

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

In the Matter of the Petitioner
JACK BENISHAI and BMC, LLC,

Petitioner,

- v -

INDEX NO. 101972/11

DAVID BENISHAI and RICHARD COHN,

Respondents.

Administrative Order:

By letter dated March 15, 2011, counsel for respondent Jack Benishai requests that special proceeding to disqualify an arbitrator and vacate certain of his decisions be assigned to the Commercial Division. There is no opposition to the request.

This is a dispute between two family members over the management of Ilan Properties, Inc. ("ILan), a New York corporation that owns two residential properties on the Upper West Side of Manhattan. The parties have a long history of contentious litigation, which culminated in a global settlement entered into in March 2009. The current dispute arises out of that settlement and involves the interpretation of the settlement agreement, a separate real estate management contract between Ilan and BMC, LLC, and a judgment issued by the Hon. Eileen A. Rakower (I.A.S. Part 15) in connection with a prior Article 75 proceeding brought last year entitled Matter of Jack Benishai and BMC, LLC v David Benishai, Index No. 105669/10. Thus, although this proceeding meets the standards for assignment to the Commercial Division, it should more properly be assigned to Justice Rakower as related to the prior Article 75 proceeding.

Accordingly, the request for a transfer of this proceeding to the Commercial Division is denied, and the Motion Support Office is directed to transfer this special proceeding, currently returnable in the Motion Submissions Part on March 24, 2011, to I.A.S. Part 15.

Dated: March 21, 2011

ENTER: Sherry Klein Heitler, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION