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January 19, 2010

Rule-comment@sec.gov

Ms. Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Subject: File No. SR-FINRA-2009-073, Hearing Locations

Dear Ms. Murphy:

On behalf of the Public Investors Bar Association ("PIABA"), I thank the Commission for this opportunity to comment on the above-referenced rule change proposal regarding the selection of hearing locations in customer arbitrations under Rule 12213(a) of the Code of Arbitration Procedure. PIABA supports the proposed rule changes as written and commends FINRA for submitting the amendments. In addition, we propose added protections for inclusion in the present rule change proposal or in a subsequent rule filing.

PIABA is a national, not-for-profit bar association comprised of more than 460 attorneys, including law school professors and former regulators, located in 45 states, the District of Columbia and Puerto Rico. Members of PIABA devote a significant portion of their practice to the representation of public investors in securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums. Collectively, PIABA members have represented tens of thousands of investors in securities arbitrations throughout the country. PIABA members and our clients have a strong interest in FINRA rules which impact the protection of the public investor and govern the arbitration process.

FINRA's proposed amendments to Rule 12213(a) would permit public investors to choose an arbitration forum in their state of residence even if that hearing location is not the closest one to the customer's residence at the time of filing the arbitration. PIABA agrees that the customer should be able to elect either the hearing location closest to where the customer lives or another location within the customer's state of domicile, even if the latter may not be the closest in proximity to a FINRA hearing location. PIABA agrees with FINRA that the proposed rule change would serve to promote greater investor protection and public interest. The proposed rule change provides public investors with more

control over where their arbitration would be heard, thus encouraging investors to avail themselves of the dispute resolution process when needed.

We also suggest an improvement to this rule proposal. We request that the following be included in a future FINRA rule filing and encouraged as a matter of immediate FINRA DR practice (just as the current rule proposal codifies existing practice). Specifically, PIABA proposes that the amendment should also allow, at the customer's election, for the possibility of a final hearing to be held in the state where (1) the account(s) in question were held; (2) the broker is located; or (3) the client resided when the disputed events occurred. These added venues can provide practical and equitable options that are eminently consistent with principles of full and fair hearings. Moreover, such a rule change would be consistent with state and federal procedural law, which generally provides such a choice of venue to the plaintiff.

Here are just a few instances of how the added venues can offer more complete investor protections. For example, if a senior citizen maintained an account in New York City, then retired to a remote part of Florida not necessarily close to FINRA sites, and the broker continued to operate in NYC where the misconduct occurred, there could be benefit to all parties for the hearing to be held in NYC. Under current rules, and the proposed rule change, this scenario is not addressed. However, it is a scenario that arises not infrequently in our mobile society.

The benefits of added hearing locations could be substantial. Consider for example the cases where third party subpoenas are needed to persons not associated with FINRA members, such as advisors or accountants, residing in the state where the customer formerly lived. An arbitrator in the customer's current state of residence cannot generally reach those third parties by subpoena. In addition, some investors might have better access to counsel, through clinical legal aid or otherwise, in states where the account was domiciled. By including the foregoing three choices, in addition to those already listed in the current rule proposal, public investors would be most efficiently and fairly served.

PIABA believes that its proposed additions to the amendment would facilitate an even more efficient administration of the arbitration process as is likely intended by FINRA but not heretofore addressed.

We thank the Commission for its consideration of PIABA's comments. While we support the proposed amendments, we submit that at the earliest time, FINRA should expand the criteria for a customer's designation of hearing locations, in accordance with the proposals above.

Very truly yours,

/s/

Scott R. Shewan
President

Mr. Shewan's Contact Information

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