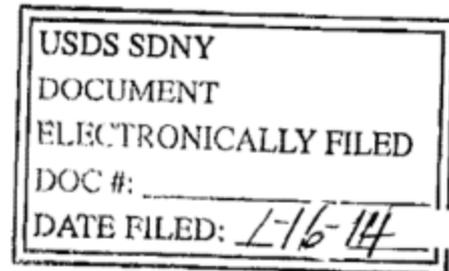


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
200,000 TOWERS INVESTORS
RESTITUTION VICTIMS IN PENSION
FUNDS, MUTUAL FUNDS, THE COUNTRY
OF CAPE VERDE, CORPORATE
EMPLOYEE PENSION UNIONS,
CHURCHES, AND INDIVIDUAL
INVESTORS IN TOWERS FINANCIAL
CORP. WHO ARE THE BENEFICIARIES OF
STEVEN HOFFENBERG'S JUDGE SWEET
ORDERED \$475 MILLION RESTITUTION
THAT IS NOW UNDER TWO BILLION
DOLLARS PLUS ACCRUED INTEREST,

Petitioners,

13 Civ. 8563 (PKC)

-against-

ORDER

UNITED STATES OF AMERICA BY THE
U.S. PROBATION OFFICE NEW YORK
CITY STAFF BREACH OF THE CRIME
VICTIMS ACT,

Respondent.

-----X
CASTEL, District Judge:

This Court's Order of December 18, 2013 ordered "Petitioners and Alan Fraade of the firm of Mintz & Fraade, [REDACTED], . . . to show cause in writing by January 17, 2014, why this action should not be dismissed and sanctions imposed under Rule 11(b), Fed. R. Civ. P., with petitioners' counsel disqualified from representing petitioners." Petitioners and Fraade have responded and seeks to withdraw the petition without opposition from the respondent.

Rule 11(c)(2), Fed. R. Civ. P., provides a safe harbor period during which an attorney may withdraw an offending document without suffering sanctions, after having been placed on notice by opposing counsel. Rule 11(c)(3) contains no equivalent safe harbor for a Court initiated sanction proceeding. For this reason, court initiated sanctions proceedings are

governed by a higher standard, and require subjective bad faith on the part of the attorney.

Muhammad v. Walmart Stores East, L.P., 732 F.3d 104 (2d Cir. 2013).

Because Mr. Fraade is withdrawing the offending pleading without objection from the respondent within the time set by this Court to respond to the Order to Show Cause, the Court, in the exercise of discretion and without adjudicating the merits of the sanctions issue, declines to proceed further with proceedings under Rule 11(c)(3).

The action is dismissed and the case is closed.

SO ORDERED.



P. Kevin Castel
United States District Judge

New York, New York
January 16, 2014