

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

D20744
G/prt

_____AD3d_____

Argued - September 23, 2008

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2007-04743

DECISION & ORDER

In the Matter of Alvin I. Mindes, deceased.
Philip I. Weinisch, objectant-appellant;
Joanne Mindes, respondent.

(File No. 473/01)

Kestenbaum & Mark, Great Neck, N.Y. (Paula Schwartz Frome of counsel), for
objectant-appellant.

Patricia Finn, Piermont, N.Y., for respondent.

In a proceeding for an accounting of a decedent's estate, the objectant appeals from a decree of the Surrogate's Court, Rockland County (Berliner, S.), dated May 1, 2007, which, after a nonjury trial, and upon an order of the same court dated September 6, 2006, in effect, dismissed his objections to probate and judicially settled the account.

ORDERED that the decree is affirmed, with costs.

The Surrogate's Court correctly determined that the appellant received his fair portion of the proceeds from the sale of his business with the decedent pursuant to the partnership agreement (*see generally Matter of Tract*, 284 AD2d 543). Accordingly, the appellant's objections to probate were properly dismissed.

LIFSON, J.P., RITTER, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 14, 2008

MATTER OF MINDES, DECEASED