

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
INDEPENDENT TRUST CORPORATION
a/k/a INTRUST, an Illinois corporate
fiduciary

Cause No.00 CH 05950
Judge Sidney A. Jones III

MOTION SEYMOUR SCHECTMAN FOR EXCLUSION

Seymour Schectman (“Movant”), by attorneys Doyle and Bolotin, Ltd., requests that the account at Intrust, Account Number 900226 be excluded from allocation of the shortage pursuant to Paragraph 10(a)(3) of the Court’s Order of August 17, 2000 on the grounds that “Substantially all cash in the account was not subject to risk.” In support of this motion, Movant states as follows:

1. Movant’s account was managed by Coyle Asset Management Company, Inc. (“Coyle”), a Registered Investment Adviser. Movant’s account was listed, by account number but not by name, in a joint Motion For Exclusion filed by Movant’s counsel on behalf of various Coyle clients on August 9, 2000. This motion amends and supplements the previous joint motion.
2. As shown on the Intrust account statements attached hereto as Exhibit A, since account inception the majority of funds deposited to the cash account, as a matter of procedure, were promptly reinvested into segregated investments. Hence these funds, due to the limited exposure to the cash account, were substantially not at risk. In addition, due to the non-static nature of any cash balances (funds could be withdrawn from the cash account at any time and added to segregated investments) they could not be relied upon as a source of embezzlement without the risk of prompt discovery.
3. In addition, as shown on the Intrust October 1998 monthly statement (see Exhibit A), the majority of the funding of this account consisted of a transfer of shares of investment securities from prior Custodians in October 1998. These assets never passed through the Intrust cash account and were never at risk.
4. A substantial deposit was made to Movant’s account on April 23, 1999. The Movant’s wire transfer (from the proceeds from a segregated, not at risk investment) was received by Intrust at 3:00 pm, after Intrust made its final transfer to Intercounty at 12:20 pm that same day. The Movant’s funds should be excluded

from allocation of the shortage for the same reasons that accounts opened after April 23, 1999 have been excluded. These funds were deposited after all money was embezzled and therefore the funds were not at risk.

5. The Affidavit of Gary W. Klaben in support of this motion is attached hereto as Exhibit B.

For the above reasons, the Court should exclude the Movant's account from Allocation of the Shortage.

Respectfully Submitted

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One of the attorneys for Movant

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