

IN THE
Supreme Court of Tennessee,
AT NASHVILLE

In re: SENTINEL TRUST COMPANY

) Supreme Court No.
) M2005-00031-SC-R11-CV
)
)
) Court of Appeals No.
) M2005-00031-COA-R3-CV
)
)
) Lewis Equity No. 4781
)

**APPELLANTS' APPLICATION
FOR PERMISSION TO APPEAL**

The above-named Appellants in the Court of Appeals (herein, "Sentinel," the individual appellants being the members of Sentinel's board of directors), respectfully make application to the Court, under Rule 11, T.R.App.P., for permission to appeal the judgment of the Court of Appeals affirming the final judgment approving the transfer of Sentinel Company's performing trust accounts to SunTrust Bank.

Note: For the reader's convenience, parts of this Application are verbatim copies from the Application in the appeal arising from proceedings upon *certiorari*, No. M2005-01073-SC-R11-CV and original paragraphs herein are begun in bold type and full capital letters.

I—THE JUDGMENT OF THE COURT OF APPEALS

The opinion and judgment of the Court of Appeals were rendered December 29, 2005, and no petition for rehearing was filed. A copy of the judgment is appended hereto.

II—QUESTIONS PRESENTED FOR REVIEW

1. Whether the courts below erred in refusing to apply the law of statutory construction to determine if the face of a Tennessee Banking Act section empowering the Commissioner of Financial Institutions to seize a “state bank,” under restricted circumstances, empowers him as well to seize a “state trust company,” under claim that it is insolvent when (i) no language within the Act literally authorizes the seizure of a state trust company under *any* circumstances, (ii) the Act expressly defines both types of institutions by mutually-exclusive definitions, (iii) the Act provides completely different remedies for the insolvency of a bank and the insolvency of a trust company, and (iv) it is impossible that the circumstances that empower the commissioner to seize a state bank without prior due-process hearing *could ever occur* with regard to a non-bank state trust company.

2. **UNDER A STATUTE** that empowers the Commissioner of Financial Institutions to seize a “state bank,” under restricted circumstances, and does not requires any litigation, but vests the local trial court with authority only to give specific approval or disapproval to listed decisions previously made by the Commissioner, whether all decisions of the trial court,¹ before its entry of final judgment, were invalid under Tennessee law holding that when any statute gives a trial court jurisdiction to make only limited decisions, any decision not within those limits is void for lack of subject-matter jurisdiction, as the rule was expressed and applied in *Brown v. Brown*, 198 Tenn. 600; 281 S.W.2d 492 (1955) and in *City of Bluff City v. Morrell*, 764 S.W.2d 200 (Tenn., 1988).

3. **UNDER THE CIRCUMSTANCES** that the sole basis of a trial court’s alleged jurisdiction was the statutory power of the Commissioner of Financial Institutions to seize a “state bank” when it has become insolvent, and the Commissioner, upon his own claim of authority, seized a “state trust

¹As not being among the listed approval/disapproval orders such a local Court is authorized to make by the Tennessee Banking Act in bank-seizure cases, including such as approving the payment of receivership administration costs, and approving disbursements to bond holders.

