

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

FILED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
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SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION  
FILE NO.

IP00-1265 C - T/

**MOTION FOR AN ORDER PRESERVING FUNDS AND OTHER ASSETS AND  
FOR AN ORDER TO FINANCIAL INSTITUTIONS FREEZING ACCOUNTS OF  
DEFENDANTS**

Plaintiff, Securities and Exchange Commission ("Commission"), by its attorneys,  
respectfully moves this Court for the entry of:

- 1) An order that all funds, assets or other property belonging to or in the possession  
custody or control of Defendants Kenneth Payne, Johann Smith, Daniel Danker, Constance  
Brooks-Kiefer, Heartland Financial Services, Inc., JMS Investment Group, LLC, their  
officers, agents, servants, employees, attorneys and those persons in active concert or  
participation with Defendants, including, but not limited to, 21<sup>st</sup> Century Banking Ltd.,  
Caribbean Federal Ltd., Lincoln Fidelity Escrow Fund LLC and Lincoln Fidelity Escrow,  
who receive actual notice of the order, by personal service or otherwise be preserved and are


prohibited, directly or indirectly, from being transferred, assigned, encumbered, pledged, dissipated, concealed or otherwise disposed of; and

2) An order to financial institutions freezing the accounts of Defendants Kenneth Payne, Johann Smith, Daniel Danker, Constance Brooks-Kiefer, Heartland Financial Services, Inc. and JMS Investment Group, LLC , or in which any defendant has signatory authority or a beneficial interest, including but not limited to 21<sup>st</sup> Century Banking Ltd., Caribbean Federal Ltd., Lincoln Fidelity Escrow Fund LLC and Lincoln Fidelity Escrow.

3) Such further relief as the Court may deem appropriate.

In support its motion for an order preserving funds and other assets and for an order to financial institutions freezing accounts of Defendants, Plaintiff filed a Complaint for an ex parte Temporary Restraining Order, Orders of Preliminary and Permanent Injunction and Other Equitable Relief, Motion for an ex parte Temporary Restraining Order and a Memorandum in Support of Motion for an ex parte Temporary Restraining Order with supporting declaration of Scott J. Hlavacek.

Respectfully submitted,

  
One of the attorneys for Plaintiff  
Securities & Exchange Commission  
500 W. Madison St., Suite 1400  
Chicago, Illinois 60661  
(312) 353-7390

Dated: August 9, 2000