

**SUPREME COURT - STATE OF NEW YORK
I.A.S. Part 39 - SUFFOLK COUNTY**

PRESENT:

Hon. **DENISE F. MOLIA**,
Justice

In the Matter of the Petition of TRACY BOUCHER,

Petitioner,

For the Judicial Dissolution of CARRIAGE HOUSE
REALTY CORP.,

Respondent,

Pursuant to Section 1104 of the Business Corporation
Law.

CASE DISPOSED: YES
MOTION R/D: 7/28/10
SUBMISSION DATE: 6/10/11
MOTION SEQUENCE No.: 005 MG
006 XMD

ATTORNEY FOR PETITIONER

Kevin Fitzgerald, Esq.
542 North Country Road
St. James, New York 11780

ATTORNEYS FOR RESPONDENT

Bracken & Margolin, Esqs.
One Suffolk Square
Islandia, New York 11749

Vincent J. Messina, Jr., Receiver
267 Carleton Avenue, Suite 301
Central Islip, New York 11722

Upon the following papers filed and considered relative to this matter:

Notice of Motion dated July 7, 2010; Affirmation dated July 7, 2010; Exhibits A through C annexed thereto; Affirmation in Opposition dated August 3, 2010; Order to Show Cause dated September 27, 2010; Affirmation dated September 21, 2010; Exhibits A through G annexed thereto; Affidavit in Opposition dated October 26, 2010; Affirmation in Opposition dated November 3, 2010; Exhibits A through C annexed thereto; Reply Affirmation dated November 16, 2010; Exhibits H through M annexed thereto; and upon due deliberation; it is

ORDERED, that the motion by the Receiver, Vincent J. Messina, Jr., Esq., pursuant to CPLR 8004, for an Order setting, fixing, and authorizing the payment of commissions for the Receiver for services rendered herein, setting, fixing, and authorizing the fee to the attorney for

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the Receiver herein, and directing the Receiver with respect to the payment of any remaining sums on hand after the payment of such awards herein, is granted as follows:

ORDERED, that from the proceeds currently on deposit in the Receivership account, the Receiver shall pay over to himself, as his commission for service as Receiver in the instant action, the sum of Fifteen Thousand One Hundred Sixty Nine and 43/100 (\$15,169.43) Dollars, said amount being determined as five (5%) percent of the receiving commission amount of \$165,912.50 plus five (5%) percent of the disbursing commission amount of \$137,476.04; and it is further

ORDERED, that from the proceeds currently on deposit in the Receivership account the Receiver shall pay over to Robert Cicale, Esq., as his compensation for services rendered as the attorney for the Receiver herein, the amount of Two Thousand Forty and 00/100 (\$ 2,040.00) Dollars, said amount of such services as being supported by the affirmation of Robert Cicale setting forth the actual legal services performed in this matter; and it is further

ORDERED, that from the proceeds on deposit in the Receivership account after the payment of the Receiver's commission and the legal fees to the attorney for the Receiver, the Receiver shall pay over Fifty (50%) percent of such remaining amount to Tracy Boucher, and Fifty (50%) percent of such remaining amount to Joan Gorta.

ORDERED, that the motion of David J. Sutton, Esq., dated September 27, 2010, for an Order directing the Receiver to pay over to The Law Offices of David J. Sutton, P.C., attorney's fees in the sum of \$23,154.71 for services rendered to the Respondent in connection with the above referenced proceeding; and a further Order directing the Receiver to pay over to the Law Offices of David J. Sutton, P.C., the sum of \$1,000.00 for preparation of the instant motion commenced by Order to Show Cause, is denied, for lack of standing in the instant special proceeding. Article 4 of the CPLR governing special proceedings does not contain a mechanism for intervention, and the movant herein does not make a claim for intervention either by right or by permission under CPLR 1012 and 1013.

The foregoing constitutes the Order of this Court.

Dated: September 30, 2011

Hon. Denise F. Molia

HON. DENISE F. MOLIA
J.S.C.