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March 5, 2007

VIA EMAIL: McGuireC@SEC.gov

Ms. Catherine McGuire
Chief Counsel
Division of Market Regulation
SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D. C. 20549

Re: Petition for Rulemaking
SEC File No. 4-502

Dear Ms. McGuire:

This letter supplements my letter dated March 1, 2007 with respect to "I. Legal Research" and "III. Train Arbitrator in Applicable Law."

On September 10, 1987, Mr. Richard G. Ketchum, Director, Division of Market Regulation, Securities and Exchange Commission ("SEC") wrote to all members of the Securities Industry Conference on Arbitration ("SICA") stating:

The Commission staff has been examining self-regulatory organization-sponsored arbitration over the past 18 months. The focus of the review was broad and was designed to test both the fairness and efficiency of self-regulatory organization ("SRO") arbitration programs. This review reflects the Commission's belief in the need for thorough oversight of SRO arbitration systems.... The staff has presented its findings to the Commission, which has endorsed recommendations set out in this letter.

With respect to "Arbitrator Training," the letter states:

Our review found that the SROs have administered virtually no formal training for arbitrators on matters relating to either arbitration law, including the scope of arbitrators' authority, relevant state law, or securities law. The current level of training should be addressed promptly.

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The Commission believes that the SROs can make important progress in educating arbitrators through the immediate institution of a regular newsletter... for arbitrators. The newsletter should serve both to provide general information on important issues and to distribute new case law or important articles in the field.

SICA, in its reply letter dated December 14, 1987, states:

SICA, as well as the individual SROs, recognizes the importance of educating and training arbitrators and is, of course, cognizant of the increasing importance of education and training as the number of arbitrators and range of issues submitted to arbitration increase.

...

In response to the SEC's recommendation that a periodic newsletter concerning developments in arbitration be published and sent to arbitrators, SICA feels that the type of periodic information should be left to the discretion of the individual SROS.

SICA, also, mentioned, "[T]he public members of SICA separately responded to you by letter dated October 9, 1987." Since, I do not currently possess a copy of that letter, it will be necessary to reserve comment on its content.

It seems obvious that, in 1987, the SEC recognized the importance of knowledge of the law in the arbitration process and that SROs should specifically train arbitrators in applicable law. In substance, SICA told the SEC that it would not recommend that SROs train arbitrators in the applicable law and that arbitrators were free to disregard the law in their decision-making process. SICA did not contend that the task of training arbitrators in the applicable law would be difficult or costly.

It is evident that for almost twenty (20) years, the SEC did not pursue the issue. At SICA's Meeting on January 12, 2006, while six (6) representatives of the SEC sat silently, SICA determined that the proposals set forth in the Petition "run counter to SROs goals" and "strict application of the law would be harmful to investors." The SEC should have asked obvious questions with regard to SICA's understandings. "What are the 'SROs goals'?" "Upon what basis did SICA decide that 'strict application of the law would be harmful to investors'?" "Would 'strict application of the law' be harmful to the securities industry?" "Does SICA advocate that arbitrators consciously disregard the law in their decision-making process?"

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The Petition recommends what the SEC Commission endorsed twenty (20) years ago. In 1987, the SEC specifically designated you as one of the contact persons to deal with the matter. In the ensuing twenty (20) years, it appears that the SEC Staff's belief in application of the law to the arbitration decision-making process evidently lapsed. The Petition should reinvigorate Staff's efforts to cause SROs to implement that which the Commissioners long ago endorsed.

Please communicate with me in the event that you desire further information.

Very truly yours,

LES GREENBERG

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