

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, LYNN A. 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 MOTION OF WILLIAM J. BROWN, AS RECEIVER, FOR
ORDER IN AID OF ADMINISTRATION (A) APPROVING USE OF UNCLAIMED
FUNDS TO PAY ADMINISTRATIVE EXPENSES AND ALLOWED CLAIMS OF
OTHER INVESTORS AND (B) APPROVING DISTRIBUTION OF DE MINIMIS
AMOUNTS TO INVESTORS IN CONTEMPLATION OF A POTENTIAL FOURTH
INVESTOR DISTRIBUTION**

Upon the Motion for Order in Aid of Administration (A) Approving Use of
Unclaimed Funds to Pay Administrative Expenses and Allowed Claims of Other Investors

and (B) Approving Distribution of De Minimis Amounts to Investors in Contemplation of a Potential Fourth Investor Distribution (“Motion”); and notice of the Motion having been given to the Securities and Exchange Commission, each of the claimants listed on Exhibit B to the Motion by first class mail at the address contained in the Receiver’s records, and all parties who have filed a Notice of Appearance in this action by ECF, and all creditors of the McGinn, Smith entities and other parties in interest via the Receiver’s website, which notice is deemed good and sufficient notice; and the Court having deemed that sufficient cause exists; it is therefore

ORDERED, that the Motion is approved, and it is further

ORDERED, that the Receiver is authorized to use the Unclaimed Funds³ to pay allowed administrative expenses and allowed claims of other investors, and it is further

ORDERED, that the Receiver is authorized to make De Minimis Distributions to investors with allowed claims in the event of a potential Fourth Distribution, and it is further

ORDERED, that the Receiver’s rights to decline to make De Minimis Distributions to investors with allowed claims in the event that the Receiver has determined, in his sole discretion, that the making of such De Minimis Distributions is too costly or burdensome for the Receivership, are expressly preserved.

Dated: July 15, 2022
Albany, New York


HON. GARY L. SHARPE

³ Capitalized terms used but not defined herein shall have the meaning assigned to them in the Motion.