PIABA: ONE OUT OF THREE INVESTOR AWARDS IN FINRA ARBITRATION GO UNPAID, "NATIONAL RECOVERY POOL" NEEDED TO REMEDY PROBLEM

Victim of Unpaid Award Speaks Out About Devastating Consequences; Industry-Funded Recovery Pool is Best Option to Address Major Threat to Investor Confidence in Marketplace Fairness.

WASHINGTON, D.C. – February 25, 2016 -- There's a reason why the self-regulatory organization FINRA does not publish data about investors hit with unpaid arbitration awards. A new report from the Public Investors Arbitration Bar Association (PIABA) finds that "one out of three cases investors take through to an arbitration hearing and win an award assessing liability and damages goes unpaid … (and) nearly $1 of every $4 awarded to investors in arbitration hearings goes unpaid."

The PIABA report analyzes several possible remedies for the glaring non-payment problem – which totaled $62.1 million in 2013 alone -- and concludes that an industry-financed "National Recovery Pool" is the best fix. Given the scale of 2013 unpaid awards, the Pool would cost less than $100 per registered representative in the U.S. or a bit under half a dollar per investor, according to PIABA.

Available online at https://piaba.org/system/files/pdfs/Unpaid%20Arbitration%20Awards%20-%20A%20Problem%20The%20Industry%20Created%20-%20A%20Problem%20The%20Industry%20Must%20Fix%20(February%2025,%202016).pdf and titled *"Unpaid Arbitration Awards: A Problem the Industry Created – A Problem the Industry Must Fix,"* the report concludes: **"Allowing one in three awards to go unpaid is unconscionable. FINRA's cures: barring from the industry those who fail to pay awards, and notifying claimants that they can pursue actions in court against former FINRA members, have failed to cure, or put a meaningful dent in, the problem. Steps must therefore be taken to put forth a new division of FINRA to craft and administer a National Recovery Pool."**

PIABA President and attorney Hugh Berkson, the author of the report, said: **"This serious problem requires immediate attention because it goes right to the question of whether the markets are or should be perceived as giving individual investors a fair shake. Investors face the problem of underfunded, if not outright insolvent, brokerage firms and individual brokers on an all-too-frequent basis. Investors are invariably stunned to learn that their trusted financial advisors are not required to maintain insurance, that their firms are thinly capitalized at best, and that the likelihood of collecting a significant award is therefore severely or entirely compromised."**

Willie Cabbil, an Alabaster, AL., retiree, who was a former GM worker and pastor, said: **"After 18 months and a week-long arbitration hearing, I was awarded in excess of $300,000 by arbitrators against the brokerage firm who employed my broker. I was ecstatic to have finally got my life back. Unfortunately, it became readily apparent after I secured my award that the brokerage firm had no intent to pay me the money I was awarded. The firm, Resource Horizons, stiffed me and other investors who had secured an award against them. I felt victimized all over again. I assumed the firm either would be able to pay me out of its own pocket or had insurance to pay the award. Never in a million years did I think I would go through this process and then be taken advantage of all over again. We spent over a year trying to secure the money they owed but no luck. I never got paid a dime. The impact of not recovering the money that was stolen from me has been devastating."**

Attorney Andrew Stoltmann, of Chicago, IL., who has represented investors saddled with unpaid arbitration awards, said: **"FINRA has known about the unpaid arbitration award problem for over 20 years and has done nothing meaningful to address the issue. Unfortunately, defrauded investors get left holding the financial bag because FINRA refuses to implement common sense steps that could solve this problem. FINRA sprains its collective wrist patting itself on the back based off of the amount of money awarded to defrauded investors each year. But an investor 'win' without collecting is meaningless."**

Given the lack of published information from FINRA, PIABA researchers pulled every arbitration award issued in 2013. Awards issued in industry-only disputes were removed, leaving 836 awards issued in customer cases. Narrowing the results to awards issued in favor of investors, PIABA found 225 awards in which some amount of damages was awarded. The FINRA task force report stated that there were 75 awards issued in 2013 that went unpaid. Put into context, 33.3 percent of awards in Claimants' favor went unpaid in the context of the number of awards issued. How, then, does the $62.1 million of unpaid awards relate to the total damages issued to investors? PIABA calculated the total awards to investors as $256,749,289, with the unpaid awards therefore comprising 24.2 percent of the total.

PIABA's research echoed earlier findings of unpaid arbitration awards in a 2000 Government Accounting Office (GAO) report and a 2013 analysis by the *Wall Street Journal*. The PIABA findings were significantly higher than those found by the *Journal* in its review of 2011 arbitration awards in terms of the percentage of unpaid cases (33 percent v. 11 percent).

On the issue of possible remedies, the report notes: "**The potential solutions include: expanding (Securities Investor Protection Corporation) SIPC coverage, increasing net capital requirements, imposing insurance requirements, and/or creating an investor recovery pool ... Of each option, creating an investor recovery pool presents the most viable option because it can be created within the existing regulatory structure and will present both the lowest financial impact to the brokerage industry and the best financial impact for aggrieved investors."**

On the question of funding a National Recovery Pool, the report notes the low per-capita cost in terms of the number of brokers and U.S. investors. PIABA's analysis also points out: **"Not only could a substantial portion of the Pool be funded by FINRA's annual net income (profit), but it should be noted that FINRA's net worth is staggering. FINRA's 2014 Annual Financial Report revealed that the regulator maintains a net worth of $1.474 billion. While PIABA recognizes that a portion of FINRA's operating expenses are defrayed thanks to the earnings on that portfolio, it bears repeating that a non-profit regulator bears a net worth of nearly $1.5 billion, yet dedicates none of the principal or interest to ensuring that aggrieved investors collect the awards due them as a result of the wrongful conduct of its members."**

PIABA further noted that even as "**$62.1 million of the awards issued in 2013 went unpaid, … the regulator tasked with promoting investor protection (FINRA) refunded $20 million to its members -- nearly a third of the unpaid awards. FINRA could have made a substantial dent in the amount due on outstanding unpaid awards, but instead, returned the funds to its members."**

ABOUT PIABA

Public Investors Arbitration Bar Association is an international, not-for-profit, voluntary bar association of lawyers who represent claimants in securities and commodities arbitration proceedings and securities litigation. The mission of PIABA is to promote the interests of the public investor in securities and commodities arbitration, by seeking to protect such investors from abuses in the arbitration process, by seeking to make securities arbitration as just and fair as systemically possible and by educating investors concerning their rights. For more information, go to www.piaba.org.

MEDIA CONTACT: Alex Frank, (703) 276-3264 or afrank@hastingsgroup.com.

EDITOR'S NOTE: A streaming audio replay of the news event will be available on the Web at www.piaba.org as of 5 p.m. EST on February 25, 2016.