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September 16, 2005

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

Re: File No. SR-NYSE-2005-43, "Public Arbitrator" Definition

Dear Mr. Katz:

I am writing on behalf of both myself and my clients to comment on the NYSE rule filing regarding the amendment to Rule 607.

Although my firm has represented both sides in the securities arbitration process, the lion's share of is on behalf of customers. By my own observations and through my many clients, the perception is that the process is substantially in the favor of the industry. This perception appears to be further bolstered by the statistics and actual awards. The rule, as proposed, leaves open the bias now built into the system and even widens the gap.

In the past, I have had to suffer through mis-labeled proposed panelists. Recently, I had a proposed panelist who was classified as "public". However, when I scratched the surface I discovered that that person had recently acted as counsel for an industry lobbying group. Hardly a public arbitrator. When I notified the SRO of this point, although they did not disagree with me, instead of reclassifying that person, they suggested that I use my ability to strike him from the list - thus perpetuating the flaw.

I have been in hearings where an industry panelists questioned my right to obtain phone records in an unauthorized trading case. Once I prevailed through the other two panelists, he then

supported the broker-dealer when they said that it was in a format that they were unable to read because of their "new computer systems" and argued that they should not be made to do so. I was able to prevail in that case only because of the two public arbitrators. Had there been two industry panelists, my elderly client (who was dragged by the broker into a multi-day hearing and died within a year thereafter) may not have received his award.

Under the newly proposed rule, the panel can be constituted of even more industry persons than it is presently. It is difficult enough to convince one industry and it will become almost impossible to convince two or all. As importantly, the process which is already questioned by my client's as being intrinsically unfair will have no credibility. I am uncertain why the SRO's would even want to subject themselves to such increased criticism and facially obvious conflicts of interest, but whatever the reason it should not be permitted.

For these reasons, it is requested that the proposed amendment be rejected.

Very truly yours,

Bruce E. Baldinger, Esq.