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Via Electronic Filing (pubcom@finra.org)

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

RE: Regulatory Notice 17-34 (Non-Attorney Representatives in Arbitration)

Dear Ms. Asquith:

The Cornell Securities Law Clinic ("Clinic") welcomes the opportunity to respond to FINRA Regulatory Notice 17-34 (the "Notice") on the Financial Industry Regulatory Authority ("FINRA") Codes of Arbitration and Mediation Procedure ("FINRA Code"). The Clinic is a Cornell Law School curricular offering in which law students provide representation to public investors and public education as to investment in the largely rural "Southern Tier" region of upstate New York. For more information, please visit: http://www.lawschool.cornell.edu/Clinical-Programs/securities-law-clinic/index.cfm.

FINRA has asked for comment regarding the efficacy of allowing compensated non-attorney representatives ("NAR firms") to represent parties in FINRA arbitrations and mediations. The current FINRA Code permits NAR firms to represent clients in securities arbitration and mediation (subject to certain exceptions). FINRA conducted a review of the use of NAR firms in response to a request by the FINRA Dispute Resolution Task Force in their 2015 Final Report and Recommendations. As set forth in the Notice, FINRA found that NAR firm activities included inappropriate and prohibited conduct, thus warranting this request for comment.

After reviewing the Notice, we believe that FINRA has not provided enough information to warrant the complete elimination of NAR firms in securities arbitrations and mediations.

Other commenters (e.g. *Securities Arbitration Commentator* and Maddox Hargett & Caruso, P.C. comment letters) have provided strong anecdotal evidence of inappropriate conduct by NAR firms. However, we also believe that FINRA should gather more systemic information sufficient to assess the magnitude of inappropriate NAR firm conduct and should make that information publicly available. Attorney misconduct is also anecdotally prevalent in securities arbitrations and mediations, and we accordingly believe that in order to fairly evaluate the use of

NAR firms, FINRA should provide comparable data on attorney and NAR firm conduct. Additionally, we believe FINRA has failed to differentiate the impact of NAR firms in arbitration versus mediation.

Without substantial evidence of the scope of inappropriate conduct by NAR firms, we believe that this policy ensuring that investors with small claims have representation warrants maintaining some use of NAR firms.

If FINRA does intend on moving forward with a rule proposal as to the NAR firms, we believe that part of the proposal set forth in an article attached to the comment letter from the *Securities Arbitration Commentator* may be a reasonable compromise. The article suggests that NAR firms should only be permitted where the case is a single arbitrator case with a claim of no more than $100,000 under Rule 12401 or a Simplified Arbitration under Rule 12800. Upholding the use of NAR firms in these cases would maintain the public policy of providing access to representation for investors with small claims, while eliminating the use of NAR firms in larger, more complicated cases. Additionally, we agree with that proposal that FINRA should specifically distinguish the work of NAR firms from the Securities Arbitrations law school clinics.

The Clinic appreciates the opportunity to provide feedback on this Request and hopes that FINRA will consider some of the concerns raised in this feedback letter to further the goals of protecting investors.

Respectfully submitted,

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