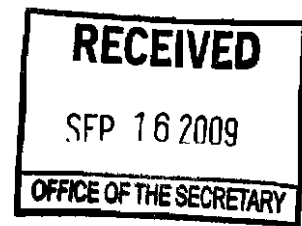




R.M. Stark & Co., Inc.
FULL SERVICE INVESTMENT BROKERS
Member NASD, MSRB, NFA, SIPC



September 9, 2009

Ms. Elizabeth M. Murphy, Secretary
The U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

**Re: Elimination of FINRA-DR Mandatory Industry Arbitrator Petition for
Rulemaking (SEC File No. 4-586)**

Dear Ms. Murphy:

I am a legally trained FINRA Arbitrator who is licensed as a financial consultant in the securities industry (Series 7 & 66 licenses). As such, I am classified as a non-public arbitrator. I think my background provides a unique perspective that I have not seen expressed in any of the "Comments on Rulemaking Petition: Request rulemaking to eliminate the requirement that an arbitrator affiliated with the securities industry sit on all public investor cases arbitrated before FINRA in which the amount in controversy exceeds \$100,000" that are posted on your webpage at <http://www.sec.gov/comments/4-586/4-586.shtml>.

After reviewing all of the comments, it seems the underlying concern is that of the "appearance of impropriety" of having an industry participant as a member of a three-member arbitration panel. Please stop and reflect. *The purpose of an arbitration panel is to pursue and identify the truth and to dispense justice accordingly.* It is not a public relations vehicle and as such, the panel's "appearance" has no relevance to its mandate.

I conducted an unscientific poll of some arbitrators to get their thoughts about whether they felt there was a bias by non-public arbitrators to defend the industry. I learned that, quite the contrary, the non-pubic participants on the arbitration panel brought additional knowledge about the rules, training, and reasonable expectations of person(s) associated with a broker or a dealer. They also tended to be more critical of the associated person(s) than the public arbitrators.

All arbitrators, regardless of whether they are public or non-public arbitrators, sign an "Oath of Arbitrator". The Oath includes the following promise: "I have no direct or indirect interest in this matter; I know of no existing or past financial, business, professional, family or social relationship which would impair me from performing my duties; and that I will decide the controversy in a fair manner and render a just award."

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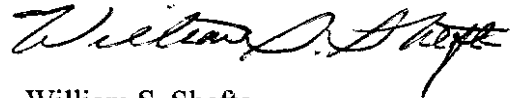
Yes, it is possible to have an unethical arbitrator who may demonstrate a bias. However; I submit that it is just as likely that a public arbitrator could have a bias. We all hope that neither of these situations would occur. And as I pointed out earlier, the non-public arbitrator tends to be more critical of an industry person and less likely to let an improper industry action "slip through the cracks" and distort the justice which we all seek.

A non-public arbitrator brings the knowledge of the securities industry to the panel and a unique insight into the standards that are expected of brokers and dealers. A public arbitrator brings the knowledge of the law and legal procedure. Both are important to the pursuit of truth and justice. To take away either from a panel only serves to leave an arbitration panel lacking all the tools it needs to truly achieve the fairness and justice that we all want.

I respectfully request that you reject the Petition for Rulemaking (SEC File No. 5-586)("Petition 4-586") of the Public Investors Arbitration Bar Association ("PIABA") to eliminate the requirement that an arbitrator affiliated with the securities industry sit on all public investor cases arbitrated before Financial Industry Regulatory Authority ("FINRA") in which the amount in controversy exceeds \$100,000.

If I can provide further insight, please do not hesitate to call on me.

Sincerely,



William S. Shefte
Non-Public FINRA Arbitrator