

INVESTORS' ATTORNEY GROUP CALLS UPON REGULATORS
TO CHANGE SYSTEM OF "WHITE-WASHING" BROKER'S RECORDS

October 4, 2000. Norman, Oklahoma. The PUBLIC INVESTOR'S ARBITRATION BAR ASSOCIATION has called upon the regulatory arm of the National Association of Securities Dealers to change its current practice of removing arbitration claims from a broker's permanent record. By letter of September 28, 2000, PIABA President Mark E. Maddox supplied NASDR with an analysis of over 300 arbitration awards issued in connection with customer claims against brokers between April of 1998 and July of 2000 in which the removal of the claim from the defending broker's record was an issue. Noting that over 1/3 of the arbitrations in which expungement was ordered were the result of an agreement between the parties as a condition of settlement of the claim and that arbitrators ordered expungement of a broker's record more than twice as many times as they denied requests for expungement. PIABA called upon NASDR to ban orders of expungement based upon the agreement of the parties in a settlement and to forbid arbitrators from awarding expungement in favor of any broker when the broker or the firm with which the broker is associated is otherwise found liable to the customer in the arbitration.

According to Charles W. Austin, Jr., a PIABA member and securities attorney in Richmond, Virginia who performed the analysis. The issue is one of investor protection. "The NASD itself promotes the CRD system as an important tool in its self-proclaimed mission of investor protection. The NASD fines and censures its member firms for failing to accurately report customer complaints in the name of investor protection. It stems inconsistent and incongruous with investor protection to allow a broker to buy a clean record or to allow arbitrators to in effect, equate every decision to deny civil liability with an exoneration of the broker's conduct by creating the appearance that the complaint and arbitration never happened."

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