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**From:** sbcaruso@aol.com  
**Sent:** Monday, October 25, 2021 8:41 AM  
**To:** NASAA Comments  
**Cc:** kstandifer@dfi.wa.gov; Patrick Costello; Stephen Brey  
**Subject:** [EXTERNAL]Model Rule for Unpaid Arbitration Awards

The purpose of this letter is to provide the Broker-Dealer Market and Regulatory Policy and Review Project Group, the Broker-Dealer Arbitration Project Group, and the Investment Adviser Regulatory Policy and Review Project Group (the "Project Groups") of the North American Securities Administrators Association, Inc. ("NASAA") with comments on the above referenced proposed model rule which was released for public comment on October 5, 2021.

I am an attorney whose practice was exclusively devoted to the representation of individual and institutional investors in their disputes with the securities industry. Moreover, I am the immediate-past Chairman of FINRA's National Arbitration and Mediation Committee ("NAMC"), the former Chairman of FINRA's Discovery Task Force Committee ("DTFC"), a former member of the Securities Investor Protection Corporation ("SIPC") Modernization Task Force and a former President and current Director Emeritus of the Public Investors Arbitration Bar Association (PIABA).

It is my understanding that the proposed model rule would provide regulators with an additional tool to address unpaid FINRA arbitration awards by broker-dealers, agents, investment advisers, and investment adviser representatives.

It is my further understanding that, under the proposed model rule, the following provisions would be added to the dishonest or unethical business practices of broker-dealers, agents, investment advisers, and investment adviser representatives: (a) Failing to satisfy an arbitration award resulting from a client or customer-initiated arbitration; (b) Attempting to avoid payment of any client or customer-initiated arbitration; and (c) Failing to satisfy the terms of any order resulting from a regulatory action taken against the registrant.

My comments are limited to the first paragraph of the proposed model rule which states that it would be applicable to "Failing to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the broker-dealer or broker-dealer agent, in writing, and the broker-dealer or broker-dealer agent complies with the terms of the alternative payment arrangement."

While the proposed model rule is an excellent attempt to address those situations in which a firm or individual fails to satisfy an arbitration award resulting from a customer-initiated arbitration proceeding, I would suggest that there are two (2) issues related to unpaid customer-initiated arbitration awards that the proposed rules would not address.

The first issue is where a firm or individual fails to comply with the terms and conditions of a settlement agreement that has been entered into between a public customer irrespective of whether the settlement agreement has been executed either before or after the entry of an arbitration award.

It is my opinion that the failure to honor a written settlement agreement by any securities-related firm and/or individual is clearly a "dishonest or unethical business practice" and should be specifically covered in the model rule.

The second issue is where a firm or individual attempts to expunge a final judgment or arbitration award resulting from a customer-initiated arbitration or court proceeding that has not been fully satisfied by the firm and/or individual.

It is my opinion that an attempt to expunge a final judgment or arbitration award resulting from a customer-initiated arbitration or court proceeding that has not been fully satisfied by the firm and/or individual should also clearly constitute a "dishonest or unethical business practice" and should be specifically covered in the model rule.

Thank you for providing me with the opportunity to submit my comments on the proposed model rule.

**Steven B. Caruso**

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