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Mr. Jonathan G. Katz, Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549

Re: Comment on Petition for Rulemaking #4-502

Dear Mr. Katz:

I have served both as a public arbitrator and a lawyer, practicing within the NASD arbitration system, and have observed, closely, the function of industry related arbitrators. Frankly, I do not see the usefulness of an industry arbitrator, and I have observed that most industry arbitrators make an effort to be fair, on occasion, the bias against customer claimants is both real and substantial. The concept of having a minimum of one industry arbitrator on a panel is in direct conflict with the traditions of Anglo-American jurisprudence. The kind of so called "industry knowledge" that SIA and NASD allege are of "great value" in helping the public arbitrators make a decision, would ordinarily allow a plaintiff's lawyer to disqualify a similarly situated juror for cause. Quite frankly, during my service as an arbitrator, neither I nor any arbitrator I have worked with, has ever had a need to resort to help from the industry arbitrator. Furthermore, I would agree that resort to that "help," where the claimant's counsel doesn't have a fair chance to rebut incorrect arguments by the industry arbitrator, such as during deliberations, is inherently unfair and creates bias against the customer-claimant.

Another problem is that NASD is notorious for failing to obey its own rules with respect to acknowledging and acting against conflicts of interest, and the appearance of impropriety, when this involves disqualifying an industry connected arbitrator desired by an industry respondent.

For example, in one instance, a securities industry defense lawyer was allowed to remain on a panel over the vigorous objections of claimant's counsel, even though his firm represented Wachovia Securities, which was the respondent in that same case. This same lawyer was then appointed as "Chairman" of the panel, even though he was not the highest ranked public arbitrator. Finally, after having had his motion to disqualify the arbitrator denied, the claimant's lawyer threatened to go to the media, the courts, and to Congress. A few weeks later, the referenced arbitrator recused himself, but it is notable that NASD never acknowledged that he was disqualified from sitting on the case against his own client!

In another instance, an industry arbitrator disclosed that he was the subject of many customer claims in his supervisory capacity, that he had served as the company's designated representative on many others. In spite of being the "subject" of multiple

failure to supervise cases, NASD refused to disqualify him from sitting on a panel which was to decide a failure to supervise case against another stock broker.

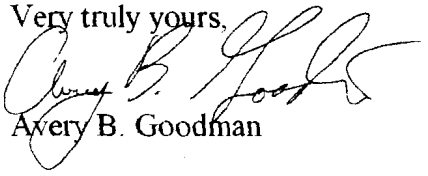
In yet another instance, two persons, who should have been classified as industry arbitrators, were retained on a panel, over the strenuous objection of claimant's counsel, even though only one is supposed to be on each panel. In denying the claimant's motion to disqualify, NASD Dispute Resolution Director, George Friedman, alleged that, because the second industry arbitrator had only been a stock broker for 7 years, which was just under 1/3 of his working life, he could not be considered as having a "substantial" past or present affiliation with the securities industry! Mr. Friedman, of course, serves at the pleasure of a Board of Governors elected by the collective defendants involved in NASD Arbitration.

If you are interested in prosecuting the NASD's violation of the arbitration rules that the SEC has set down to govern it, I would be happy to provide more detailed information on each instance mentioned above. But, in short, the mandatory use of industry connected arbitrators is unwise, likely to increase bias against customer-claimants, provides little assistance to public arbitrators, and has been abused by the institutional nature of NASD as an industry controlled organization.

NASD Dispute Resolution should be severed from the remaining portion of NASD. NASD's officials are administering a quasi-court system, upon which customer claimants must rely to administer justice in a fair and impartial manner. Their decisions should not be controlled by a desire to curry favor with those who control their destiny. The way the system is currently structured, for example, Mr. Friedman's future career prospects are indirectly controlled by securities industry member respondents. These same people are the ones being sued. A severance of control and influence will allow such officials to turn away from blatant partisanship, and return to using logical and reason in making their decisions.

In the meantime, Petition for Rulemaking 4-502 should be granted.

Very truly yours,



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