

DAYTON P. HAIGNEY

TEL: (212) 557-5590
E-MAIL: DPHLAW@MSN.COM

ATTORNEY AT LAW
THE LINCOLN BUILDING
60 EAST 42ND STREET, SUITE 4700
NEW YORK, NY 10165

OF COUNSEL:
MARK R. CROSBY

10 September 2009

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F. Street, N.E.
Washington, D.C. 20549-0609

Re: Proposed Rule Change to FINRA Rule 8312- *FINRA*
BrokerCheck Disclosure

Dear Ms. Murphy:

I write this letter with respect to the instant rule filing relating to public disclosure of information pertaining to registered representatives who leave the brokerage industry.

My practice consists largely of representing aggrieved individual investors against the brokerage industry. As such, it would be of great benefit to my clients if complete and accurate information regarding brokers that leave the industry were available for analysis. Any rule modification should require that CRD information regarding former brokers be available to the public indefinitely.

In recognizing the need for the efficient use of the resources of the Commission, I direct your attention to the letter dated September 4, 2009 submitted by Laurence Schultz. Mr. Schultz explains in detail the shortcomings of the current system and the need to modify the rule to make information regarding deregistered brokers available to the public. I adopt the reasons supporting a modification of the

Rule 8312 as advanced by Mr. Schultz and urge the Commission to carefully consider the issues set forth by him.

It should be noted that the FINRA BrokerCheck website currently contains the following statement:

“FINRA BrokerCheck is a free tool to help investors check the professional background of current and **former** FINRA-registered securities firms and brokers. It should be the first resource investors turn to when choosing whether to do business with a particular broker or brokerage firm.” [Emphasis Added]

The FINRA website does not disclose that the records of former brokers are essentially whitewashed after two years. Hence, the information is misleading for investors who may be checking the background of former brokers.

As has been pointed out in other submissions, many crooked brokers who have been forced out of the brokerage industry adopt the title of ‘financial planner’. Although these individuals may not technically be selling securities, they are dispensing investment advice- a distinction that is often not understood by elderly and unsophisticated investors. The potential clients of these ‘financial planners’ would be shocked to learn that past complaints relating to their past misdeeds as stockbrokers are being withheld from the public by FINRA.

FINRA touts BrokerCheck as a tool for potential investors to research the backgrounds of prospective brokers. As such, FINRA implies that the BrokerCheck system is meant primarily as a tool for investors seeking information about a new broker. It should be noted that in the late nineties when I started using the NASD online CRD system, a screen would appear on the site when conducting a search asking whether the inquirer was an individual or a law firm. Hence, FINRA cannot claim that BrokerCheck is not intended to be a tool to assist attorneys in handling claims on behalf of defrauded investors.

I urge the Commission to adopt a modification of the rule which makes all CRD information pertaining to deregistered brokers available to the public indefinitely.

Thank you for your kind consideration herein.

Sincerely,

/s

Dayton P. Haigney, III

Cc- Hon. Charles Grassley