

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
2003 JAN 13 PM 2:40

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

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|--|---|---------------------------|
| JAMES A. KNAUER as the Court Appointed |) | |
| Receiver for HEARTLAND |) | |
| FINANCIAL SERVICES, INC., JMS |) | |
| INVESTMENT GROUP, LLC, |) | DISTRICT COURT |
| |) | CASE NO. IP-01-1168-C T/K |
| Plaintiff/Appellant, |) | |
| |) | |
| vs. |) | |
| |) | |
| JONATHON ROBERTS FINANCIAL |) | |
| GROUP, INC., ALLIANCE CAPITAL |) | |
| MANAGEMENT CORP., ANDOVER |) | |
| SECURITIES, INC., FSC SECURITIES |) | |
| CORPORATION AND FFP SECURITIES, |) | |
| INC., |) | |
| |) | |
| Defendants/Appellees. |) | |

**RESPONSE TO MOTION TO COMPEL PLAINTIFF TO ORDER
TRANSCRIPT OF HEARING FOR APPEAL**

Plaintiff, James A. Knauer, Receiver for Heartland Financial Services, Inc. and JMS Investment Group, LLC, ("Receiver") by counsel, hereby submits the following in response to Defendant, FSC Securities Corporation's Motion to Compel Plaintiff to Order Transcript of Hearing for Appeal:

1. To the extent that Defendant FSC Securities Corporation ("FSC") filed this Motion to Compel as a means to supplement the record with a copy of the transcript of the hearing conducted on December 19, 2002, the Receiver does not object to having the transcript be a part of the record.
2. However, the Receiver does object to Defendant's request to compel the Receiver to order and pay for the transcript of the hearing.
3. F.R.A.P. 10(b)(3)(C) applies to situations where an appellant rather than

ordering an entire transcript of a hearing or trial only orders a partial transcript of a hearing or trial pertaining to specific issues raised on appeal. F.R.A.P. 10(b)(3)(C) does not require the appellant to order and pay for a transcript of a subsequent hearing to address procedural matters.

4. According to paragraph 7 of FSC's motion, FSC submitted as an alternative, a transcript information sheet for the purpose of ordering and paying for the transcript of the hearing itself.

WHEREFORE, James A. Knauer, Receiver for Heartland Financial Services, Inc. and JMS Investment Group, LLC respectfully requests the Court to deny FSC's Motion to Compel Plaintiff to Order Transcript of Hearing for Appeal.

Respectfully submitted,



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**Attorneys for Plaintiff/Appellant,
James A. Knauer,
As Court Appointed Receiver for Heartland
and JMS Investment Group, LLC**

CERTIFICATE OF SERVICE


The undersigned hereby certifies that on the 13th day of January, 2003, a true and accurate copy of the above and foregoing pleading was served by depositing the same in the United States mail, first class, postage prepaid to:

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