

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

D30707
G/prt

_____AD3d_____

Submitted - February 22, 2011

PETER B. SKELOS, J.P.
RUTH C. BALKIN
LEONARD B. AUSTIN
L. PRISCILLA HALL, JJ.

2009-10480

DECISION & ORDER

In the Matter of David Ambro, appellant, v
Town of Huntington, et al., respondents.

(Index No. 5872/09)

Law Offices of Edward J. Yule, P.C., Northport, N.Y., for appellant.

John J. Leo, Town Attorney, Huntington, N.Y. (J. Edward Gathman and Deirdre M. Butterfield of counsel), for respondents.

In a proceeding pursuant to CPLR article 78, the petitioner appeals, as limited by his brief, from so much of an order of the Supreme Court, Suffolk County (Jones, Jr., J.), dated September 17, 2009, as, sua sponte, confirmed a determination of the same court dated August 28, 2009 (Seidell, J.H.O.), made after a hearing, awarding him an attorney's fee in the total sum of only \$29,500.

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

The order appealed from, sua sponte, confirmed the Judicial Hearing Officer's determination and, as such, the order is not appealable as of right (*see* CPLR 5701[a][2]). Under the circumstances, we decline to grant leave to appeal from the order.

SKELOS, J.P., BALKIN, AUSTIN and HALL, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

April 5, 2011

MATTER OF AMBRO v TOWN OF HUNTINGTON