

**EXERPTS FROM THE TRANSCRIPT**  
**OF THE HEARING HELD BEFORE JUDGE JONES ON SEPTEMBER 15, 2000**  
**IN THE MATTER OF *INTRUST V. CAPRIOTTI*, No. 00CH8270**

**THE COURT:**

Thank you both. Much earlier in the receivership case, the Court allowed the receivers to file pleadings on behalf of account holders. Initially the Court wasn't going to do that. The receiver begged or nearly begged, Mr. Silverman nearly begged that I allow that because he felt then and perhaps as a practical matter that was correct that it would be far easier for the receivers — for the receiver to react to one pleading than to several thousand or potentially several thousand. At the point in that case I suppose allowing the account advisers to engage in that level of advocacy made some sense. I believe that the problem arises because account advisers are purporting to represent account holders. The Court sees the position of account advisers as actually adverse to that of account holders. It was account advisers who came in screaming for money for them to get paid. I believe that the Court authorized that they get paid in a total amount of some 1.5 million dollars, is that right? Of course, Mr. Goldberg doesn't know.

**MR. GOLDBERG:**

I have no idea.

**THE COURT:**

I know, but that's what the Court did. Initially the request was made informally, that is without benefit of a pleading by Mr. Silverman, who just told the Court that the account advisers needed to be paid and the receiver recommended that they be paid. The Court said well, no, they have other accounts elsewhere, they don't need to get paid, they can stay frozen like the rest of the world. A week hadn't gone by when all of them stormed into my -- or virtually stormed into my courtroom asserting that they had large percentages of their entire business with account holders at Intrust and that they hadn't been paid and that they are about to go out of business because they weren't being paid. It struck me then that there were several things wrong with that picture. Here we have people who are broke trying to advise other people on how to become

wealthy. You can't take French from somebody who doesn't know how to speak French. You can't learn about how to accumulate wealth from somebody who is not wealthy. If the account advisers are about to go out of business, they can hardly be considered wealthy at least to the extent that they are account advisers. They may make a lot of money as account advisers, but the fact that they have to come in on petitions to get paid speaks to their lack of continued wealth.

The second thing that was wrong with that picture is that account advisers are asking to get paid a total of 1.5 million dollars. That's 1.5 million dollars that the receiver might have been able to use to proceed in this litigation against the alleged wrongdoers.

The Court therefore finds that to allow the account holders to continue to make legal assertions on behalf — I am sorry — the account advisers to make legal argument on behalf of the account holders is now impermissible. I think that except for what is going to go on on the 21st, September the 21st in the context of the receivership case is going to be the last day I am going to allow account advisers to advocate on behalf of their account holders. I believe it was Sonnenschein's firm or somebody's firm that dumped four boxes of petitions in my chambers the other day. They representative about four or 500 different account holders. They were in here just this morning.

**MS. ANDREWS:**

I don't believe they represent any investment advisers —

**THE COURT:**

But they sure did find 400 account holders, and it seems to me that there are enough law firms in this town with sufficient staff to represent a large number of account holders so that lawyers representing account advisers don't have to litigate on behalf of account holders. I think that if I do that, in the Court's mind that will resolve the conflict that the Court initially perceived. Therefore, the Court will dismiss its rule upon the defendant's counsel and will not discharge defendant's counsel or disqualify him.

**MR. GOLDBERG:**

Thank you very much, your Honor.