



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

750 First Street N.E., Suite 1140

Washington, D.C. 20002

202/737-0900

Fax: 202/783-3571

www.nasaa.org

September 25, 2007

The Honorable Russ Feingold
506 Hart Senate Office Building
Washington, DC 20510

RE: Arbitration Fairness Act of 2007

Dear Senator Feingold:

On behalf of the North American Securities Administrators Association (NASAA),¹ I am writing to support passage of S. 1782, the Arbitration Fairness Act of 2007, which we interpret as prohibiting broker-dealers from requiring investors to accept mandatory arbitration clauses.

Almost every broker-dealer presently includes in their customer agreements, a pre-dispute arbitration provision that forces public investors to submit all disputes that they may have with the firm and/or its associated persons to mandatory arbitration. NASAA believes this “take-it-or-leave-it” clause in brokerage contracts is inherently unfair to investors and that the Arbitration Fairness Act of 2007 is a positive step in the right direction.

In addition to prohibiting mandatory arbitration clauses, we believe fairness and balance need to be restored to the existing securities arbitration system. The consolidation of NASD and NYSE into the merged Financial Industry Regulatory Authority (FINRA) will eliminate one arbitration forum for the resolution of disputes between public customers and the securities industry, which raises the stakes for getting it right.

In addition, the current makeup of the FINRA arbitration panel consists of a mandatory industry representative and two public arbitrators who may have prior affiliation to industry. This industry presence on the panel destroys any pretense that the forum is fair and impartial. Thus, we urge Congress to immediately act to remove the mandatory industry arbitrator and create measures to assure that public arbitrators have no prior affiliation or ties to industry.

NASAA believes Congress should also review the manner in which arbitrations are conducted to determine whether (1) there is sufficient disclosure of potential conflicts by panel members; (2) selection, qualification, and composition of the panels is fair to the parties; (3) arbitrators receive

¹The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, the U.S. Virgin Islands, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

adequate training; (4) explanations of awards are sufficient; and (5) the system is fast and economical for investors.

As long as securities arbitration remains mandatory, investors will continue to face a system that is not fair and transparent to all. For this reason, NASAA supports the passage of S.1782, the Arbitration Fairness Act of 2007, and respectfully suggests that it be amended to clarify that its provisions extend to securities arbitration.

Please don't hesitate to contact NASAA's Director of Policy, Deborah House, or Bryan Lantagne, Chairman of NASAA's Arbitration Project Group, for further information.

Sincerely,

A handwritten signature in black ink, appearing to read "JP Borg". The signature is stylized with a large, sweeping initial "J" and "B".

Joseph P. Borg
Director, Alabama Securities Commission
NASAA President

cc: Judiciary Committee Chairman Patrick J. Leahy
Judiciary Committee Ranking Member Arlen Specter