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March 14, 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 letters dated March 1, 2007 and March 5, 2007. Information herein is based upon documents recently received from the Securities and Exchange Commission ("SEC"), pursuant to a Freedom of Information Act request dated August 2006. The documents reveal activities of the Securities Industry Conference on Arbitration ("SICA") concerning proposals presented in Petition for Rulemaking (SEC File No. 4-502)("Petition").

I. Legal Research

Handwritten notes of the SEC representatives, who attended SICA's meeting on January 12, 2006, reveal various SICA comments, e.g. "Public side indicates that this is a good idea. Prohibit research endorses ignorance," "May allow if they inform the parties," "If require arbitrator to disclose research, why not require industry arbitrator to disclose any industry information he/she presents to other arbitrators," "Gus (Katsoris): Can't tell arbitrators that they can't research," "SIA --- prohibit research = support ignorance."

SICA Meeting Minutes (1/12/06, Draft 3: 3/16/06) indicate the follow deletion:

> Mr. Eppenstein was in favor of permitting arbitrators to conduct their own research. He pointed out that in many cases, briefing is not required by the Panel, either pre-hearing or post-hearing. In those situations, the Panel is then left to rely on its own recollection as to what

> the applicable principals (sic) of law are. In smaller claims and pro se cases, briefing may also be undesirable and not cost effective. In these situations arbitrators should be free to do their own work. One subcommittee member said that the revised Code of ethics has a proposal where arbitrators can do some independent research but that this can only be done when they inform the parties of it.

A SICA Subcommittee issued a Memorandum (on NASD letterhead) from Barbara Brady to George Friedman dated March 8, 2006 entitled "Arbitrator Challenges and Independent Research." As you are aware, the NASD has a policy to request that an arbitrator recuse him/herself from a hearing panel on the alleged ground of bias if the arbitrator mentions legal authority not cited by the parties. Here, the Subcommittee, chaired by a prominent NASD officer, only dealt with one proposal of the many set forth in the Petition. The other proposals were evidently dismissed without any additional consideration.

The Memorandum suggests some changes to the SICA *Arbitrator's Manual,* e.g., "Arbitrators are discouraged from doing independent research."

II. Mandatory Peer Evaluation

The handwritten notes of SEC representatives reveal only one negative argument, "Can't make it mandatory or you will get meaningless responses." There was no further elaboration. The argument is meaningless. However, we do know that the voluntary approach has produced very few responses.

Perhaps, the SROs would prefer not to know the quality of arbitrators on the panels. A few years ago, one of my clients provided the NASD with a voluntary written evaluation of a co-panelist concerning his acts of verbal harassment and incompetence. The arbitrator admitted the harassment to a NASD Regional Director. When the Regional Director was asked as to what she intended to do with the arbitrator, my client was told, in substance, that it was none of her business. The harassing and incompetent arbitrator continues to serve as a NASD arbitrator.

III. Eliminate Industry Arbitrator or Reveal Information Provided to Co-Panelists

See Section I, above, with respect to SICA's comments that, if arbitrators are required to reveal their legal research, the industry arbitrator should reveal what information he/she provides to co-panelists.

IV. Train Arbitrator in Applicable Law

The handwritten notes of SEC representatives reveal SICA's laconic discussion of training arbitrators in the applicable law, i.e., "Difficulties are insurmountable." It can be done. It has been done. The SEC has previously recommended that it be done.

V. Arbitration Agreement Disclosures

The handwritten notes of SEC representatives reveal the extent of the SICA's discussion, "Unanimous - 'bad idea.'" What is so "bad" about informing the investing public that SROs do not educate arbitrators in the applicable law and discourage arbitrators from using applicable law in the decision-making process?

I have previously informed you that SICA is a securities industry dominated trade group, which is biased against the proposals set forth in the Petition. It is obvious that SICA did not undertake a serious analysis of all issues presented in the Petition. In some instances, SICA ignored an issue or indefinitely deferred considering it. Further, the final SICA Meeting Minutes do not reflect breath and depth of support for the Petition set forth in the handwritten notes of the SEC's representatives.

Please include these comments with recommendations that you make to the Commissioners. Additionally, I would appreciate a reasonable opportunity to respond to SEC Staff recommendations before Staff transmits them to the Commissioners.

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

Very truly yours,

Les Greenberg

Digitally signed by Les Greenberg
DN: cn=Les Greenberg, c=US, o=Law Offices of Les Greenberg, ou=Attorney at Law, email=LGreenberg@LGEsquire.com
Reason: Petition for Rulemaking (SEC File No. 4-502)
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