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December 21, 2004

Hon. Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-0609

**Re: Release No. 34-50714
File No. SR-NASD-2003-101
Order Granting Approval to Proposed Rule Change and Notice of
Filing and Order Granting Accelerated Approval to Amendments
No. 1 and 2 Relating to Time Limits for Submission of Claims in
Arbitration**

Dear Mr. Katz:

Thank you for giving our law firm the opportunity to comment on Amendment No. 2 to SR-NASD-2003-101. Our firm practices extensively in securities arbitration and litigation on behalf of public customers.

We write to object to the Proposed Amended NASD Rule 10304 described in SEC Release No. 34-50714. Specifically, we object to the language which would give exclusive control of the implementation of the Six-Year Rule to the NASD member or associated person; but not the public customer.

When claims are more than six years old, this rule prevents them from being arbitrated. Both sides to the dispute should be able to obtain the plain meaning of the rule.

The SRO's have done a poor job of training their arbitrators to deal with Rule 10304 issues, so an Amended Rule that clearly states that claims that are more than six years old belong in court is preferable. However, the public customer as well as the NASD member or associated person should be able to request that relief.

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There is ample evidence that the NASD, NYSE, SICA and others have always interpreted the Rule to permit parties with claims older than six years to go to court. The securities industry has consistently argued the exclusive remedy/statue of repose position and oftentimes has been successful. It is time to have a clearly interpreted rule that is fair to investors with claims that are more than six years old because the existing rule and this Amendment No. 2 are not fair.

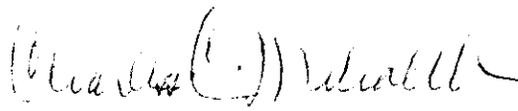
The Charles Schwab comment letter dated August 26, 2003 points out that the Proposed Rule (prior to Amendment 2) could have the negative effect of increasing the cost and delay – to Claimants and Respondents alike – associated with state and federal court litigation. We only wish to advise that mandatory pre-dispute securities arbitration as sponsored by the securities industry is not how my clients wish to resolve their disputes with their stockbrokers. We find arbitration to be grossly imprecise, expensive and unfair. If the industry wishes to continue to force investors to such a forum, then the least they could do is adopt rules that are clearly and easily understood and fair to public customers.

Thank you for requesting and considering our comments on this important issue affecting the fair resolution of investor claims through a process of industry-sponsored mandatory arbitration.

Sincerely,

CHARLES C. MIHALEK, P.S.C.

BY:



Charles C. Mihalek, Esq.

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