

September 20, 2005

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Jonathan G. Katz, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303

Re: File No. SR-NYSE-2005-43, "Public Arbitrator" Definition

Dear Mr. Katz:

I am writing in order to comment on the NYSE rule filing regarding Rule 607, which defines the term public arbitrator. Of course, the same points apply equally to the NASD's proposed definition of the term, which also allows professionals whose firms derive less than 10% of their revenue from member firms to serve as public arbitrators.

I am a sixteen-year lawyer and have been representing investors in NASD arbitrations for the past nine years of my law practice. My perception, and that of many if not most of my public customer clients, of the securities arbitration process is that panels tend to be "pro-industry" and/or "anti-investor." The proposed rule, in my opinion, does not go far enough in protecting investors from biased panels. The new proposal would allow the addition to a panel of a member of the securities industry, mislabeled as "non-public" instead of the more accurate classification "industry." As a result, in addition to the designated "industry" arbitrator, one and even two additional arbitrators may be securities industry professionals under this proposal. A revised rule that allows the inclusion of two or more persons who represent the securities industry (including some who represent brokerage firms in claims brought by investors) grossly tilts the playing field and should be avoided.

For the foregoing reasons, the definition of public arbitrator should be modified to exclude from the term any attorney, accountant or other professional whose firm has represented industry members within the prior five years. Thank you for your consideration.

Very truly yours,

Thomas D. Mauriello

