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APPEAL TO THE APPELLATE COURT FOR THE STATE OF ILLINOIS  
FOR THE FIRST DISTRICT

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FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT

IN THE MATTER OF THE POSSESSION AND	)	
CONTROL OF THE COMMISSIONER OF BANKS	)	
AND REAL ESTATE OF INDEPENDENT TRUST	)	No. 00 CH 05905
CORPORATION a/k/a INTRUST, an Illinois	)	
corporate fiduciary	)	Judge Sidney A. Jones, III
	)	
THE COMMISSIONER OF BANKS AND REAL	)	
ESTATE and PRICEWATERHOUSECOOPERS,	)	
LLP, AS RECEIVER OF INDEPENDENT TRUST	)	
CORP., a/k/a INTRUST, and MILLENNIUM TRUST	)	
COMPANY, LLC,	)	
	)	
Appellees,	)	
	)	
J. PHILLIP O'BRIEN, INTRUST ACCOUNT	)	
HOLDER AND ALL ACCOUNT HOLDERS LISTED	)	
HEREIN, parties in interest,	)	
	)	
Appellants.	)	

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**APPELLANTS' MOTION TO STAY LIQUIDATION AND DISTRIBUTION OF ASSETS  
FROM THEIR INDIVIDUAL FIDUCIARY ACCOUNTS**

J. Phillip O'Brien, an individual account holder of Intrust, by his counsel, and those other Intrust account holders named on Exhibit A attached to this Motion and incorporated herein (collectively, "Account Holders" or "Appellants"), by their respective counsel, move this Court pursuant to Illinois Supreme Court Rule 305(d) to stay the liquidation of non-cash assets from their individual fiduciary accounts and the distribution of such proceeds, which currently remain

frozen by order of the Trial Court. In support of their Motion, Account Holders rely on the accompanying Supporting Record, Affidavit of counsel, and state as follows:

### STATEMENT OF FACTS

Intrust was in the business of acting as trustee for primarily self-directed individual retirement accounts, in addition to other qualified plans, land trusts, 1031 trusts, personal trusts and other arrangements. As of April 14, 2000, the trust assets of Intrust totaled approximately \$1.7 billion for the benefit of approximately 17,000 account holders and beneficiaries. J. Phillip O'Brien, like the other individuals and trustees in this appeal, currently have trust accounts at Intrust and are parties in interest in these proceedings.

On April 14, 2000, the Commissioner of Banks and Real Estate, through the State Attorney General's Office, took possession and control of Intrust, appointed Receiver and filed its Verified Complaint for Dissolution of Intrust in the Chancery Court of Cook County. Ver. Cplt.; R. v1 C00002-14.<sup>1</sup> On the same day, Receiver, with consent and approval of the Commissioner, filed an Emergency Motion for Order of Administration seeking to take possession and control of Intrust pursuant to Article VI of the Illinois Corporate Fiduciary Act, 205 ILCS § 620/6-1 *et seq.* (the "CFA" or the "Act"). Emerg. Motion at ¶ 1; R. v1 C00015-32. At the initial hearing, Receiver informed the Trial Court that the need for the receivership was due to the discovery of a substantial shortage in cash trust assets at Intrust, which was later determined to be caused by a shortage of cash held in an escrow account maintained by an affiliated company of Intrust – Intercounty Title Company of Illinois. Emerg. Motion at ¶ 9; R. v1 C00017. Receiver explained that the proposed administrative order would restrict and freeze

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<sup>1</sup> Some Account Holders have filed a separate appeal from an order regarding receivership fees. The Record in that Appeal (#00-3253) was filed with this Court on October 30, 2000. References to documents in that Record are denoted "R. v.1." References to documents in the Supporting Record are denoted "SR."

the trust assets until all of the accounts could be verified. The Trial Court granted Receiver's motion and entered an order allowing Receiver to seize control of Intrust's corporate assets and the individual trust assets (the "Administrative Order"). Admin. Order at ¶¶ 5-7; R. v1 C00036-38.

Receiver was ordered to conduct an initial investigation into the existence of the shortage in cash trust funds as of the date of closing ("Preclosing CTF") and other trust assets that existed as of the date of closing ("Preclosing Trust Assets"). Admin. Order at ¶ 27; R. v1 C00043-44. Pending completion of its investigation and "further order of the Court," the Administrative Order restrained Receiver from "disburs[ing], transfer[ring], or permit[ting] withdrawals from, or trades or sales of, the Preclosing Trust Assets and proceeds derived therefrom, unless directed to by the Commissioner or his authorized agent." Admin. Order at ¶ 28; R. v1 C00044. The freeze allows the continued trading in the accounts but not a liquidation of the securities and subsequent return of such proceeds to the individual account holders, except in certain hardship situations. Receiver determined that at the time of its appointment, Intrust should have held approximately \$105 million in cash assets for the benefit of Intrust customers while Receiver was able to locate and assume control of only approximately \$37 million in Preclosing CTF. A credit balance on Intrust's books for an "escrow" account Intrust purportedly maintained at Intercounty represented the difference of \$68.1 million (the "Cash Shortage"). Receiver's Motion for Entry of a Final Order on Allocation of Cash Trust Fund Shortage, Draft Order ("Proposed Order") and Report; SR. C00125-154.

Receiver recommended a plan to the Trial Court to reallocate the Cash Shortage amongst the Intrust accounts. The Court entered orders regarding the Receiver's plan and invited account holders to file motions to exclude their accounts from the Cash Shortage Reallocation. *See*

Orders of August 2 and 17, 2000; SR. C00007-14. Appellants are Intrust account holders with one or more accounts which, on the date Receiver was appointed, were invested in large part in identifiable securities held by third party investment companies (such as Prudential or Schwab) and that have requested that such identifiable securities be excluded from the Cash Shortage Reallocation. Nearly 5000 account holders filed motions to exclude their accounts from Receiver's reallocation scheme. Proposed Order at 1; SR. C00137. Following several "exemplar" hearings on representative motions to exclude and at the request of Receiver, on November 8, the Trial Court entered its orders denying Appellants' individual motions. November 8 Orders; SR. C00031-53. The Orders including various of Appellants' accounts in the Cash Shortage Reallocation determined Appellants' status and rights thereby entitling Receiver to invade Appellants' individual fiduciary accounts, liquidate their identifiable securities and distribute the proceeds to *other* account holders who were in cash on the date of Receiver's appointment once the final allocation percentage was approved by the Trial Court. *Id.*; SR. C00031-53.

On December 8, 2000, Account Holders perfected their appeal<sup>2</sup> of the Trial Court's orders pursuant to Supreme Court Rule 304(b) seeking to exclude their accounts from Receiver's Cash Shortage Reallocation. There are approximately 1,200 account holders representing an estimated \$230 million in trust assets on appeal before this Court. Currently, Millennium Trust Corp. ("Millennium"), as successor trustee, holds all of the Account Holders' individual fiduciary accounts and has been charged with implementing Receiver's Cash Shortage Reallocation scheme. Proposed Order at ¶¶ 16-20; SR. C00143-144.

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<sup>2</sup> Account Holders also filed a second Notice of Appeal on January 25, 2001 because of the uncertainty surrounding the possible tolling of the time for appeal caused by some other appellants' post-judgment motions that had not been decided by the Trial Court until December 26, 2000. See Second Notice of Appeal; SR. C00083-109.

On January 26, 2001, Receiver filed with the Trial Court its motion to enter the Proposed Order requesting approval to liquidate 8.69% of Account Holders' assets and then distribute those assets to others who were substantially in cash on the date of Receiver's appointment. *Id.* at ¶ 15; SR. C00142. There are no pending motions to stay before the Trial Court. Receiver, however, also filed a motion in *anticipation* of pending stay motions requesting the Trial Court to order all Appellants to file briefs stating why the Trial Court should not deny potential requests for a stay or request a prohibitive bond far in excess of that portion of Account Holders' accounts included in the Cash Shortage Reallocation. Receiver's Motion Regarding Stay of Appealed Allocation Orders and Draft Order; SR. C00110-124.

### **ARGUMENT**

Appellants seek to stay the effect of the November 8, 2000 orders already on appeal in this Court to prevent Receiver's invasion of their individual fiduciary accounts ("IFAs") to liquidate 8.69% of their non-cash assets pursuant to Receiver's Cash Shortage Reallocation scheme prior to the resolution of their Rule 304(b) appeals. A stay issued by this Court will be within its discretion and will "preserve the status quo pending the appeal and . . . preserve the fruits of a meritorious appeal where they might otherwise be lost." *Stacke v. Bates*, 138 Ill.2d 295, 302, 562 N.E.2d 192, 195 (1990). The drafters of Rule 304(b)(2) intended to allow a party to quickly seek relief during a receivership proceeding but prior to a 'final' order on distribution to prevent the undoing of a distribution in the event the court's order was reversed. *See In re Pine Top Ins. Co.*, 292 Ill. App. 3d 597, 602, 686 N.E.2d 657, 660 (1<sup>st</sup> Dist. 1997).

**A. Illinois Supreme Court Rule 305(d) Allows this Court to Issue a Stay Pending Appeal in the First Instance.**

Illinois Supreme Court Rule 305(d) provides in pertinent part that:

Application for a stay ordinarily must be made in the first instance to the trial court. A motion for a stay may be made to the reviewing court, or to a judge thereof, but such a motion must show that application to the trial court is not practical, or that the trial court has denied an application or has failed to afford the relief that the applicant has requested . . . .

Applying first to the trial court for a stay is “not a mandatory requirement.” *Stacke*, 138 Ill.2d at 301, 562 N.E.2d at 194. In fact, when an appeal is pending and the Court can find from a review of the proceedings below that the Trial Court has foretold its opinion on any request for a stay, Account Holders may proceed in this Court to request a stay to prevent Receiver from attempting to moot their Rule 304(b) appeals by liquidating their non-cash assets while their appeals are pending. *See Stacke*, 138 Ill.2d at 301, 562 N.E.2d at 194. During a hearing on October 4, 2000, the Trial Court clearly informed all participants of its intention to reject any stay of the proceedings pending appeal:

COUNSEL: This gives rise to two issues, I think, your Honor. One is for appeal purposes the effectiveness of the orders that you entered last week vis-a-vis the other customers involved; and secondly, the record on appeal, what type of documents are basically the receiver and the various customers, if you will, going to agree that should go into the record? I think the latter should be easily accomplished between counsel. I think the proper approach on the forum may well be to hold all orders until your done with all motions and then enter one final order that everyone really knows is the appealable order at that time.

THE COURT: I don't know that it will be appealable at that time, and I do not intend on giving 304(A) language. Okay?

MR. SILVERMAN (Receiver's Counsel): While we're on the subject of appeals, just -- Many of the people in this room are aware but I'm not very sure the Court is aware, that a number of account holders did appeal the Court's ruling on the receivership fee.

THE COURT: I received some stuff, so -- And by "stuff," I don't mean to disparage it, I'm just meaning that I see record on appeal and indications like that, and it just does not affect our moving ahead. **We're going to move ahead and everybody can do what they're going to do, but the Court is not going to stay anything and the Court is not going to award any 304 language. We're going to roll.** Now, what's next on the agenda?

Relevant Excerpt from Transcript of 10/4/00 Hearing; SR. C00003. Furthermore, Receiver filed its Motion Regarding Stay of Appealed Allocation Orders with the Trial Court *without* any of the 1,200 appellants having any pending motions to stay the Trial Court's inclusion orders. Receiver's request for an advisory opinion seeking to avoid a stay and asking for a prohibitive bond in excess of the already frozen accounts is telling. Receiver intends to request the Trial Court to begin immediate enforcement of the Cash Shortage Reallocation, moot any appeals, and attempt to preclude Account Holders from asserting their rights in this Court. Receiver's actions seeking to further delay to the date it can begin invading Appellants' accounts any action by the Trial Court on any proposed stay motions have forced these Appellants to seek relief in this Court. Receiver's unabashed efforts to quickly implement its Cash Shortage Reallocation to avoid any meaningful review by this Court which will reveal the folly of its scheme can be neither justified nor sustained.

**B. Appellants Satisfy Each of the Factors Enunciated in *Stacke* for the Issuance of a Stay Pending Appeal.**

**1. A stay is necessary to preserve the assets of Appellants in the event they are successful on appeal.**

In *Stacke*, the Supreme Court determined that the Appellate Court must have "a wide degree of latitude when exercising its discretion" to issue a stay and apply "numerous different factors" that will vary depending on the facts of each case. *Stacke*, 138 Ill.2d at 305, 562 N.E.2d at 196. The first factor the Supreme Court applied in *Stacke* was "whether a stay is necessary to secure the fruits of the appeal in the event the movant is successful." *Id.* Here, if Receiver

obtains the right to immediately liquidate 8.69% of Appellants' accounts, which, for the vast majority of Appellants, consist of non-cash mutual funds and IRAs – their life savings and retirement funds – and then distributes those proceeds to other account holders who were substantially in cash on the date Receiver was appointed, the Appellants will likely lose the ability to recover the funds upon a successful appeal. There is no question that a stay will prevent Receiver from including Appellants' accounts in its Cash Shortage Reallocation and thus preserve the status quo as established by the Administrative Order of April 14, 2000 until their appeals are decided on the merits.

**2. Appellants have a strong likelihood of success on the merits of their appeals.**

The next factor applied in *Stacke* was whether movants have a likelihood of success on the merits of their appeals. *Id.*, 138 Ill.2d at 306, 562 N.E.2d at 196. As set forth below, Appellants have a very strong likelihood of success on the merits of their appeals. In contrast, Receiver has cited absolutely no statute or precedent allowing it to invade the Appellants' Individual Fiduciary Accounts ("IFAs"), liquidate their identifiable assets held by third parties, and distribute the proceeds to other account holders due to the shortage in Intrust's Preclosing cash trust funds. Instead, Receiver attempts to hide its lack of legal authority by resorting to the buzzwords of "expediency" or "fairness".

Illinois' Corporate Fiduciary Act (the "CFA"), however, does not permit a corporate fiduciary to invade IFAs to pay its own debts or to satisfy the claims of another. As assets in IFAs are not part of the corporate fiduciary's estate, the CFA requires that Receiver turn over assets left for safekeeping and promptly resign and turn over to its successor the assets in fiduciary accounts. 205 ILCS 620/6-10(5), (6) and (16); *People ex rel. Barrett v. West Side*, 362 Ill. 607, 1 N.E.2d 81 (1936). A creditor's distributable share of the funds is determined as of the

date of receivership. *People v. Bryn Mawr Bank*, 273 Ill. App. 415 (1<sup>st</sup> Dist. 1934) (relationship to funds to be distributed is fixed as of time superintendent took possession). Receiver will concede that all of Account Holders' deposits are "special deposits" and held for the benefit of the trust beneficiaries. As such, Receiver cannot sell trust assets to pay general creditors' claims against the fiduciary or invade IFAs to pay receivership expenses. 205 ILCS 620/6-6, 6-11, 6-13, 6-14; *Central Standard Life Ins. v. Gardner*, 17 Ill.2d 220 (1959); *Streeter v. Junker*, 230 Ill. App. 366 (2<sup>nd</sup> Dist. 1923); see *Newell v. Hadley*, 206 Mass. 335, 92 N.E. 507 (1910) (fiduciary may not divert assets from one estate to cover shortages caused by a fiduciary's embezzlement); *Whiting v. Hudson Trust Co.*, 234 N.Y. 394, 138 N.E. 33 (1923) (same).

For nearly 100 years, Illinois courts have upheld the right to trace property held by an insolvent institution in a fiduciary capacity. If a fund or asset can be traced, the beneficiary has a right to recover it and is entitled to the aid of a court of equity to compel its transfer. This right is based not on a right to compensation for loss, but on a property right and exists so long as the property can be identified in its original or converted form. *People ex. rel Nelson v. People's Bank of Maywood*, 354 Ill. 519, 188 N.E. 853 (1933); *People ex. rel Nelson v. Bates*, 351 Ill. 439, 442, 184 N.E. 597 (1933); *Woodhouse v. Crandall*, 197 Ill. 104, 64 N.E. 292 (1902). Because tracing is based on property rights, if funds are invested in securities on the date of receivership, a claimant *must* satisfy its claim out of such securities and the receiver *must* turn them over. *Maywood*, 354 Ill. at 535-36 (must trace specific assets); *West Side*, 362 Ill. at 620 (turnover of IFA assets is mandatory); see *Lencioni v. Folk*, 109 Ind. App. 519, 36 N.E.2d 980 (1941) (investors were not entitled to a claim against general assets but must reclaim their identifiable bonds or securities).

Receiver contends that because Intrust commingled cash deposits in some of its accounts, tracing of all IFA assets is impossible. Receiver's contention lacks merit as Appellants can and will be able to trace their non-cash assets if given an opportunity. Third parties, as evidenced by Intrust's own account statements, hold the assets of the vast majority of the IFAs. Furthermore, the Illinois Supreme Court long ago rejected the notion that commingling, or embezzlement from a commingled account, destroys the right or ability to trace. It is the identity of the *fund*, and not of particular currency, which is to be established and mingling of funds makes no difference. *Bates*, 351 Ill. at 442; *Woodhouse*, 197 Ill. at 112. If an account holder can point to *specific assets*, she is entitled to, and required to, reclaim them. *Maywood*, 354 Ill. at 535-536. If Receiver's contention had any basis in law, then the simple act of commingling would literally destroy the right to reclaim trust assets and would be asking this Court to invalidate the entire trust industry. *See, e.g.*, 760 ILCS 75/.01 et seq; *Investment Co. Institute v. Camp*, 401 U.S. 617, 624-625 (1971) (commingling allowed); *accord* CFA, 620/2-8 (allowing commingling of funds waiting investment). Likewise, the theory that Account Holders' securities may have been purchased with "someone else's" money or from "misappropriated funds" and therefore it is "fair" to invade their accounts and liquidate their securities, improperly links identification to particular currency instead of a particular fund. *Bates*, 351 Ill. at 443. While equity courts have discretion in fashioning relief to remedy a loss, property rights of some may not be ignored in the name of "fairness" to others or "administrative burden." *In re Liquidation of Coronet Ins. Co.*, 298 Ill. App. 3d 411, 417-18, 698 N.E.2d 598, 602 (1<sup>st</sup> Dist. 1998) (application of so-called equitable remedies in contradiction to those plainly set forth within a statutory scheme are precluded); *see In re Applied Logic Corp.*, 576 F.2d 952, 957 (2d Cir. 1978) (courts in equity are not free to ignore substantive law in name of fairness or procedural protections).

Lastly, proceedings involving determination as to the rights to property require heightened procedural safeguards. *Matthews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 902 (1976). Receiver has ignored account holders' legitimate evidence of ownership and repeatedly blocked their discovery. Discovery would reveal the nature of the Intrust money market account and its escrow agreement, which bears directly on the proper treatment of account holders whose investments in the money market account were partially lost on the date of the receivership. *See* 205 ILCS 620/2-8 (persons whose funds are not invested in "third party" securities but in trust company/affiliate investment vehicles must proceed against the collateral required under that statute and against the fiduciary's estate in event of failure).

Receiver's concerted efforts to avoid having to address the substantial authority that would reveal that Receiver's proposed Cash Shortage Reallocation is a misguided foray to apply a loss where it did not occur cannot be sustained on appeal. Appellants have a strong likelihood of success on the merits, which further supports the issuance of a stay pending appeal. *See Stacke*, 138 Ill.2d at 306, 562 N.E.2d at 196 (considering the state of the law on the issue pending before the appellate court, it was reasonable to conclude the movant was likely to succeed on the merits and had presented a "substantial case on the merits").

**3. The balance of hardships clearly supports the issuance of a stay in favor of Appellants.**

The final factor relevant to the decision in this case is whether the balance of equitable factors weighs in favor of granting the stay. *See Stacke*, 138 Ill.2d at 307-09, 562 N.E.2d at 197-98. The likelihood is clear that Appellants will suffer hardship in the event their accounts remain included in the Cash Shortage Reallocation as set forth in the November 8<sup>th</sup> orders. Appellants will have their assets liquidated and distributed to other account holders. For the vast majority of Appellants, their life savings and their retirement nest eggs will be invaded by Receiver (and/or

Millennium) in the event its reallocation scheme is allowed to proceed without this Court's ability to assess the scheme's legal efficacy. To liquidate 8.69% (or such other higher amount approved by the Trial Court) of those identifiable assets will substantially harm Appellants, whose loss may take years to recover from, if at all.

On the other hand, staying the allocation against Appellants' accounts while this appeal is pending will not harm other account holders who desire to accept the percentage of loss reallocation proposed by Receiver. Because Receiver proposes to give each account holder a "Receiver's Certificate" or an IOU for the over-allocation already built into the Cash Shortage Reallocation process, Receiver could always move to liquidate non-appellant accounts and grant them a Receiver's Certificate for a larger amount. Obviously, Receiver runs the risk, by moving to allocate against non-appellants' accounts, that it could be subject to liability if this Court later determines that Receiver's scheme and the Trial Court's orders are fatally flawed. Receiver has another option – stay the allocation against all accounts by continuing the freeze on that portion of the accounts that may be subject to a loss allocation, while allowing this Court to reach the merits of this appeal. The balance of hardships clearly favors allowing Appellants to seek redress in this Court because a refusal to grant a stay may effectively bar their relief.

**C. Appellants Seek to Have Only That Portion of Their Accounts That Receiver Proposes to Allocate Against to Act as a Bond, if Required.**

Rule 305 allows this Court to exercise its discretion on whether to require a bond as a condition for issuing a stay pending appeal. Appellants seek to stay the inclusion of only *their* IFAs in the Cash Shortage Reallocation. Consequently, Appellants request that in the event this Court imposes a bond before issuing a stay, that it allow Appellants to keep frozen 8.69% of the assets of their IFAs currently held at Millennium, which represents the maximum percentage that Receiver could obtain in the event it succeeded on this appeal. Proposed Order at ¶ 15; SR

C00142. Penalizing Appellants with a prohibitive bond in excess of such portion of their already frozen accounts, as suggested by Receiver, would prevent Appellants from seeking appropriate redress here.

**WHEREFORE**, Appellants respectfully request that this Court: enter an order granting their Motion to Stay; preclude Receiver from including Appellants' accounts in the Cash Shortage Reallocation; in the event a bond is required, freeze only that portion of the Appellants' accounts sufficient to satisfy any proposed reallocation of the Cash Shortage (as proposed in Receiver's January 26, 2001 Report, the percentage is 8.69%); grant Appellants an opportunity to file a reply to Receiver's response to this Motion; and grant such other and further relief it deems appropriate.

Dated: January 31, 2001

SEE ATTACHED LIST OF APPELLANTS AND THEIR RESPECTIVE COUNSEL

Respectfully submitted,

Appellant, J. PHILLIP O'BRIEN, an Intrust  
account holder

By: \_\_\_\_\_  
Attorney for J. Phillip O'Brien

Daniel T. Graham, Esq.  
Levin & Funkhouser, Ltd.  
55 West Monroe Street, Ste. 2410  
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Telephone: (312) 701-6848  
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Firm Id. No. 11961

**AFFIDAVIT**

I, Daniel T. Graham, being first duly sworn, depose and on oath state as follows:

1. I am a member of the firm of Levin & Funkhouser, Ltd., counsel to Michael Elkin, Steven J. Fagan, J. Phillip O'Brien, William R. Schowalter, Cheri B. Shinsky n/k/a Cheri B. Rakowsky, Harold K. Shinsky, Jody E. Shinsky, Michael S. Shinsky and Miriam C. Shinsky. in this appeal. Due to the common interest of the account holders in the issues raised in this appeal, and to minimize undue cost and inconvenience in prosecuting separate appeals, the account holders named on the list attached to this Motion have joined together in this appeal.

2. I submit this Affidavit pursuant to Illinois Supreme Court Rule 328. I have personal knowledge of the facts contained in the attached Motion that do not appear of record and, if called and sworn as a witness, could and would competently testify as set forth therein.

3. I hereby certify that the Supporting Record consists of true and accurate copies of pleadings filed, orders entered, or transcripts of proceedings in this matter to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

\_\_\_\_\_  
Daniel T. Graham

SUBSCRIBED and SWORN to  
Before me this January 31, 2001.

\_\_\_\_\_  
Notary Public

APPEAL TO THE APPELLATE COURT FOR THE STATE OF ILLINOIS  
FOR THE FIRST DISTRICT

FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT

IN THE MATTER OF THE POSSESSION AND	)	
CONTROL OF THE COMMISSIONER OF BANKS AND	)	
REAL ESTATE OF INDEPENDENT TRUST	)	No. 00 CH 05905
CORPORATION a/k/a INTRUST, an Illinois corporate	)	
fiduciary	)	Judge Sidney A. Jones, III
	)	
THE COMMISSIONER OF BANKS AND REAL ESTATE	)	
and PRICEWATERHOUSECOOPERS, LLP, AS	)	
RECEIVER OF INDEPENDENT TRUST CORP., a/k/a	)	
INTRUST, and MILLENIUM TRUST COMPANY, LLC,	)	
Appellees,	)	
	)	
	)	
J. PHILLIP O'BRIEN, INTRUST ACCOUNT HOLDER	)	
AND ALL ACCOUNT HOLDERS LISTED HEREIN,	)	
parties in interest,	)	
	)	
Appellants.	)	

**ORDER**

This cause coming on to be heard on Appellants' Motion To Stay Liquidation And Distribution Of Assets From Their Individual Fiduciary Accounts, it is hereby ordered that the Appellants' Motion is (granted)(denied).

\_\_\_\_\_  
Justice

\_\_\_\_\_  
Justice

\_\_\_\_\_  
Justice

ORDERED PREPARED BY:

Name	Daniel T. Graham
Attorney for	Phillip J. O'Brien, et al.
Address	55 West Monroe Street, Ste. 2410
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