

SR-NASD-2005-079

July 19, 2006

I write this to comment on the Proposed Rule change to revise Rule 10322 of the NASD Code of Arbitration Procedure. I am a past president of the Public Investors Arbitration Bar Association ("PIABA") and a member of its Board of Directors. I am also the current Chair of the National Arbitration and Mediation Committee ("NAMC") of the NASD. I support the proposed rule change. The current Code of Arbitration Procedure provides insufficient guidance with respect to the issuance of subpoenas and, as a result, there is significant abuse of this process. Lawyers representing the securities industry routinely sign and "issue" over broad subpoenas as if authorized by law, and then embark on a course of conduct designed to harass investors by seeking documents from third parties that have nothing to do with the issues in the underlying case. This is all done without notice and without any effective controls. While the proposed rule does not solve all of the problems, at least it provides an opportunity for some regulation of the rampant abuse that now exists.

Thank you for the opportunity to comment on the proposal.

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