PIABA: NEARLY HALF OF FINRA'S "PUBLIC GOVERNORS" HAVE INDUSTRY TIES AND OTHER CONFLICTS OF INTEREST

So-Called "Public" Members Include Hedge Fund CEO and Blackstone Board Member; PIABA Outlines Needed Reforms to Maintain Public Confidence, Proposes Alternate Slate of Real Public Members.

WASHINGTON, D.C. (November 15, 2017) – Six of the 13 current and immediate past "public governors" supposedly representing investor interests on the Board of Governors overseeing FINRA, the watchdog organization for the broker-dealer industry, appear to have conflicts of interest either in terms of industry ties through direct employment or because of other board memberships, according to a new report from the Public Investors Arbitration Bar Association (PIABA). Red-flag examples of so-called "public" members of FINRA's Board with conflicts include the co-CEO of the world's largest hedge fund, a board member of the powerful Blackstone Group, and a former "industry" governor that FINRA simply relabeled as a "public" governor.

Entitled *"FINRA Governance Review: Public Governors Should Protect the Public Interest,"* the PIABA report is available online at www.piaba.org.

FINRA characterizes itself as "independent," but its governance structure involves very little transparency and allows the securities industry to exert substantial control over FINRA's operations. FINRA's governing board consist of 13 public governors, 10 industry governors, and one seat for its Chief Executive Officer. FINRA's by-laws state that its public governors may have no "material business relationship" with a broker or dealer or [other] self-regulatory organization. However, there is almost no oversight of FINRA by the Securities and Exchange Commission (SEC), no Capitol Hill appointment process, and very little information provided to the investing public.

PIABA President and report co-author Andrew Stoltmann, attorney Stoltmann Law Offices, Chicago, IL, said: **"FINRA's Code of Ethics states that FINRA 'serves as a protector of investors and guardian of market integrity.' Unfortunately, FINRA's Board of Directors, called its Board of Governors, has public board members who have very deep ties to the securities industry thereby putting them in a potential conflict of interest situation. This report shows that many FINRA public governors have material Wall Street ties, serve on too many corporate boards to effectively represent the public, and face other conflicts of interest. The report raises a major red flag since FINRA's public governors are supposed to play a vital watchdog role with Wall Street's self-regulatory organization for brokerage firms, including setting the rules for how many protections ordinary investors receive when doing business with FINRA's member firms."**

Report co-author Benjamin P. Edwards, associate professor of law, University of Nevada, Las Vegas William S. Boyd School of Law, said: **"Unlike the process for appointing commissioners to the SEC, or the leading officials of other government agencies, public processes play little role in the appointment of public governors to FINRA's board of governors. These public governors do not sit before Congressional committees to explain their qualifications as public governors. They are also not subject to the same federal ethics disclosure laws. FINRA is also not now subject to the federal Freedom of Information Act so the public has only a limited ability to keep an eye on the persons appointed to protect their interests … After reviewing the current group of public**

governors, our primary concern is that an organization dedicated to investor protection should have more persons that have spent time as investor advocates on its governing board. FINRA should also more closely police conflicts of interest on its governing board. If it does not, the odds of Congressional intervention into its governance will increase."

The PIABA report highlights concerns about the following governors:

- **Eileen Murray** to serve as a public governor beginning in 2016, even though she serves as the co-CEO of the world's largest hedge fund, Bridgewater Associates.

- **Shelley Lazarus** has served as one of FINRA's public governors since 2013. Lazarus serves on the board of The Blackstone Group, "a leading global alternative asset manager" handling $366.6 billion as of December 31, 2016." The Blackstone Group has multiple FINRA member subsidiaries, including Blackstone Advisory Partners L.P. Lazarus has been an executive at Ogilvy & Mather from 1995 through 2012. She now serves as the Chairman Emeritus of Ogilvy. In 2015, Ogilvy created FINRA's BrokerCheck advertising campaign.

- **William H. Heyman**, currently the chairman of FINRA and called a "public governor" even though he is the Chief Investment Officer of The Travelers Companies, Inc., previously served in the NASD (the predecessor to FINRA) as an "industry governor". Curiously, he has served for the last14 years on the Board of Governors even though FINRA's bylaws expressly limit "public governors" to two three-year terms.

- **Carol Anthony Davidson** has been a "public governor" since 2013, even though he joined the board of Legg Mason Inc., in 2014. Legg Mason is a global asset management firm and has a FINRA member subsidiary, Legg Mason Investor Services, LLC. Davidson's 14,906 shares give him a more than $500,000 stake in Legg Mason. Davidson serves on at least five corporate boards and six different FINRA Board Committees.

- **Joshua S. Levine** serves as a "public governor" while working as a managing director affiliated with Kita Capital Management, LLC. Levine's LinkedIn profile makes clear that he co-founded Kita Capital Management, LLC and that it provides "capital, operations and advice to technology-driven organizations." Although his current FINRA profile indicates that he has served as a managing director for Kita Capital Management without interruption since 2005, past FINRA Annual Reports characterized him as "retired." The PIABA report notes that inconsistent disclosures raise questions about the quality of FINRA's disclosures and governance.

The PIABA report urges FINRA to rigorously address conflicts of interest with current "public governors," limit overlapping and excessive service on other boards, and to consider nominating public governors with a demonstrated interest in investor protection issues.

Among those proposed by PIABA are: Jill I. Gross, a nationally known expert in the field of securities dispute resolution and teaches at the Elizabeth Haub School of Law at Pace University; Phyllis Borzi, who served as the assistant secretary of labor for the Employee Benefits Security Administration of the United States Department of Labor from 2009 to 2017 and directed the Department of Labor's fiduciary duty rulemaking; Jordan Thomas, a partner at Labaton Sucharow who previously served as assistant chief litigation counsel in the Division of Enforcement at the SEC, where he had a leadership role in the development of the SEC

Whistleblower Program; Robert S. Banks, an attorney that has spent his career representing investors and 2017 recipient of the North American Securities Administrators Association's (NASAA) Investor Champion Award; and Teresa J. Verges, who was an assistant director of enforcement for the SEC before launching the University of Miami School of Law's Investor Rights Clinic.

ABOUT PIABA

The 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: Patrick Mitchell at (703) 276-3166 and pmitchell@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/4 p.m. CST on November 15, 2017.