

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

D25224  
O/kmg

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

Argued - October 19, 2009

MARK C. DILLON, J.P.  
THOMAS A. DICKERSON  
ARIEL E. BELEN  
SHERI S. ROMAN, JJ.

2008-10453

DECISION & ORDER

In the Matter of Livingston Mandel Deans, deceased.  
Valerie Gray, petitioner-respondent; Felipe Orner, et al.,  
objectants-respondents; Fidelity & Deposit of Maryland,  
respondent-respondent; Real Spec Ventures, LLC, nonparty-  
appellant.

(File No. 1415/02/A)

Albanese & Albanese, LLP, Garden City, N.Y. (Hyman Hacker of counsel), for  
nonparty-appellant.

Felipe Orner, Flushing, N.Y., objectant-respondent pro se, and for objectant-  
respondent Jacklyn Deans.

Baker Greenspan & Bernstein, Bellmore, N.Y. (William R. Greenspan of counsel),  
for objectant-respondent Brandon Deans.

In a proceeding to settle the account of Valerie Gray as the former co-administrator  
of the Estate of Livingston Mandel Deans, nonparty Real Spec Ventures, LLC, appeals from so much  
of a decree of the Surrogate's Court, Queens County (Nahman, S.), dated September 30, 2008, as  
directed the cancellation of a mortgage which it issued in the amount of \$370,000.

ORDERED that the decree is modified, on the law, by adding to the fifth decretal  
paragraph thereof the words "to the extent of any interest held by the Estate of Livingston Mandel  
Deans" immediately following the words "State of New York;" as so modified, the decree is affirmed  
insofar as appealed from, without costs or disbursements.

December 1, 2009

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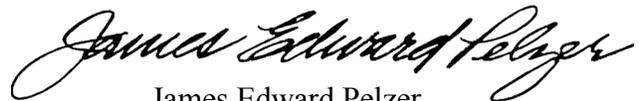
MATTER OF DEANS, DECEASED

For the reasons stated in our decision and order on the companion appeal, the Surrogate's Court lacked jurisdiction to direct the cancellation of the subject mortgage in its entirety (*see Matter of Deans*, \_\_\_\_\_AD3d\_\_\_\_\_ [Appellate Division Docket No. 2008-04483; decided herewith]). Accordingly, the decree must be modified to indicate that the cancellation of the subject mortgage does not encompass the interests of any living persons in the property and is limited to any interest held by the Estate of Livingston Mandel Deans.

In light of the foregoing, the appellant's remaining contention has been rendered academic.

DILLON, J.P., DICKERSON, BELEN and ROMAN, 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