

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

IN THE MATTER OF THE POSSESSION)
AND CONTROL OF THE COMMISSIONER)
OF BANKS AND REAL ESTATE OF) Case No. 00 CH 05905
INDEPENDENT TRUST CORPORATION)
a/k/a INTRUST, an Illinois corporate) Honorable Sidney A. Jones, III
fiduciary)

MOTION OF ALVIN DAVIS AND MAJORIE DAVIS, AS TRUSTEES OF THE
DAVIS REVOCABLE TRUST TO EXCLUDE INTRUST ACCOUNT #925708
FROM ALLOCATION OF SHORTFALL OF CASH SHORTAGE

Claimants, Alvin Davis and Majorie Davis, as Trustees of the Davis Revocable Trust (“Claimants”), by their attorney, Howard J. Stein, pursuant to the Court’s Orders of August 2, 2000, and August 17, 2000, hereby move to exclude Intrust Account #925708 (“the Account”) from the “Allocation of Trust Fund Shortage” referenced in the Receiver’s Recommendation on the

ground that substantially all the cash in the Account was not subject to risk and in fact was substantially fully invested in mutual funds not within the control of Intrust on the dates that Intrust transferred funds to Intercounty Title Company of Illinois.

In support of their Motion, Claimants state as follows:

1. Claimants opened the Account on January 29, 1999 with a deposit of \$50,000.
2. On February 16, 1999, the funds deposited were used to purchase mutual funds.
3. True and correct copies of Claimants' Account Summaries for January 1999 through April 1999 reflecting all transactions in the Account during that period are attached hereto as Exhibit A.

4. The Receiver's "Preliminary Detailed Listing of Transactions with Intercounty Title Company of Illinois for the Period December 1990 through February 2000 in this matter shows that the only transfer of funds from Intrust to Intercounty made subsequent to Claimants' deposits of funds occurred on April 21 and 23, 1999.

5. At the time of such transfers by Intrust, all of the assets in Claimants' Account were maintained in the mutual funds and there was no cash balance in the Account except for \$101,986 used to pay an investment manager fee on April 21, 1999.

6. Therefore, the Account was not subject to risk (other than market risk of the mutual funds purchased). None of Claimants' funds could have been among the funds transferred by Intrust.

7. Paragraph 10(a) (3) of the Court's Order of August 17, 2000 provides that the Court will exclude any account from allocation of the Shortage if, among other things, "substantially all cash in the account was not subject to risk."

Wherefore, Claimants request that this Court enter an Order finding and establishing that the

Account is excluded from the Allocation of the Trust Fund Shortage identified in the Receiver's Recommendations.

Attorney for Alvin Davis and Majorie Davis,
Trustees for The Davis Revocable Trust

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