

CONDENSED TRANSCRIPT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
CAUSE NO. 1:03-CV-0279 JDT-TAB

JAMES A. KNAUER, as the Court Appointed Receiver for Heartland Financial Services, Inc., JMS Investment Group, LLC, Atlas Income Fund, LLC, BMC Investment Group, LLC, Dolphin International Development, LTD, Belize Escrow Services, Heartland Money Management of Florida, Inc., Lincoln Fidelity Escrow Services, MDS Investment, Inc. and 21st Century International Advisors, Inc.
Plaintiffs,

vs.

LESLIE REED,
Defendant.

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The deposition upon oral examination of **LESLIE REED**, a witness produced and sworn before me, Kim Cotton, Notary Public, RPR, CSR, in and for the County of Marion, State of Indiana; taken on the 9th day of September, 2003, at the offices of Kroger Gardis and Regas, 111 Monument Circle, Suite 900, Indianapolis, Marion County, Indiana; pursuant to Notice and the Indiana Rules of Trial Procedure. This deposition was taken on behalf of the Plaintiff in the above-captioned matter.

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EXHIBIT INDEX

| <u>No.</u>                 | <u>DOCUMENT</u>                                                                                                          | <u>Page</u> |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------|-------------|
| <u>LESLIE REED</u>         |                                                                                                                          |             |
| <u>September 09, 2003:</u> |                                                                                                                          |             |
| 1                          | Document self-identified as<br>a check stub<br>Lincoln Fidelity Escrow Account<br>No.: 13240<br>Date: 4/3/00             | 11          |
| 2                          | Check No.: 4980<br>Heartland Financial Services<br>Date: 8-4-00<br>Pay to the Order of:<br>Leslie Reed<br>and Attachment | 14          |

DEPOSITION OF LESLIE REED - SEPTEMBER 9, 2003

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1 APPEARANCES  
 2  
 3 FOR THE PLAINTIFFS:  
 4 Samuel D. Hodson, Esq.  
 5 KROGER, GARDIS & REGAS, LLP  
 6 111 Monument Circle  
 7 Suite 900  
 8 Indianapolis, Indiana 46204-5125  
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1 DEPOSITION OF LESLIE REED  
 2 SEPTEMBER 9, 2003  
 3 LESLIE REED, having been first duly  
 4 sworn to tell the truth, the whole truth and  
 5 nothing but the truth relating to said  
 6 matter, was examined and testified as  
 7 follows:  
 8  
 9 DIRECT EXAMINATION,  
 10 QUESTIONS BY MR. HODSON:  
 11 Q. Will you state your name and spell it  
 12 for the court reporter, please?  
 13 A. Leslie Reed, L-E-S-L-I-E, R-E-E-D.  
 14 Q. And how do you prefer to be  
 15 addressed, Mr. Reed?  
 16 A. Les, Leslie; either way.  
 17 Q. That's fine. And what is your  
 18 address?  
 19 A. 9924 Tudor Court, Fishers, Indiana  
 20 46038.  
 21 Q. How long have you lived there?  
 22 A. Almost six years.  
 23 Q. And your Social Security number?  
 24 A. 305-68-0740.  
 25 Q. And your date of birth?

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1 INDEX OF EXAMINATIONS  
 2 Page  
 3 DIRECT EXAMINATION, 4  
 4 by Mr. Hodson  
 5  
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1 A. 10/17/57.  
 2 Q. Mr. Reed, my name is Sam Hodson and  
 3 I'm an attorney, and I represent James Knauer  
 4 who has been appointed receiver over a  
 5 variety of companies related to the Heartland  
 6 Financial Services, Inc., and I'm sure you're  
 7 aware of the problems. This is a deposition  
 8 and your testimony is being taken under oath,  
 9 under the same penalties for perjury as if  
 10 you were talking or giving testimony in a  
 11 trial. Do you understand that?  
 12 A. I do understand.  
 13 Q. If at any time you do not understand  
 14 a question I've asked you, please, stop me  
 15 and ask me to explain.  
 16 A. Okay.  
 17 Q. Fair enough?  
 18 A. That's fair.  
 19 Q. Where are you currently employed?  
 20 A. Multiple employee. I work for the  
 21 Martindale Brightwood Community Development  
 22 Corporation and I'm still a licensed stock  
 23 broker --  
 24 Q. And how long have --  
 25 A. -- through Sun America.



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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 6</p> <p>1 Q. For Sun America?</p> <p>2 A. Correct.</p> <p>3 Q. And who holds your license?</p> <p>4 A. Sun America.</p> <p>5 Q. Is there a local brokerage firm or</p> <p>6 anything?</p> <p>7 A. No, I'm a registered principal, but I</p> <p>8 do report to a OSJ in Michigan. It's kind</p> <p>9 of a new deal. So, all of Sun America's</p> <p>10 agents, our brokers are independent. We all</p> <p>11 operate independent. It's not like a normal</p> <p>12 brokerage, so we have our own offices and</p> <p>13 stuff like that.</p> <p>14 Q. And who do you say you reported to in</p> <p>15 Michigan?</p> <p>16 A. A guy named Larry Taunt.</p> <p>17 Q. And what was his title, again?</p> <p>18 A. He is the chief financial officer of</p> <p>19 Regal Financial.</p> <p>20 Q. You used a series of letters to</p> <p>21 describe him.</p> <p>22 A. Oh, it's -- original -- OSJ.</p> <p>23 Q. Okay.</p> <p>24 A. Well, let me take that back.</p> <p>25 Actually, my OSJ is Doug Brachen, here in</p>                                                                    | <p style="text-align: right;">Page 8</p> <p>1 basically, it deals with managing other</p> <p>2 brokers.</p> <p>3 Q. Before you were a registered</p> <p>4 principal, what did you do for a living?</p> <p>5 A. I was a stockbroker.</p> <p>6 Q. And for whom do you work?</p> <p>7 A. Sun America.</p> <p>8 Q. And how does your situation differ</p> <p>9 after becoming a registered principal?</p> <p>10 A. A registered principal -- one of the</p> <p>11 terms of my contract was that I would -- or</p> <p>12 not terms of the contract, but to be able to</p> <p>13 self-govern, you can do that. But really,</p> <p>14 one of the reasons I became principal was to</p> <p>15 manage a Heartland office. In other words,</p> <p>16 you can't manage an office, or run an</p> <p>17 office, without being a principal. So, I</p> <p>18 became -- I was approached by Heartland and</p> <p>19 I wanted to do it anyway, but they</p> <p>20 approached me as well; said "Hey, we need a</p> <p>21 principal. Would you take this test?"</p> <p>22 Q. And let's talk about that. When</p> <p>23 would that have been?</p> <p>24 A. Spring of 2000.</p> <p>25 Q. And who approached you?</p>                                      |
| <p style="text-align: right;">Page 7</p> <p>1 the city, but we're under Regal Financial, so</p> <p>2 Doug Brachen is the better.</p> <p>3 Q. What is an OSJ?</p> <p>4 A. "Off-site jurisdiction," I believe, is</p> <p>5 what it means.</p> <p>6 Q. Okay.</p> <p>7 A. And it allows brokers to operate</p> <p>8 without -- we are all what you call a</p> <p>9 "principal," which allows us to operate</p> <p>10 alone, but when you're not under, like, a</p> <p>11 branch with the full-blown bank branch</p> <p>12 manager, then you have to have that license</p> <p>13 and then they give you what is called "off-</p> <p>14 site jurisdiction."</p> <p>15 Q. And how long have you been a</p> <p>16 registered principal?</p> <p>17 A. Registered principal? Three years.</p> <p>18 Q. Around 2000, then?</p> <p>19 A. 2000.</p> <p>20 Q. And what does one have to do to</p> <p>21 become a registered principal?</p> <p>22 A. Take the Series 24 exam, NSAD exam.</p> <p>23 Q. What does that involve?</p> <p>24 A. Well, you have to know regulations,</p> <p>25 securities law and regulations, and also,</p> | <p style="text-align: right;">Page 9</p> <p>1 A. I met Ken Payne through a friend of</p> <p>2 mine named Valerie Court. We knew each</p> <p>3 other growing up, and she'd said, "Hey, they</p> <p>4 got a nice brokerage operation; you might</p> <p>5 talk to them."</p> <p>6 Me and Ken talked, and I think, at</p> <p>7 that time, there was a gentleman by the name</p> <p>8 of Dan - I can't -- Danker; I can't think of</p> <p>9 his last name - was no longer wanting to be</p> <p>10 the principal and he didn't have a principal</p> <p>11 to run his office, so he approached me and</p> <p>12 said, "Hey, would you consider doing it?"</p> <p>13 And I said, "Sure"; and he said, "I'll pay</p> <p>14 you to do it," and I said, "Oh, even</p> <p>15 better."</p> <p>16 Q. At the time, then, Dan Danker was the</p> <p>17 registered principal.</p> <p>18 A. I believe.</p> <p>19 Q. Did he say why he no longer wanted to</p> <p>20 be the principal?</p> <p>21 A. I don't know if it was illness or if</p> <p>22 he wanted out of the business. I apologize;</p> <p>23 it's just too long ago for me to remember</p> <p>24 exactly. I believe that he was getting ill,</p> <p>25 though - I think - was the deal.</p> |

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 10</p> <p>1 Q. And you had not met Ken Payne before<br/>2 this time?<br/>3 A. No.<br/>4 Q. What did Valerie tell you about --<br/>5 Valerie Court tell you about the Heartland<br/>6 business in the spring of 2000?<br/>7 A. That it was brokerage, financial<br/>8 services.<br/>9 Q. And what arrangement did you make<br/>10 with Ken Payne to be hired by Heartland?<br/>11 A. He offered me if I would come on, he<br/>12 would -- he offered me \$20,000 if I could<br/>13 secure the Series 24, which I did, and I<br/>14 told him that in the interim of transferring<br/>15 from my firm, that I would obviously have to<br/>16 kind of shut my business down and that would<br/>17 affect my income. So, he said, "We'll also<br/>18 get you for \$25,000 to do that as well," in<br/>19 which, when I would have come back, I would<br/>20 have paid it or we would have worked out<br/>21 some type of forgiveness, which is typical of<br/>22 brokerage.<br/>23 Q. So, there was one transaction for<br/>24 \$20,000, and that transaction was to<br/>25 compensate you for taking the Series 24 exam?</p> | <p style="text-align: right;">Page 12</p> <p>1 A. Correct.<br/>2 Q. And the listing on that was retainer<br/>3 fee. Do you have any idea why Constance<br/>4 Brooks' keeper would have called the payment<br/>5 to you a "retainer fee"?<br/>6 A. Well, I had to -- you just can't just<br/>7 run out and take a test. They -- you have<br/>8 to get set up and go through NSAD to take<br/>9 the test. So, they paid me \$20,000 up<br/>10 front, for me to get the Series 24 test<br/>11 taken and passed. So, it took me until I<br/>12 think June to do it. So, I'm guessing<br/>13 that's why they said it.<br/>14 Q. Where did you take the test?<br/>15 A. At a Sylvan Center on the west side.<br/>16 Q. Of Indianapolis?<br/>17 A. Correct.<br/>18 Q. Was there a fee to take the test?<br/>19 A. Yeah, there was a fee. I don't<br/>20 remember what it was.<br/>21 Q. Did you pay it or -- out of this<br/>22 20,000?<br/>23 A. I paid it.<br/>24 Q. Out of the 20,000?<br/>25 A. I paid it. Yeah.</p> |
| <p style="text-align: right;">Page 11</p> <p>1 A. That is correct, and that's -- I<br/>2 think it probably even says it on the check.<br/>3 (Whereupon, Deposition Exhibit(s) 1<br/>4 duly received, marked and made a part of the<br/>5 record.)<br/>6 Q. I'm handing you what's being marked<br/>7 for identification purposes as "Exhibit 1."<br/>8 A. Okay.<br/>9 Q. Do you recognize that document?<br/>10 A. Yes, it's actually two different<br/>11 checks on the same document. I think it<br/>12 should be ... no, it didn't copy off. Yes,<br/>13 I recognize the document.<br/>14 Q. And would you tell me what it is?<br/>15 A. It is copies of two checks that I<br/>16 received from Heartland Financial.<br/>17 Q. Okay. Actually, Exhibit 1 is only<br/>18 one of the checks copied; is that correct?<br/>19 A. No, that is not correct. Two copies.<br/>20 If you look at the checks -- well, that<br/>21 portion didn't, but the number did, I<br/>22 believe; maybe not. At any rate, that's the<br/>23 second -- or I thought it did.<br/>24 Q. Okay. But one check was on April<br/>25 3rd, 2000, in the amount of \$20,000.</p>       | <p style="text-align: right;">Page 13</p> <p>1 Q. Do you know, approximately, what the<br/>2 fee was? \$500, \$1,000?<br/>3 A. I don't think it was that much. I<br/>4 would guess no more than 200, but it might<br/>5 have been 90. I can't remember. They just<br/>6 charged me and I paid it back. I mean, I<br/>7 can ascertain that.<br/>8 Q. So, in April of 2000 you were paid to<br/>9 take the test and you took the test and<br/>10 passed the test --<br/>11 A. Correct.<br/>12 Q. -- in June of 2000?<br/>13 A. I believe it was June that I passed,<br/>14 yeah.<br/>15 Q. And were you paid a salary or<br/>16 anything during this time?<br/>17 A. No.<br/>18 Q. Did you ever -- did there ever come a<br/>19 time when you received a salary from<br/>20 Heartland?<br/>21 A. Never.<br/>22 (Whereupon, Deposition Exhibit(s) 2<br/>23 duly received, marked and made a part of the<br/>24 record.)<br/>25 Q. I'm handing you what's been marked</p>                                             |

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1 for identification purposes as "Exhibit 2,"  
 2 in two pages. Do you recognize that  
 3 document?  
 4 A. Yes.  
 5 Q. And would that be the second check  
 6 you would have received from --  
 7 A. I believe it is, yeah. Fourteen --  
 8 the numbers coincide, yes.  
 9 Q. So, on August 4th, 2000, you received  
 10 \$25,000 from Heartland Financial Services,  
 11 Inc.?  
 12 A. Correct.  
 13 Q. And this money was to compensate you  
 14 for what, again?  
 15 A. When I knew that I was going to --  
 16 once I passed the 24 and I knew I was going  
 17 to pass and I asked -- not pass, I knew I  
 18 was going to start trying to work for  
 19 Heartland, I had to steer my business down.  
 20 I wasn't going to take in new clients. And  
 21 then, obviously, coming to Heartland I would  
 22 have had a period of time where I wouldn't  
 23 have -- I would have been trying to transfer  
 24 whatever accounts I had to Sun America over,  
 25 and that would have taken some time.

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1 So, it's standard practice in  
 2 brokerage that they would give what's called  
 3 a forgivable loan, and then, if you make  
 4 certain production requirements, the loan is  
 5 forgiven over a number of years. It's just  
 6 transitional money, basically, so that it  
 7 will compensate you for income that you  
 8 didn't receive as a result of slowing your  
 9 business down.  
 10 Q. So, the \$25,000 would have been a  
 11 draw against future earnings?  
 12 A. Correct.  
 13 Q. And how were you to be compensated by  
 14 Heartland Financial Services?  
 15 A. We had worked -- well, and it was all  
 16 oral, because we never got to sign the  
 17 contracts. I would have been paid a salary  
 18 as a principal, but also would have been  
 19 allowed to make commissions as well.  
 20 Q. And explain how you would make  
 21 commissions?  
 22 A. As a broker, stockbroker, selling  
 23 stocks and bonds, and mutual funds.  
 24 Q. So, on top of whatever the Heartland  
 25 Financial Investors paid Heartland, they

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1 would pay you a fee also?  
 2 A. Well, the way it would work is, we  
 3 were also trying to buy another broker  
 4 dealer, too -- we wanted to buy a broker  
 5 dealer, let's say that, because we were  
 6 clearing -- I forget who they were clearing  
 7 through. But what happens is there is a  
 8 clearing firm that the brokerage firm is  
 9 affiliated with, and I don't remember the  
 10 name of that firm for Heartland, and, you  
 11 know, a stock trade is effected - as an  
 12 example - there is a commission attached;  
 13 there is a certain amount that would go to  
 14 clearing charges and that, and there would be  
 15 a certain percentage that the firm would  
 16 keep, and the rest would come to the broker,  
 17 which is standard.  
 18 Q. So, if someone did a transaction with  
 19 Heartland Financial Services, some part of  
 20 the fee would go to a third-party  
 21 clearing --  
 22 A. Clearing firm, correct.  
 23 Q. Clearing firm. And then part of it  
 24 would stay with Heartland, and --  
 25 A. Correct.

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1 Q. -- then you would get part of it.  
 2 A. Correct.  
 3 Q. And I take it that you never got to  
 4 the point where you earned any commissions  
 5 from Heartland?  
 6 A. Never did.  
 7 Q. This would have been about the time  
 8 that the Ponsy scheme was discovered and the  
 9 Securities and Exchange Commission came in;  
 10 is that correct?  
 11 A. I will tell you: actually, what  
 12 happened was, probably -- and, again, it's  
 13 been three years.  
 14 Q. Uh-huh.  
 15 A. I'm 45, so I don't remember things as  
 16 well as I used to.  
 17 I got a call from a lady by the name  
 18 of Sherry that worked in the office - I  
 19 can't think of her last name, either - and  
 20 she left me a message that said, "Leslie  
 21 ..." -- you know, because at that time we  
 22 were getting ready to make the transition.  
 23 I was going to let the clients know, you  
 24 know, that I was coming on as principal.  
 25 And she said, "Leslie, you need to call me

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 18</p> <p>1 after what happened this morning. I don't<br/>2 think you want to ..." -- "... you might<br/>3 want to consider." I talked to her later<br/>4 and I found out that the SCC had come into<br/>5 the office.<br/>6 Q. When was that, again?<br/>7 A. It was in August, I believe, of that<br/>8 same year; very shortly after I got that<br/>9 check. It was probably not a week, but I<br/>10 can't remember. It was very close. It<br/>11 wasn't two weeks, I don't believe.<br/>12 Q. So, who was it, again, that informed<br/>13 you that there was an investigation?<br/>14 A. A girl named Sherry; I can't think of<br/>15 her last name. Sherry worked for them at<br/>16 the time.<br/>17 Q. Worked for Ken Payne?<br/>18 A. Correct, for Heartland - Ken Payne,<br/>19 Heartland - and she informed me that, "Hey,<br/>20 you know, Leslie, this is -- the SCC came<br/>21 here this morning," and of course we saw --<br/>22 all saw it on the news.<br/>23 Q. I take it, since you never were able<br/>24 to do any work for Heartland, no part of the<br/>25 \$25,000 was ever repaid to Heartland?</p> | <p style="text-align: right;">Page 20</p> <p>1 operated; but I just wasn't getting<br/>2 information. I asked, you know, "Can I see<br/>3 the financials?" -- you know, just to see<br/>4 how they're doing things.<br/>5 I talked to some -- what was the<br/>6 other gentleman's name there? I can't think<br/>7 of his name. My mind's a blank. Another<br/>8 gentleman, there was a black gentleman, that<br/>9 did insurance there. I talked with him a<br/>10 number of times about it. They seemed<br/>11 anxious for me to join, but, you know, I had<br/>12 to make the transition away from my brokerage<br/>13 and also I just wanted to be really sure<br/>14 that it was okay, but I never could get the<br/>15 information that I wanted and, in fact, was<br/>16 very close to time I got the check that,<br/>17 supposedly, I was supposed to get a better<br/>18 view of it, but that never -- never had the<br/>19 opportunity to have that happen.<br/>20 Q. We also took Valerie Court's<br/>21 deposition.<br/>22 A. Uh-huh.<br/>23 Q. Did you speak to her, at all, about<br/>24 this case, after August of 2000?<br/>25 A. I knew that she was going to have to</p>                                  |
| <p style="text-align: right;">Page 19</p> <p>1 A. No.<br/>2 Q. During this summer, between June and<br/>3 August, when you received your license and<br/>4 you were actually paid the advance to come<br/>5 aboard, did you have conversations with Ken<br/>6 Payne and Dan Danker, anybody there, about<br/>7 the company?<br/>8 A. I talked to Ken about what, you know,<br/>9 I would be doing in my responsibilities.<br/>10 Normal stuff.<br/>11 Q. And in those conversations were you<br/>12 able to determine anything about anything<br/>13 being amiss in the company?<br/>14 A. Well, I would say it wasn't that the<br/>15 conversation told me anything, but I just --<br/>16 I won't say that I sensed it, but I just<br/>17 wasn't -- I asked for the financials. In<br/>18 fact, I was talking to Johann Smith, the<br/>19 attorney, at the time --<br/>20 Q. Uh-huh.<br/>21 A. I was like, you know, "I would really<br/>22 like to see what's happening." It was never<br/>23 really provided for me. It just wasn't --<br/>24 it just didn't seem like normal business. I<br/>25 wasn't there enough to, you know, see how it</p>             | <p style="text-align: right;">Page 21</p> <p>1 ask questions. We never talked about any<br/>2 particulars.<br/>3 Q. Have you had an opportunity to talk<br/>4 to her in the last several months, since<br/>5 you've been involved in the case?<br/>6 A. I talked to her, probably it's been a<br/>7 couple months ago, but not about this.<br/>8 Q. She indicated in her deposition that<br/>9 she noticed things that were wrong in the<br/>10 months that preceded that, and you confirm<br/>11 that you thought there were things were<br/>12 wrong. What sort of things led you to<br/>13 believe that there was something amiss, other<br/>14 than their refusal to give you -- or failure<br/>15 to give you financial information?<br/>16 A. When I was in the office, visiting<br/>17 sometimes, it seemed like a lot of customers<br/>18 were calling and asking -- I mean, these<br/>19 were things you just overheard. I never<br/>20 directly -- and that's why I'm trying to say<br/>21 that it's kind of hard to say something is<br/>22 amiss if you just can't put your hands on<br/>23 it, but, you know, it was just more of a<br/>24 sense that -- you know.<br/>25 There was a lot of calls for Ken</p> |

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1 Payne and he was not available. It just  
2 didn't seem like they were responding to  
3 clients the way they should have, if I had  
4 to characterize it. Like I said, I wanted  
5 to, you know -- hopefully, like any good  
6 businessman, you're like, "Well, what's the  
7 picture? What are you doing with -- where  
8 are the clients?" I could -- I never was  
9 able to get any of that kind of information.  
10 Whether it was Ken Payne wasn't there, or  
11 there wasn't somebody there. Dan Danker was  
12 not there at the time, either, so a lot of  
13 people there, they just didn't know.

14 And I really -- because I still  
15 worked for Sun America, I wasn't going to  
16 get all off of into it anyway. I just  
17 wanted to get a kind of a feeling for -- a  
18 general feeling for what the business was;  
19 did they just do stocks, did they do mutual  
20 funds; that kind of thing. But I was never  
21 was able to get any information.

22 Q. How many times did you visit in that  
23 summer, prior to August of 2000?

24 A. Maybe two or three times. I stopped  
25 by there a couple times, but never at any

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1 phone ring, and you hear somebody answer the  
2 phone, and you can tell that they can't  
3 answer the question. Or, "Look, Ken Payne  
4 is not here" or, you know -- and it seemed  
5 like there were several calls that way.

6 I can't quantify, but it was more  
7 than one call that came in, and any time  
8 that I've been in there -- you know, and  
9 they just couldn't answer the question and/or  
10 mostly couldn't contact Ken. You know; they  
11 wanted to talk to Ken Payne and didn't. And  
12 to me that's, you know, I mean, fairly --  
13 what the broker has is responding to his  
14 client. That's -- I mean the transactions  
15 take seconds, but talking to your client is  
16 pretty much what you, do good or bad with  
17 the markets.

18 Q. Did you have to give up clients to  
19 move to Heartland?

20 A. No. I don't know that I would have  
21 kept them all, because some clients aren't  
22 going to transition for whatever reason --  
23 whether they're not aware of Heartland,  
24 recognize it, or whatever. And just the  
25 normal transition attrition that would happen.

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1 length; you just say "hi" and -- but I  
2 actually came over there a couple times  
3 because we were trying to work on -- one of  
4 the parts of the deal also was that there  
5 would be -- we would try to acquire a broker  
6 dealer.

7 Q. Okay. When you say "we" was that --

8 A. The company, Heartland. And I would  
9 be, hopefully, getting some piece of that,  
10 which I -- was one of the reasons I was  
11 coming, too. And I looked into trying to  
12 find out about some broker dealers that were  
13 available, and that was the extent of what I  
14 did while I was there: just calling and  
15 trying to see if we could purchase them;  
16 what the cost was, what the regulatory  
17 factors were, and inquiring.

18 Q. You indicated that one of the things  
19 that bothered you was the volume of client  
20 calls in the times you visited. Did you  
21 have any opportunity to determine why they  
22 were calling?

23 A. No. And I wouldn't say "the volume."  
24 I want to be accurate: it's -- when you're  
25 sitting in a situation and you hear the

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1 with transition.

2 I think the issue is - in terms of a  
3 transition, would be - that if you're going  
4 to another firm -- and I don't know how it  
5 is with lawyers; I don't know what happens  
6 in that period of time, but I've transferred  
7 from different firms before, and during that  
8 period of time I knew I was going to  
9 transition. I wasn't going to be trying to  
10 establish relationships with the current  
11 firm, only to say, "Oh, I started a new  
12 account, let me move you over."

13 So, my business slowed down and, in  
14 fact, because of the independent nature  
15 working for Sun America, they knew I'm  
16 probably considering moving. And I would  
17 have gotten out of my contract, which is  
18 also a part of the deal, because I have a  
19 contract with Sun America and I'd had to pay  
20 my contract off with them as well.

21 So, I wouldn't have -- you know, I  
22 wouldn't have tried to solicit a lot of  
23 clients, knowing that I was moving. And  
24 then, once you move over, now you got to get  
25 your license moved over - which takes a

