

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	§	Cause No. 00CH05905
INDEPENDENT TRUST CORPORATION	§	
a/k/a INTRUST, an Illinois corporate	§	
fiduciary	§	

**ORDER APPROVING
PURCHASE AND ASSUMPTION AGREEMENT**

On November 29, 2000, the Court conducted a hearing on the approval of the Purchase and Assumption Agreement between Independent Trust Corporation a/k/a Intrust ("Intrust"), acting through PricewaterhouseCoopers LLP in its capacity as Receiver ("Receiver"), and Millennium Trust Company LLC formerly known as MTC, LLC ("Purchaser"). The Court, after considering the Purchase and Assumption Agreement with schedules, a copy of which is attached hereto as Exhibit A (the "P&A Agreement"), the exhibits, testimony, statements of counsel, the status of the operations of Intrust, the Court's file, the record herein, any objections and being fully advised in the premises, finds that the following Order should be entered.

THEREFORE, IT IS HEREBY FOUND, ORDERED, ADJUDGED, AND DECREED and NOTICE IS HEREBY GIVEN that:

1. The Court has jurisdiction over Intrust, the Receiver, the Purchaser, and the transactions contemplated by the P&A Agreement.
2. Notice of and hearing on the approval of the P&A Agreement, and the transactions contemplated thereby, has been proper under the provisions of the Illinois

Corporate Fiduciary Act, 205 ILCS 620/6-1~~et seq.~~ (“Corporate Fiduciary Act”) and applicable laws, and has been reasonable, adequate, and appropriate under the particular circumstances.

3. All capitalized terms used herein shall have the meanings as defined in the P&A Agreement or this Order.

4. The sale, appointment of a successor trustee, and transactions contemplated by the P&A Agreement and this Order are necessary to conserve Intrust’s assets, secure the best interests of account holders and creditors of Intrust, and are the best available means for preserving and realizing the going concern value of the Plans and the business of Intrust.

5. Due to the pendency of the Intrust liquidation proceeding, the status of and current restrictions on Intrust's operations, the extensive reporting and compliance requirements imposed upon Intrust by Plan operations, the expense to Intrust of maintaining such Plan operations, other good business reasons, and the need to minimize the interruption and impairment of fiduciary management, administration and responsibility for the Plans, it is in the best interest of account holders, beneficiaries, and concerned parties that the Receiver should immediately transfer and assign Intrust's right, title and interest in the trust business related to the Plans and Intrust's fiduciary position as trustee, custodian and/or administrator under the Plans, to Purchaser pursuant to the P&A Agreement.

6. The terms of the P&A Agreement and the transactions it represents were negotiated at arm's length and in good faith by the Receiver and Purchaser, and Purchaser is a good faith purchaser for value.

7. The consideration and purchase price to be paid by Purchaser pursuant to the P&A Agreement is fair, reasonable, and adequate, and is the best offer received for the Assets.

8. Purchaser has adequately demonstrated the financial ability and business expertise to consummate the transactions contemplated by the P&A Agreement and administer the Plans in the manner required by law and the P&A Agreement; Purchaser is a trust company having trust powers and is the type of organization authorized by the Internal Revenue Service to hold assets of the Plans and serve as trustee and/or custodian of the Plans; and Purchaser is duly qualified to be appointed and to act as successor trustee to Intrust under the Plans.

9. The Commissioner of Banks and Real Estate for the State of Illinois (“Commissioner”) has consented to and approved the P&A Agreement.

10. The Receiver has complied in all respects with the provisions of sections 6-10(16), 6-11(4), 6-10(6) and 3-3 of the Corporate Fiduciary Act, including the making of a sufficient accounting under section 6-10(6) in the form of its Report on Its Initial Investigation which has been approved by the Court.

11. Grounds exist under the provisions of the Corporate Fiduciary Act, Illinois Trusts and Trustees Act, and applicable laws for approving the P&A Agreement and the transactions contemplated by the P&A Agreement.

12. Pursuant to the Corporate Fiduciary Act and applicable law, the Receiver has full authority and right, on behalf of Intrust, to enter into the P&A Agreement and consummate the transactions contemplated by the P&A Agreement on behalf of Intrust.

13. The P&A Agreement is approved in all respects; the transactions contemplated by the P&A Agreement are approved and confirmed; the Receiver's actions in establishing and conducting the sales process for the businesses of Intrust are ratified and approved; and the Receiver's actions in negotiating, executing, and entering into the transactions represented by the P&A Agreement (including the Escrow Agreement) are ratified and approved.

14. All objections of any parties to the P&A Agreement, this Order, and the transactions contemplated thereby are overruled.

15. As of the date of this Order, the P&A Agreement shall be a legally binding obligation of the Receiver, on behalf of Intrust, and Purchaser, and is enforceable in accordance with its terms.

16. The transactions contemplated by the P&A Agreement shall be effective as of 12:01 a.m. on December 1, 2000 (the "Effective Date").

17. The Receiver is hereby immediately authorized to execute and deliver prior to, at, or subsequent to the Effective Date, any and all instruments, documents, agreements, pleadings, and papers and take all actions as may be necessary or appropriate for the performance of the Receiver's and Intrust's obligations under the P&A Agreement.

18. As of the Effective Date, all of Intrust's right, title and interest in and to the Plans, Plan Assets, Corporate Assets, Plan Documents, Plan Records, and Assets shall be deemed vested in and are hereby sold, conveyed, assigned and transferred to Purchaser, without the need of further transfer, act, substitution or deed, all in accordance with the terms of the P&A Agreement.

19. As of the Effective Date, Purchaser shall be deemed to be and is hereby appointed as the successor to all of the rights, powers, obligations, assets, deposits, agreements, and trusts held by Intrust as trustee, custodian, and/or administrator, or in any other fiduciary or representative capacity with respect to the Plans; shall be deemed to be and is hereby appointed as the successor trustee, custodian, fiduciary and/or administrator of the Plans; shall be vested with all of Intrust's right, title and interest in the trust business relating to the Plans and the Assets; shall succeed to Intrust's right, title and interest in the trust business relating to the Plans and the Assets; shall succeed to Intrust's fiduciary relationships in all capacities with respect to the Plans, including but not limited to, Intrust's position as trustee, custodian and/or administrator of the Plans and all rights, powers, franchises, duties and obligations of Intrust relating in any manner whatsoever to the Plans; shall assume in all respects all obligations and duties of Intrust under, with respect to, and as trustee, custodian and/or administrator for the Plans; all without the need of further transfer, act, substitution or deed, and all in accordance with and subject to the limitations of liability and protections provided to the Purchaser by the terms of the P&A Agreement, this Order and applicable laws.

20. On and after the Effective Date, all banks, savings and loan associations, transfer agents, brokerage houses, financial institutions, and individuals and entities, which have on their account any Plan Account Funds and Plan Account Assets, upon receipt of written instructions executed by Purchaser, shall and are hereby authorized and directed to transfer such assets or title thereto to Purchaser or other person or entity designated in such written instructions.

21. On and after the Effective Date, Purchaser is hereby authorized to endorse and deposit, on behalf of Intrust , all checks, drafts, and instruments which constitute the Plan Account Funds and Plan Account Assets transferred to Purchaser under the P&A Agreement.

22. After the Effective Date, the Receiver and Purchaser shall and are hereby authorized to permit the other access to all books, records, computer data, documents and records of which it has custody, and to use, inspect, make extracts from or request copies of any such records. Purchaser shall and is hereby authorized to cooperate fully with and permit any authorized representatives of the Receiver, the Court, and the Commissioner, to visit and examine the Plan Documents, Plan Records, and all books, records, files, computer data and documents in the possession of Purchaser relating thereto.

23. On or after the Effective Date, neither Intrust, the Receiver, nor the Commissioner shall have any further obligations, duties, or liabilities with respect to the Assets or operation of the Plans; and as of the Effective Date, Intrust, through the Receiver, shall be considered as having resigned as trustee, custodian and/or administrator of the Plans without further act or notice.

24. Pursuant to section 14 of the Illinois Trust and Trustee's Act, 760 ILCS 5/1 et seq., Purchaser, as successor trustee to Intrust, shall not be liable for any breach of trust, action, or failure to act by Intrust.

25. Purchaser shall not be liable for: (1) any actions, error, omission or breach of fiduciary duties of Intrust, its affiliates, or any of their agents, employees, officers or directors prior to the Effective Date; (2) any fraudulent or deceptive act committed by Intrust, its affiliates, or any of their agents, employees, officers or directors prior to the Effective Date; (3) any liability under any statutory provision, contractual or common law principle, as a result

of any act or omission by Intrust, its affiliates, or any of their agents, employees, officers or directors prior to the Effective Date; (4) any distributions or payments in excess of the Plan Assets transferred to Purchaser pursuant to this P&A Agreement and funds collected pursuant to section 2.09 of the P&A Agreement, for claims of Plan Account Holders that arose prior to the Effective Date (and in any event, Purchaser's liability under any Plan shall be limited to the specific Plan Asset upon which the claim is based); and (5) any violation of laws, rules or regulations by Intrust which have been promulgated by any agency, state or federal government with which Intrust was obligated to comply prior to the Effective Date, except those services and duties for which the Purchaser has agreed to render or perform as provided in this P&A Agreement.

26. After the Effective Date, Purchaser (and not the Receiver) shall be responsible for implementing and collecting the Shortage from affected Plan accounts, in a timely manner and in accordance with the Allocation Orders, at Purchaser's own expense; and the Receiver shall have the right, but not the obligation, to consult with and advise the Purchaser in this regard.

27. After the Effective Date, Purchaser shall have the full right and authority to collect and implement allocation of the Shortage in the place of the Receiver, in accordance with prior orders of the Court and section 2.09 of the P&A Agreement; and further, the Receiver is hereby discharged from any further obligation or responsibility with respect to implementation and collection of the Shortage.

28. Pending the implementation and collection of the Shortage and further order of the Court, Purchaser shall not make or permit disbursements, transfers, or withdrawals from, or sales or trades of, Preclosing Trust Assets (as defined in the Court's April 14, 2000 Order

of Administration) or proceeds derived therefrom, except to the extent authorized by previous orders of the Court.

29. In the event a Plan Account Holder properly requests termination or transfer of its Plan to a new trustee or custodian, Purchaser shall be entitled to collect a termination fee pursuant to the underlying Plan documents; and Purchaser shall perform all functions to be performed by Purchaser necessary to process at least 1,000 account termination or transfer requests per month, and at least 500 cash liquidation transfers per month, on a first come, first served basis, when restrictions on accounts are removed by the Court.

30. Purchaser and the Receiver shall be entitled to rely upon the books and records of Intrust, the schedules to the P&A Agreement, the exhibits to the Bill of Sale, statements of Intrust employees, established business procedures of Intrust, and written statements signed by any person who Purchaser or the Receiver reasonably believes to be authorized to represent any such person, without the need of independent audit, investigation or verification, in operating and administering all duties, rights and responsibilities under the P&A Agreement and the trust business conveyed thereby.

31. The Receiver is hereby authorized, on behalf of Intrust, to reject any and all leases and contracts to which Intrust is a party and which are not assigned to Purchaser, and any claims based on such rejection shall be claims against the Intrust estate, and not Purchaser.

32. The transactions contemplated by the P&A Agreement, including the conveyance of the Assets to Purchaser, shall not be deemed to be a sale of "securities" within the meaning of the Securities Act of 1933, other federal securities laws, state securities laws, or any rules or regulations promulgated thereunder.

33. The Receiver be and is hereby authorized to deposit the purchase price received by Intrust for the Assets in corporate accounts of Intrust which are insured by the federal government, to invest such funds in obligations issued or backed by the federal government or any agency thereof, or in such other depository accounts or investments approved by the Commissioner.

34. Neither the Receiver nor the Commissioner shall have any personal liability for any of the obligations, rights, or duties of Intrust or the Receiver under the P&A Agreement, the Plans and Assets conveyed thereby, or the transactions contemplated thereby, such liabilities, if any, being those of the Intrust estate.

35. Nothing contained in the P&A Agreement, any document executed in connection with the P&A Agreement, this Order or the transactions contemplated hereby, shall be construed as affecting, waiving or transferring, in any manner whatsoever, claims, demands, rights, causes of action, or penalties in which the Receiver, the Plan Account Holders, or Intrust have, or may have, on their own behalf or as trustee or fiduciary for others, any right, title, or interest, against any person or entity, including, but not limited to: (1) former and existing officers, directors, employees, stockholders, representatives, agents, consultants or controlling persons of Intrust or any of their parents, subsidiaries, affiliates, or connected entities or their predecessors or survivors (including without limitation, Intercounty Title Company of Illinois a/k/a Wholesale Real Estate Services Inc., ITI Enterprises Inc., Madison Avenue Investments, Laurence W. Capriotti, Jack L. Hargrove, and Alan L. Hurwick; (2) auditors, accountants, attorneys, appraisers, brokers, financial advisors, or other professionals for Intrust; (3) insurers, bonding companies, underwriters, indemnitors, or persons or entities performing a similar function for Intrust, Intercounty Title Company of Illinois

a/k/a Wholesale Real Estate Services Inc., ITI Enterprises Inc., Madison Avenue Investments, Laurence W. Capriotti, Jack L. Hargrove, and Alan L. Hurwick, or any of their officers, directors, employees, stockholders, representatives or agents, parents, subsidiaries, affiliates, or connected entities, including, without limitation, claims of Intrust that may exist under the insurance policies described in the P&A Agreement, and any renewals, extensions, modifications of such policies and previously issued policies; (4) underwriters of bond or other securities offerings; and (5) persons or entities aiding, abetting, assisting, or acting in concert with any of the persons or entities described in (2) through (4), arising out of, involving, or any way relating to any tortious conduct, malpractice, misappropriation, conversion, accounting, negligence, gross negligence, breach of fiduciary duties, actual or constructive fraud, breach of contract, misrepresentation, conspiracy, employee dishonesty, commercial crimes, or violation of any statute, law, regulation, or code that occurred at any time before the Company Closing, including, but not limited to, claims and causes of action related to the Shortage and those set forth in the suit styled Independent Trust Corp. v. Capriotti, et al., pending in the Circuit Court of Cook County, Illinois.

36. From and after the entry of this Order, Intrust, its affiliates, their officers, employees, directors, agents and representatives, creditors, stockholders, account holders, parties in interest, and any third parties, shall not take or cause to be taken any action which would interfere, impair, or impede the transfer of the Plans, Plan Documents, Plan Records, and Assets to Purchaser or which would interfere with, impair, or impede the fulfillment of the obligations, rights and duties of Intrust, the Receiver or Purchaser under the P&A Agreement, nor shall any of such parties, after Effective Date, take any action which would interfere with,

impair, or impede Purchaser's operation, control or ownership of the Plans, Plan Documents, Plan Records, Assets, and the trust business conveyed by the P&A Agreement.

37. The terms of this Order shall be binding upon Intrust, its shareholders, affiliates, escrow agents, depositories, brokers, investment advisors, creditors, account holders, and all parties interested in the affairs of Intrust.

38. The Court hereby retains exclusive jurisdiction for determination of all issues and disputes concerning the terms of this Order, the P&A Agreement, or any document or instrument executed in connection therewith; and further the Court hereby retains exclusive jurisdiction over the Plans, Plan Assets, and the Purchaser as successor trustee of the Plans, to enter the Allocation Orders and to conduct proceedings and enter orders in furtherance of the allocation of the Shortage and collection of the Shortage, notwithstanding the closing of the transactions contemplated by this P&A Agreement and the transfer of the Plans and the Plan Assets from Intrust to Purchaser.

39. This Order shall be and constitutes a final order, and unless a notice of appeal of this Order is filed and a stay of this Order is obtained prior to the Effective Date, the Receiver is hereby authorized to immediately take any and all actions authorized in or contemplated by this Order and the P&A Agreement, including without limitation, closing of the transactions contemplated by the P&A Agreement.

SO ORDERED.

Date: November 29, 2000.

/s/ Sidney A. Jones III
SIDNEY A. JONES III, Presiding Judge

APPROVED AS TO FORM:

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