

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND DEPARTMENT

-----X A.D. Docket  
TOWN OF MONTAUK INC., 05-10912

Petitioner-Appellant,

Suffolk County  
Index No. 04-27553

- against -

THE HONORABLE GEORGE PATAKI, Governor of  
The State of New York and, The People of the State of  
New York Met in Assembly, and the TOWN BOARD  
GOV'T OF THE TOWN OF EAST HAMPTON, and  
The TRUSTEES OF THE FREEHOLDERS AND  
COMMONALTY OF THE TOWN OF  
EAST HAMPTON, and THE SUFFOLK COUNTY  
WATER AUTHORITY, INC., and THE COUNTY OF  
SUFFOLK, and THE BROOKLYN HISTORICAL  
SOCIETY, INC., and 511 EQUITUIES, INC., AND  
THE NATURE CONSERVANCY, INC.,

Respondents-Respondents.

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**BRIEF FOR RESPONDENT THE NATURE CONSERVANCY**

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APPELLATE DIVISION

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## PRELIMINARY STATEMENT

Respondent The Nature Conservancy, Inc. (TNC) is a private not for profit corporation that seeks to preserve land and species in a developing world. TNC works with government and private individuals and entities to bring them together to preserve land and its contents.

TNC has qualified for status as a charitable organization recognized under the Internal Revenue Code Section 501c3 enabling contributor's to deduct contributions. Petitioner Appellant Town of Montauk, Inc. is a fictitious entity.

This brief seeks affirmance of the Order of the Supreme Court, Suffolk County (Loughlin J.) granted June 20, 2005 which dismissed the petition and declared that Petitioner-Appellant "Town of Montauk, Inc." failed to establish its entitlement to any relief. TNC requests that the Appellant and Robert A. Ficalora, its alleged incorporator, be enjoined from any future Court filing against TNC without leave of the Court.

## STATEMENTS OF FACTS

The brief of the Town of East Hampton recites the true facts in contravention to the *incomprehensible gibberish of Petitioner-Appellant.*

TNC's heinous crime, according to Petitioner-Appellant, is that it acted to preserve lands within the fictitious Town of Montauk, Inc. [No such

corporation appears of record in the Office of the New York Department of State (see RA1 attached)].

The absence of a valid petitioner should require dismissal of the action. The spurious notion that TNC

“acted as a major accessory to actions taken by public authorities to fake and to injure proprietor’s common (township) lands in Montauk”

Amended Petition of Petitioner-Appellant  
dated March 2005

seems to require a conspiracy statute in which an entity that seeks to preserve and maintain areas of natural beauty and scientific interest performs a criminal act.

TNC admits to assisting government entities and private entities in the preservation of land and species but it has never heard of the entity named herein as Petitioner-Appellant.

### SUMMARY

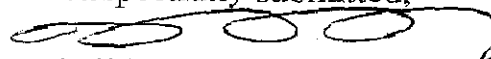
The Town of East Hampton brief fully explores the history of the government entities that actually exist (Respondents) and the fictitious entity (Petitioner-Appellant) that pursues this appeal. This Court is asked to condone conduct of a fictitious entity and its prime movant Robert A. Ficalora that seeks to obstruct at best and waste at worst.

## CONCLUSION

I join the request of the Town of East Hampton and the County of Suffolk to dismiss this appeal with prejudice and for costs, sanctions and to permanently enjoin Robert A. Ficalora, and any entity he now or will associate with from commencing any further actions, proceedings or motions against The Nature Conservancy, Inc. without prior leave of the Court any application for such leave to include a copy of this Court's order in this case.

Dated: East Hampton, New York  
June 26, 2006

Respectfully submitted,



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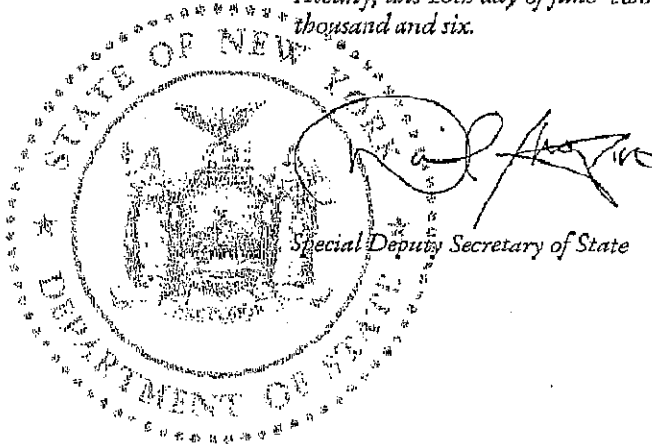
RA1

State of New York } ss:  
Department of State

I hereby certify, that a diligent examination has been made of the index of corporation, limited partnership and limited liability company certificates filed by this department for a Certificate of Incorporation or Limited Partnership or Articles of Organization for TOWN OF MONTAUK and that upon such examination, no such Certificate of Incorporation, Certificate of Limited Partnership or Articles of Organization has been found on file with this Department.

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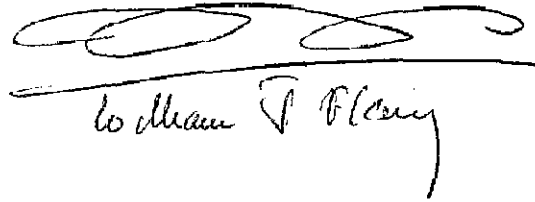
WITNESS my hand and the official seal of the Department of State at the City of Albany, this 20th day of June two thousand and six.



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Certification of Compliance

I hereby certify that the above brief was prepared on a computer using Point 14 Times New Roman typeface, in double space; and that the total word count of the above brief is 438.



William J. Florig