

STEVEN A. WICKS,	:	IN THE COURT OF COMMON PLEAS OF
	:	LYCOMING COUNTY, PENNSYLVANIA
Petitioner	:	
	:	
vs.	:	NO. 00-00,194
	:	
STANLEY C. WICKS,	:	
	:	
Respondent	:	1925(a) OPINION

Date: July 28, 2004

**OPINION IN SUPPORT OF THE ORDER OF APRIL 30, 2004 IN COMPLIANCE
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

Defendant Stanley Wicks has appealed this Court's Order of April 30, 2004, which denied all of his exception to a Special Master's Report that was rendered in relation to the dissolution of a partnership between Stanley and his son Steven Wicks, the Plaintiff in this matter. On May 28, 2004, this Court issued an Order in compliance with Pa.R.A.P. 1925(b) directing Stanley to file a Concise Statement of Matters Complained of on Appeal within fourteen days of the Order. Stanley filed his Statement of Matters on June 9, 2004. Upon reviewing the Statement of Matters, the Court concludes that a majority of the issues raised therein have been adequately addressed in the Court's April 30, 2004 Opinion and Order denying Stanley's exceptions. The only issues raised in the Statement of Matters that arguably were not previously addressed by this Court fall into three categories. They are: that the Court erred in not determining that the partnership was ongoing; that the Court erred in failing to remand the case to the Master so that a current evaluation of the partnership assets and liabilities could be made; that it was error for the Court not to remand the case to the Master so that additional testimony could be offered because an accurate accounting was not done since

the Master did not have sufficient evidence presented to him. *See*, Defendant's Concise Statement of Matters Complained of on Appeal, ¶¶ 1-6.

The Court did not err by failing to conclude that the partnership was still ongoing, and consequently, it did not err in failing to remand the case to the Master for a current valuation of the partnership's assets and liabilities. It could not have been concluded that the partnership was ongoing. The case management Order of April 3, 2003 made it clear that the Master was to submit a "report of dissolution." It was left up to the Master to determine when the partnership was dissolved. The Master did this and valued Stanley and Stephen's respective 50% interest in the partnership based upon the value of the assets and liabilities of the partnership that existed on the date of dissolution. Accordingly, it would be inappropriate to try and adjust those to current value.

As would relate to the failure to remand the case for additional testimony, the Court did not err because such would be an exercise in futility. The Master, as well as this Court, noted that the extensive testimony presented at the April 23, 2003 Master's hearing demonstrated that neither Stanley nor Stephen had maintained proper financial records concerning the partnership. It is unclear to the Court how reopening the record to view such evidence would result in a more accurate accounting than the one already produced. Also, it has been clearly noted in various orders (September 19, 2001; February 1, 2002) that Stanley did not have or was at least not producing appropriate documents in discovery and failed to provide the Master with documents needed for him to render an appropriate determination. There is nothing in the testimony to suggest that there is additional evidence other than what was submitted to the Master. There is no basis submitted by Stanley to show that because of

fraud, contrivance, or for any other reason that he was prevented from or did not have the opportunity to present all available evidence to the Master. Nor is there any suggestion made by Stanley as to what additional evidence he might now have recently discovered or otherwise come across that he would be able to produce to the Master. In short, there is no possibility that a truly “accurate accounting” can ever be made of the dismal business affairs that took place between the two parties in this case.

For the foregoing reasons, the Court believes that the appeal of Defendant, Stanley C. Wicks, should be DENIED.

BY THE COURT,

William S. Kieser, Judge

cc: Christopher M. Williams, Esquire
Milton S. Savage, Jr., Esquire
Judges
Christian Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)