

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

JAMES A. KNAUER as the Court Appointed  
Receiver for HEARTLAND FINANCIAL SERVICE, )  
INC., and JMS INVESTMENT GROUP, LLC, )  
Plaintiff, )

vs )

CASE NO. IP00-1629-C T/G

KENNETH R. PAYNE, )  
DANIEL G. DANKER, CONSTANCE )  
BROOKS-KIEFER, JOHANN M. SMITH, AERO )  
TECHNOGIAS, Ltd., ATLAS INCOME FUND, LLC, )  
BMC INVESTMENT GROUP, LLC, CARRIBEAN )  
FEDERAL TRUST, Ltd., CARRIBEAN FEDERAL )  
TRUST SERVICES, Ltd., CARRIBEAN FINANCIAL )  
SERVICES, CARRIBEAN INVESTMENTS )  
INTERNATIONAL, Ltd., CELTIC CENTRE II, Ltd., )  
CHARMAR, Ltd., DOLPHIN INTERNATIONAL )  
DEVELOPMENT, Ltd., DOLPHIN PENINSULA )  
PARTNERS, FIRST FIDELITY TRUST, Ltd., FIRST )  
INTERNATIONAL LIMITED HEARTLAND )  
INTERNATIONAL TRUST SERVICES, Ltd., )  
HEARTLAND MONEY MANAGEMENT OF FLORIDA, )  
INC., INTERNATIONAL LEISURE CENTERS, INC., )  
KJL, Ltd. OF BELIZE, LINCOLN FIDELITY ESCROW )  
SERVICES, MDS INVESTMENTS, Ltd., PMK, Ltd., )  
PROVIDENT BANK, RMP, Ltd., TERENS, Ltd., )  
21<sup>ST</sup> CENTURY BANKING GROUP, Ltd., 21<sup>ST</sup> )  
CENTURY INTERNATIONAL BANK & TRUST, Ltd. )  
OF GRENADA, 21<sup>ST</sup> CENTURY INTERNATIONAL )  
ADVISORS, INC., 21<sup>ST</sup> CENTURY INTERNATIONAL )  
ADVISORS OF BERMUDA, Ltd., 21<sup>ST</sup> CENTURY )  
INTERNATIONAL ADVISORS OF IRELAND, Ltd., )  
21<sup>ST</sup> CENTURY PERSONNEL, LLC, UNIVERSAL )  
FINANCIAL SERVICES, LTD., and JOHN DOES 1-20, )  
Defendants )

MOTION TO DISMISS

Comes now the Defendant, Constance Brooks-Kiefer, by Counsel, Stephen W.  
Dillon, and pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, respectfully

moves this Court to dismiss the complaint against the Defendant in this cause. In support hereof, the Defendant says:

1 That the Complaint in the above captioned cause was filed on October 20, 2000

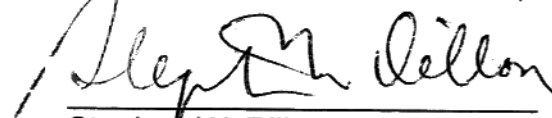
2 That a Summons in this action was not filed herein until March 9, 2001, and was not served upon the Defendant until March 17, 2001

3 That Rule 4(m) of the Federal Rules of Civil Procedure provides, in relevant part, that if service of the Summons and Complaint is not made upon the Defendant within 120 days after the filing of the Complaint, the Court, upon motion or on its own initiative after notice to the Plaintiff, shall dismiss the action without prejudice as to that Defendant.

4 That the Defendant did not evade service in this matter, and, in fact, met numerous times with the Plaintiff, James Knauer, to provide information relevant to the issues raised in the Complaint, without being served or informed that a Complaint had been filed and without her counsel present or having been advised of the filing of the Complaint

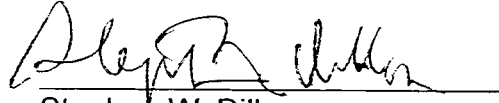
WHEREFORE, the Defendant, Constance Brooks-Kiefer, respectfully requests that the Complaint be dismissed, and for all other proper relief.

RESPECTFULLY SUBMITTED,

  
\_\_\_\_\_  
Stephen W. Dillon

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon William Bock, III, Counsel for Plaintiffs, 111 Monument Circle, Suite 900, P. O. Box 44941, Indianapolis, Indiana, 46244-0941, by hand delivery or U.S. First Class Mail, postage prepaid, this 4<sup>th</sup> day of May, 2001.

  
Stephen W. Dillon

Stephen W. Dillon  
Attorney #4527-49  
Ross G. Thomas  
Attorney #18453-49  
3701 North Pennsylvania Street  
Indianapolis, IN 46205-3435  
Tel: (317) 923-9391  
Fax: (317) 924-2920