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November 22, 2010

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: File No. SR-FINRA-2010-053

Dear Ms. Murphy:

I am an attorney in private practice and have been representing investors in claims against brokerage firms for over 30 years. Prior to entering private practice I was assistant commissioner of the Oregon Securities Division and was responsible for enforcement of the Oregon securities laws, including those applying to broker-dealers.

Because I represent customers in FINRA arbitration my comments reflect the point of view of customers who are compelled to use FINRA arbitration to seek redress of wrongs committed by broker-dealers and registered representatives. Based upon my experience and the comments of my clients over the years I strongly support this proposed rule and urge implementation of the rule as soon as is possible.

While this rule is a good first step toward fairness in arbitration, it is only one step and the Commission should not consider this one step as the palliative to mandatory arbitration. Rather, it is a step in the right direction, a direction that should lead to the end of mandatory arbitration.

Mandatory arbitration should be rejected by the Commission and the following additional procedures applied to the FINRA arbitrations.

1. The investor should be able to unilaterally demand FINRA arbitration as per current FINRA Code of Arbitration Procedure Rule 12200;

2. The investor should be able to opt for an all-public panel; and

3. The only fee to be paid by the investor for the entire arbitration should be no more than the filing fee in U.S District Court. The fee in U.S. District Court is determined by a neutral third party and is uniform all over the US. Presently the cost of a five day arbitration with two pre-hearing conferences is staggering to clients compared to the cost of going to court. Since arbitration has become rife with discovery abuse, motion practice, delays and increasing

formality it is hardly the fast, fair and efficient engine of justice it should be. Holding down the costs will help somewhat.

4. The existing discovery procedures must be reined in to stop the "financial colonoscopy" that FINRA believes is necessary for claimants so that the respondents and arbitrators to have broad and detailed records of the customer's financial history after the damage has been done. Member firms should not be allowed to seek any documents related to "Suitability" that they did not have at the time of the transactions at issue. They are required to base recommendations on sufficient inquiry and information and should not be allowed to engage in a fishing expedition through the customer's financial life history seeking information that they didn't think was necessary at the beginning of the relationship when deciding to make recommendations to the customer.

In sum, the new rule is helpful and I strongly support it, but it does not satisfy the need to do away with mandatory arbitration and further refine the industry's voluntary arbitration process. When the system is perceived to be fast, fair and efficient, mandatory arbitration will not be necessary and customers will want to use the system instead of dreading the process.

Very truly yours,

Richard M. Layne

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