UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F Street, N.E.
Washington, D.C. 20549

OFFICE OF
THE SECRETARY

March 27, 2008

Les Greenberg, Esq.
10732 Farragut Drive
Culver City, CA 90230-4105

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

Dear Mr. Greenberg:

This letter responds to your May 13, 2005 Petition for Rulemaking ("Petition"), which requests that the Securities and Exchange Commission ("Commission") adopt rules with respect to various aspects of the securities arbitration system. Specifically, the Petition requests that the Commission adopt rules designed to: (1) permit arbitrators to conduct legal research or, in the alternative, prohibit self-regulatory organizations ("SROs") from restricting arbitrators from conducting legal research; (2) eliminate the so-called "industry" arbitrator or, in the alternative, require that information presented to a panel by an industry arbitrator be disclosed to the parties during an open hearing; (3) require SROs to conduct continuing evaluations of the ability of all arbitrators to perform their duties, including, but not limited to mandatory peer evaluations; (4) require SROs to train arbitrators in applicable law; (5) require SROs to reveal in pre-dispute arbitration agreements whether their arbitrators are trained in or required to follow the law, as well as their process, if any, to evaluate their arbitrators on a continuing basis; and (6) require the Division of Market Regulation (n\k\a Division of Trading and Markets) to oversee SROs to determine whether SROs are in compliance with the rules adopted pursuant to items (1) through (5).

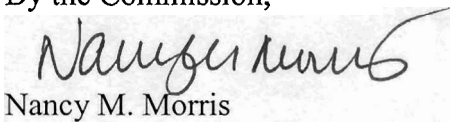
SRO rules, not Commission rules, govern the procedures for securities arbitrations. The Commission has never adopted an SRO rule regulating the procedures of securities arbitrations. The Commission has carefully considered the Petition, as well as comments it has received about the Petition,[1] and has determined to refer it to the

[1] See letter from James McRitchie, Publisher, Corporate Governance, to Jonathan G. Katz, Secretary, Commission, dated May 22, 2005; e-mail from Noreen M. Fitzgerald, First Vice President, Assistant Compliance Director, UBS Financial Services Inc., dated May 25, 2005; e-mail from Howard A. Winant, dated June 1, 2005; e-mail from Eliot Cohen, dated June 2, 2005; e-mail from David Plimpton, Plimpton & Esposito, to Jonathan G. Katz, Secretary, Commission, dated June 2, 2005; letter from Avery

Financial Industry Regulatory Authority, Inc. ("FINRA"), whose rules govern the securities arbitration system, for such action as it deems appropriate.[2]

Accordingly, the Commission hereby DENIES the Petition.

By the Commission,



Nancy M. Morris
Secretary

B. Goodman, A.B. Goodman Law Firm, Ltd., to Jonathan G. Katz, Secretary, Commission, dated June 7, 2005; e-mail from Sheila Reilly, dated June 12, 2005; letter from Les Greenberg, Law Offices of Les Greenberg, to Jonathan G. Katz, Secretary, Commission, dated June 22, 2005; letter from Richard Skora to Jonathan G. Katz, Secretary, Commission, dated June 29, 2005; e-mail from Peter Buchta, dated July 18, 2005; and letter from Errold F. Moody, Jr. to Jonathan G. Katz, Secretary, Commission, dated July 25, 2005. See also letter from Professor Constantine Katsoris, Chair, Securities Industry Conference on Arbitration, to Catherine McGuire, Chief Counsel, Division of Market Regulation (n/k/a Division of Trading and Markets), Commission, dated November 6, 2006 (responding to recommendations made in the Petition).

[2] This will, in addition, have the benefit of ensuring the most efficient use of rulemaking resources as between the Commission and FINRA, since the proposed rulemaking would consume significant resources that must be allocated among many competing demands and priorities.

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DIVISION OF
TRADING AND MARKETS

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Les Greenberg, Esq.
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Re: Petition for Rulemaking, File No. 4-502

Dear Mr. Greenberg:

The Commission is pleased to report that we have thoroughly considered your Petition for Rulemaking ("Petition"), which requests that the Securities and Exchange Commission ("Commission") adopt rules with respect to various aspects of the securities arbitration system now governed by the rules of a self-regulatory organization ("SRO"), the Financial Industry Regulatory Authority, Inc. ("FINRA"). For example, the Petition, among other things, requests that the Commission adopt rules designed to permit arbitrators to conduct legal research or, in the alternative, prohibit SROs from restricting arbitrators from conducting legal research and eliminate the so-called "industry" arbitrator or, in the alternative, require that information presented to a panel by an industry arbitrator be disclosed to the parties during an open hearing.

Enclosed is the Commission's response to the Petition. I wanted to provide some additional information to accompany that response.

The Petition raises important issues about a subject matter with a long history. When Congress enacted the Securities Act of 1933 and the Securities Exchange Act of 1934, it provided investors with enhanced remedies to serve as the foundation for private enforcement of the protections in the Acts. The availability of private actions bolsters public enforcement of the securities laws. Congress enacted the provisions on private remedies against the background of the 1925 Federal Arbitration Act, which established a strong federal policy favoring arbitration. Decisions of the U.S. Supreme Court in the 1980s relied on the Federal Arbitration Act in affirming that pre-dispute arbitration agreements for securities cases are permissible under both the Securities Act and the Exchange Act, and, since then, arbitration of securities disputes has been more common.

As you know, SRO rules and not Commission rules govern the procedures for securities arbitrations. SRO rules apply to disputes between customers and broker-dealers because all broker-dealers registered pursuant to the Exchange Act must also be members of an SRO. Because of the long history of SRO arbitrations, FINRA, based on its own experience and the experience of its predecessors, has significant expertise with the securities arbitration process.

The Commission recognizes the importance that private claims, securities arbitration, and arbitration rules play in protecting investors. For this reason, we play an active role in overseeing the securities arbitration process through inspections of the SROs and review of proposed SRO arbitration rules. The SEC's Office of Compliance Inspections and Examinations, as well as FINRA and its predecessors, monitor and inspect the arbitration process. The Commission also reviews arbitration rules proposed by an SRO under the procedures described in section 19(b) of the Exchange Act. The Commission's role is to determine whether a proposed SRO rule is consistent with the requirements of the Exchange Act, which means, among other things, that the proposed rule is designed to promote just and equitable principles of trade and to protect investors and the public interest and does not permit unfair discrimination between customers, issuers, brokers, or dealers.

The proper functioning of the securities arbitration system of FINRA and its predecessors has long been a priority of the Commission. We are particularly mindful of recent debate on this topic as reflected, for example, in a 2008 report finding that substantial percentages of customers did not believe their arbitration panel was impartial or fair, were not satisfied with the outcome of their arbitrations, and would be more satisfied if they had received an explanation of the outcome.[1] That same report reviews other studies of securities arbitrations conducted in the past several years.[2] In addition, members of Congress have raised questions about the use of mandatory arbitration provisions in the agreements between broker-dealers and their customers. These concerns about the securities arbitration process must be taken seriously because fairness and the appearance of fairness of the procedures for securities arbitrations are important components of investor protection, as is the goal of efficient and cost-effective dispute resolution.[3]

For all these reasons, the Commission has requested that FINRA, whose rules are at issue, examine the Petition, the recent report discussed above, and FINRA's securities arbitration rules as a whole with a view to considering what additional actions it could take to enhance the fairness of its forum as well as the perception of that fairness. After FINRA has done this, should it propose changes to its arbitration rules, the Commission will then promptly review them as directed by the Exchange Act. Should FINRA choose

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1 *See* Jill Gross and Barbara Black, *Perceptions of Fairness of Securities Arbitration: An Empirical Study* (2008), at http://www.law.pace.edu/files/finalreporttosica.pdf.

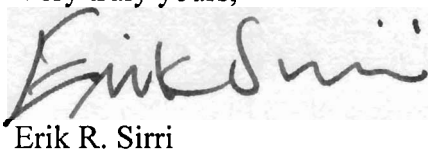
2 *Id.* at 4-6. *See also* Securities Industry and Financial Markets Association, "White Paper on Arbitration in the Securities Industry" (October 2007), at http://sifma.org/regulatory/pdf/arbitration-white-paper.pdf.

3 See http://www.finra.org/ArbitrationMediation/FINRADisputeResolution/WhatisDisputeResolution/index.htm (noting that "arbitration benefit[s] parties by providing prompt, inexpensive alternatives to litigation in the courts.")

not to amend its rules, the Commission would then have an opportunity to consider the reasons for that decision and to consider whether further Commission action is warranted.

Once again, we thank you for raising these important issues, which are of such consequence for investors and for our markets. I am confident that, following the action the Commission has taken, both FINRA and the SEC will continue to make the fairness of the arbitration system a priority and that we will benefit from the views you expressed.

Very truly yours,



Erik R. Sirri
Director
Division of Trading and Markets

Copy to: Ms. Mary L. Schapiro
Chief Executive Officer
Financial Industry Regulatory Authority, Inc.