

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

201

CA 20-00669

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, AND TROUTMAN, JJ.

IN THE MATTER OF THE JUDICIAL SETTLEMENT OF
THE FINAL ACCOUNT OF JPMORGAN CHASE BANK N.A.
(SUCCESSOR BY CONVERSION TO JPMORGAN CHASE
BANK, SUCCESSOR BY MERGER TO THE CHASE
MANHATTAN BANK, SUCCESSOR BY MERGER TO THE
CHASE MANHATTAN BANK, N.A., SUCCESSOR BY MERGER
TO CHASE LINCOLN FIRST BANK, N.A., SUCCESSOR IN
INTEREST TO LINCOLN FIRST BANK, N.A.), AS
TRUSTEE OF THE TRUST UNDER THE LAST WILL AND
TESTAMENT OF LUCY GAIR GILL, DECEASED, FOR THE
BENEFIT OF MARY GILL ROBY, ET AL.,
PETITIONER-RESPONDENT.

MEMORANDUM AND ORDER

WILLIAM S. ROBY, III, OBJECTANT-APPELLANT.

WILLIAM S. ROBY, III, OBJECTANT-APPELLANT PRO SE.

NIXON PEABODY LLP, ROCHESTER (ERIC M. FERRANTE OF COUNSEL), FOR
PETITIONER-RESPONDENT.

Appeal from an amended decree of the Surrogate's Court, Monroe
County (John M. Owens, S.), entered October 4, 2018. The amended
decree, among other things, awarded the attorney for petitioner
\$88,461 in attorneys' fees.

It is hereby ORDERED that the amended decree is unanimously
affirmed without costs.

Memorandum: On a prior appeal, we modified a decree by vacating
the award of attorneys' fees, costs and disbursements and remitting
the matter to Surrogate's Court for a determination whether those
fees, costs and disbursements were reasonable (*Matter of JPMorgan
Chase Bank, N.A. [Roby]*, 158 AD3d 1224 [4th Dept 2018]). Objectant
now appeals from an amended final decree of the Surrogate that, inter
alia, awarded \$88,461 in attorneys' fees for the attorney for
petitioner. We affirm. In determining the amount of attorneys' fees,
the Surrogate properly considered " 'the time spent, the difficulties
involved in the matters in which the services were rendered, the
nature of the services, the amount involved, the professional standing
of the counsel, and the results obtained' " (*Matter of HSBC Bank USA,
N.A. [Campbell]*, 150 AD3d 1661, 1663 [4th Dept 2017], quoting *Matter
of Potts*, 213 App Div 59, 62 [4th Dept 1925], *affd* 241 NY 593 [1925]).
Contrary to objectant's contention, the Surrogate did not abuse his
discretion in determining that an award of approximately 10% of the

gross value of the trust was reasonable under the facts of this case (*cf. Matter of Mahnk*, 138 AD2d 939, 940 [4th Dept 1988]; *see generally Matter of Birnbaum*, 159 AD2d 997, 997 [4th Dept 1990], *appeal dismissed* 76 NY2d 783 [1990], *lv denied* 76 NY2d 709 [1990]). We have considered objectant's remaining contentions and conclude that they are without merit.

Entered: March 19, 2021

Mark W. Bennett
Clerk of the Court