UNITED STATES DI NORTHERN DISTRI	F. H.	
SECURITIES AND E	XCHANGE COMMISSION	
Plaintiff,		Case No. 1:10-CV-457
VS.		: (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.

LIMITED OPPOSITION TO THE MOTION OF WILLIAM J.
BROWN, AS RECEIVER, FOR AN ORDER (I) APPROVING PLAN
OF DISTRIBUTION OF ESTATE ASSETS AND (II)
AUTHORIZING INTERIM DISTRIBUTIONS

Kevin Laurilliard, an attorney at law, hereby affirms under penalty of perjury that:

 I am an attorney duly admitted to practice law in this court and am a shareholder of the law firm of McNamee, Lochner, Titus & Williams, P.C. ("MLTW"). MLTW represents JAT Construction Co., Inc. Defined Benefit Pension Plan, Joseph Allegretta and Suzanne Allegretta Case 1:10-cv-00457-GLS-CFH Document 856 Filed 01/29/16 Page 2 of 7

("Allegrettas"). The Allegrettas hereby submit this limited opposition to the Receiver's Motion

("Motion") [Docket number 847].

2. The Allegrettas filed Proofs of Claim ("Claims") in this case. A copy of the Claims

is attached hereto as Exhibit "A".

3. The proposed Plan of Distribution does not clearly state whether the attached

Claims will be paid under the distribution being proposed in the Receiver's Motion. The

Receiver's Motion further fails to state the percentage of any such distribution to the attached

Claims.

WHEREFORE, the Allegrettas respectfully requests that the Court deny the Receiver's

motion until such time as the Plan is amended to provide greater specificity as to the distribution

being proposed for the attached Claims, along with such other and further relief as the Court

deems just and proper.

Dated: January 29, 2016

Kevin Laurilliard, Esq.

McNamee, Lochner, Titus & Williams, P.C.

Attorneys for Allegrettas

677 Broadway, P.O. Box 459

Albany, New York 12201-0459

Exhibit A

Exhibit A

McNamee, Lochner, Titus & Williams, P.C.

ATTORNEYS AT LAW

KENNETH L. GELLHAUS

Direct Dial (518) 447-3370

Direct Fax (518) 867-4770

gellhaus@mitw.com

June 18, 2012

Via Federal Express

Jourdan L. Stevenson, Esq. Phillips, Lytle, LLP 3400 HSBC Center Buffalo, New York 14203

Re.

McGinn, Smith & Co., Inc., Thomas McGinn, David Smith, et al

Case No. 10-cv-00457-GLS-DRH

Proof of Claim: Joseph and Suzanne Allegretta; JAT Construction Co.,

Inc. Defined Benefit Pension Plan

Dear Ms. Stevenson:

As you know from our several conversations and my emails, this law firm represents claimants Joseph Allegretta, Suzanne Allegretta and JAT Construction Co., Inc. Defined Benefit Pension Plan relative to the above. With this letter, we enclose and deliver the federally mandated claim form for these two individuals, as well as The Plan.

Please contact my law firm with any questions or concerns relative to the above.

Very truly yours,

Cenneth L. Gellhaus

KLG/dr

Encs.

cc w/encs.: Jo

Joseph & Suzanne Allegretta

JAT Construction Co., Inc. Defined

Benefit Pension Plan

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YOR	K CLAIM FORM			
Name of Debtor: (check box next to the entity you are making a claim against):	Case Number:			
McGinn, Smith & Co. Inc., et al.	1:10-cv-00457-GLS-DRH			
Name of Creditor (The person or other entity to whom the debtor owes money or property):				
JAT Construction Co. INc. Defined Benefit Pension Plan				
Name and address where notices should be sent:				
c/o McNamee, Lochner, Titus & Williams, P.C.				
Attn: Kenneth L.Gellhaus, Esq.				
677 Broadway, Suite 500 Albany, New York 12207				
Albany, New Lork 1220/				
	Check box to indicate that this claim amends a			
TEL: (5 1 8) 4 4 7 - 3 2 7 0	previously filed claim.			
Email Address: gellhaus@mltw.com	Claim Number: (If known)			
Name and address where payment should be sent (if different from above):	المار المار المار			
Name;	Filed On:			
Address 1:				
Address 2: Address 3:	Check this box if you are aware that mayone else			
Address 4:	has filed a proof of claim relating to your claim.			
Address 5:	Attach a copy of statement giving particulars.			
TEL: ([]				
Broail Address:				
Carefully read instructions included with this Claim Form before completing. In order to have your claim considered for payment, complete ALL applicable questions. The original of this Claim Form must be sent to: Phillips Lytle LLP, Atm: Jourdan L. Stevenson, 3400 HSBC Center, Buffalo, New York 14203. In order for the claim to be processed, it must be received on or before JUNE 19, 2012 at 5:00 p.m. E.S.T.				
1. Amount of Claim or Investment: 5 1 , 1 5 0 , 4 1 2 0 0				
Please list total amount of claim or investment.				
Please check this box if claim includes amount other than investment (interest or other charges in addition to the principal amount invested). Attach an itemized statement detailing additional amounts.				
2. Please provide last four digits of social security number: 1 5 0 3 TIN OF EIN				
and/or account number which identifies creditor to debtor:				
2 Total Payments Densitude				
3. Total Payments Received:				
\$				
Please list the total amount of payments received from the MS Entity during the period of investment. A separate claim must be filed for				
each claim or investment held.				
.4. Documentation. Please attach all evidence which supports your claim. Please include copies of items	enteh as			
cancelled checks, brokerage statements, promissory notes, purchase orders, invoices, itemized statements	of running COURT USE ONLY			
accounts, contracts, court judgments and security agreements. You may also attach a summary describing	g your claim			
and cataloging attached documents.	¥1			
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain.				
Date 0 6 1 5 2 0 1 2 Signature: The person filing this claim must sign it. Sign and print mane and title, if any, of the creditor or other person authorized to file this claim and state address and telephone analysis of different from the notice address above. Attach copy of power of attorney, if any.				
I assert this chilm against the easity whose name is on the documents I am attaching. I understand and agaze that all of my claims will be adjudiented by the Court presiding in this				
reaction. I declare that the information contained herein is true and correct under penalties of persons.				
Signature Communication Commun				
Joseph Allegretta Trustee				
Printed Name Title				

Name of Debtor: (check box next to the entity you are making a claim against): McGinn, Smith & Co. Inc., et al. Name of Creditor (The person or other entity to whom the debtor owes money or property): Joseph Allegretta, Name and address where notices should be sent: c/o McNamee, Lochner, Titus & Williams, P.C. Attn: Kenneth L. Gellhaus, Esq. 677 Broadway, Suite 500 Albany, New York 12207 TEL: (5 8) 4 4 7 - 3 2 7 0 Email Address: gellhaus@mltw.com Name and address where payment should be sent (if different from above): Name: Address 1: Address 2: Address 3: Address 4: Address 4: Address 5: TEL: (
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Name and address where payment should be sent (if different from above): Name: Address 1: Address 2: Address 3: Address 4: Address 5: TEL: () Brail Address:				
Name; Address 1: Address 2: Address 3: Address 4: Address 5: TEL: Email Address:				
Address 1: Address 2: Address 3: Address 4: Address 5: TEL: Email Address:				
Address 2: Address 3: Address 4: Address 5: TEL: Email Address:				
Address 4: has filed a proof of claim relating to your claim. Address 5: Attach a copy of statement giving particulars. TEL: ()				
Address 5: TEL: ()				
TEL: ([]) - [] Broad Address:				
Email Address:				
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Please list total amount of claim or investment.				
Please check this box if claim includes amount other than investment (interest or other charges in addition to the principal amount invested). Attach an itemized statement detailing additional amounts,				
Z. Please provide last four digits of social security number; 4 5 7 8				
and/or account number which identifies creditor to debtor:				
3, Total Psyments Received:				
\$ 1 1 0 0 0 0 0				
Please list the total amount of payments received from the MS Entity during the period of investment. A separate claim must be filed for				
each claim or investment held.				
4. Documentation. Please attach all evidence which supports your claim. Please include copies of items such as cancelled checks, brokerage statements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments and security agreements. You may also attach a summary describing your claim and cataloging attached documents.				
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain.				
Date 0 6 / 1 5 / 2 0 1 2 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and selephone pamber if different from the notice address above. Attach copy of power of attorney, if any.				
I assert this claim against the craitly whose name is on the documents I san attaching. I understand and agree that all of my chains will be adjudicated by the Court presiding in this reaction. I declare that the information contained hereis is true and correct under permitting of perjury.				
I searct this claim against the critity whose name is on the documents I sen attaching. I understand and agree that all of my chains will be adjudicated by the Court presiding in this matter, I declare that the information contained herein is true and correct under promittee of perjury.				
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Name of Creditor (The person or other entity to whom the debtor owes money or property):			
Suzanne Allegretta			
Name and address where notices should be sent:			
c/o McNamee, Lochner, Titus & Williams, P.C.			
Attn: Kenneth L. Gellhaus, Esq.			
677 Broadway, Suite 500			
Albany, New York 12207			
	Check box to indicate that this claim amends a		
TEL: (5 1 8) 4 4 7 - 3 2 7 0	proviously filed claim.		
Email Address: gellhaus@mltw.com	Claim Number:		
	(If known)		
Name and address where payment should be sent (if different from above): Name:	Filed On:		
Address 1:			
Address 2:			
Address 3:	Check this box if you are aware that myone elso has filed a proof of claim relating to your claim.		
Address 5:	Attach a copy of statement giving particulars.		
TEL: (
Email Address:			
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2. Please provide last four digits of social security number: 9 8 8 7			
and/or account number which identifies creditor to debtor:	0 5 8 7 0		
3. Total Payments Received:	*		
	is:		
Please list the total amount of payments received from the MS Entity during the period of invegench claim or investment held.	estment. A separate claim must be filed for		
.4. Documentation. Please attach all evidence which supports your claim. Please include copies of items cancelled checks, brokerage statements, promissory notes, purchase orders, invoices, itemized statements accounts, contracts, court judgments and security agreements. You may also attach a summary describing and cataloging attached documents.	of running COURT USE ONLY		
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Date 0 6 1 5 2 0 1 2 Signature: The person filing this claim must sign it. Sign and print more at the creditor or other person authorized to file this claim and state address a number if different from the notice address above. Attach copy of power or	nd telephone of attorney, if any.		
I assert this ctains against the ensity whose mance is on the documents I sen attaching. I tenderstead and agree that all of my chiese will be adjudicated by the Court presiding to this matter. I declace that the judicated herein is true used correct moder population of perjusy.			
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Suzanne Allegretta			
Printed Name Title			