

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

D35503  
O/kmb

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

Argued - June 5, 2012

PETER B. SKELOS, J.P.  
MARK C. DILLON  
JOHN M. LEVENTHAL  
SANDRA L. SGROI, JJ.

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2011-08354

DECISION & ORDER

Kristin Larkin LoGerfo, etc., appellant, v Trustees  
of Columbia University in City of New York, et al.,  
respondents.

(Index No. 6674/04)

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Bull, Morreale & Judelson, P.C., Middletown, N.Y. (Charles A. Judelson of counsel),  
for appellant.

Proskauer Rose, LLP, New York, N.Y. (Steven E. Obus of counsel), for respondent  
Trustees of Columbia University in City of New York.

In an action, inter alia, for an accounting, the plaintiff appeals from a judgment of the  
Supreme Court, Rockland County (Weiner, J.), entered July 25, 2011, which, upon a decision of the  
same court dated June 1, 2011, made after a nonjury trial, is in favor of the defendants and against  
her dismissing the complaint.

ORDERED that the judgment is affirmed, with costs.

“In reviewing a trial court’s findings of fact following a nonjury trial, this Court’s  
authority is as broad as that of the trial court and includes the power to render the judgment it finds  
warranted by the facts, bearing in mind that due regard must be given to the decision of a trial judge  
who was in the position to assess the evidence and the credibility of the witnesses” (*Bank of N.Y. v  
Spadafora*, 92 AD3d 629, 630 [internal quotation marks omitted]; *see Northern Westchester  
Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499; *Marjam Supply Co., Inc. v All  
Craft Fabricators, Inc.*, 94 AD3d 954; *Bauerschmidt & Sons, Inc. v Nova Cas. Co.*, 91 AD3d 892).  
Here, the evidence did not establish that a fiduciary relationship existed between the parties. Since

July 5, 2012

Page 1.

LoGERFO v TRUSTEES OF COLUMBIA UNIVERSITY IN CITY OF NEW YORK

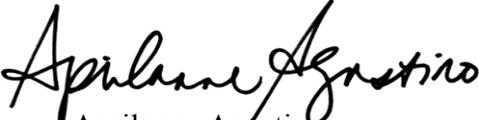
the right to an accounting is premised upon the existence of a fiduciary relationship and a breach of the duty imposed by that relationship respecting property in which the party seeking the accounting has an interest (*see Lawrence v Kennedy*, 95 AD3d 955; *Chalasan v State Bank of India, N.Y. Branch*, 235 AD2d 449, 450; *Palazzo v Palazzo*, 121 AD2d 261, 265), judgment was properly entered in the defendants' favor.

Contrary to the plaintiff's contention, the Supreme Court properly excluded inadmissible evidence and limited testimony and evidence regarding collateral matters (*see People v Hudy*, 73 NY2d 40, 56; *People v Diaz*, 85 AD3d 1047, 1049-1050, *lv granted* 18 NY3d 882).

The plaintiff's remaining contention is without merit.

SKELOS, J.P., DILLON, LEVENTHAL and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court