Way
Mount Bethel, PA 18343

Dated: April 8, 2021

/s/ Karen M. Ludlow
Karen M. Ludlow

Doc #9525480.1