

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) Judge Sidney A. Jones, III
A/K/A INTRUST, AN ILLINOIS)
CORPORATE FIDUCIARY)

MOTION OF JAY HALEY TO EXCLUDE INTRUST ACCOUNTS 61278 AND
925664 FROM ALLOCATION OF SHORTFALL OF CASH SHORTAGE

Claimant, Jay Haley ("Claimant"), by his attorney, Howard J. Stein, pursuant to the Court's Orders of August 2, 2000, and August 17, 2000, hereby moves to exclude Intrust Accounts 61278 and 925664 ("the Accounts") from the "Allocation of Trust Fund Shortage" referenced in the Receiver's Recommendation on the ground that substantially all the cash in the Accounts 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 his Motion, Claimant states as follows:

1. Claimant opened the Accounts on October 19, 1998 with a deposit of \$40,772.89. On October 20, 1998, the funds deposited were used to purchase mutual funds.
2. In February 1999, some of the mutual funds were sold and the proceeds of \$20,000 were transferred to another of Claimant's IRA accounts.
3. Claimant's Accounts were fully invested at all times in mutual funds. At no time was there any substantial amount of cash in Claimant's Accounts at Intrust, other than small amounts that were used periodically to pay investment management fees.
4. True and correct copies of Claimant's Account Summaries for October 1998 through April 1999 reflecting all transactions in the Accounts during that period are attached hereto as Exhibit A.

5. 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 Claimant's deposits of funds occurred on April 21 and 23, 1999.

6. At the time of such transfers by Intrust, all of the assets in Claimant's Accounts were maintained in the mutual funds and there was no cash balance in the Accounts except for \$212.38 used to pay an investment manager fee on April 21, 1999.

7. Therefore, the Accounts were not subject to risk (other than market risk of the mutual funds purchased). None of Claimant's funds could have been among the funds transferred by Intrust.

8. 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, Claimant requests that this Court enter an Order finding and establishing that the Accounts are excluded from the Allocation of the Trust Fund Shortage identified in the Receiver's Recommendations.

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