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U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES SECURITY AND)
EXCHANGE COMMISSION,)

Plaintiff,)

vs.)

KENNETH R. PAYNE,)
JOHANN M. SMITH,)
DANIEL G. DANKER,)
CONSTANCE BOORKS-KIEFER,)
HEARTLAND FINANCIAL SERVICES,)
INC., and JMS INVESTMENT GROUP,)
INC.,)

Defendants.)

IP 00-1265 C-K/T

*Denied as moot in light of
settlement of IP 02-C-0107 K/T.
If this was not moot, 15 U.S.C. §
78u(9) bars intervention.*

11/12/2002



MOTION TO INTERVENE

Come now Raymond and Amy Wildermuth, by counsel, and pursuant to Rule 24 of the Indiana Rules of Trial Procedure, hereby requests leave to intervene in the above-captioned cause of action now pending before this Court, and in support thereof states:

1. In February 2002, James A. Knauer, Receiver for Heartland Financial Services, Inc. and JMS Investment Group, LLC ("Receiver") commenced an action against Raymond and Amy Wildermuth ("Wildermuth"), by filing a complaint in the United States District Court for the Southern District of Indiana for recovery of payments made pursuant to an alleged Ponzi scheme.
2. The claims for damages set forth in the complaint are based upon allegations that Heartland Financial Services, Inc. and JMS Investment Group, LLC, were involved in a Ponzi scheme whereby monies were paid to the Wildermuths in a fraudulent scheme.
3. The Wildermuths have an interest in the Receiver's actions in the receivership matter regarding any action he may take to liquidate or distribute assets from the estate, if any.

*174A
165*