

LewinsLaw, PC

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VIA EMAIL

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006
E-mail: pubcom@finra.org

COMMENT LETTER ON REGULATORY NOTICE 26-06

Dear Ms. Mitchell,

My name is Richard Lewins. I am an attorney located in Dallas, Texas. I am the owner of LewinsLaw, PC. My firm's practice is almost solely dedicated to representing investors against their broker and/or investment advisor, with a majority of that time spent adjudicating cases in FINRA. I have been doing this for almost 30 years and represented well over 1,000 investors.

Prior to becoming a lawyer I spent 12 years in the brokerage industry working as a registered representative, regional marketing manager and regional sales manager for firms like EF Hutton, Merrill Lynch, First Winthrop, Shearson Lehman. I have held series 3,7, 24, 63 and 65 licenses.

This is to say, I know how this industry works from the inside out.

With that, I can confidently say that the majority of proposals in RN 26-06 work against the investors that FINRA claims to protect, and appear to roll back many of the protections, safeguards and standards of care that investors, and those that represent their interests, have worked hard to achieve over the past 20 years.

Arbitrators

As regarding arbitrator qualification, my position on this has remained the same for thirty years – until there is a minimum education and work experience qualification to be a

client of a broker, there should not be a qualification on who can serve in judgment. While I appreciate the nuances of securities litigation, it is the job of the attorney and expert to explain the case to the arbitrator at a level they can render a just and informed decision.

My clients should have the ability to have someone on their panel that looks like them, that can relate to them, that can think, “there but by the grace of God, go I.”

I am not suggesting that the entire pool should be made up of “Joe, the plumber”, but to exclude them all together based on some arbitrary qualification standard, completely goes against the idea of fairness that FINRA professes to promote to the public.

Additionally, FINRA should not reinstitute the need for non- public arbitrators on each panel for the same reasons as above – it does not reflect the make-up of Claimants, and it goes against fairness.

Finally on the issue of arbitrator selection, attorneys representing the public should be allowed to be in the public pool – they are not aligned to the industry, they are aligned with the public.

Arbitrator training should be limited to ethics, rules and case management – anything beyond that makes for an unlevel playing field.

Discovery

First, if Respondent is going to object to the presumptively discoverable documents that make up List 1 of the Discovery Guide, then they need to make specific and demonstrable objections and burdens.

Second, the Discovery Guide needs to be expanded to include, text and messaging apps, due diligence and product approval materials where a product is at issue, all regulatory materials like Wells notices and AWCs and **most importantly, whether or not there is insurance coverage including copies of policies, reservations of rights and declination letters.**

Awards

First, there should be limits or constraints on punitive damages. They are hard enough to get without making it any harder.

Second, there should be no hiding of arbitration awards and no ability to have them removed from the record. Clients have the right to know who they are dealing with and not depend on the firm/ broker to tell them.

Lastly, and most importantly FINRA should be embarrassed about the number of unpaid awards. They have the ability to remedy this in a number of ways – require members to

