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February 7, 2013

VIA ON-LINE SUBMISSION

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: File No. *SR-FINRA-2013-003*

Dear Ms. Murphy:

Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A. has a group of attorneys whose practice focuses primarily upon representing individuals and public entities in the areas of securities litigation and arbitration. I am chair of the securities practice and a former President of the Public Investors Arbitration Bar Association (PIABA). Pursuant to Rule of Practice 192(a) of the Securities and Exchange Commission ("SEC"), I write to comment on the proposed revision to the rule regarding the definition of "Public" arbitrators in FINRA arbitration matters.

The proposed revision to the code removing individuals who are associated with Hedge Funds and Mutual Funds from the public pool is long overdue and should be approved by the SEC as soon as possible. The current definition and rules for public arbitrator(s) allow for individuals with significant ties to the financial industry to take that role irrespective of those ties. The proposed rule change seeks to remedy at least part of this problem by disallowing individuals associated with hedge funds and mutual funds from serving as public arbitrators for at least two years after their disassociation.

I strongly support this revision as being in the interest of leveling the playing field for investors. And although the proposed rule does not completely remedy the problem of public arbitrators not truly being Public, it is a step in the right direction. The role of a public arbitrator is intended to be one of impartiality. The stated objective of FINRA's proposed rule change is to "improve investor confidence in the neutrality of FINRA's public arbitrator roster." SR-FINRA-2013-003, Pg. 8. Certainly it would be difficult to convince investor clients that their claims were going to be heard on a level playing field even though one of the three arbitrators

has or had a significant affiliation with the securities industry. The appearance of bias does not wear off so quickly or so simply as by the passage of a few years. Indeed, it is unrealistic to believe that a mutual fund or hedge fund employee could disregard numerous years of his or her experience and inherent bias. It's my position that part of the overall pool should not include any former industry members at all. Public should mean public.

Thank you for providing me with the opportunity to submit comment, and I look forward to the speedy approval of this proposed rule.

Sincerely,

Peter Mougey
For the Firm