

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

Plaintiff(s),

-against-

Defendant(s).

AFFIDAVIT IN SUPPORT
OF MOTION TO COMPEL
ARBITRATION AND TO
STAY THIS ACTION

Index No. _____

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

_____, being duly sworn, deposes and says:

1. I am associated with the firm of _____, attorneys for defendant _____. I am personally familiar with the facts herein and submit this affidavit in support of the defendant's motion pursuant to CPLR 7503(a) and 2201 for an order (a) compelling plaintiff to arbitrate his claims against the defendant and (b) staying this litigation in its entirety pending resolution of such arbitration.

2. Plaintiff was employed by defendant as a registered representative and the branch manager of its branch located on _____ in between _____ and _____.

3. Plaintiff's employment agreement provided that he would receive a _____ percent commission on sales and, in addition, would receive _____ percent of the branch's profits as compensation for his work as branch manager.

4. In this action, plaintiff claims that he did not receive the monies owed him for the period during which he was employed and is due \$ _____. The complaint is annexed hereto as Exhibit A.

5. Defendant was, at all times relevant to plaintiff's action, a member firm of the New York Stock Exchange.

6. The New York Stock Exchange Rules provide for the arbitration of disputes between member firms and their employees. Specifically, Rule 347 provides as follows:

[A]ny controversy between a registered representative and any member or member organization arising out of the employment . . . of such registered representative by and with such member or member organization shall be settled by arbitration, at the instance of any such party.

7. Here, plaintiff's claim for commissions alleged to be due him is one that clearly arises out of his employment. Since under Rule 347 either party may compel arbitration of a controversy relating to such disputes, this Court should stay this action pending arbitration of plaintiff's claims.

WHEREFORE, the undersigned respectfully requests that the Court compel plaintiff to arbitrate his claims against the defendant and stay this action in its entirety against the defendant pending such arbitration.

s/ _____
[Signing Attorney's Name]

[J U R A T]

Sample