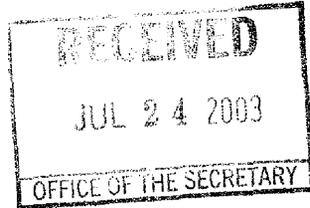




# PRIVATE PORTFOLIO

May 19, 2003



Securities & Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549

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Re: Expungement of CRD Records

Dear Sir or Madam:

Our **firm** is an independent broker/dealer member of the **NASD**. We are writing to comment regarding the proposed Rule 2130 (File No. SR-NASD-2002-168) concerning expungement of claims from the Central Registration Depository ("CRD") system. We strongly believe that this new proposed rule is inadvisable, damages the integrity of the investment industry and will inhibit both capital formation and liquidity for many reasons, including the following:

The proposed rule would make the **NASD** the adversary of member firms and their registered representatives in all cases where a panel of arbitrators has recommended the expungement of a claim.

The proposed rule undermines both the authority of **NASD** arbitrators, and the integrity of the awards rendered in **NASD** arbitrations. For decades, the **NASD** and its members have sought to encourage the public's confidence in the integrity of the arbitration process, and the awards rendered in those arbitrations.

The proposed rule presumes that **NASD** arbitrators after hearing both sides of a matter are somehow not qualified to reach a reasoned decision regarding expungement of a claim from the **CRD**. We believe this is inimical to the authority and integrity of the arbitrators, the arbitration process, and the awards rendered in those arbitrations.

The proposed rule undermines the neutrality of the **NASD** Dispute Resolution by creating a systematic prejudice against the respondent no matter what the outcome of the proceeding, even if the respondent is exonerated.

The proposed rule would result in a multiplicity of actions, unnecessary expense, and

the likelihood of inconsistent findings **and** results. If **the NASD opposes any** petition filed in state court to confirm an arbitration award which includes a finding that **the** claim should be expunged, it will be necessary for a new hearing to be held in each of those cases in the state court, where the same issues will **be** litigated, and **the same** witnesses will probably need to be called, as in the underlying **NASD** arbitration. It is not inconceivable that the state court could reach entirely different conclusions and findings in that second hearing, than those which the arbitrators reached in **the** underlying arbitration. Again, this **is** not only unnecessarily wasteful and expensive, but raises the possibility of inconsistent results, which would further undermine **the** integrity of **NASD** arbitrations, and would erode public confidence in the awards rendered **by NASD** arbitrators.

We believe that **NASD** arbitrators who hear the claims and response in full are no **less** qualified to reach a valid conclusion regarding the expungement of a claim from a registered person's record, than they **are** to resolve the merits of underlying disputes which **are** presented to them for arbitration. The Securities & Exchange Commission, the **NASD** and its members, as well **as** their associated persons, have a common interest in promoting public confidence in **NASD** arbitrations, **NASD** arbitrators, and the awards rendered in **NASD** arbitration proceedings. **For** all of the reasons **set** forth above, we believe that the proposed rule will do just the **opposite**, and will undermine the public's confidence in this **process**. We strongly urge that this **proposed** rule not be adopted.

Sincerely,

A handwritten signature in black ink, appearing to read "Barba", written in a cursive style.

Daniel Barba  
President