

LOS ANGELES TIMES

NASD Rules Preempt State Law

Arbitrators of investor disputes don't have to follow California ethics guidelines, court says.

May 24, 2005

Arbitrators who resolve investor disputes with stockbrokers do not have to comply with California's tough ethics rules governing disclosure of their ties to the industry and the grounds under which they may be disqualified, the state Supreme Court ruled Monday.

...

Arbitration is billed as a quick, affordable alternative to a court trial, and almost all brokerage houses require its use to settle disputes. Under NASD rules, disputes of \$50,000 or more are heard by three-member panels — one representative from the brokerage industry and two others from the public.

Critics have long contended that the public members on these panels frequently have undisclosed ties to securities firms through their business or legal associates.

The California Judicial Council, which sets policy for the state's courts, required arbitrators in July 2002 to divulge a checklist of all business, personal and professional ties that could represent conflicts of interest. Investors could use such disclosed material to challenge and disqualify proposed arbitrators.

...

Enforcement of the California rules would have disqualified many people associated with the securities industry from serving as arbitrators, and could even have challenged the right of the NASD and the New York Stock Exchange to appoint panelists because of potential conflicts of interest, said Les Greenberg, a Culver City attorney who said he has represented brokerages and customers before arbitration panels during the last 28 years.