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July 5, 2009

VIA EMAIL: rule-comments@sec.gov

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090.

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

Dear Ms. Morris:

The following is an excerpt from an email that I received in response to my comment letter dated June 20, 2009. The author wishes to remain anonymous. The writer concluded that the Petition would provide cosmetic change, not real reform, and leaves the investing public with the *status quo*. The email states:

> Les, you overlook that this may be a deal cut between PIABA and FINRA to save the system from which some elements in PIABA benefit. Finra-DR principals don't object too hard to giving up the industry arbitrator. They keep their fat jobs and both sides go to the Obama administration and claim to have reformed the system negating the reason to end mandatory industry arbitration. ...
>
> Result, the industry retains an arbitration system where customers always lose with paltry, cents on the dollar awards in 40% of the cases and a zero award in 60% of the cases.
> ...
> This thing is a set up deal to keep mandatory arbitration so that the internet marketing firms and "national" authorities can cherry pick cases all over the country without concern about local state bar association or rules of professional conduct. ... Top rate local trial lawyers generally do not want to do securities arbitration because the returns are so small that the cases are not worth pursuing individually. Only with a volume business without

> much individual care does the model work. Those who do that want to save arbitration.
> ...
> [T]here is a real entrenched PIABA clique which controls the board whose business it will pretty much destroy. They will fight freedom of choice to the bitter end. ... [J]oe Borg (Alabama Securities Commissioner and NASAA officer) at last year's conference venting that they (PIABA) had stabbed him in the back by agreeing to trade support of the FAA for the elimination of the industry arbitrator. That is trade (of) real reform for cosmetic change leaving the status quo. ....

The allegation that PIABA has a vested financial interest in keeping the FINRA sponsored securities arbitration process is supported by comments in *Investor Securities Arbitration-- Problems Exist, but it's Still the Least Costly, Most Expedient Way of Resolving Disputes for the Majority of Investors* by Anna R. Nicholas (2006), which stated, in part:

> Robert Uhl, an investors' advocate believes arbitration allows him to take on more clients with a lower dollar amount in dispute. This helps the claimants *and* him, he says, because otherwise he wouldn't have the time to have as many clients. He would need to be at court more, filing motions and taking depositions and "jumping through all the hoops" attorneys have to jump through when they litigate as opposed to arbitrate. ... Mr. Uhl says litigating a $200,000 case is not cost effective. He is able to take on the $100,000 cases, claims that he says he "couldn't afford to take on," if he were to litigate them. ... He concedes that the current system does make him more money so he does have a vested interest in keeping arbitration as a (sic) the means of resolving securities disputes.

Mr. Uhl's website currently states, "Mr. Uhl ... is a member of the Public Investors Arbitration Bar Association (PIABA)."

Very truly yours,

Les Greenberg

Digitally signed by Les Greenberg
DN: cn=Les Greenberg, c=US, o=Law Offices of Les Greenberg, ou=Attorney at Law, email=LGreenberg@LGEsquire.com
Reason: Petition for Rulemaking # 4-586
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