

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

**PRESENT: Hon. Jacqueline Silbermann
Administrative Order**

**GREAT AMERICAN INSURANCE COMPANIES,
VIGILANT INSURANCE COMPANIES, and
CONTINENTAL INSURANCE COMPANIES,
as Subrogees for Dresdner Kleinwort
Wassenstein Securities,**

Plaintiffs

- v -

INDEX NO. 103565/2008

**BEARCAT FINANCIAL SERVICES, INC., JAMES
BENNETT, JASON BANDER, RICHARD L. PRICE,
PATRICK HAYES, ROBERT DURANT, LORI
CAPORICCI, STEVEN ALCARAS, JAST INC.,
TYDE, INC., and ROBERT JOHNSON,**

Defendants.

Administrative Order:

By letter dated May 12, 2008, plaintiffs consent to a transfer of this action from I.A.S. Part 17 (Goodman, J.) to the Commercial Division. Counsel for defendants Bearcat Financial Services and James Bennett also consents to the application. As of this date, the Court has not received opposition from any other party.

This application was referred to the Court by Justice Goodman. Although there is no provision in the Rules of the Commercial Division authorizing a non-commercial division judge to transfer a case into the Commercial Division, since notice of the current application was sent to all parties and consented to by the plaintiffs and defendants Bearcat and Bennett, and the Court has not received any opposition, the Court will treat Justice Goodman's memorandum dated May 12, 2008 as a request by the parties for a transfer pursuant to Uniform Rule 202.70(b).

Counsel for defendants Bearcat and Bennett filed the Request for Judicial Intervention (RJI) on May 9, 2008 in conjunction with a motion for admission pro hac vice, and failed to designate this matter as a commercial case. Instead, counsel checked the box for "Other Matters," which is why the case was not assigned to a Commercial Division judge.

This is a subrogation action brought by insurers, in which the underlying

issues involve fraud and breach of fiduciary duty arising out of a stock loan transaction. Uniform Rule 202.70(b)(1) provides that actions involving principal claims arising out of business dealings, such as breach of fiduciary duty and fraud, will be heard in the Commercial Division, provided that the \$100,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. Thus, this action clearly meets the requirements for assignment to the Commercial Division.

For these reasons, the parties' request to transfer this case 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. (Motion Sequence # 1 [Motion for Admission Pro Hac Vice] is currently pending before Justice Goodman, and Motion Sequences #2 [Motion to Dismiss] and #3 [Motion to Dismiss] are on the Submission Calendar for June 3, 2008.)

Dated: May 19, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION