

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

MICHAEL N. KATTAWAR,

Petitioner,

vs.

INDEX NO. 650018/10

GUNNALLEN FINANCIAL, INC., ALFRED
BLAIKIE and ARTURO SERENO,

Respondents.

Administrative Order:

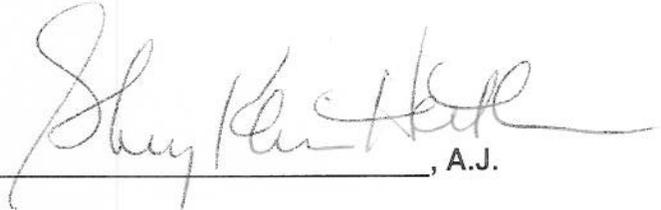
By letter dated February 16, 2010, counsel for respondents GunnAllen Financial, Inc., Alfred Blaikie, and Arturo Sereno requests that this Article 75 proceeding be transferred from I.A.S. Part 44 (Tingling, J.) into the Commercial Division pursuant to the Rules of the Commercial Division. Petitioner's counsel does not oppose a transfer, and the request is deemed timely.

Subdivision (b) (1) of Uniform Rule 202.70 provides that actions in which the principal claims are for "[b]reach of contract or 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 business dealings" should be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. The Commercial Division also hears "[a]pplications to stay . . . arbitration . . . and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues – without consideration of the monetary threshold" (Uniform Rule 202.70 [b] [12]).

This is a special proceeding, brought pursuant to CPLR Article 75, in which the petitioner seeks an order of attachment in connection with a securities arbitration now pending before FINRA Dispute Resolution in the State of Tennessee. The underlying arbitration concerns petitioner's claims that respondents made unsuitable investment recommendations to him and mishandled his securities account, resulting in losses in excess of \$2 million. There is no question that the underlying arbitration proceeding involves commercial issues and that the instant proceeding belongs in the Commercial Division pursuant to Uniform Rule 202.70 (b) (12).

Accordingly, the request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (The petition is currently returnable in the Motion Submission Part on February 16, 2010.)

Dated: February 18, 2010

ENTER: , A.J.

HON. SHERRY KLEIN HEITLER

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION