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2000

APPEAL TO THE APPELLATE COURT OF ILLINOIS, FIRST JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CLERK
SHERIDAN

IN THE MATTER OF THE POSSESSION)
AND CONTROL OF THE COMMISSIONER)
OF BANKS AND REAL ESTATE OF)
INDEPENDENT TRUST CORPORATION)
a/k/a INTRUST, an Illinois corporate fiduciary)

Cause No. 00 CH 05905
Judge Jones

THE COMMISSIONER OF BANKS AND REAL)
ESTATE and PRICEWATERHOUSECOOPERS,)
L.L.P., as Receiver of INDEPENDENT TRUST)
CORPORATION, also known as INTRUST, and)
MILLENM TRUST COMPANY, L.L.C.,)

Appellees.

JEFFREY H. FOX, MICHAEL MEISTER,)
CHARLES MINNAAR, PROFUTURES, INC.,)
and DAVID B. SMALL,)

Appellants.

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CLERK OF COURT

JOINING PRIOR APPEALS

InTrust Account Holders Jeffrey H. Fox (Account No. 38638), Michael Meister (Account No. 51043), Charles Minnaar (Account No. 35831), ProFutures, Inc. (Account No. 925586) and David B. Small (Account No. 1609032) (collectively "Account Holders"), by and through their attorneys SIDLEY & AUSTIN and pursuant to Supreme Court Rule 303(a)(3), hereby join in the following appeals to the Appellate Court of Illinois, First Judicial District, from the November 8, 2000, order of the Honorable Sidney A. Jones, III, a Judge of the Circuit Court of Cook County, entered in the aforementioned matter:

- (a) The appeal of J. Phillip O'Brien, an InTrust account holder, and all other account holders included in his notice of appeal filed on December 8, 2000;

- (b) The appeal of Micheline Abbott, an InTrust account holder, and all other account holders included in her notice of appeal filed on December 8, 2000;
- (c) The appeal of Terry G. Bommer, individually and as custodian for Joshua C. Bommer and Emily E. Bommer, Theodore Bommer, Audrey Bommer, Barbara P. Davidson, Dawn Arrigo, John and Donna S. Denando, Raymond and Patricia Berger, James, Harry B., Alex, and Karen Gissy, Pinnacle Equity PSP, Pinnacle Equity MPP, and John D. Denando Living Trust, which was filed on December 8, 2000;
- (d) The appeal of Dolores Vil, an InTrust account holder and all other account holders included in her notice of appeal filed on December 8, 2000; and
- (e) The appeal of Larry C. Merritt, an InTrust account holder and all other account holders included in his notice of appeal filed on December 8, 2000.

By joining these appeals, account holders seek a review and reversal of the November 8, 2000 order, as well as any other relief deemed just and proper.

WHEREFORE, Account Holders pray that the Appellate Court:

- (i) reverse the Orders denying Account Holders' motions to exclude their accounts from the allocation of the \$68.1 million cash trust fund shortage;
- (ii) order the immediate release and turnover to substitute trustees of Account Holders' choosing of their accounts and/or immediate and full access by Account Holders to the assets in their respective accounts;
- (iii) remand the cause to the Circuit Court for implementation of the above, including the conduct of any evidentiary hearings and discovery necessary to implement further proceedings of the cause;
- (iv) order Appellees to return and make restitution to Account Holders of any and all sums that may be improperly withdrawn from Account Holders' accounts or otherwise paid to or received by Appellees or improperly allocated to the account of any other InTrust account holder resulting from the Orders;

- (v) assess the costs related to this Appeal to the Appellees, and
- (vi) grant such other and further relief as may be just and appropriate.

SIDLEY & AUSTIN

By: William J. Nissen

Sidley & Austin
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