

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

D23564
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_____AD3d_____

Submitted - May 12, 2009

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2008-00751

DECISION & ORDER

Joseph Fischer, appellant, v RWSP Realty, LLC,
d/b/a Prudential Rand Realty, et al., respondents.

(Index No. 922/04)

Ernest H. Hammer, New York, N.Y., for appellant.

Condon Resnick, LLP, Nyack, N.Y. (Ellen O'Hara Woods of counsel), for respondents.

In an action, inter alia, to recover a real estate broker's commission, the plaintiff appeals from an order of the Supreme Court, Rockland County (Sherwood, J.), dated December 10, 2007, which denied his motion to reopen the trial in order to submit additional evidence.

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the intermediate order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment in *Fischer v RWSP Realty, LLC* (_____AD3d _____, Appellate Division Docket No. 2008-06718 [decided herewith]; *see* CPLR 5501[a][1]).

RIVERA, J.P., COVELLO, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 16, 2009

FISCHER v RWSP REALTY, LLC, d/b/a PRUDENTIAL RAND REALTY