

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.

LAWYERS

Gary M. Berne  
gberne@ssbls.com

April 13, 2006

Jonathan G. Katz, Secretary  
Securities and Exchange Commission  
100 F. Street, NE.  
Washington, D.C. 20549-9303

Re: NASD Rule on subpoenas, File SR NASD 2005-079, Amendment No.1

Dear Mr. Katz:

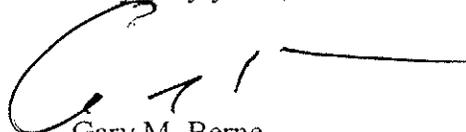
I may be late in my comments, but the proposal that prevents counsel for parties from issuing subpoenas is a bad rule. I usually represent claimants. Our ability to issue subpoenas, quickly and efficiently, is a critical part of the truth-seeking process. We copy the other side and give them what we obtain. Restricting the subpoena power only to arbitrators will promote delays and objections to subpoenas prior to their being issued. The procedure that the NASD proposes is particularly cumbersome because it requires a motion to the arbitrators. This will invariably result in objections or the arbitrators wanting to have a hearing. In fact, since the arbitrators only get paid if there is a hearing, they will have incentive to schedule a hearing, causing further objections and delays.

Oregon generally permits counsel for parties in an arbitration to issue subpoenas. This has never been a problem.

Any new rule should be restricted to requiring parties to copy one another with subpoenas and to return all documents.

Finally, I also question whether there has been sufficient notice and a sufficient comment period on this dramatic revision to the original NASD proposal. Thank you.

Very truly yours,



Gary M. Berne

GMB:ab