

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

716

CA 09-02298

PRESENT: MARTOCHE, J.P., SMITH, CENTRA, SCONIERS, AND PINE, JJ.

IN THE MATTER OF THE DISSOLUTION OF EL-ROH REALTY CORP., A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK, PURSUANT TO ARTICLE 11 OF THE BUSINESS CORPORATION LAW.

PHILIPPE R. SCHWIMMER, INDIVIDUALLY AND AS HOLDER OF FIFTY PERCENT OF THE OUTSTANDING VOTING SHARES OF EL-ROH REALTY CORP.,
PETITIONER-APPELLANT;

MEMORANDUM AND ORDER

JOAN ROTH AND LOIS ROTH, RESPONDENTS-RESPONDENTS.

IN THE MATTER OF THE DISSOLUTION OF EL-ROH REALTY CORP., A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK, PURSUANT TO ARTICLE 11 OF THE BUSINESS CORPORATION LAW.

PHILIPPE R. SCHWIMMER, INDIVIDUALLY AND AS HOLDER OF FIFTY PERCENT OF THE OUTSTANDING VOTING SHARES OF EL-ROH REALTY CORP.,
PETITIONER-APPELLANT;

JOAN ROTH AND LOIS ROTH, RESPONDENTS-RESPONDENTS.
(APPEAL NO. 2.)

MACKENZIE HUGHES LLP, SYRACUSE (CARTER H. STRICKLAND OF COUNSEL), FOR PETITIONER-APPELLANT.

WOODS OVIATT GILMAN LLP, ROCHESTER (WILLIAM G. BAUER OF COUNSEL), FOR RESPONDENTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Onondaga County (Donald A. Greenwood, J.), entered October 8, 2009 in a proceeding pursuant to Business Corporation Law article 11. The order denied the motion of petitioner for, inter alia, a declaration with respect to the effect of a certain amendment of the shareholders' agreement.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Matter of El-Roh Realty Corp.* ([appeal No. 1] ___ AD3d ___ [June 11, 2010]).

Entered: June 11, 2010

Patricia L. Morgan
Clerk of the Court