



December 19, 2017

Via Email Only

pubcom@finra.org

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, D.C. 20006-1506

**Re: FINRA Regulatory Notice 17-34
Non-Attorney Representatives in Arbitration**

Dear Ms. Asquith:

I am a partner and licensed attorney with the law firm Dimond Kaplan & Rothstein, P.A. I recently served on FINRA's National Arbitration and Mediation Committee (NAMC) and I am a long-time member of the Public Investors Arbitration Bar Association (PIABA). One of my firm's main practice areas, and most of my practice, is devoted to representing individual and institutional investors who have lost money as a result of investment fraud or broker or brokerage firm misconduct.

I write to comment on compensated, non-attorney representatives in FINRA arbitration proceedings. (Note: My comments exclude those non-attorney law students who represent investors through law school arbitration clinics and those non-attorney representatives, such as family members, who represent brokerage firm customers without compensation.)

The pursuit of a FINRA arbitration claim to recover investment losses is a significant undertaking. It generally will be the investor's only opportunity to seek the recovery of their losses and the binding and largely non-appealable nature of arbitration make the proper handling of a claim crucial. Brokerage firms typically are represented by experienced and knowledgeable attorneys and an aggrieved investor's choice of a representative can play a significant role in the outcome of the dispute. I have concerns that compensated, non-attorney representatives can put an aggrieved investor at a grave disadvantage and expose the investor to unnecessary risk.

While FINRA arbitration lacks many of the procedural rules of court proceedings, FINRA arbitration is governed by its own set of rules specific to the forum. As such, contrary to the perception that the FINRA arbitration is an informal, easy-to-understand process, it can be difficult to navigate for those who are not well-versed in the process. And over the years, the

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FINRA arbitration process has evolved into a specialized practice area that requires a skilled and experienced practitioner.

Aggrieved investors using paid, non-attorney representatives generally will not get the benefit of a someone who can navigate the intricacies of a FINRA proceeding with the skill of a trained lawyer. Therefore, aggrieved investors who hire such representatives may be risking their lone chance of a positive outcome of their dispute with a brokerage firm.

Non-attorney representatives are not governed by the strict ethical standards to which licensed attorneys are held. The standards to which attorneys are held involve matters including: treating clients honestly, properly and timely informing clients of the status of their cases, the amount of attorneys' fees that can be charged, the manner in which attorneys' fees that can charged, and the proper handling of client funds. Non-attorney representatives are not bound by such strict requirements, including no obligation to protect clients' recovered monies in trust accounts. Simply, aggrieved investors whose FINRA claims are handled by compensated, non-attorney representatives are not protected by rules that govern licensed attorneys. This is especially troubling because many non-attorney representatives have been suspended or barred from the securities industry for improper conduct involving a lack of integrity and abuse of customers.

I have discussed the handling of customer claims with at least one compensated, non-attorney and was appalled by the poor judgment and errant decisions displayed within the cases. No aggrieved investor should be subjected to such misguided and ungoverned representation. I believe that FINRA should act promptly and assertively to prohibit compensated, non-attorney representatives from representing aggrieved investors/customers in FINRA's arbitration forum.

Very truly yours,



Jeffrey Kaplan
Dimond Kaplan & Rothstein, P.A.