

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

D27492  
H/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - May 3, 2010

STEVEN W. FISHER, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
ARIEL E. BELEN, JJ.

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2008-07222

DECISION & ORDER

Wil Can (USA) Group, Inc., doing business as S.C.  
North America, respondent, v Shen Zhang, also known  
as Johnson Zhang, et al., appellants.

(Index No. 6623/07)

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Wong, Wong & Associates, P.C., New York, N.Y. (Kenneth Kim of counsel), for  
appellants.

Yuen, Roccanova, Seltzer & Sverd, P.C., New York, N.Y. (Steven Seltzer of  
counsel), for respondent.

In an action, inter alia, to recover damages for breach of fiduciary duty, the defendants  
appeal, as limited by their brief, from so much of an order of the Supreme Court, Queens County  
(Dorsa, J.), dated June 30, 2008, as denied their motion for the dissolution of the plaintiff, and  
granted that branch of the plaintiff's cross motion which was for leave to enter judgment against them  
on the issue of liability upon their default in answering the complaint.

ORDERED that the appeal is dismissed as academic, with costs.

While the defendants' appeal from the order dated June 30, 2008, was pending, the  
defendants entered into an agreement settling this action without reserving any rights they might  
obtain if their appeal was successful. Consequently, the settlement, and this Court's affirmance of  
the order enforcing the settlement agreement (*see Wil Can [USA] Group, Inc., d/b/a S.C. North  
America v Shen Zhang, a/k/a Johnson Zhang and M.K. Development [USA], Inc., \_\_\_\_\_AD3d  
\_\_\_\_\_* [decided herewith]) have rendered this appeal academic (*see Motovich v 1195 Coney Is.*

May 25, 2010

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WIL CAN (USA) GROUP, INC., doing business as S.C. NORTH AMERICA  
v SHEN ZHANG, also known as JOHNSON ZHANG

*Ave. Corp.*, 46 AD3d 777; *Ramnarain v Ramnarain*, 46 AD3d 655, 656; *Matter of Garrick v Tomlins*, 24 AD3d 763, 764; *H.L. & F.H. Realty Corp. v Gulf Ins. Co.*, 19 AD3d 646, 648; *Hospital for Joint Diseases v ELRAC, Inc.*, 11 AD3d 432, 434).

FISHER, J.P., DICKERSON, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court