

July 24, 2014

SECURITIES & EXCHANGE  
COMMISSION

SEC Complaint Center  
100 F Street NE  
Washington, D.C. 20549-0213.

AUG - 8 2014

OFFICE OF INVESTOR  
EDUCATION AND ADVOCACY

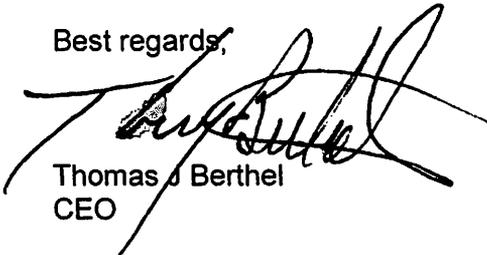
RE: SR-FINRA-2014-028

To Whom It May Concern:

It has come to my attention that the SEC is currently reviewing a change to the definition of non-public arbitrators on arbitration panels. Adding plaintiff investor attorneys or PIABA members to the category of non-public arbitrators is a very important step in that process. The participation of plaintiff attorneys and PIABA members creates a biased tilt to the panels that makes it difficult if not impossible for member firms and Registered Representatives to receive a fair hearing. It may also bias the panel to ignore the true spirit of arbitration and the FINRA rules designed to insure a fair hearing for all parties. One especially biased issue is the FINRA Rule 12206 which continues to be a major burden on the Industry.

The decision to remove participation by industry members and go to an "all public panel" is also a major factor in a fair arbitration. Many times I have heard from other FINRA members and have occasionally witnessed an industry panel member is harder on the FINRA member involved in the hearing. If a doctor is subject to an arbitration the arbitration panel would certainly be better suited by having at least one of the panelist be a doctor. The expertise of the industry member as a panelist can be invaluable for the other panelists. The ability to ask questions about the securities laws and FINRA rules becomes very important in the final outcome of an award. Just as we are in agreement with not allowing investor attorneys and PIABA members on the panel we would agree that the panel should not be represented by member firm defense attorneys. I also believe that every panel should have panel members that have a strong background in securities rules and law and that the Chairman should be a judge or hold a law degree.

Best regards,



Thomas J Berthel  
CEO