

PIABA Denounces FINRA Hearing Board Decision Allowing Charles Schwab to Require Its Clients to Waive Right to Bring Class Actions

NORMAN, OK – February 28, 2013.

On February 21, 2013, a FINRA disciplinary hearing panel entered a decision allowing brokerage giant Charles Schwab & Company to amend its customer agreements to require its clients to give up their right to bring or even participate in class action claims against the firm. The panel ruled that this waiver was enforceable under recent US Supreme Court cases interpreting the Federal Arbitration Act.

FINRA's Enforcement Department has filed an appeal of the decision to its National Adjudicatory Council. PIABA fully supports FINRA's decision to appeal the disciplinary hearing panel's decision. "It appears that the litigation with respect to the enforceability of Schwab's class action waiver and the right of other firms to impose that waiver on their clients is far from over", said Scott Ilgenfritz, president of the Public Investors Arbitration Bar Association (PIABA). PIABA is a national bar association whose members are lawyers who routinely represent customers in arbitrations against brokerage firms such as Schwab. He added that if the decision is overturned, customers who believe they have been wronged will be able to choose to pursue their claims either in arbitration or, if appropriate, in class action suits filed in court.

According to Ilgenfritz, "When hundreds or thousands of investors suffer losses as a result of the misconduct of a brokerage firm and the individual damages are not large enough to justify individual clients bringing their own arbitration claims, class action waivers would effectively deny any relief to those clients. What this means is that if a brokerage firm were to make millions of dollars in profits by wrongfully obtaining small sums of money from thousands of clients, it would get to keep the money. PIABA believes that's just not right."

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