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Congress of the United States
House of Representatives
Washington, DC 20515-2107

January 9, 1998

Ms. Mary Schapiro, President
NASD Regulation
1735 K Street, NW
Washington, DC 20006-1500

Dear Ms. Schapiro:

I am writing to express my concerns about recent developments in the formulation of the NASD's mandatory arbitration policy. While I am pleased that the NASDR has recently acted to eliminate its requirement to compel mandatory arbitration of employment discrimination claims, I am concerned about current reforms being made to the NASD arbitration forum which will continue to be used by individual securities firms to resolve their own employment disputes through mandatory arbitration. In addition, I am concerned about the effect reforms to the NASD administered arbitration system will have on mandatory arbitration cases involving public investor disputes.

It has come to my attention that the NASDR working group assembled to develop procedures and protocol for NASD administered arbitration has proposed placing limitations on punitive damages that can be assessed in employment arbitration cases. At the same time, I am aware that the NASDR has recently submitted a proposed rule change to the SEC which would cap punitive damages for mandatory arbitration in public investor cases.

While I am shocked that the NASDR would consider trying to limit the sole recourse investors and employees have to punish wrongful behavior by securities firms, I am even more stunned that the NASDR would attempt to implement a policy which is clearly in violation of every Supreme Court decision affirming the legitimacy of using arbitration for statutory claims.

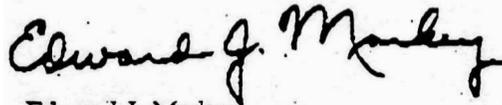
As you are no doubt aware, the United States Supreme Court has repeatedly stated that arbitration is an acceptable forum for litigation because plaintiffs are entitled to the same rights and protections in arbitration as they receive in court. Clearly, placing caps on punitive damages limits investors' and employees' substantive rights and eliminates this semblance of equal protection.

I am particularly upset about these proposals because they come at a time when the NASDR appeared to be taking appropriate steps to reform the NASD mandatory arbitration system in a manner which is consistent with the Due Process Protocol established by the American Bar Association and adopted by the American Arbitration Association, the National Academy of Arbitrators and the American Civil Liberties Union.

I therefore urge you to revisit these proposals and immediately drop plans to place caps on punitive damages that can be assessed in both customer and employment arbitration cases administered by the NASD.

Thank you in advance for your attention to this important matter.

Sincerely,



Edward J. Markey

cc: Arthur Levitt