

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

HUXLEY ASSOCIATES FINANCE RESOURCING INC.,

Plaintiff,

- v -

INDEX NO. 109999/10

NICOLE CROCKETT, and KINSEY ALLEN
INTERNATIONAL INC. d/b/a KINSEY ALLEN
INTERNATIONAL GROUP,

Defendants.

Administrative Order:

By letter dated July 30, 2010, counsel for the defendants timely requests a transfer of this action from I.A.S. Part 8 (Kenney, J.) to the Commercial Division pursuant to Uniform Rule 202.70. In a letter dated August 2, 2010, plaintiff's counsel objects to the request.

This action arises from the alleged breach of defendant Nicole Crockett's employment agreement with her former employer, plaintiff Huxley Associates Finance Resourcing Inc., a recruiter for clients in derivative and equity trading and other niche financial markets. Plaintiff alleges that Crockett is working for defendant Kinsey Allen, a direct competitor of the plaintiff, in violation of her employment agreement's one-year restrictive covenant, and that she misappropriated numerous documents containing proprietary and confidential information concerning plaintiff's clients and candidates from plaintiff's computer system prior to her departure.

Uniform Rule 202.70 (b) (1) provides that actions in which the principal claims are for "breach of contract or fiduciary duty, fraud, misrepresentation, business tort . . . where the breach or violation is alleged to arise out of business dealings (e.g., . . . trade secrets, restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)" will 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.

Plaintiff does not dispute that this action meets the standards for assignment to the Commercial Division, and complains only that defense counsel is dissatisfied with the temporary restraining order (TRO) entered by Judge Kenney on July 28th. However,

the circumstances and timing of the presentation of the Order to Show Cause and the granting of a status quo TRO by Judge Kenney do not suggest judge-shopping on the part of the defendants. Therefore, their request for a transfer to the Commercial Division is granted.

The Motion Support Office is directed to randomly reassign this case from I.A.S. Part 8 to a Justice of the Commercial Division. Plaintiff's motion for a preliminary injunction is currently returnable in Part 8 for the submission of papers only on August 13, 2010, and the newly-assigned Commercial Division Judge is directed to re-calendar this motion as soon as his or her schedule permits.



Dated: August 2, 2010

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION