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

D24554
W/hu

_____AD3d_____ Argued - September 15, 2009

MARK C. DILLON, J.P.
ANITA R. FLORIO
HOWARD MILLER
LEONARD B. AUSTIN, JJ.

2008-03696 DECISION & ORDER

In the Matter of Bettina R. Weinraub, deceased.
Jerome M. Weinraub, respondent; S. Sidney Mandel, appellant.

(File No. 1202/83)

Sweetbaum & Sweetbaum, Lake Success, N.Y. (Marshall D. Sweetbaum of counsel), for appellant.

Kramer Levin Naftalis & Frankel LLP, New York, N.Y. (Howard J. Neuthaler, John C. Novogrod, and Dana L. Katz of counsel), for respondent.

In a probate proceeding in which Jerome M. Weinraub petitioned to revoke letters of trusteeship issued to S. Sidney Mandel, S. Sidney Mandel appeals from a decree of the Surrogate's Court, Westchester County (Scarpino, S.), dated March 11, 2008, which revoked letters of trusteeship issued to him on April 21, 1983, with respect to three trusts, and appointed Deutsche Bank Trust Company, N.A., as successor cotrustee.

ORDERED that the decree is affirmed, with costs payable by the appellant personally.

The Surrogate's Court providently exercised its discretion in revoking the appellant's letters of trusteeship (*see* SCPA 719[1], [10]; 711[3], [12]; *Matter of Duke,* 87 NY2d 465, 473). The appellant failed to account over many years, despite repeated requests by a cotrustee and beneficiary, a formal admonition from the Disciplinary Committee for the Appellate Division, First Judicial Department, a court order compelling him to do so by a date certain, numerous promises to the court that the accountings were forthcoming, and a finding of contempt. The appellant, who is

an attorney, not only failed to purge the contempt by providing the accountings, but then failed to appear for the subsequent removal hearing and left the jurisdiction despite a warrant of commitment being issued by the Surrogate's Court. Under these circumstances, his removal as cotrustee was warranted.

DILLON, J.P., FLORIO, MILLER and AUSTIN, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court