

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

D26300
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____AD3d____

Submitted - January 11, 2010

PETER B. SKELOS, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
PLUMMER E. LOTT, JJ.

2008-10051

DECISION & ORDER

In the Matter of Stanley Mintz, deceased.
Fern Ciraolo, petitioner-respondent; Brenna Mintz,
et al., respondents-respondents; Louis R. Rosenthal,
nonparty-appellant.

(File Nos. 264/05, 267/05, 268/05)

Alexander M. Dudelson, Brooklyn, N.Y., for nonparty-appellant.

In a probate proceeding in which the successor trustee of three inter vivos trusts petitioned to judicially settle the accounts of those trusts, Louis R. Rosenthal, the attorney for the successor trustee, appeals, as limited by his brief, from so much of a decree of the Surrogate's Court, Kings County (Lopez Torres, S.), dated September 29, 2008, as, upon a decision of the same court dated July 14, 2008, awarded him an attorney's fee in the principal sum of only \$5,000.

ORDERED that the decree is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the appellant's contention, the Surrogate's Court did not improvidently exercise its discretion in awarding the appellant an attorney's fee in the sum of only \$5,000 (*see Matter of Mormin*, 66 AD3d 686; *Matter of Mero*, 62 AD3d 1003).

The appellant's remaining contention is without merit.

SKELOS, J.P., ANGIOLILLO, BALKIN and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 2, 2010

MATTER OF MINTZ, DECEASED