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NASAA

August 2, 2007

VIA EMAIL: rule-comments@sec.gov

Nancy M. Morris, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549-9303

RE: SR-NASD-2007-021: Proposed Amendment to Rule 12100(u) of the NASD Code of Arbitration Procedure, which Pertains to Definition of Public Arbitrator

Dear Ms. Morris:

The North American Securities Administrators Association's ("NASAA") Arbitration Working Group ("Working Group") submits these comments on the proposed revisions to Rule 12100(u) of the NASD Code of Arbitration Procedure. The rule change relates to definition of public arbitrator. Specifically, the amendment would remove from the definition of "public arbitrator" any "attorney, accountant, or other professional whose firm derived $50,000 or more in annual revenue in the past two years for professional services … relating to customer disputes concerning an investment account or transaction …."

The Working Group acknowledges the NASD's efforts to meet its statutory obligation to enhance investor confidence in the fairness and neutrality of NASD's arbitration forum. However, the longstanding practice of effecting change by fractional increments has proved inadequate at best. The NASD should take forthright and comprehensive action to remove all bias, and appearances of bias, from its arbitration forums. We remain perplexed as to why the NASD appears to view a series of incomplete modifications as preferable to a comprehensive and less complicated final resolution.

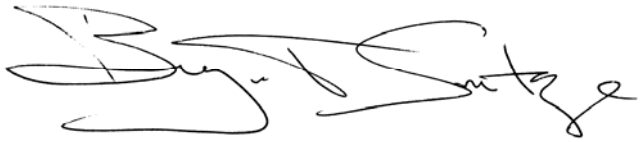
The current proposed rule change, for example, ameliorates but does not resolve the problem with the current definition of public arbitrator. The proposed limitation is based on revenue earned relating to customer disputes. If the NASD is willing to acknowledge that the receipt of this type of revenue creates conflicts or an appearance of bias, then logic dictates that the receipt of any form of revenue from the brokerage industry would be equally problematic. Moreover, under the proposed rule the risk that investors could potentially be compelled to arbitrate their claims with two public arbitrators who have financial ties to the industry remains unabated.

Perhaps more importantly, the current rule proposal is an affirmation by the NASD that industry affiliation subverts the concept of a neutral arbitration forum. The Working Group agrees, and applauds the NASD for taking this position. However, the NASD's continued defense of the inclusion of a mandatory industry arbitrator on its panels is inconsistent with this position. If the public arbitrator's prior direct or indirect affiliation with industry calls into question the integrity and neutrality of the forum, then the mandatory industry arbitrator must surely destroy any pretense of a fair and impartial forum.

Accordingly, the Working Group believes that the current rule proposal should not limit the receipt of revenue to only that which is earned concerning an investment account or transaction. Moreover, so long as an industry arbitrator requirement exists, the proposed rule change does little to enhance investor confidence in the fairness and neutrality of NASD's arbitration forum. The mandatory industry arbitrator provision is strikingly perverse to the notion of a truly neutral arbitration forum. Thus, we strongly urge a complete abolition of this requirement without delay. Partial solutions can only advance the erosion of confidence in the integrity of the forums.

Please do not hesitate to contact me regarding these comments. Thank you for the opportunity to comment on the proposed rule change.

Sincerely,



Bryan J. Lantagne
Chair, NASAA Arbitration Working Group
Director, Massachusetts Securities Division