

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M72295
E/sl

ROBERT A. SPOLZINO, J.P.
ROBERT A. LIFSON
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2008-05427

DECISION & ORDER ON MOTION

In the Matter of Bettina R. Weinraub, deceased.
Jerome M. Weinraub, respondent; S. Sidney
Mandel, appellant.

(File No. 1202/1983)

Motion by S. Sidney Mandel for leave to appeal to this court from a decision of the Supreme Court, Westchester County, dated May 15, 2008, and to release him from custody pending hearing and determination of the appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is for leave to appeal is denied (*see Schicchi v Green Constr. Corp.* 100 AD2d 509); and it is further,

ORDERED that on the court's own motion, the notice of appeal from the decision dated May 15, 2008, is deemed to be a premature notice of appeal from an order of the same court dated June 19, 2008 (*see CPLR 5520[c]*); and it is further,

ORDERED that the branch of the motion which is to release the appellant from custody pending hearing and determination of the appeal is granted on the following conditions:

- (1) S. Sidney Mandel post an insurance company bond in the amount of \$150,000 or deposit the same sum as a cash alternative prior to being released;
- (2) S. Sidney Mandel surrender his passport, if any, prior to his release, to Sweetbaum and Sweetbaum, his attorneys, to be held in escrow;

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- (3) S. Sidney Mandel provide Jerome M. Weinraub with a current draft of the subject accounts within seven days of his release; and
- (4) S. Sidney Mandel provide Jerome M. Weinraub with the final accounts within 45 days of his release; and it is further,

ORDERED that in the event that S. Sidney Mandel does not comply with the foregoing conditions, the respondent may move to vacate this order, on three days notice; and it is further,

ORDERED that upon receipt of this order together with (1) proof that S. Sidney Mandel has given an insurance company bond in the amount of \$150,000 or deposited the same sum as a cash bail, and (2) proof that S. Sidney Mandel has surrendered his passport, if any, to Sweetbaum and Sweetbaum, the Warden of the Westchester County Department of Corrections, or his or her agent, is directed to immediately release S. Sidney Mandel forthwith.

SPOLZINO, J.P., LIFSON, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court