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July 10, 2015

VIA ECF AND FEDERAL EXPRESS

The Honorable Peter G. Sheridan
United States District Court, District of New Jersey
Clarkson S. Fisher Building & Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *Sivolella v. AXA Equitable Life Ins. Co.*, No. 11-4194 (D.N.J.)
Sanford v. AXA Equitable Funds Mgmt. Grp., LLC, No. 13-0312 (D.N.J.)

Dear Judge Sheridan:

Pursuant to the Court's June 30, 2015 Order,¹ the parties write to provide a brief summary of the general relationships and principles that govern the mutual funds at issue in the above-referenced actions.

I. Overview of Variable Annuities and Mutual Funds

The Plaintiffs in these consolidated actions are investors in variable annuities sold by AXA Equitable Life Insurance Company ("AXA Equitable"). A variable annuity is an insurance contract between an investor and an insurance company, pursuant to which the insurance company promises to make periodic payments to the contract owner or beneficiary. Unlike a fixed annuity (which pays a fixed dollar amount periodically to the purchaser of the annuity), the amounts of the periodic payments under a variable annuity contract vary depending on the investment returns of the underlying investment options selected by the variable annuity holder.

The underlying investment options for variable annuities are typically mutual funds. A mutual fund is "a pool of assets, consisting primarily of [a] portfolio [of] securities, and

¹ The Court's June 30, 2015 Order also ordered that the parties submit a joint letter identifying the "motions currently pending, apart from *Daubert* related motions, and the briefs and docket entry numbers associated with same." Plaintiffs submitted a letter identifying the motions currently pending and the corresponding docket entry numbers on June 26, 2015 (ECF No. 161) (*Sivolella*).

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belonging to the individual investors holding shares in the fund.” *Jones v. Harris Assocs. L.P.*, 559 U.S. 335, 338 (2010). A mutual fund is a separate company or can be a portfolio of a separate company registered under the Investment Company Act of 1940 (“ICA”), which is a federal statute that governs mutual funds. Mutual funds typically have no employees of their own, but they are overseen by a board of directors (or trustees). Mutual funds contract with service providers to carry out various aspects of the fund’s operations. For example, mutual funds contract with investment advisers and administrators to carry out functions necessary for the management and administration of the fund, for which these service providers are paid fees, such as “management fees” and “administrative fees,” from the mutual funds for providing these services.

II. The Variable Annuities and Mutual Funds at Issue in *Sivolella / Sanford*

Each of the Plaintiffs in this case owns variable annuities sold by AXA Equitable. As owners of the variable annuities, Plaintiffs allocated the contributions they made to their variable annuities among a number of investment options offered in their variable annuities, including certain mutual funds. The twelve mutual funds at issue in this case (the “Funds”)² are available as underlying investment options in some or all of Plaintiffs’ variable annuities. Plaintiffs allocated at least a portion of the contributions they made to their annuities to one or more of these Funds.

The Funds are each separate portfolios or “series” of an entity called the EQ Advisors Trust (the “EQAT”), a registered investment company under the ICA.

III. The Defendants: AXA Equitable and AXA FMG

AXA Equitable Funds Management Group, LLC (“AXA FMG”) is a registered investment adviser that has contracted with EQAT to serve as the investment manager (“Investment Manager”) and administrator (“Administrator”) for the Funds. AXA FMG is a wholly-owned subsidiary of AXA Equitable.

AXA FMG has an Investment Management Agreement and Mutual Funds Service Agreement with EQAT pursuant to which it charges the Funds, respectively, a management fee

² The Funds are the EQ/Common Stock Index Portfolio, EQ/Core Bond Index Portfolio, EQ/Equity 500 Index Portfolio, EQ/Equity Growth PLUS Portfolio, EQ/GAMCO Small Company Value Portfolio, EQ/Global Bond PLUS Portfolio, EQ/Global Multi-Sector Equity Portfolio, EQ/Intermediate Government Bond Portfolio, EQ/Large Cap Value PLUS Portfolio, EQ/Mid Cap Value PLUS Portfolio, EQ/PIMCO Ultra Short Bond Portfolio, and EQ/T. Rowe Price Growth Stock Portfolio.

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and an administration fee. Prior to May 1, 2011, AXA Equitable was the counter-party to those Agreements.

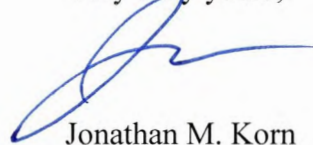
AXA FMG has hired subadvisers and a sub-administrator to perform certain management and administrative services with respect to the Funds. AXA FMG has contracts with the subadvisers and the sub-administrator, pursuant to which the subadvisers and sub-administrator are paid fees for the services they provide.

IV. The EQAT Board

The Funds are governed by a board of trustees, called the Board of Trustees of the EQ Advisors Trust (the "EQAT Board"). Pursuant to Section 15(c) of the ICA, the EQAT Board receives information relating to the Funds and votes on an annual basis on whether to approve the Funds' management and administrative fees. The relationship between the Funds, the EQAT Board, AXA FMG, the subadvisers, and sub-administrator is illustrated in the diagram enclosed herewith.

If Your Honor has any questions, the parties will be fully prepared to further discuss these matters during the July 24th conference call with Your Honor.

Very truly yours,

A handwritten signature in blue ink, appearing to be "Jonathan M. Korn", written over a horizontal line.

Jonathan M. Korn

(Encl.)

cc: All Counsel of Record (via ECF)

Diagram of Mutual Fund Structure and Management

