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September 19, 2005

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

Re: File No. SR-NASD-2005-094, “Public Arbitrator” Definition

Dear Mr. Katz:

The following are my comments on File No. SR-NASD-2005-094, relating to Amendments to the Classification of Arbitrators Pursuant to Rule 10308 of the NASD Code of Arbitration regarding the definition of the term ‘public arbitrator.’ Of course, the same points apply equally to the NASD’s proposed definition of the term, which also allows professionals whose firms derive less than 10% of their revenue from member firms to serve as public arbitrators.

I have worked as a regulator with the NASD, worked as in-house counsel for brokerage firms, and now largely limit my practice to the representation of individuals and businesses who have suffered significant losses due to the actions and inactions of their brokers.

Biased panels are a significant issue for investors and the rule as proposed does not provide enough protection for investors from biased panels. The rule as proposed would permit a securities industry member to sit on an arbitration panel. Additionally the rule as proposed would allow the other arbitrators to be professionals whose business is representing the securities industry – even acting as legal counsel in investor claims.

I have been involved in the securities field for approximately 10 years and I am an overall supporter of the arbitration process. However, as you can imagine, an investor has a hard time convincing a securities industry member that one of his or her colleagues in the industry have acted improperly. It would be very difficult to try to explain to a client that the majority, or even

the entire arbitration panel who will decide their case are members of the securities industry but despite that fact, that the panel can fairly judge the case. The proposed rule will undermine the public's perception of the fairness of securities arbitration and that would be a detriment in many ways.

For the foregoing reasons, the definition of public arbitrator should be modified to exclude from the term any attorney, accountant or other professional whose firm has represented industry members within the prior five years.

Sincerely,

A handwritten signature in black ink, appearing to read "RK Savage", with a long horizontal flourish extending to the right.

Robert K. Savage