

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. STEPHEN A. BUCARIA

Justice

TRIAL/IAS, PART 1  
NASSAU COUNTY

INDEX No. 007728/10

MOTION DATE: Sept. 26, 2011  
Motion Sequence # 003

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In the Matter of the Application of  
NICOLE BANANI, as the Administrator of  
the Estate of RAJESH BANANI, a deceased  
shareholder of NEW MILLENNIUM  
PAWNBROKERS, INC., a New York  
Corporation,

Petitioner,

for a determination of the value of Stock held by  
RAJESH BANANI,

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The following papers read on this motion:

Order to Show Cause..... X  
Affirmation in Opposition..... XX  
Reply Affirmation..... X

Motion by petitioner for an order holding respondent New Millennium Pawnbrokers, Inc in contempt of court is **denied**.

This is a special proceeding to enforce a shareholder's right to receive payment for shares pursuant to § 623 of the Business Corporation Law. Petitioner Nicole Banani is the administrator of the estate of her husband Rajesh Banani, who died on February 17, 2007. At the time of his death, Rajesh owned 25% of the stock of New Millennium Pawnbrokers, Inc. The other 75% of the stock is owned by Rajesh's parents, respondents Kishin and Pushpa Banani. New Millennium operated a pawn brokerage business in Astoria.

After Rajesh's death, Kishin and Pushpa continued to operate the business until New

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Millennium sold its assets to Modell Cash Loans, LLC pursuant to a contract dated December 24, 2007. The purchase price for the assets was \$1,063,218.

Petitioner originally sought judicial dissolution of New Millennium on the ground of oppressive conduct toward a minority shareholder and looting of corporate assets pursuant to § 1104-a of the Business Corporation Law. By order dated August 16, 2010, the court denied the petition for judicial dissolution but granted petitioner leave to serve an amended petition seeking payment of fair value for her shares.

By order dated January 13, 2011, the court directed respondents to provide discovery of the books and records of New Millennium from three years before Rajesh's death through the date of the sale of assets, i.e. for the years 2004, 2005, 2006, and 2007.

By order to show cause dated August 23, 2011, petitioner moves to hold respondent in contempt of court for failing to provide the requested discovery. However, on November 15, 2011, counsel entered into a preliminary conference stipulation and order. The order provides that the deposition of respondents shall take place on February 8, 2012.

Accordingly, petitioner's motion to hold respondent New Millennium Pawnbrokers, Inc. in contempt of court is **denied**. Respondents shall appear for their depositions as directed above, said depositions shall not be adjourned without the prior approval of the court. Additionally, petitioner is **granted** leave to apply on notice for a subpoena duces tecum directed to Heena K. Panchamia, the certified public account for the corporation.

So ordered.

Dated NOV 28 2011

  
J.S.C.

**ENTERED**  
NOV 30 2011  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE