Public Investors Arbitration Bar Association

VIA EMAIL TRANSMISSION & FIRST CLASS MAIL

April 23, 2007

Bryan J. Lantagne
Director
Massachusetts Securities Division
John W. McCormack Building
One Ashburton Place, Room 1701
Boston, MA 02108

Re: Amendments to Regulation 950 CMR 12.200

Dear Mr. Lantagne:

I am the President of the Public Investors Arbitration Bar Association ("PIABA")[1] which, as you may be aware, is the largest bar association that is devoted to the interests of public investors in securities arbitration proceedings that are predominantly conducted before both the National Association of Securities Dealers, Inc. ("NASD") and the New York Stock Exchange, Inc. ("NYSE").

The purpose of this letter is to provide the Massachusetts Securities Division with our comments on the proposed amendments to Regulation 950 CMR 12.200.

Summary:

We believe that it is clearly in the public interest, and essential for the protection of investors, for the proposed regulations to be

[1]/ The Public Investors Arbitration Bar Association ("PIABA"), established in 1990, is an international bar association which consists of more than 500 attorneys. The mission of PIABA is to promote the interests of the public investor in securities and commodities arbitration by protecting public investors from abuses in the arbitration process; making securities and commodities arbitration as just and fair as systematically possible; and creating a level playing field for the public investor in all securities and commodities arbitration forums.

adopted so that the abusive practice of using misleading credentials and/or otherwise deceptive professional designations, which are expressly and intentionally designed to target vulnerable senior citizens, will be extinguished.

Discussion:

Over the course of the past few years, our members have experienced, firsthand, the financial devastation that senior citizens have been subjected to when their financial resources, accumulated over a lifetime of savings and effort, are decimated by the improper and illegal activities of purported professionals who improperly claimed to have had a special expertise or training in the unique needs of older Americans.

The urgency that we believe is associated with this issue is highlighted by the fact that, when a senior citizen has been improperly separated from their assets, the prospects for a senior citizen ever again being able to re-accumulate or recover those lost assets are minimal, at best.

To begin with, there is obviously very little opportunity, desire or time for senior citizens to obtain gainful employment which would permit them to even attempt to replenish or restore their financial position.

At the same time, it must also be recognized that there is even less of an opportunity for senior citizens to be able to recover their losses through the existing system of mandatory arbitration which, currently, is so permeated with inequities and unfairness as to render the prospects for any recovery as remote at best.

In calendar year 2006, for example, public customers who presented claims of the misconduct of their financial professionals, before a panel of arbitrators at the arbitration forum administered by the NASD, experienced a customer "loss" rate (defined as the total dismissal of their claims, without any award of monetary relief, after either an evidentiary hearing or based solely on written

submissions), of approximately fifty eight (58%) percent. And it is even more alarming that, for those public customers who presented claims of the misconduct of their financial professionals before a panel of arbitrators at arbitration forum administered by the NYSE, the customer "loss" rate was an astounding sixty three (63%) percent.

These statistics strongly suggest that senior citizens need to be protected, to the fullest extent possible, at the "point of sale" rather than at the "potential point of theoretical recovery."

And it is at the "point of sale" where we believe that it is simply unconscionable that a salesman can obtain a purported certification and/or designation which would suggest or imply to a senior citizen that he or she has special training, special qualifications or some other form of special expertise when, in fact, the requirements to obtain that special designation is unregulated, illusory and nothing more than a self-serving marketing mechanism that falsely conveys an unbiased expertise to senior citizens.

Senior citizens, like all public investors, are entitled to rely upon the supposed integrity and honesty of all professionals who are associated with the financial services industry.

We would submit that it does nothing for the advancement of the reputation of the financial services for individuals to be able to masquerade as "experts" or "advisors" or any other "specialized designation" when those titles are derived more from the product being marketed, or the vulnerabilities of the intended purchaser, or the commission associated with the securities being sold, than the actual needs of the senior citizens to whom those services are being offered.

Conclusion:

Based on all of the preceding, we believe that it is clearly a dishonest and unethical practice in the securities industry for any broker-dealer agent or

investment adviser representative to use a purported credential or professional designation that misleadingly indicates or implies that such agent or representative has special expertise, certification, or training in advising or servicing senior citizens.

Accordingly, we recommend that the proposed amendments to the regulation be approved and that the requirement for such credentials or designations to be recognized and approved, by the Secretary of the Commonwealth, be immediately implemented.

Thank you for providing us with the opportunity to submit our comments.

Very truly yours,

Public Investors Arbitration Bar Association

s/ Steven B. Caruso

Steven B. Caruso
President

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