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NICHOLAS J. GUILIANO, ESQUIRE

December 6, 2010

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

RE: Comments on File No. SR-FINRA-2010-053
Notice of Filing of Proposed Rule Change Relating to
FINRA Rule 12402 (Composition of Arbitration Panels)

Dear Ms. Murray:

Please accept our comments to SR-FINRA-2010-053.

Our practice has been substantially limited to the litigation of securities related matters in federal court, individually and as class actions, and principally in arbitration before the Financial Industry Regulatory Authority (“FINRA”) Dispute Resolution, Inc. (formerly known as The National Association of Securities Dealers (“NASD”) Dispute Resolution, and the New York Stock Exchange (“NYSE”) Department of Arbitration. Since 1995, we have represented more than 1,000 public customers from approximately 38 different states, and several other countries, in FINRA or NASD sponsored arbitrations involving claims against brokerage firms, stockbrokers, or investment professionals, for among other things fraud in connection with the sale of securities, the sale of unregistered securities, breach of fiduciary duty, the failure to supervise, and the violation of the state and federal securities laws.

While the presence of an industry or non-public arbitrator in some cases can assist the arbitration panel in understanding industry rules and practices, particularly in the most egregious cases, in many cases industry arbitrators, based upon their own experiences or experiences involving litigation against their masters, prejudice and are outright bias against the claims of public customers.

We are pro-choice.

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Whether any bias is actual or merely a perceived bias that taints the legitimacy of the process, public customers ought to have the right to choose whether they want to have their claims tried before a Panel consisting of solely public arbitrators or with one person with an association with the securities industry.

Accordingly, we strongly support SR-FINRA-2010-053 proposed changes to amend the panel composition rule, and related rules, of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”), to provide customers with the option to choose an all public arbitration panel in all cases.

Respectfully submitted,
Nicholas J. Guiliano
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