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July 14, 2005

Jonathan G. Katz, Secretary  
Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549-0609

Re: SEC release No. 34-51856  
File No. SR-NASD 2003-158

Dear Mr. Katz:

I am writing to submit comments with regard to Rules 12212, "Sanctions", and 12902, "Hearing Session Fees".

Empowering arbitrators with the discretion to assess sanctions and forum fees against investors chills the investor's willingness to pursue valid claims and is a significant departure from the understanding of the investor when agreeing to arbitrate. In a recent matter in which I was involved, a panel assessed fees against my client of over \$9,000, despite the fact that we would have been entitled to all of our fees and costs had the matter been litigated in court of law. While court costs of about \$400 entitles a citizen to an experienced judge who must issue reasons for his ruling and who is subject to appeal, an investor seeking relief in arbitration is exposed to paying huge "forum fees" whenever the panel so decides. No standards govern the allocation of fees and apparently fees can be assessed against litigants when the law governing the dispute would not permit the assessment of similar costs.

Additionally, the proposed rule changes give arbitrators the discretion to impose sanctions "for failure to comply with any provision in the Code". No standards for imposing sanctions are written into the Rule, no appeal can be taken from abusive or excessive rulings, and there is no requirement that the arbitrators even explain their decision to impose sanctions.

Investors who have already lost substantial sums are faced with huge cost assessments should they proceed with arbitration under the present rules. Industry demands arbitration, but investors are deprived of the cost effective court system their tax dollars fund. Giving arbitrators the power to assess the enormous fees of arbitration and

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even fines against individuals, all without the right of appeal, tilts the playing field even more in favor of industry.

The rules should require that forum fees be assessed against the industry except in perhaps circumstances where the claim is brought in bad faith. In those limited circumstances, the panel assessing fees against individual should be required to articulate specific findings supporting its decision.

As for monetary sanctions and fines, an arbitration panel should not be permitted to assess these against Investors. Instead, the panel may issue other orders that protect the integrity of the process against abuses such as barring evidence, but must do so only upon an order that makes specific findings and which are guided by standards. Again, as written, a panel may sanction any party for violating any rule, whether the violation was deliberate or negligent, and may assess any amount that it wishes. There are no boundaries, standards, precedent, or criteria governing the circumstances under which sanctions are to be assessed.

Thank you for considering my comments.

Sincerely



M. Clay Ragsdale