2026 WL 3148633
Supreme Court, Appellate Division,
Second Department, New York.

Matter of Divanea COVEN, etc., appellant,

v.

NEPTUNE EQUITIES, INC., respondent,
Staci Broder, respondent-respondent.

2025–04900
|
(Index No. 613931/22)
|
Argued—April 14, 2026
|
October 21, 2026

Attorneys and Law Firms

Forchelli Deegan Terrana LLP, Uniondale, NY (Jacqueline A. Rappel of counsel), for appellant.

Haber & Haber, LLP, Garden City, NY (Stephen D. Haber of counsel), for respondent-respondent.

CHERYL E. CHAMBERS, J.P., LINDA CHRISTOPHER, HELEN VOUTSINAS, PHILLIP HOM, JJ.

DECISION & ORDER

***1** In a proceeding, inter alia, pursuant to Business Corporation Law § 1104(a) for the judicial dissolution of a corporation, the petitioner appeals from a judgment of the Supreme Court, Nassau County (Jerome C. Murphy, J.), dated September 19, 2025. The judgment, upon a decision of the same court dated April 7, 2025, made after a nonjury trial, denied the petition and dismissed the proceeding.

ORDERED that on the Court's own motion, the notice of appeal from the decision is deemed to be a premature notice of appeal from the judgment (*see* CPLR 5520[c]); and it is further,

ORDERED that the judgment is affirmed, with costs.

The respondent Staci Broder owns 50% of the respondent Neptune Equities, Inc. (hereinafter Neptune). The remaining 50% of Neptune is owned by the estate of Walter Coven (hereinafter the decedent), who died intestate in Florida in 2016. Under Florida law, the petitioner, the decedent's widow, is the beneficiary of 50% of the decedent's estate and the decedent's two sons from a prior marriage are the beneficiaries of the remaining 50% of the estate.

Neptune's sole asset is a commercial property located in Brooklyn with several commercial tenants. The petitioner, on behalf of the decedent's estate, commenced this proceeding, inter alia, pursuant to Business Corporation Law § 1104(a) for the judicial dissolution of Neptune. Following a nonjury trial, the Supreme Court denied the petition and dismissed the proceeding. The petitioner appeals.

The Supreme Court did not improvidently exercise its discretion in denying dissolution (see Business Corporation Law § 1111). The evidence before the court demonstrated that the dissension between the petitioner and Broder was not sufficient to warrant dissolution. In determining whether dissolution is in order, the issue is not who is at fault for a deadlock, but whether a deadlock exists (see *Matter of ANO, Inc. v. Goldberg*, 167 A.D.3d 731, 732, 90 N.Y.S.3d 296; *Matter of Kaufmann*, 225 A.D.2d 775, 775, 640 N.Y.S.2d 569). " '[T]he underlying reason for the dissension is of no moment, nor is it at all relevant to ascribe fault to either party. Rather, the critical consideration is the fact that dissension exists and has resulted in a deadlock precluding the successful and profitable conduct of the corporation's affairs' " (*Matter of ANO, Inc. v. Goldberg*, 167 A.D.3d at 732, 90 N.Y.S.3d 296, quoting *Matter of Goodman v. Lovett*, 200 A.D.2d 670, 670–671, 607 N.Y.S.2d 52). Here, the record fails to demonstrate that the dissension between Broder and the petitioner precluded the successful and profitable conduct of the corporation's affairs.

The petitioner's remaining contentions are without merit.

CHAMBERS, J.P., CHRISTOPHER, VOUTSINAS and HOM, JJ., concur.

All Citations

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