

**Matter of Judicial Dissolution of Friends for Long
Island's Heritage**

2007 NY Slip Op 34462(U)

November 8, 2007

Supreme Court, Nassau County

Docket Number: 019423/2005

Judge: Ira B. Warshawsky

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SHORT FORM ORDER

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU**

PRESENT:

**HON. IRA B. WARSHAWSKY,
Justice.**

TRIAL/IAS PART 12

In the Matter of

Application for Judicial Dissolution of
Friends for Long Island's Heritage,

Petitioner.

INDEX NO.: 019423/2005
MOTION DATE: 08/03/2007
MOTION SEQUENCE: 004

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Before the court is a motion by respondent County of Nassau for an order determining that pursuant to NYS Ed. L. § 220(4) and 8 NYCRR 3.27 the court cannot order the sale of “museum objects” to satisfy petitioner’s creditors. Movant does not distinguish “museum objects” from all objects collected/gathered by Friends and for the purpose of the motion neither will the court.

In 1964 the initially stated purpose of petitioner, Friends of Long Island Heritage, according to its charter, was to assist the Nassau County Museums. It later was expanded to cover management of historic properties and to endorse cultural activities. It was chartered by the Regents of the State of New York as an educational institution. It began as the Friends of the Nassau County Museum and since 1964 has collected objects but has not undertaken to care for them, placing them rather in the possession of movant. Some have been accessioned by the County. Petitioner has volunteered uncounted hours in assisting the County. Although touched upon by petitioner early in its papers, the issue of who is vested with title to the objects collected by petitioner, but in the possession of the County, is irrelevant to a determination of this motion .

With the filing of the subject petition for judicial dissolution pursuant to Education Law § 219, petitioner noticed a filing and bar date to ascertain its creditors. The creditors which filed are numerous. Petitioner proposes to pay the creditors by selling certain of the objects it collected, now located in various facilities and museums. Two particular creditors, the U.S. Small Business Association and the New York Community Bank, have filed opposition to this motion. The Wedgwood Society has intervened and argues that the County's failure to comply with the many terms of the gifts of the Goldfein Collection and the Levine Collection result in the disposition of those collections being the sole province of The Wedgwood Society. Another, individual, presence voicing support for the motion is the Cradle of Aviation which in laymans terms is a municipal County museum but distinct from the Parks Department and the other museums spread across the face of the County of Nassau.

Nassau County's argument is two fold in support of a finding that none of the Friends derived objects, or artifacts, can be sold to pay creditors.

The first is Education Law § 220(4) which pertains to the dissolution of an educational institution by act of the Board of Regents. (Petitioner sought dissolution before the Regents.) It simply does not say, nor should it be understood to state, that a court cannot direct the sale of designated assets of an educational corporation to pay outstanding debts and the cost of dissolution. No authority has been cited for that principal nor does a plain meaning reading of the statute supply any support. Thus, any argument which contends otherwise is rejected.

The principal theme pervading the arguments on this motion is that a museum, or a historical society, or an educational institution, or not-for-profit corporation should not disregard the purpose for which either money or property was entrusted to it. However, where dissolution arises, either under the Not For Profit Law of this State (N-PCL § 1008), or its Education Law (§ 220), creditors may be paid under judicial scrutiny – considering the purpose(s) of the dissolving entity as nearly as possible. Normal day to

day operations of such institutions have ceased in a case of dissolution. Which leads to the alternate provision of law proposed by Nassau County.

Title 8 of the New York Compilation of Codes, Rules and Regulations governs the “Chartering and registration of museums and historical societies with collections.” 8 NYCRR § 3.27 requires that the proceeds of sale of any museum object only be used for the acquisition, preservation, protection or care of collections, not for day to day operations. It is the court’s finding that this regulation, which has the force of law, applies to an educational institution authorized by the Regents but does not extend its reach to the dissolution of such groups. This holding is made without any analysis on whether petitioner is or is not a museum or historical society. It is above all a principal with which the court is in agreement and intends to enforce to the extent that it can with respect to other institutions involved in this proceeding.

As previously pointed out, this holding does not make, nor does it intend to make, any finding as to the “ownership” of the hundreds (or more) of items that Friends contends they would have the right to sell to satisfy their creditors (currently located in various Nassau County museums, as well as the Cradle of Aviation Museum, Old Bethpage Village, and “warehouses” within the County).

The County made this application to help simplify the labor intensive process involved in identifying and cataloguing items received from or through Friends. It would also have served to simplify the arduous task faced by the court in determining which objects, and/or other property obtained by Friends or through its “good offices,” are the property of Friends and, thus, may be sold to satisfy creditors pursuant to Ed. L. § 220(4).

Preliminary to confirming the amended plan, the court must take proof of “ownership.” The diverse parties are notified as of this decision that if they intend to submit any further written proofs on this issue, they must do so by December 21, 2007.

The court will conduct a conference on January 17, 2008, at 9:30 A.M., to fix a schedule going forward to address the distinct “ownership” issues. The previously

scheduled hearing on property allegedly belonging to the Cradle of Aviation Museum will be held at a later date based upon the request of Christopher Clayton, Esq., counsel for the Cradle of Aviation Museum.

Dated: November 8, 2007



J.S.C.

ENTERED

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**NASSAU COUNTY
COUNTY CLERK'S OFFICE**