

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

Plaintiff,

vs.

KENNETH R. PAYNE,  
JOHANN M. SMITH,  
DANIEL G. DANKER, CONSTANCE  
BROOKS-KIEFER,  
HEARTLAND FINANCIAL SERVICES,  
INC., AND JMS INVESTMENT  
GROUP, LLC.

Defendants.

Civil Action Case No.  
IP00-1265 C

Judge John D. Tinder

**SUBPOENA DUCES TECUM**

TO: American National Insurance Company  
P.O. Box 200439  
Dallas, Texas 75320-0439

You are hereby commanded to produce for inspection and/or copying on or before **October 31, 2002, at 5:00 p.m.** at the offices of Kroger, Gardis & Regas, L.L.P., 111 Monument Circle, Suite 900, Indianapolis, Indiana 46204-5125, or provide copies of the same by mail, the following documents relating to **policy number U0311599**, maintained in the name of **Kenneth R. Payne**:

1. Copies of all information pertaining to the current beneficiary;
2. Copies of all information pertaining to any changes in beneficiary and the dates of those changes, if any.

Fail not under penalty of law.

Sworn to before me and subscribed to in my presence this 18 day of  
October, 2002.

  
James A. Knauer, Receiver

170A.

Attachment to Non-Party Subpoena

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to lost earnings and reasonable attorney's fees.
- (2)
  - (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible thing or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.
  - (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance is such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any and all of the designated materials of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.
- (3)
  - (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it
    - (i) fails to allow reasonable time for compliance;
    - (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that subject to the provision of clause (c)(3)(b)(iii) of this rule such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
    - (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies or
    - (iv) subjects a person to undue burden.
  - (B) If a subpoena
    - (i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or
    - (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
    - (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial. The court may to protect a person subject to or affected by the subpoena quash or modify the subpoena or if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated. The court may order appearance or production only upon specified conditions.
- (D) DUTIES IN RESPONDING TO SUBPOENA.

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**AFFIDAVIT OF SERVICE**

I, James A. Knauer, after being duly sworn, state that I am and at all times during the service of the foregoing subpoena was, not less than 18 years of age and not a party to the matter concerning which service was made. I further certify that the service of this notice was made on the \_\_\_\_ day of \_\_\_\_\_, 2001, via Certified Mail, attention of American National Insurance Company, P.O. Box 200439, Dallas, Texas 75320-0439.

Under penalty of perjury, I declare that the foregoing is true and correct and is based on personal knowledge.

Date:

\_\_\_\_\_  
*James A. Knauer*

James A. Knauer, Esquire  
Kroger, Gardis & Regas, L.L.P.  
111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204-5125  
317-692-9000 - phone  
317-264-6832 - fax

STATE OF INDIANA    )  
                                  ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared James A. Knauer, who acknowledged the execution of the foregoing Affidavit and who, having been duly sworn, under the penalties of perjury, stated that the facts and matters therein set forth are true and correct.

WITNESS my hand and Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 2002.

My Commission Expires:

\_\_\_\_\_

County of Residence:

\_\_\_\_\_

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Printed