

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

D12958
T/cb

_____AD3d_____

Submitted - October 19, 2006

A. GAIL PRUDENTI, P.J.
ROBERT W. SCHMIDT
MARK C. DILLON
JOSEPH COVELLO, JJ.

2005-11743

DECISION & ORDER

In the Matter of Joseph Williams, et al., appellants,
v Oppenheimer & Company, Inc., etc., respondent.

(Index No. 05-012985)

Deutsch & Lipner, Garden City, N.Y. (Seth A. Lipner of counsel), for appellants.

Akerman Senterfitt, LLP, New York, N.Y. (Martin Domb and Marvin G. Pickholz
of counsel), for respondent.

In a proceeding to quash a subpoena duces tecum served by the respondent upon an out-of-state nonparty witness in an arbitration proceeding before the National Association of Securities Dealers and for the imposition of a sanction upon the respondent, the petitioners appeal from an order of the Supreme Court, Nassau County (Dunne, J.), dated November 21, 2005, which denied the petition and dismissed the proceeding.

ORDERED that the appeal from so much of the order as denied that branch of the petition which was to quash the subpoena is dismissed as academic, as the arbitration proceeding has been concluded; and it is further,

ORDERED that the order is affirmed insofar as reviewed; and is it further,

ORDERED that one bill of costs is awarded to the respondent.

December 5, 2006

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The Supreme Court providently exercised its discretion in not imposing a sanction against the respondent under 22 NYCRR130-1.1(c).

PRUDENTI, P.J., SCHMIDT, DILLON and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court