

FELLOWS JOHNSON & LA BRIOLA, LLP

*Peachtree Center
Suite 2300 South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303-1731*

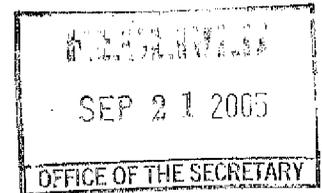
Henry D. Fellows, Jr.
hfellows@fjl-law.com

*Telephone (404) 586-9200
Facsimile (404) 586-9201
www.fjl-law.com*

Writer's Direct Dial Number
(404) 586-2050

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 a trial attorney whose practice is devoted to business litigation. Most of my litigation is in the federal and state courts, but I also represent investors in securities arbitration claims before the NYSE and the NASD. I am the current Chair of the Litigation Section of the Atlanta Bar Association.

The purpose of this letter is to comment on the NYSE rule filing regarding Rule 607, which defines the term "public arbitrator." The same comments apply 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.

The proposed rule does not do enough to protect investors from biased panels. Under the proposed rule, in addition to having an avowed member of the securities industry sitting on a panel, one or two more arbitrators can be professionals who represent the securities industry. Therefore, the likelihood of biased panels remains high, particularly taking into account the fact that arbitrators are frequently replaced before hearings by pro-industry arbitrators due to date conflicts or similar reasons.

It is difficult enough to convince one industry member that a colleague in the industry acted improperly. It is unfair to customers of brokerage firms that a majority, or even the entirety, of a panel can include arbitrators who are members of and advocates for the industry. How can an arbitrator whose firm's clients includes brokerage firms being sued for the same conduct bring real objectivity to the case before him or her?

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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 past five years.

Best regards.

Sincerely,



Henry D. Fellows, Jr.
FOR THE FIRM