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

PRESENT: <u>Hon. George J. Silver, Acting Administrative Judge</u>
            Administrative Order

NEST SEEKERS INTERNATIONAL LLC,

                            Plaintiff,

                - v -   INDEX NO. 656739/2017

PANORAMIC PARTNERS LLC,

                            Defendant.

Administrative Order:

By letter dated November 14, 2017, plaintiff's counsel requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). No opposition to the request has been received.

Actions in which the principal claims are for breach of contract, where the breach is alleged to arise out of business dealings, may be heard in the Commercial Division, provided the $500,000 monetary threshold for New York County is met or equitable or declaratory relief is sought (Commercial Division Rule 202.70 [a], [b] [1]). Excluded, however, are "[r]esidential real estate disputes, including landlord-tenant matters . . . " (Commercial Division Rule 202.70 [c] [3]).

This dispute concerns the alleged breach of a real estate brokerage contract for the sale of residential condominium units at a property located in Montauk, New York. The complaint seeks an award of damages, identified in the Commercial Division Addendum as "$425,000+," and a declaratory judgment that plaintiff is entitled to a 2.5% commission on certain future condominium sales.

The request is denied. In my view, the Clerk's Office acted properly in assigning this case to a non-Commercial Division part. This dispute over the sale of residential real estate falls squarely within the exclusion found in Commercial Division Rule 202.70 (c) (3), which is not limited to rent disputes. The fact that some of our Commercial Division Justices have, in their discretion, retained similar cases is unpersuasive. In addition, the real property at issue in the case of <u>Century 21 New Golden Age Realty Inc. v. Vanella Realty Corp.</u>, Index No. 652193/2017, involved a multi-story building in Manhattan containing residential and commercial units.

Dated: December 6, 2017   ENTER: _George J. Silver_____, A.J.

Check one: ☐ FINAL DISPOSITION   ☑ NON-FINAL DISPOSITION