

September 13, 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 an attorney, and a member of PIABA. I regularly represent Claimants in NASD Arbitrations.

When investors open a brokerage account of any kind they are required to sign a form which commits them to SRO sponsored arbitration. They are not told, and in my experience, generally do not realize, that they are thereby waiving one of the fundamental benefits of our system of justice, that of a trial by a jury of their peers.

They are also not told that their 'jury' under SRO rules will be one-third 'industry arbitrators', who are generally employees or ex-employees of the very people who pay for the SRO sponsored arbitrations. This structure is akin to a med-mal suit where one-third of the jury are doctors, or to a criminal trial with four of the twelve jurors ex prosecutors or law enforcement persons. It is 'loaded' to begin with. That should be changed or at least clearly explained to those required to sign the arbitration agreement. It usually is not disclosed.

But it is even more egregious when the remainder of the 'jury pool', the pool of arbitrators defined as 'public', are also servants of the industry by virtue of their business relationships with the folks who pay for the process. The Rules should be changed so that "Public" means "public; non-industry"; a one-third load is more than enough.

Michael Knoll, Esq.
Law Office of Michael Knoll