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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

In the Matter of the Application of

STEVEN G. SCHULMAN,

Petitioner,

vs. INDEX NO. 113481/2007

EDITH M. KALLAS,
DEBORAH CLARK-WEINTRAUB,
JOSEPH P. GUGLIELMO
and WHATLEY DRAKE & KALLAS, LLC,

Respondents.

Administrative Order:

By letter dated October 15, 2007, counsel for respondents applies for the transfer of this and two other related Article 75 special proceedings (Index Nos. 603293/07 & 113416/07) from I.A.S. Part 15 (Tolub, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The court is advised that counsel for each of the petitioners agrees to this request, and it is timely made under Uniform Rule 202.70(e).

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims involve or consist of breach of contract, breach of fiduciary duty, fraud, or misrepresentation, where the breach or violation is alleged to arise out of business dealings, specifically mentioning partnership agreements, 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 applications to stay or compel arbitration 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 special proceeding brought pursuant to CLPR Article 75 to stay an arbitration meets the standards for assignment to the Commercial Division, because underlying claims asserted in the arbitration are for breach of the Milberg Weiss LLP partnership agreement, breach of fiduciary, fraudulent misrepresentation and unjust enrichment, all arising out the individual respondents' former status as equity and/or split-equity partners in Milberg & Weiss LLP.

Accordingly, the Motion Support Office is directed to reassign this special

proceeding together with David J. Bershad v. Edith M. Kallas, et al., Index No. 603293/07, and Milberg Weiss LLP, et al. v. Edith M. Kallas, et al., Index No. 113416/07, to the same Justice of the Commercial Division. (The petition to stay arbitration is returnable in the Initial Motion Part on October 18, 2007.)

Dated: October 17, 2007 **ENTER: _____, A.J.**

Check one: ❑ FINAL DISPOSITION **❑ NON-FINAL DISPOSITION**