

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

D32885
C/prt

_____AD3d_____

Argued - October 25, 2011

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2010-10711
2010-10712

DECISION & ORDER

In the Matter of People of State of New York,
respondent, v Mircea Veleanu, etc., appellant.

(Index No. 6326/09)

Mircea Veleanu, Somers, N.Y., appellant pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael S. Belohlavek
and Laura R. Johnson of counsel), for respondent.

In a proceeding pursuant to Executive Law § 63 and General Business Law § 349, inter alia, to permanently enjoin Mircea Veleanu, doing business as Objets D'Art Uniques, from materially misrepresenting any item he offers for sale and for restitution, the appeal, as limited by the brief, is from (1) so much of an order of the Supreme Court, Dutchess County (Pagones, J.), dated September 29, 2010, as, upon renewal, adhered to a prior determination in an order of the same court (T. Dolan, J.), dated November 14, 2009, among other things, directing him to provide to the Office of the Attorney General of the State of New York an accounting from August 1, 2003, to the present, of persons or entities to whom he has sold items any part of which he represented as being made of jade, and (2) so much of a judgment of the same court (Pagones, J.), also dated September 29, 2010, as, in effect, granted the petition and directed him to pay restitution, penalties, and costs.

ORDERED that the appeal from the order is dismissed; and it is further,

ORDERED that the judgment is affirmed; and it is further,

November 15, 2011

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

The appeal from the intermediate order must be dismissed because the right of direct appeal therefrom terminated with the entry of the judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see CPLR 5501[a] [1]*).

The petitioner submitted evidence establishing, prima facie, that the appellant engaged “in repeated fraudulent or illegal acts or otherwise demonstrate[d] persistent fraud or illegality in the carrying on, conducting or transaction of business” (Executive Law § 63[12]; *see* General Business Law § 349; *Matter of People of v Imported Quality Guard Dogs, Inc.*, _____AD3d_____, 2011 NY Slip Op 07226, *1-2 [2d Dept 2011]; *Matter of People v Applied Card Sys., Inc.*, 27 AD3d 104, 106-107; *Matter of People v Wilco Energy Corp.*, 284 AD2d 469, 470-471). The evidence showed, inter alia, that over an approximately two-year period, the appellant sold a customer several items which he told her were made of high quality jade, but which laboratory testing proved were quartzite, a less expensive and more common stone. In opposition, the appellant failed to raise a triable issue of fact (*see CPLR 409[b]*; *Matter of People v Imported Quality Guard Dogs, Inc.*, _____AD3d_____, 2011 NY Slip Op 07226, at *2 [2d Dept 2011]; *Matter of Bahar v Schwartzreich*, 204 AD2d 441, 443). Accordingly, the Supreme Court properly granted the petition and directed the appellant to pay restitution, penalties, and costs.

The appellant’s remaining contentions are without merit.

RIVERA, J.P., ANGIOLILLO, BELEN and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court