

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT-CHANCERY DIVISION**

<b>INDEPENDENT TRUST CORP.</b>	)	
	)	
V	)	
	)	No.
LAURENCE W. CAPRIOTTI;	)	
JACK L. HARGROVE; and ITI	)	
ENTERPRISES, INC.	)	

**COMPLAINT**

The plaintiff, Independent Trust Corporation, through its receiver PricewaterhouseCoopers LLP and counsel, alleges and complains against defendants as follows:

**PARTIES**

1. Independent Trust Corporation (“Intrust”) is an Illinois corporation with its principal place of business at 15255 94<sup>th</sup> Ave., Suite 303, Orland Park, Illinois. Intrust serves as a trustee for various types of trust accounts. The majority of the accounts are individual retirement accounts. On April 14, 2000, pursuant to Article VI of the Illinois Corporate Fiduciary Act, 205 ILCS 620/6-1 et seq., the Illinois Commissioner of Banks and Real Estate took control of Intrust and placed it in receivership. Pursuant to section 6-9 of the Illinois Corporate Fiduciary Act, the Commissioner appointed PricewaterhouseCoopers LLP (“PWC”) as receiver for the purpose of liquidating Intrust through receivership. On April 14, 2000, this Court issued an Order of Administration with respect to the PWC receivership of Intrust. Among other things, the Court’s Order of Administration authorized PWC “to take all measures to protect, preserve, collect and recover any assets and property of [Intrust] and debts and claims held by [Intrust], and to deal with the same in its own name as Receiver or in the name of [Intrust], and to file, prosecute and defend any suit or suits heretofore or

hereafter filed by or against [Intrust] or the Receiver with respect to the affairs, assets, debts, and causes of action of [Intrust] ....”

2. Defendant ITI Enterprises, Inc. (“ITI Enterprises”) is an Illinois corporation that was incorporated on December 20, 1994. Defendant Capriotti is registered as the President of ITI Enterprises, and defendant Hargrove is registered as the Secretary of the company. Upon information and belief, defendants Capriotti and Hargrove own ITI Enterprises.

3. During the time period relevant to this complaint, defendants Capriotti and Hargrove were the registered corporate officers and owners of several businesses that they operated as interchangeable entities from offices at 120 W. Madison St., Chicago, Illinois. These business included defendant ITI Enterprises, Inc. In addition, during the time period relevant to this complaint, Capriotti was a director of Intrust. Capriotti is a resident of Will County, Illinois.

4. Like defendant Capriotti, defendant Hargrove is a corporate officer and an owner of ITI Enterprises and other businesses headquartered at 120 W. Madison, Chicago, IL. In addition, during the time period relevant to this complaint, Hargrove was the Chairman of Intrust’s Board of Directors and the owner of Intrust through Intrust’s parent company, Madison Avenue Investments (also headquartered at 120 W. Madison St., Chicago, IL). Hargrove is a resident of Florida.

5. Upon information and belief, Capriotti and Hargrove have operated ITI Enterprises without regard for its corporate form, and there is a unity of interest among Capriotti, Hargrove, and ITI Enterprises. Under these circumstances, it would sanction a fraud and promote an injustice to observe the fiction of a separate corporate existence for defendant ITI Enterprises.

## **JURISDICTION AND VENUE**

6. Pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/2-101 et seq., this Court has jurisdiction and venue over this action. The defendants conduct business within Cook County, Illinois, and the cause of action asserted herein arose in Cook County, Illinois.

7. In addition, this Court has jurisdiction over this matter pursuant to the Illinois Corporate Fiduciary Act. That Act vests the Receivership Court with “jurisdiction to hear and determine all issues and matters pertaining to or connected with the Commissioner’s possession and control of [a] corporate fiduciary ... and such further issues and matters pertaining to or connected with the Commissioner’s possession and control as may be submitted to such Court ....” 205 ILCS 620/6-4(a). This suit is directly connected to the receivership of Intrust. As contemplated in this Court’s Order of Administration, it involves the receiver’s efforts to “collect and recover [] assets and property of [Intrust]”.

## **NATURE OF THE ACTION**

8. This is an action for judgment on a \$1.6 million dollar promissory note (the “Note”) issued Intrust by ITI Enterprises. ITI Enterprises has defaulted on the Note by failing to make the payments required pursuant to the Note.

## **FACTUAL ALLEGATIONS**

9. In November 1999, Intrust wire transferred \$1.6 million to ITI Enterprises. On or about November 16, 1999, in Cook County, Illinois, in consideration for the \$1.6 million received from Intrust that same month, ITI Enterprises executed the Note and delivered it to Intrust. Capriotti signed the Note as ITI Enterprises’ President. The Note obligated ITI Enterprises to pay Intrust or its assignee \$1.6 million on November 15, 2002. The Note also obligated ITI Enterprises to pay

interest to Intrust on the unpaid principal at the rate of nine percent (9%) per year. The Note required ITI Enterprises to make the interest payments in monthly installments. ITI Enterprises was to make the last interest payment on November 15, 2002 (the date upon which ITI Enterprises was required to repay the \$1.6 million principal). A copy of the Note is attached to this complaint and incorporated by reference as Exhibit One.

10. ITI has defaulted on the Note. Beginning in February 2000, it has failed to make the monthly interest payments of \$12,000 due pursuant to the Note's terms. After ITI Enterprises failed to make its February interest payment, Intrust served a notice of default and accelerated the balance of the indebtedness. The balance of the indebtedness is now owing in its entirety. Despite its demands, Intrust has not received any further payments on the Note nor has the principal been repaid. Interest on the unpaid principal continues to accrue at the rate of \$394.52 per day.

11. Under the terms of the Note, ITI Enterprises "waives presentment and all other demands, notices, protests and notices of dishonor and protests." The Note also provides that "[i]n the event of default, INTRUST or the legal holder hereof shall be entitled to reasonable costs of collection, including reasonable attorneys' fees."

**COUNT ONE**  
**BREACH OF CONTRACT**  
**(Against all Defendants)**

1. Intrust realleges and incorporates paragraphs one through eleven of its complaint as if fully contained herein.

2. On or about November 16, 1999, in return for consideration received from Intrust, ITI Enterprises entered into a valid and enforceable contract as evidenced by the Note attached to this complaint.

3. By wire transferring \$1.6 million to ITI Enterprises, Intrust fully performed its obligations under the terms of its agreement with ITI Enterprises.

4. ITI Enterprises breached its contract with Intrust by failing to make the monthly interest payments required under the terms of the Note and failing to return the \$1.6 million principal to Intrust following ITI Enterprises' default.

5. The other defendants are liable to Intrust for ITI Enterprises' breach of its agreement with Intrust. Defendants Capriotti and Hargrove own and operate ITI Enterprises without regard for its corporate form. Because of the unity of interest among defendants Capriotti, Hargrove, and ITI Enterprises, it would sanction a fraud and promote an injustice to observe the fiction of a separate corporate existence for defendant ITI Enterprises.

6. As a result of the breach of contract, Intrust has suffered damages.

WHEREFORE, Plaintiff Intrust Corporation respectfully requests that this Court enter an  
order granting the following relief:

- A. A judgment of compensatory damages in the amount of \$1.6 million together with the unpaid interest owing to Intrust as of the date of the judgment pursuant to the terms of the Note.
- B. An award of all attorney fees and additional costs associated with the prosecution of this suit.

C. A judgment for such other relief (including equitable relief) as this Court deems reasonable, necessary and just.

RESPECTFULLY SUBMITTED,

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