To the SEC

Re: SR-NASD-2003-1589 (proposed NASD Code of Arbitration Procedure revision)

Please accept this submission as my comment on the NASD's proposed Code Revision.

I am a member of Brickley, Sears and Sorett, attorneys who represent investors in SRO arbitration. I am also an adjunct professor at Suffolk University Business School in Boston where I teach business ethics classes. I am a member of PIABA.

I support the position of PIABA expressed in its comment letter. In addition, I offer several observations:

A. The move to a chair-qualified panel is a dramatic step backward in arbitration. I have never had a panel where there was no qualified chair person. The notion of professional arbitrators takes us further and further away from fair and unbiased tribunals. With the ability of the industry to strike the arbitrators, fair awards are infrequent. Compromise awards result. That is just not good "justice" for investors.

The so-called non-public arbitrator should be eliminated. It is in essence, a shill on the panel. The presence of an industry person on every panel is, as the public sees it, the biggest perceived problem with arbitration today - even more than the adhesion contracts used by the securities industry to compel arbitration before the organization that they influence and finance.

B. Motions to Dismiss - Motion practice is an effort to deprive the customer of their hearing. I believe they do not belong in this process at all. It is not supposed to be litigation. You are allowing them to complicate the process for customers, with absolutely no benefit to the customer. It is an all industry benefit change. The whole concept of allowing SRO's to offer this inexpensive, expedited and simplified process, was to make it easier for customers. They gave up juries and were to get this benefit in return. Now they take it all away and make it just plain litigation with no jury. It is patently unfair.

C. Insurance disclosure. In every other forum, including court, the presence and amount of insurance, if applicable, must be disclosed. In arbitration there is no such provision and there should be. The result is that small broker-dealers who have insurance can coerce a cheap settlement by falsely claiming no ability to pay.

Please do not hesitate to call me with any questions. Thank you for your consideration.

Very truly yours,

John E. Sutherland

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