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U.S. Securities & Exchange Commission  
100 F Street, NE  
Washington, DC 20549

**Re: File No. SR-FINRA-2008-051**

Dear U.S. Securities & Exchange Commission,

I am an attorney in New York City who represents investors in arbitrations before FINRA-DR. I am a member of PIABA, but, my comments solely reflect my own views on the proposed Rule Change, and are not in any way submitted to speak on behalf of PIABA or its members. I am also a Public Arbitrator for FINRA-DR.

Since arbitration is a creature of contract, I do not see that the proposed rule change will make much practical difference. Since the rule requires a “joint request” of the parties, would not the Panel be required to render such a reasoned award anyway if the parties so requested? What the proposed rule change does do is to structure an administrative mechanism for the parties’ request for a reasoned award, and, for the remuneration of the Chair. I agree that the prior proposed rule change, whereby *only one* party needed to request a reasoned award, should not have been enacted.

What I take issue with is that the new process by which Arbitrators may become “chair-eligible” is flawed. Investor advocates have rightly observed that many “Public” arbitrators are in fact, misclassified Industry Arbitrators. While efforts have been made to level the playing field by recruiting more objective, public, Arbitrators to the roles of FINRA-DR, the new Chair requirements engrain the existing set of pre-April, 2007 “Public” Arbitrators as those almost exclusively eligible to serve as Chairperson. And, Arbitrators on the “Chair-eligible” list may also serve as non-chair Public Arbitrators, thereby packing a double punch of old guard FINRA-DR Public Arbitrators who may be listed as potential panelists in cases filed before FINRA-DR. Notably, with NYSE’s arbitration department now defunct, FINRA-DR is the only game in town.

I support the proposed rule change, with the caveat that the SEC revisit FINRA-DR’s “chair-eligible” scheme without delay.

Sincerely,

THEODORE M. DAVIS, ESQ