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How Long Should Making a Recommendation Take?

Ten years ago the Public Investors Arbitration Bar Association (PIABA) petitioned the SEC under section 192 to: (1) establish the American Arbitration Association as an alternative venue for customer arbitrations; (2) change the composition of arbitration panels hearing customer arbitrations; and (3) provide for a rotational system for the selection of arbitrators.

The rule requires the Secretary to refer such petitions to the appropriate division or office for consideration and *recommendation* to the Commission. From documents obtained through a FOIA request by Les Greenberg, it appears the SEC's willingness to defer to SROs has no time limit, despite the legal requirement that recommendations are required. After 10 years, SEC staff has not made the required recommendation. The Staff wants what it is doing to be considered "normal," but how long should the rights of non-SRO sponsors be deferred? A pdf copy of those documents is available at http://www.LGEsquire.com/PIABA_Petition_4-403.pdf. One no longer has to wonder why securities arbitration rule reform (to level the playing field) has not occurred.

Greenberg has written extensively on how to improve the securities arbitration process. See his Petition for Rulemaking (SEC File No. 4-502) (severe problems with NASD arbitration and questionable SEC oversight). The Petition has received favorable media coverage, e.g. 9/1/05, Registered Representative Magazine, "The Real Arbitration Nightmare"; 7/31/05, San Diego Union-Tribune, "Stockbroker losses bring no trials, lots of tribulations"; 7/17/05, Pittsburgh Post-Gazette, "Systems for resolving disputes may need an overhaul." However, the SEC has failed to act on it as well.