

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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**RECEIVER’S REPORT REGARDING SALE OF SMITH
SACANDAGA LAKE PROPERTY**

Pursuant to the Court’s Memorandum-Decision and Order dated November 22, 2013 (Docket No. 647) and the Order in Aid of Administration of Memorandum-Decision and Order (Docket No. 647) dated December 23, 2013 (Docket No. 657) (“Administration Order”), the Receiver made preparations for and listed the Smith Sacandaga Lake Property for sale

pursuant to the Notice to Potential Purchasers for the Smith Sacandaga Lake Property Regarding Further Offers and Bidding Procedures (Docket No. 682), as follows:

1. The Receiver's real estate broker, CMK & Associates Real Estate ("CMK"), listed the property for sale on the multiple listing service system as of February 18, 2014 and both before and after that listing actively solicited further offers for the property. CMK responded to inquiries and showing requests. As described in paragraph 3 of the Administration Order, the Receiver was already in possession of a stalking horse offer consisting of three contracts for the simultaneous purchase of the entire property against which higher and better offers could be made.

2. No competing offer for the property was made to the Receiver.

3. On March 12, 2014, the Receiver delivered the stalking horse contracts, a pro-forma Closing Statement, and explanation of the purchase offers as required by paragraph I.A. of the Administration Order to the (a) Smith Trust trustee, (b) counsel for the Smith Trust, (c) counsel for Lynn Smith, and (d) the Securities and Exchange Commission. No objections to the stalking horse offer were filed or received by the March 14, 2014 5:00 p.m. (Eastern Time) deadline.

4. Consequently, the Receiver has accepted the stalking horse offer consisting of three Purchase and Sale Agreements (one for each parcel) requiring a simultaneous closing based on an aggregate sale price of \$575,000 (the listing price) less the five percent real estate commission plus a one-half of one percent closing fee which represents one-half of the closing fee being split evenly by the buyer and the Receiver, as seller. The net proceeds would be approximately \$552,379.13 less \$2,186 (one-half of one percent closing fee) and \$2,186 (transfer tax) if the sale were closed as of March 12, 2014. The closing price is subject to real property tax proration as of the actual closing date. The only contingencies to closing are the purchaser obtaining a mortgage loan on the main house parcel as to which the buyer has

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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 March 19, 2014, a true and correct copy of the Receiver’s Report Regarding Sale of Smith Sacandaga Lake Property 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 on March 19, 2014 to the parties indicated below:

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Dated: March 19, 2014

/s/ Karen M. Ludlow
Karen M. Ludlow