

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

In the Matter of the Application of

DAVID KITTAY, ROBERT BRANTMAN, and
THOMAS LUMSDEN,

Petitioners,

INDEX NO. 101724/11

- v -

PROMETHEAN INVESTMENT GROUP, L.C.C. and
PROMETHEAN MANAGERS, LLC,

Respondents.

Administrative Order:

By letter dated February 17, 2011, respondents apply for a transfer of this special proceeding from Part 29 (Torres, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The court has not received opposition to this request.

Uniform Rule 202.70 (b) (1) provides that actions in which the principal claims involve breach of contract, alleged to arise out of business dealings, will be heard in the Commercial Division provided the \$150,000 monetary threshold is met or equitable or declaratory relief is sought. Also included are applications to confirm arbitration awards involving the commercial issues enumerated in Uniform Rule 202.70 (b) (1) - (11) -- without consideration of the monetary threshold. See Uniform Rule 202.70 (b) (12).

There is no question that this special proceeding, brought pursuant to CPLR Article 75 to confirm an arbitration award, meets the standards for assignment to the Commercial Division. The underlying arbitration involved a dispute over whether petitioners, former members of the respondent limited liability companies, were owed payment of their capital accounts, as well as a pro rata share of distributions for the two months they were employed by respondents in 2007.

Accordingly, the Motion Support Office is directed to reassign at random this special proceeding to a Justice of the Commercial Division. (The petition to affirm the arbitration award is presently returnable on March 11, 2011.)

Dated: February 23, 2011

ENTER: SKH, A.J.

HON. SHERRY KLEIN HEITLER
ADMINISTRATIVE JUDGE

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION