

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

D14489
W/cb

_____AD3d_____

Submitted - February 13, 2007

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
PETER B. SKELOS
JOSEPH COVELLO, JJ.

2005-11903

DECISION & ORDER

In the Matter of Long Island Fiber Exchange, Inc.,
petitioner-respondent, v Board of Educational Services
for First Supervisory District of Suffolk County,
etc., appellant, et al., respondents.

(Index No. 18489-05)

Guercio & Guercio, Farmingdale, N.Y. (Vanessa M. Sheehan and Kelly Reape of
counsel), for appellant.

In a proceeding pursuant to CPLR article 78 to annul a determination of the Board of Educational Services for the First Supervisory District of Suffolk County, dated July 14, 2005, which declined to award two contracts to the petitioner, the Board of Educational Services for the First Supervisory District of Suffolk County appeals from an order of the Supreme Court, Suffolk County (Loughlin, J.), dated November 3, 2005, which remitted the matter to it for re-examination of the determination.

ORDERED that the appeal is dismissed, without costs or disbursements.

The order dated November 3, 2005, which did not annul the determination sought to be reviewed, and thus neither granted nor denied the relief requested in the petition, is not appealable as of right (*see* CPLR 5701[b]; *Matter of Turek v Town of Clarkstown Zoning Bd. of Appeals*, 288 AD2d 479; *Matter of Soros v Board of Appeals of Vil. of Southampton*, 24 AD2d 705; *Matter of*

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North Am. Holding Corp. v Murdock, 6 AD2d 596, *aff'd* 6 NY2d 902), and leave to appeal has not been granted.

SCHMIDT, J.P., RIVERA, SKELOS and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court

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