

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

Curtis Broom  
Joseph Kenneth Moore

Case Number: 17-03201

vs.

Respondents

AXA Advisors, LLC  
AXA Network LLC

Hearing Site: Birmingham, Alabama

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Persons vs. Member and Non-Member

**REPRESENTATION OF PARTIES**

For Claimants Curtis Broom (“Broom”) and Joseph Kenneth Moore (“Moore”): Andrew C. Allen, Esq., Law Offices of Andrew C. Allen, LLC and Frank Ozment, Esq., Attorney at Law, LLC, Birmingham, Alabama.

For Respondents AXA Advisors, LLC, and AXA Network LLC (collectively, “Respondents”): Matthew I. Penfield, Esq. and Carol Miller, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

Hereinafter, Broom and Moore are collectively referred to as “Claimants.”

**CASE INFORMATION**

Statement of Claim filed on or about: November 29, 2017.

Broom’s Amended Statement of Claim filed on or about: October 29, 2018.

Moore’s Amended Statement of Claim filed on or about: October 29, 2018.

Broom signed the Submission Agreement: December 5, 2017.

Moore signed the Submission Agreement: December 5, 2017.

Statement of Answer to Broom’s Statement of Claim filed by Respondents on or about: February 20, 2018.

Statement of Answer to Moore’s Statement of Claim filed by Respondents on or about: February 20, 2018.

Answer to Broom’s Amended Statement of Claim filed by Respondents on or about: January 8, 2019.

Answer to Moore's Amended Statement of Claim filed by Respondents on or about January 8, 2019.

Respondents signed the Submission Agreement: February 20, 2018.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted a cause of action for racial discrimination under 42 U.S.C. § 1981. Additionally, Broom asserted a cause of action for retaliation under 42 U.S.C. § 1981.

In Broom's Amended Statement of Claim, he asserted a claim alleging that the Form U5 filed by AXA Advisors, LLC, as part of registration records maintained by the Central Registration Depository ("CRD"), is defamatory in nature and false. Additionally, Broom asserted the following causes of action: slander and violation of Respondents' discriminatory practices in assigning orphaned contracts and policies.

In Moore's Amended Statement of Claim, he asserted racial discrimination as the sole cause of action.

Claimants' causes of action relate to their employment with Respondents.

Unless specifically admitted in their respective Statements of Answer and Answers to the Amended Statements of Claim, Respondents denied the allegations made and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested relief for the damages and other injuries sustained as a result of Respondents' unlawful actions.

In the Statement of Claim, Broom requested:

1. All other remedies available to him in connection with the retaliation claim;
2. Damages, including:
  - a. lost service and renewal commissions he would have otherwise earned and received but for Respondents' unlawful conduct;
  - b. lost sales and commissions he would have likely received had client prospects been fairly distributed among Respondents' agent sales force, but for his race; and
  - c. lost sales and commissions Broom would have likely generated from his existing book of business and from future business as projected by past performance; and
3. All other relief that the Arbitrator determines to be just and right.

In the Statement of Claim, Moore requested:

1. Damages based upon pecuniary losses sustained as a result of Respondents refusal to:
  - a. fairly distribute new client prospects without regard to race; and
  - b. approve and honor the agreement entered into between Broom and Moore transferring Broom's book of business to Moore;
2. Damages for all losses otherwise incurred relating to new business Moore would have likely generated from Broom's book of business and the business association with those clients; and

3. All such other and further relief as the Arbitrator deems to be just and proper.

In their Statement of Answer to Broom's Statement of Claim, Respondents requested:

1. The Arbitrator reject Broom's claims in their entirety;
2. Judgment be entered in favor of Respondents; and
3. Costs and attorneys' fees incurred in defending this action.

In their Statement of Answer to Moore's Statement of Claim, Respondents requested:

1. The Arbitrator reject Moore's claims in their entirety;
2. Judgment be entered in favor of Respondents; and
3. Costs and attorneys' fees incurred in defending this action.

In his Amended Statement of Claim, Broom requested:

1. An award requiring Respondents to file an amendment to his Form U5 stating the truth;
2. Actual and nominal damages related to Respondents' defamatory statements on Broom's Form U5;
3. Punitive damages; and
4. Damages based on Respondents' discriminatory practices in assigning orphaned contracts and policies between 2012 and 2014.

In his Amended Statement of Claim, Moore requested:

1. Damages incurred from 2012 to 2014, declaratory, and injunctive relief under 42 U.S.C. § 1981; and
2. An award prohibiting Respondents from distributing orphaned policies and/or contracts in a discriminatory fashion in the future.

In their Answer to Broom's Amended Statement of Claim, Respondents requested the Arbitrator reject Broom's claims in their entirety and enter a judgment in favor of Respondents.

In their Answer to Moore's Amended Statement of Claim, Respondents requested the Arbitrator reject Moore's claims in their entirety and enter a judgment in favor of Respondents.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On October 29, 2018, Broom filed a Motion for Leave to Amend Claims of Curtis Broom. On November 26, 2018, Respondents filed their opposition to Broom's motion. On December 10, 2018, Broom filed a reply in support of his motion.

On October 29, 2018, Moore filed a Motion for Leave to Amend Claims of Joseph Moore. On November 26, 2018, Respondents filed their opposition to Moore's motion. On December 10, 2018, Moore filed a reply in support of his motion.

On December 19, 2018, the Panel entered an order: (1) denying Claimants' requests to amend and add claims based on the Consent Decree and Amended Consent Decree entered by the United States District Court for the Northern District of Georgia in *James Brown v. The Equitable Life Assurance Society of the United States of America*, Case No. 1:01-cv-2616-RWS and (2) otherwise granting Claimants' motions to amend their claims.

On September 10, 2019, the parties filed a Joint Stipulation to Proceed with Chair Only. The parties agreed to move forward with the Presiding Chairperson as the sole arbitrator and release the other two members of the panel.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' statutory claims are denied in their entirety.
2. Claimants' non-statutory claims are denied in their entirety.
3. Claimant Broom's request for an amendment and expungement to his Form U5 is denied.
4. Respondents' request for attorneys' fees and costs incurred in defending this action are denied.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

**FEES**

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

**Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Filing Fee = \$ 1,575.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

Moore is assessed a \$200 filing fee in accordance with Rule 13802 of the Code. The balance of the non-refundable portion of the filing fee, in the amount of \$175.00, is assessed to AXA Advisors, LLC.

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, AXA Advisors, LLC, is assessed the following:

Member Surcharge = \$ 1,900.00  
Member Process Fee = \$ 3,750.00

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

May 20-23, 2019, postponement requested jointly by the parties = \$ Waived

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

Four (4) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 800.00

Three (3) decisions on discovery-related motions on the papers with three (3) Arbitrators @ \$600.00/decision = \$ 1,800.00

Claimants submitted four (4) discovery-related motions  
Respondents submitted three (3) discovery-related motions

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Total Discovery-Related Motion Fees = \$ 2,600.00

The Arbitrator has assessed \$1,300.00 of the discovery-related motion fees jointly and severally to Claimants.

The Arbitrator has assessed \$1,300.00 of the discovery-related motion fees jointly and severally to Respondents.

**Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on contested motions for the issuance of a subpoena with three Arbitrators @ \$750.00 = \$ 750.00

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Total Contested Motion for Issuance of Subpoena Fees = \$ 750.00

The Arbitrator has assessed \$375.00 of the contested motion for issuance of subpoena fees jointly and severally to Claimants.

The Arbitrator has assessed \$375.00 of the contested motion for issuance of subpoena fees jointly and severally to Respondents.

**Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00  
Pre-Hearing Conferences: June 18, 2018 1 session  
May 2, 2019 1 session

Four (4) pre-hearing sessions with a single Arbitrator @ \$450.00/session = \$ 1,800.00  
Pre-Hearing Conferences: September 13, 2019 1 session  
November 8, 2019 1 session  
March 5, 2020 1 session

	April 8, 2021	1 session		
Nine (9) hearing sessions @ \$450.00/session			= \$	4,050.00
Hearings:	June 7, 2021	2 sessions		
	June 8, 2021	2 sessions		
	June 9, 2021	2 sessions		
	June 10, 2021	2 sessions		
	June 11, 2021	1 session		
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Total Hearing Session Fees			= \$	8,100.00

The Arbitrator has assessed \$6,075.00 of the hearing session fees jointly and severally to Respondents.

The Arbitrator waived \$2,025.00 of the hearing session fees.

**ARBITRATOR**

Fern H. Singer

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Arbitrator's Signature**

***Fern H Singer***

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Fern H Singer  
Sole Public Arbitrator

**07/02/2021**

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Signature Date

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July 06, 2021

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Date of Service (For FINRA Dispute Resolution Services use only)