

**William J. Brown, as Receiver
of McGinn, Smith & Co., Inc., et al.**

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July 27, 2011

VIA CM/ECF

Hon. David R. Homer
United States Magistrate Judge
United States District Court
Northern District of New York
United States Courthouse
Albany, NY 12207

Re: Securities and Exchange Commission vs. McGinn, Smith & Co., Inc., et al.
Upstate Imaging Associates and Portfolio Partners (collectively, "UIA")
Century Hill Drive, Town of Colonie, New York

Dear Judge Homer:

UAI is a Receivership entity whose only asset appears to be a real property consisting of a dilapidated building owned in condominium interest on Century Hill Drive in Latham, New York. The property had been abandoned well prior to the initiation of the Receivership and is in significant disrepair.

Shortly after the initiation of the Receivership, I inspected the property and found it littered with abandoned medical records consisting of primarily x-ray images, trash and dilapidated office equipment. The roof leaks, and the building is not secure.

I have discussed the situation with the SEC, and they have no opposition to the lifting of the stay for this property. I have attempted to sell it to others, and the adjoining owner has been, for several years, attempting to sell its adjoining half of the building (they share a common lobby and entrance) to no avail. Real property taxes exceed \$675,694, and the property appears to be worth significantly less than that amount. I have met with parties who have estimated the cost to repair the property and get it into rental or sale shape, and neither of those makes any sense since it would likely exceed the value of the property.

Consequently, I have sent a letter to all parties in interest who may have an interest in this property based on the records available to me. I have informed them of the In Rem foreclosure. There is no colorable basis for me to oppose the County of Albany's request to conduct an In Rem foreclosure for unpaid taxes.

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Consequently, I have informed Albany County that I would be informing Your Honor of my decision and requesting a formal vacatur of the stay. Should the County proceed with the sale, I am informed that any tax sale is at least a few months off.

I have attached a proposed Order for Your Honor's consideration.

Very truly yours,

/s/ William J. Brown

William J. Brown
Receiver

cc: David Stoelting, Esq.
Kevin McGrath, Esq.
E. Stewart Jones, Esq.
William Dreyer, Esq.
James Featherstonhaugh, Esq.
Nancy McGinn

Doc # 01-2495580.1

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

10 Civ. 457 (GLS)
(DRH)

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, DAVID L. SMITH,
LYNN A. SMITH, DAVID M. WOJESKI, Trustee of
the David L. and Lynn A. Smith Irrevocable
Trust U/A 8/04/04, GEOFFREY R. SMITH,
LAUREN T. SMITH, and NANCY MCGINN,

Defendants, and

LYNN A. SMITH, and
NANCY MCGINN,

Relief Defendants and:

DAVID M. WOJESKI, Trustee of the
David L. and Lynn A. Smith Irrevocable
Trust U/A 0/04/04,

Intervenor.

**CONSENT ORDER VACATING STAY
AS TO CERTAIN REAL PROPERTY**

Upon the letter request of the Receiver in this action dated July 27, 2011, the
Court hereby

ORDERS that the stay applicable to the property located at 7 Century Hill Drive,
Town of Colonie, New York owned by Upstate Imaging Associates is hereby vacated without
the necessity of further action by the County of Albany.

Dated: July __, 2011

HON. DAVID R. HOMER
UNITED STATES MAGISTRATE JUDGE