

STATEMENT OF ISSUES

1. Was the Circuit Court's affirmance of the decision of the State Banking Commission clearly erroneous in its decision to deny Independent Trust Company the right to organize and compete with the market place in Southeastern South Dakota.

The Trial Court affirmed the denial by the State Banking Commission.

2. Whether Appellant failed to prove by a preponderance of the evidence that its originators have adequate standing, experience, and character to operate a trust company in South Dakota.

The Trial Court affirmed the denial by the State Banking Commission that it failed.

3. Whether Appellant failed to prove by a preponderance of the evidence that its officers have the requisite character, qualifications, and experience to operate a trust company successfully.

The Trial Court affirmed the denial by the State Banking Commission.

4. Whether Appellant failed to prove by a preponderance of the evidence the public need for this proposed trust company in the community where it is proposed to locate.

The Trial Court affirmed the denial by the State Banking Commission.

5. Whether Appellant failed to prove by a preponderance of the evidence prospects for success of the proposed trust company.

The Trial Court affirmed the denial by the State Banking Commission.

6. Whether the safety and soundness of the trust industry would be served or not served by approval of the application of Appellant.

The Trial Court affirmed the denial by the State Banking Commission that it would not be so served.

7. Whether the Banking Commission (as represented by the three members making the decision), contrary to the evidence and the law, abused their discretion in denying the application of ITC.

The Trial Court affirmed the denial by the State Banking Commission.

8. Whether the substantial rights of the Appellant has been prejudiced in that the Administrative Findings, Inferences, Conclusions and Decisions are

- (a) In violation of constitutional and statutory provisions.
- (b) In excess of the statutory authority of the agency.
- (c) Made upon unlawful procedure.
- (d) An error of law.
- (e) Clearly erroneous in light of the entire evidence of the record.
- (f) Arbitrary and capricious and characterized by abuse of discretion

and clearly an unwarranted exercise of discretion.

The Trial Court affirmed the denial by the State Banking Commission that they had not been prejudiced.