

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

JAMES A. KNAUER as the Court Appointed  
Receiver for HEARTLAND  
FINANCIAL SERVICES, INC., JMS  
INVESTMENT GROUP, LLC,

Plaintiff/Appellant,

vs.

JONATHON ROBERTS FINANCIAL  
GROUP, INC., ALLIANCE CAPITAL  
MANAGEMENT CORP., ANDOVER  
SECURITIES, INC., FSC SECURITIES  
CORPORATION AND FFP SECURITIES,  
INC.,

Defendants/Appellees.

) DISTRICT COURT  
) CASE NO. IP-01-1168-C T/K

*Objection Overruled.  
The supplementation of the  
Record issued by the court on  
12/24/02, as request by the Appellant,  
only makes sense if the 12/19/02  
transcript of Argument is  
included in the record on Appeal.  
The Appellant should order it and  
include it in the record.*

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

1127103

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 13<sup>th</sup> 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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