

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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ESRICK INVESTMENTS, LP, SME CAPITAL, LP,  
and SME CHILDREN, LP,

Petitioners,

against

INDEX NO. 652764/12

J.P. MORGAN SECURITIES LLC,

Respondent.

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Administrative Order:

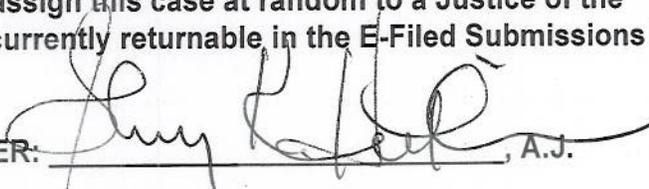
By letter dated August 20, 2012, counsel for respondent J.P. Morgan Securities LLC (JPMorgan) requests that this special proceeding, brought pursuant to CPLR Article 75, to vacate a FINRA arbitration award entered in favor of JPMorgan be transferred into the Commercial Division. There is no opposition to respondent's request, and it is timely (Uniform Rule 202.70 [e]).

Uniform Rule 202.70(b) (1) provides that actions in which the principal claims are for breach of contract, where the breach 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 . . . confirm or disaffirm arbitration awards 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]).

The FINRA arbitration concerned petitioners' claims of multiple securities violations in connection with the sale of real-estate related investment funds pitched by JPMorgan in early 2007. 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) (1) and (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 E-Filed Submissions Part on August 30, 2012.)

Dated: August 21, 2012

ENTER:  A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION