

EXHIBIT B

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**PRESENT: Honorable John M. Curran
Justice Presiding**

FILED
2007 JA 22 PM 3:20
ERIE COUNTY
CLERK'S OFFICE

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

FRANK FRASCOGNA,

Plaintiff,

ORDER AND JUDGMENT



vs.

Index No. I2004-8335

**BROWN, CHIARI, CAPIZZI &
FRASCOGNA, LLP, JAMES E. BROWN,
DONALD P. CHIARI AND
SAMUEL J. CAPIZZI,**

**Assigned Justice:
Honorable John M. Curran**

Defendants.

The above-entitled action having come on for a bifurcated, non-jury trial jury before the Honorable Eugene M. Fahey, Justice of the Supreme Court, Erie County, at a Trial Term, Part 36 of this Court, to determine whether the Plaintiff, Frank A. Frascogna was a general partner of the Defendant, Brown, Chiari, Capizzi and Frascogna, LLP, and therefore entitled to an accounting upon his withdrawal from said partnership, and the Plaintiff having appeared by his attorneys, Harter, Secrest & Emery, LLP (Raymond L. Fink, Esq., of counsel), and the Defendants having appeared by their attorneys, Harris Beach PLLC (Richard T. Sullivan, Esq., of counsel), and the Court having heard testimony on June 27, 28, 29, and July 11 and 12, 2006, and the Court (Justice Eugene M. Fahey presiding) having rendered its Memorandum Decision on December 22, 2006, attached hereto and made a part hereof, and Justice Fahey having been appointed to the Supreme Court Appellate Division Fourth Judicial Department following the issuance of the Memorandum Decision, and the undersigned having been assigned this action for further proceedings as ordered by the Memorandum Decision,



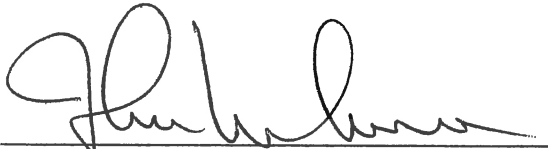
Now, upon motion of Harter, Secrest & Emery, LLP (Raymond L. Fink, Esq., of counsel), attorneys for the Plaintiff, and upon the Memorandum Decision of this Court dated December 22, 2006, it is

ORDERED, that the Plaintiff was a general partner in the partnership of Brown, Chiari, Capizzi and Frascogna, LLP until his withdrawal from the partnership and it is further

ORDERED, that Defendants' Second Affirmative Defense, Third Affirmative Defense and any denial of Mr. Frascogna's status as a general partner with Messrs. Brown, Chiari and Capizzi in Brown, Chiari, Capizzi and Frascogna, LLP is hereby stricken from the Defendants' Answer dated November 1, 2004; and it is further

ORDERED, that Brown, Chiari, Capizzi and Frascogna, LLP is dissolved and the Plaintiff is entitled to an accounting pursuant to the New York Partnership Law in further proceedings before this Court; and it is further

ORDERED, that the taxable statutory costs and disbursements are deferred until the conclusion of this matter.


Hon. John M. Curran
Justice Supreme Court

GRANTED

JAN 22 2007

ENTER: BY 
PATRICIA A. AIELLO
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