

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

**PRESENT: Hon. Jacqueline Silbermann
 Administrative Order**

BEAR, STEARNS & CO. INC.,

Petitioner,

- v -

INDEX NO. 104380/2008

**EDWARD MOLDAVER, WILLIAM L. NASH,
GRANT D. DEVAUL, and ALEXANDER
SUGAR,**

Respondents.

Administrative Order:

By letter dated March 28, 2008 [sic]¹, counsel for respondents Edward Moldaver, William L. Nash, Grant D. Devaul, and Alexander Sugar applies for the transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. The court has not received opposition from petitioner Bear, Stearns & Co., Inc., and it is timely under Uniform Rule 202.70 (e).

Petitioner's counsel filed the Request for Judicial Intervention (RJI) on March 26th, in conjunction with petitioner's order to show cause seeking a TRO and preliminary injunction. Petitioner's counsel designated the nature of this action as an Article 75 special proceeding. Accordingly, the proceeding was assigned to the Hon. Leland DeGrasse (I.A.S. Part 25), who has scheduled a hearing today, March 27th, on petitioner's order to show cause.

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims involve or consist of "breach of contract or breach of fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of

¹ The letter from respondents' counsel is incorrectly dated March 28, 2008. The Court received the letter on March 27, 2008, and the letter refers to an oral argument scheduled "today, March 27, 2008."

business dealings" will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. Also included are "[a]pplications to stay or compel arbitration and affirm or disaffirm arbitration awards . . . involving any of the foregoing commercial issues -- without consideration of the monetary threshold." See Uniform Rule 202.70(b)(12).

There is no question that this action meets the standards for assignment to the Commercial Division, because the underlying arbitration concerns petitioner's claims for breach of contract, the misappropriation of trade secrets and confidential information, conversion, and the intentional interference with prospective and actual economic advantage based on respondents' alleged breach of their contractual obligations to petitioner, and their alleged wrongful solicitation of petitioner's customers and use of confidential and proprietary business and customer information.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division.

Dated: March 27, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION