

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D13340  
Y/cb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - November 29, 2006

FRED T. SANTUCCI, J.P.  
GABRIEL M. KRAUSMAN  
GLORIA GOLDSTEIN  
PETER B. SKELOS, JJ.

2005-08076

DECISION & JUDGMENT

In the Matter of Noel Feustel, petitioner, v  
Scott S. Rosenblum, etc., et al., respondents.

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Barry A. Kamen, PLLC, Stony Brook, N.Y., for petitioner.

Farrell Fritz, P.C., Uniondale, N.Y. (John M. Armentano and Rachel A. Scelfo of counsel), for respondents Scott S. Rosenblum, Robert Lynn Cox III, Hugh A. O'Brien III, Bruce A. Rich, Pia Notaro Carroll, and Mario Posillico.

Prokop & Prokop, East Setauket, N.Y. (Joseph W. Prokop of counsel), for respondent Incorporated Village of Saltaire.

Proceeding pursuant to Public Officers Law § 36 to remove the respondents Scott S. Rosenblum, Robert Lynn Cox III, Hugh A. O'Brien III, Bruce A. Rich, Pia Notaro Carroll, and Mario Posillico from public office in the Incorporated Village of Saltaire.

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits, with costs.

The petitioner failed to establish, by a preponderance of the evidence, that the respondents engaged in any intentional wrongdoing, self-dealing transactions, or gross dereliction of duties. Thus, none of the respondents' conduct rose to the level of malfeasance, misconduct, maladministration, or malversation as to warrant removal from public office pursuant to Public

Officers Law § 36 (see *Matter of Gumo v Canzoneri*, 276 AD2d 485; *Matter of Deats v Carpenter*, 61 AD2d 320; *Matter of Pisciotta v Dendievel*, 41 AD2d 949).

SANTUCCI, J.P., KRAUSMAN, GOLDSTEIN and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court