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**VIA EMAIL** ([pubcom@finra.org](mailto:pubcom@finra.org))  
**AND FIRST CLASS MAIL**

Marcia E. Asquith  
Office of the Corporate Secretary  
FINRA 1735 K. Street NW  
Washington, DC 20006 – 1506

Re: Non-Attorney Representatives in Arbitration Comment Letter

Dear Ms. Asquith:

On behalf of Gusrae Kaplan Nusbaum, PLLC, (“GKN”) I submit this comment in response to FINRA Regulatory Notice 17-34, regarding the representation of claimants in FINRA arbitrations and mediations by non-attorneys. GKN has represented broker – dealers, public and private companies as well as, individuals in the securities industry since 1975.

Our Firm has interacted with compensated non-attorney representatives’ (“NAR Firms”) many times over the years. In our view NAR Firms<sup>1</sup> do not work in the best interest of the public and many NAR Firms take advantage of those naïve and unsophisticated individuals, promoting

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<sup>1</sup> We do not hold the same opinion of law school arbitration clinics as the clinics are supervised by either law professors or practicing attorneys.

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these people to pay a fee for reviews of records and thereafter representation of the individual in an arbitration against a member firm and registered individuals.

While FINRA Rules prohibits NAR Firms from representing clients in certain situations,<sup>2</sup> including but not limited to, “the (NAR) person is currently suspended or barred from the securities industry in any capacity,” NAR Firms are controlled by and employ barred individuals. One firm is Cold Spring Advisory Group (“CSA”) headquartered in New York. CSA is controlled by Louis Ottimo, a barred individual, CRD # 2606438, and CSA is supposedly owned by as a matter of record Ottimo’s wife. Despite Ottimo’s bar from representing clients pursuant to FINRA Rules, arbitrators have allowed CSA to represent public customers in arbitrations before FINRA Dispute Resolution.

Furthermore, on or around November 11, 2014, a FINRA member firm sued CSA and Ottimo, among others, in the Supreme Court of the State of New York, alleging that CSA and its agents, including Ottimo, improperly obtained confidential and proprietary information belonging to it and other broker-dealers and is utilizing such information to target, contact, induce, and encourage customers to initiate arbitrations against those same broker-dealers.<sup>3</sup>

CSA and other NAR Firms attempt to convince public customers to file claims regardless of the integrity of their allegations, knowing that most firms will settle these claims for ransom payments rather than litigate through hearing, as a full arbitration proceeding is an expensive endeavor. Many firms, especially small firms, cannot afford to litigate these claims. Another client had approximately five arbitrations filed by Stock Market Recovery at one time. Stock market Recovery is another NAR Firm based in Brooklyn, NY. One of the founders of SAR pled guilty

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<sup>2</sup> Rule 12208 of the Code of Arbitration Procedure for Customer Disputes, Rule 13208 of the Code of Arbitration Procedure for Industry Disputes, and Rule 14106 of the Code of Mediation Procedure.

<sup>3</sup> This New York State action has been stayed since Ottimo filed for bankruptcy.

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to insurance fraud in a seven figure scam. The claims filed by SAR were settled between \$500 (in this claim it was cheaper for the firm to settle than to move to dismiss at hearing) and \$15,000.

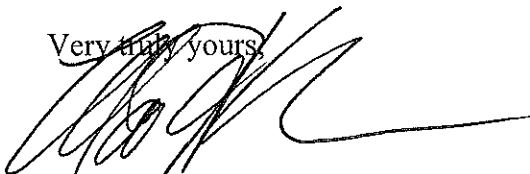
The course of conduct illustrated by the NAR firm conduct demonstrates that such conduct irreparably harms member firms and associated persons. The costs to the member firms are prohibitive and there is no recourse against NAR Firms for filing frivolous arbitrations.

Some NAR firms require a fifty percent (50%) contingency fee arrangement. These firms are not permitted to provide legal advice under various state laws, which certainly hinders the NAR firms functionality in representing clients in a legal setting. CSA employees, aside from Ottimo, are running boiler room operations where they cold-call customers based on purloined contact information and promise of recovery that is not legitimate. Public customers cannot receive proper representation under such circumstances, as all these NAR firms care about is extorting settlements and receiving fees from former brokerage firm customers.

NAR firms continue to skirt FINRA Rules, and as they are not member firms, or registered individuals. FINRA has no jurisdiction over any NAR firms' conduct. Member Firms, Associated Persons and unsuspecting members of the public continue to suffer financially and professionally at the hands of NAR firms. The only way to end such conduct is to bar NAR firms from representing investors.

Noteworthy, is that lawyers regardless of their licensing jurisdiction are subject to State Bar rules and Canons of Ethics. If a lawyer engages in fraudulent conduct or abuses a client there is recourse. There is no such recourse against NAR Firms.

Very truly yours,



Martin H. Kaplan