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September 20, 2005

*Via email only; 2 pages*

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

Re: SR-NASD-2005-94

Dear Mr. Secretary:

I am an attorney licensed to practice law in California and Wisconsin. Since 1994, the vast majority of my practice has been and continues to be representing investors in arbitrations pending at the NASD, the Pacific Exchange and the New York Stock Exchange, as well as in related litigation. I also represent individual brokers in claims against brokerage firms, and in regulatory matters.

Though the NASD's proposed changes in the definition of a "public arbitrator" are steps in the right direction, the changes do not go far enough to ensure that arbitrators who are designated as "public" are truly not closely tied to the securities industry.

In addition to the comments by PIABA – whose proposals should be adopted—the definition of public arbitrator should be changed to also exclude any individual who worked in or was associated with the securities industry for more than 5 years, at any time.

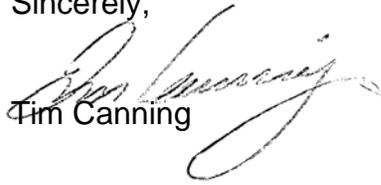
Currently, only those who are formally "retired" from the securities industry or who have spent "a substantial part of a career" in the securities business are permanently cast as non-public arbitrators. In Rule 10308(a)(4)(B), the phrase "a substantial part of a career" should be deleted, and replaced with the phrase "more than 5 years"; in Rule 10308(a)(5)(A)(ii), the phrase "a total of 20 years" should be replaced with the phrase, "a total of 5 years."

The above changes and the changes proposed by PIABA would further the goal of having at least two truly public arbitrators decide public customer arbitration claims.

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Thank you for your consideration of this comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Canning", is written in black ink. To the right of the signature is a vertical red line.

Tim Canning