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JAMES D. BLUME
RICHARD D. FAULKNER*
*Licensed in Louisiana Only

SHELLY L. SKEEN
DOROTH A. OCKER**
**Of Counsel

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via email - pubcom.finra.org

Kenneth Andrichik
Senior Vice President and Chief Counsel
Office of Dispure Resolution

Dear Mr. Andrichik:

We are two former chairmen of the Supreme Court of the State of Texas' Unauthorized Practice of Law Committee. We are responding to your invitation for comment on the proposition of non-lawyers representing parties in FINRA arbitrations. Each of us has extensive experience in the unauthorized practice of law (UPL), litigation, arbitrations, and, in Mr. McCullough's case, FINRA mediations.

It is our experience that, generally speaking, non-lawyers are not prepared to act as advocates, generally not knowing the procedural rules or rules of evidence, though the rules of evidence are not required to be strictly applied. However, Mr. McCullough relates that he has seen some effective non-lawyer representation in very small FINRA mediations, especially when the non-lawyer is very familiar with the industry. That is usually in the form of a former broker and/or expert in securities.

Nonetheless, we are concerned because these non-lawyers are not bound by any state's Rules of Professional Conduct, cannot "malpractice", and do not carry insurance in the event of a malpractice.

We suggest, then, a compromise. We advocate setting an upper limit on the amount in dispute that can be handled by a non-lawyer. That would result in minimizing damage a non-lawyer can do if the resulting advocacy is poor.

We hope you will carefully consider our suggestion. Should you have any questions, please do not hesitate to get in touch with us.

Sincerely,

James D. Blume
F. Witcher McCullough III

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