The Neutral Corner

Volume 1 – 2009

Mission Statement

We publish *The Neutral Corner* to provide arbitrators and mediators with current updates on important rules and procedures within securities dispute resolution. FINRA's dedicated neutrals serve parties and other participants in the FINRA forum by taking advantage of this valuable learning tool.

WHAT'S INSIDE

Message to the Arbitrators

Barbara L. Brady, Vice President and Director of Neutral Management

FINRA Dispute Resolution strives to be the preeminent provider of securities-related dispute resolution services. Such a goal is only possible when talented, dedicated arbitrators and mediators aid in the process.

We have recently required our arbitrators to complete several mandatory training courses, or to respond to mandatory surveys. Recognizing that these requirements place additional demands on our arbitrators, we take this opportunity to thank you for your support, cooperation and patience. We value your time and commitment, and appreciate your participation in our forum. FINRA only makes training courses and surveys mandatory when it is absolutely necessary to stay current with new FINRA rules, and to ensure that all FINRA arbitrators employ best practices.

Arbitrator Training: New Expungement Rules

On October 30, 2008, the Securities and Exchange Commission (SEC) approved SR-FINRA-2008-010 to adopt Rule 12805 of the Customer Code of Arbitration Procedure and Rule 13805 of the Industry Code of Arbitration Procedure. These rules establish new procedures that arbitrators must follow when considering requests for expungement relief under NASD Conduct Rule 2130. The rule changes are effective for expungement relief ordered on or after January 26, 2009.

FINRA is requiring that all arbitrators take additional training and certify that they are familiar with the new rules. Arbitrators may complete their training by studying the Frequently Asked Questions document that was sent by mail and email to every FINRA arbitrator; by either listening to the neutral call-in workshop of December 10, 2008 (live or by recording); or reviewing *Regulatory Notice 08-79* on the revised expungement procedures.

FINRA™
Financial Industry Regulatory Authority

continued on page two

Message from the Editor

Comments, Feedback and Submissions

In addition to comments, feedback and questions regarding the material in this publication, we invite you to submit suggestions for articles and topics you would like addressed. We reserve the right to determine which articles to publish.

Please send your comments to:

Jisook Lee, Editor
The Neutral Corner
FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 27th Floor
New York, New York 10006

You may also email Jisook at *Jisook.Lee@finra.org*.

Arbitrator Training: New Expungement Rules continued

If you have not yet completed the expungement training using any one of the above methods, you can complete the training by reading the *Frequently Asked Questions* on our Web site. Please certify *online* after you have completed the training.

FINRA is also in the process of revising its existing expungement online course to address the new rules. The revised course will be available in the first quarter of 2009. Arbitrators who wish to retake the expungement course may do so at no charge, and will also be credited with having completed the refresher training.

Article: New Motion to Dismiss Rule

By Avi Badash, FINRA Arbitration Administrator, Department of Case Administration

What Is a Motion to Dismiss?

A motion to dismiss is a request made by a party to the arbitrator(s) to remove some or all claims raised by a party filing a claim. Prior to the approval of the new rules discussed in this article, motions to dismiss could be filed at any stage of an arbitration proceeding, but they were often filed before a hearing was held. If the single arbitrator or panel granted a motion to dismiss before a hearing was held (a prehearing motion), the party filing a claim lost the opportunity to have the arbitration case heard by the arbitration panel.

Prehearing Motions to Dismiss Filed in FINRA's Forum

FINRA received complaints from users of its arbitration forum that parties were filing prehearing motions routinely and repetitively, which had the effect of delaying scheduled hearing sessions on the merits, increasing customers' costs and intimidating less sophisticated customers. As a result, FINRA believes customers have been spending additional resources to defend against these motions, increasing the costs and processing times of the arbitration process.

FINRA also learned through an independent study that the number of motions to dismiss filed in customer cases had begun to increase over a two-year period, starting in 2004. Most motions to dismiss, filed prior to the approval of the new rules, were denied. FINRA became concerned that, if left unregulated, this type of motion practice would limit investors' access to the forum, either by making arbitration too costly or by denying customers their right to have their claims heard in arbitration.

New Motion to Dismiss Rule

In response to FINRA's above-mentioned concerns, the Securities and Exchange Commission (SEC) approved a proposal to adopt Rule 12504 of the Code of Arbitration Procedure for Customer Disputes and Rule 13504 of the Code of Arbitration Procedure for Industry Disputes (collectively, the Codes) to establish procedures that will govern motions to dismiss. The proposal also amends Rules 12206 and 13206 to address motions to dismiss based on eligibility grounds.

In new Rules 12504 and 13504, FINRA is adopting specific procedures to govern motions to dismiss. FINRA also is amending the dismissal provisions of Rules 12206 and 13206 (the eligibility rule) related to time limits on submissions of arbitration claims. The rules will ensure that parties have their claims heard in arbitration, by significantly limiting motions to dismiss filed prior to the conclusion of a party's case-in-chief and by imposing stringent sanctions against parties for engaging in abusive practices under the rules.

On January 23, 2009, FINRA published ***Regulatory Notice 09-07*** regarding the new rules. Arbitrators should visit our Web site in order to review the Regulatory Notice. The *Regulatory Notice* announced that the new rules apply to all motions to dismiss filed on or after February 23, 2009. The *Regulatory Notice* also provided that FINRA imposed a moratorium on filing motions to dismiss prior to the conclusion

Article: New Motion to Dismiss Rule continued

of a party's case-in-chief from the date of the *Regulatory Notice*, January 23, 2009, until the effective date of the new rules, February 23, 2009. This means that parties may not file such motions from January 23, 2009, to February 23, 2009. FINRA believes that imposing a moratorium on such motions during this pre-effective period will make the arbitration process fair to all parties, will make the new rules simple for staff and arbitrators to apply and will prevent abuse before the rules become effective. For more information on the moratorium, you may review the *Regulatory Notice*.

Summary of the Rules:

Under the rules, if a party files a motion to dismiss before a claimant finishes presenting its case, the arbitration panel is limited to the following three grounds on which to grant the motion:

a. The non-moving party previously released the claim(s) in dispute by a signed settlement agreement and/or written release. Parties seeking this exception should provide arbitrators with valid documents that indicate that the claims in the current dispute have been resolved in a previous dispute;

b. The moving party was not associated with the account(s), security(ies) or conduct at issue. FINRA intends this exception to apply in cases involving issues of misidentification. For example, the panel could grant a motion to dismiss under this exception if a party files a claim against the wrong person or entity, or a claim names an individual who was not employed by the firm during the time of the dispute; or

c. The claim is not eligible for submission to arbitration because six years have elapsed from the occurrence or event giving rise to the claim. Parties seeking this exception should provide arbitrators with valid documents that indicate when the occurrence or event took place.

The new rules establish procedures that specifically address prehearing motions to dismiss. These procedures implement a number of changes from current motions practice, which are listed below:

1. Parties must file a motion to dismiss under (a) or (b) above at least 60 days before a scheduled hearing, and parties have 45 days to respond to such a motion. Parties must file a motion to dismiss under (c) above (*i.e.,* an eligibility motion) at least 90 days before a scheduled hearing, and parties have 30 days to respond to such a motion.
2. Parties must file motions to dismiss in writing, separately from the answer, and only after the answer is filed.
3. The full panel must decide a motion to dismiss. Moreover, the panel may not grant a motion to dismiss unless an in-person or telephone prehearing conference on the motion is held or waived by the parties. In addition, prehearing conferences to decide these motions will be recorded.
4. Decisions to grant motions to dismiss must be unanimous and accompanied by a written explanation. FINRA believes that the type of relief requested by a prehearing motion to dismiss— the complete dismissal of a claim before an evidentiary hearing is completed— justifies the

requirement that all arbitrators on the panel agree, based on the evidence presented by the party filing the motion, that the motion should be granted.

5. Parties are prohibited from re-filing a denied motion to dismiss, unless specifically permitted by a panel order. The panel decision to re-file the motion is not required to be unanimous. If a panel denies a motion to dismiss that was filed before the effective date of the new rules but permits a party to re-file the motion after the effective date, the re-filed motion will be governed by the new rules.

6. The panel must assess forum fees against the party filing the motion to dismiss if the panel denies the motion. The panel decision to deny the motion is not required to be unanimous. FINRA believes that the mandatory assessment of forum fees will deter parties from filing motions to dismiss that are not meritorious or fall outside the scope of the three exceptions. FINRA will provide an incentive for parties wishing to file such motions to ensure that their motions to dismiss filed prior to the conclusion of a party's case-in-chief, including prehearing motions, comply with the intent of the rules.

7. If the panel determines that a party frivolously filed a motion to dismiss, the panel must award costs and attorneys' fees to a party that opposed the motion. FINRA believes that the risk of monetary penalties and sanctions, imposed either by the panel on its own initiative or as a result of a party's motion, will deter parties from filing such motions frivolously.

8. If the panel determines that a party filed a motion to dismiss in bad faith, the panel may issue sanctions under Customer Code Rule 12212 or Industry Code Rule 13212 against the party filing the motion. Such sanctions may include, but are not limited to: assessing monetary penalties payable to one or more parties; precluding a party from presenting evidence; making an adverse inference against a party; assessing postponement and/or forum fees; and assessing attorneys' fees, costs and expenses. FINRA believes that the risk of monetary penalties and sanctions, imposed either by the panel on its own initiative, or as a result of a party's motion, will deter parties from filing a motion to dismiss in bad faith. Moreover, FINRA believes these enforcement mechanisms will help ensure strict compliance with the rules.

The new motions to dismiss rules do not apply when a respondent files a motion to dismiss after the conclusion of a party's case-in-chief. A moving party may file a motion dismiss at this stage of the proceeding based on any applicable theory of law. FINRA expects these motions to be relevant to the case and based on theories that are germane to the issues raised in the non-moving party's case. FINRA believes that by the close of the non-moving party's case, the panel will have heard enough evidence to decide whether a motion filed at this stage of the case should be considered and, if warranted, granted.

Article: New Motion to Dismiss Rule continued

FINRA notes, however, that if a respondent files a motion to dismiss after the conclusion of a party's case-in-chief, the panel is not required to consider or grant the motion; rather, arbitrators will continue to control the hearing process, which includes deciding whether to hear such a motion. The rules will not preclude a panel from assessing parties who file these motions with sanctions, costs or attorney's fees, if the panel determines that the motion filed at this time is frivolous or in bad faith.

In addition, a party may file a motion to dismiss based on Rules 12212 and 13212 (for material and intentional failure to comply with a panel order if prior warnings or sanctions have proven ineffective) or based on Rules 12511 and 13511 (for discovery abuse). Such motions will not be subject to the exceptions in the new motion to dismiss rules, and will continue to be governed by their respective rules.

Eligibility Motions

Parties filing an eligibility motion that includes multiple other grounds (*i.e.,* a mixed motion) must file the motion at least 90 days before a scheduled hearing, and parties have 45 days to respond to such a motion. FINRA believes the response time is appropriate in the case of a mixed motion, because the non-moving party will be required to prepare for and address each ground that the moving party uses to argue for dismissal.

Under the eligibility rule, if a panel grants a motion to dismiss based on eligibility grounds, the non-moving party can pursue the claim in court. For motions to dismiss made under several grounds, including eligibility, the non-moving party may not know whether it can pursue the claim in court because it may not know on which ground the panel dismissed the claim. The new rule, as amended, addresses this issue by requiring that:

- If a party files a motion to dismiss on multiple grounds, including eligibility, the panel must decide eligibility first.
- If the panel grants the motion to dismiss all claims on eligibility grounds, it must not rule on any other grounds for the motion.
- If the panel grants the motion to dismiss some, but not all, claims on eligibility grounds—and the party against whom the motion was granted elects to move the case to court within 15 days of service of the decision—the panel must not rule on any other ground for dismissal.
- If the panel denies the motion to dismiss on eligibility grounds, it must rule on the other grounds to dismiss the remaining claims in accordance with the procedures set forth in Rules 12504 and 13504.

Please review carefully the new motion to dismiss rule (Rules 12504 and 13504) and the amended eligibility rule (Rule 12206 and 13206). Be sure to abide by the rules' procedural safeguards when considering motions to dismiss.

Arbitrator Training: New Motion to Dismiss Rule

FINRA strongly encourages all arbitrators to take additional training to familiarize themselves with the new motion to dismiss rules. For your convenience, training can be completed by:

- studying the Frequently Asked Questions (FAQ) available online;*
- listening to the call-in workshop, which will be available through FINRA's Web site in late February or early March; or
- reviewing FINRA's *Regulatory Notice 09-07*.

* The same FAQ document will also be sent by mail and email to FINRA arbitrators.

After you complete at least one of the above forms of training, please notify FINRA by updating your Arbitrator Disclosure Report online at *www.finra.org*.

In addition to updating its online Basic Arbitrator training course and Chairperson training course, FINRA is also in the process of creating a mini-course on the new motion to dismiss rule. The new course will be available in the third quarter of 2009. Please check our Web site, or future editions of this newsletter, for updated information on the course.

Dispute Resolution News

Case Filings

Arbitration case filings from January through December 2008 reflect a 54 percent increase compared to cases filed during the same 12-month period in 2007 (from 3,238 cases in 2007 to 4,982 cases in 2008). Customer-initiated claims during this 12-month period increased even more, by 94 percent. In recent months, we have received numerous cases claiming that losses were incurred from investments holding subprime mortgages (typically claims that funds were over-concentrated in these investment vehicles without adequate disclosure) and "failed auctions" for auction rate securities. Through December 2008, parties filed 813 subprime mortgage cases and 301 auction rate securities cases.

From January through December 2008, the average processing time from service of claim to issuance of award for arbitration cases (hearing and simplified) declined to 13.0 months (from 13.9 months in 2007).

Public Arbitrator Pilot Program

As previously reported, FINRA launched a two-year pilot program on October 6, 2008, that will allow some investors who have filed arbitration claims to choose a panel of three public arbitrators, instead of the current option of two public arbitrators and one non-public arbitrator. Eleven firms have agreed to contribute 10 to 40 cases each, per year, for two years. By the end of December 2008, investor claimants elected to participate in the pilot.

We will evaluate the pilot according to a number of criteria, including the percentage of investors who opt into the pilot and the percentage of investors who choose an all-public panel after opting in. Ultimately, this program will allow us to see if a change in the way FINRA selects arbitration panels better serves and protects the interests of investors.

Please visit our Web site for more information about this program:

www.finra.org/Newsroom/NewsReleases/2008/P038958.

You may also review the Frequently Asked Questions associated with this pilot on our Web site:

www.finra.org/ArbitrationMediation/Parties/ArbitrationProcess/NoticesToParties/P116995.

Auction Rate Securities Settlements—Special Arbitration Procedures

On December 16, 2008, FINRA announced details of special arbitration procedures for investors seeking recovery of consequential damages related to their investments in Auction Rate Securities (ARS). Customers seeking consequential damages under ARS-related settlements that firms have concluded with FINRA or the Securities and Exchange Commission (SEC) may currently use these special procedures. FINRA Dispute Resolution will provide a copy of the relevant special procedures for neutrals appointed to consequential damages cases.

Consequential damages represent the harm investors allege they suffered from their ARS transactions—such as lost opportunity costs or losses that resulted from investors' inability to access their funds because their ARS assets were frozen. Use of the special arbitration procedures is at the investor's sole option. Investors also have the option of bringing a case under standard arbitration rules or in any other forum where they may have the right to seek redress.

As of the end of December 2008, 299 ARS arbitration claims have been filed in FINRA's Dispute Resolution forum under its standard arbitration procedure. Investors with pending claims against settled firms can switch to the special arbitration procedures if they limit their claims to consequential damages.

Under the special procedures, firms will pay all fees related to the arbitration, including filing fees, hearing session fees and all the fees and expenses of arbitrators. If investors do not opt for this special arbitration procedure, they retain the choice of other remedies, including initiating a regular FINRA arbitration claim.

Also under the special procedures, firms cannot contest liability related to the illiquidity of the ARS holdings, or to the ARS sales, including any claims of misrepresentations or omissions by the firm's sales agents. The firm cannot use in its defense an investor's decision not to sell ARS holdings before the relevant ARS settlement date or the investor's decision not to borrow money from the firm, if it made a loan option available to ARS holders.

With the special arbitration procedures, investors now have the option of selling their ARS holdings back to the firms under the regulatory settlements and, at the same time, pursuing their claims for consequential damages. Investors who wish to seek punitive damages or attorneys' fees have the option to do so under FINRA's standard arbitration procedures.

To speed the arbitration process under the special procedures, cases claiming consequential damages under $1 million will be decided by a single, chair-qualified public arbitrator. In cases with consequential damage claims of $1 million or more, the parties can, by mutual written agreement, expand the panel to include three public arbitrators.

For investors who opt for the standard FINRA arbitration process, disputes will be heard by a typical three-arbitrator panel consisting of two public arbitrators and one non-public arbitrator. However, that non-public arbitrator, under rules recently announced by FINRA, cannot have had ties with ARS since January 1, 2005. Those non-public arbitrators cannot have worked for a firm that sold ARS, cannot themselves have sold ARS, and cannot have supervised an individual who sold ARS since January 1, 2005.

Full details about ARS arbitration procedures—for both regulatory settlement customers and FINRA's regular arbitration—can be found at *www.finra.org/ArbitrationMediation/P116972*.

SEC Approvals

Arbitration Submission Agreement

On December 12, 2008, the SEC approved an amendment to the Submission Agreement and related rules of the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes. The amendments to the Submission Agreement and related rules: (1) clarify what the parties are attesting to when they execute the agreement; (2) require parties to indicate in what capacity they are signing the agreement; and (3) convert it to a FINRA-specific agreement. The amendment will become effective on February 9, 2009.

For more details on the amendment and to view the changes to the Submission Agreement, click here to read *Regulatory Notice 09-04*.

Motion to Dismiss and Eligibility Rules

As stated in the above article ("New Motion to Dismiss Rule"), on December 31, 2008, the SEC approved a proposal to adopt Rule 12504 of the Code of Arbitration Procedure for Customer Disputes and Rule 13504 of the Code of Arbitration Procedure for Industry Disputes to establish procedures that will govern motions to dismiss. The proposal also amends Rules 12206 and 13206 of the Customer Code and Industry Code, respectively, to address motions to dismiss based on eligibility grounds.

For additional information on the new motion to dismiss rule and amended Eligibility Rule, read the SEC's approval order and FINRA's *Regulatory Notice*.

SEC Approvals continued

Single-Arbitrator Threshold Rule

On February 2, 2009, the SEC approved an amendment to the Codes of Arbitration Procedure for Customer Disputes and for Industry Disputes to raise the amount in controversy that will be heard by a single chair-qualified arbitrator to $100,000. The arbitrator would be selected from the roster of arbitrators who are qualified to serve as chairpersons. This means that investors' claims for up to $100,000 would be heard by a public, chair-qualified arbitrator.

Details on the revised rule can be found on our Web site. Additional information will be available in the next issue of this newsletter.

Web Site Update

FINRA has added a Web page to cover Special Arbitration Procedures (SAP) for Investors Involved in Auction Rate Securities (ARS) Regulatory Settlements, as described previously in this newsletter.

Please visit our Web site frequently for new and updated information about FINRA.

Neutral Call-In Workshops

December 10, 2008: "FINRA Arbitration 2009—the Year in Review and the Road Ahead"

FINRA hosted a call-in workshop on December 10, 2008, entitled "FINRA Arbitration 2009—the Year in Review and the Road Ahead." The workshop reviewed FINRA Dispute Resolution's work in 2008 and previewed plans for 2009.

Katherine M. Bayer, Regional Director of FINRA Dispute Resolution's New York office, moderated the workshop and posed questions to a panel of three FINRA staff members: George H. Friedman, Executive Vice President and Director of Dispute Resolution; Richard W. Berry, Vice President and Director of Case Administration; and Barbara L. Brady, Vice President and Director of Neutral Management. The workshop topics included a detailed discussion of FINRA's new Rules 12805/13805 and the required procedures for expungement cases. The panelists also answered neutrals' questions submitted in advance of the workshop.

If you missed the workshop, you may listen to a recording of it on our Web site.

Future Workshops

As reported during the December 10 workshop, all future workshops will be pre-recorded and made available to neutrals through our Web site. As a result, you will no longer need to call in at often inconvenient times to listen to our quarterly neutral workshops. Additionally, you will be able to pause and play back the file.

Future programs will be posted on our Web site as an audio file. When a program is available, we will send you an email with a downloadable file, so that you may listen at your convenience.

Our first quarterly neutral workshop for 2009 is planned for release in mid-to-late February. The tentative title is "Recent Rule and Procedural Changes: What You Need to Know," and will feature training on the motion to dismiss rule. Please check your email for further announcements about this audio program.

FINRA Takes Steps to Enhance Finality in Arbitration—New Rules Limit Submissions on Closed Cases

By David L. Carey, FINRA Associate Director, Department of Case Administration

The SEC approved changes to the Codes of Arbitration Procedure (Codes) to limit when parties may make submissions to arbitrators in closed cases. New Customer Code of Arbitration Procedure Rule 12905 and Industry Code of Arbitration Procedure Rule 13905 went into effect on November 24, 2008.

FINRA considers a case closed on the date staff serves an award or sends parties a letter notifying them that a case is closed (for example, by settlement). The absence of a deadline in the Codes for submissions in closed cases has been problematic. For example, a party might submit documents to the panel years after FINRA has closed the case. Arbitrators rarely grant such late requests to reopen cases.

The new rules will reduce parties' cost in responding to such requests, and will enhance the finality of FINRA awards. Parties may not submit documents to arbitrators in closed cases, except:

1. as ordered by a court;
2. at the request of any party within 10 days of service of an award or notice that a matter has been closed for typographical or computational errors, or mistakes in the description of any person or property referred to in the award; or
3. if all parties agree and submit documents within 10 days of service of an award or notice that a matter has been closed.

FINRA Takes Steps to Enhance Finality in Arbitration—New Rules Limit Submissions on Closed Cases *continued*

An example of a typographical or computation error would be a mathematical mistake when computing forum fees. A mistake in the description of any person or property would be an incorrect reference to the name of a party in an award.

FINRA will forward to the arbitrators all requests made pursuant to a court order. We will determine if submissions made pursuant to the second and third circumstances listed above comply with the grounds for submission before forwarding the requests to the arbitrators. All parties will have an opportunity to respond to requests under the second circumstance, and FINRA will forward the response to the arbitrators along with the request.

Under the new Rules, the arbitrators may decline to consider requests made under the second and third circumstances listed above. Such requests will be treated as denied unless the arbitrators rule within 10 days after FINRA forwards them the documents.

Question and Answer: Arbitrators Negotiating Additional Fees from the Parties to Supplement Their Honoraria

Question: Should arbitrators negotiate additional compensation with the parties to supplement their honoraria?

Answer: No. FINRA Dispute Resolution (FINRA) administers the arbitration process and recruits, trains and qualifies arbitrators. FINRA is also responsible for paying arbitrators for their service as provided in the Customer and Industry Codes of Arbitration Procedure (Codes). The Codes specify arbitrator payments for pre-hearing and hearing sessions, discovery-related motions, contested subpoenas and last-minute postponements. In addition, FINRA reimburses arbitrators for certain expenses incurred while traveling to hearing locations.

Arbitrators have an obligation to adhere to FINRA's rules, which provide for payment and reimbursement of expenses to arbitrators. Arbitrators cannot, therefore, separately negotiate with the parties for additional sums to supplement the honoraria. FINRA reminds arbitrators that Canon VII of the AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes provides that "[i]n proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution." Arbitrators should address any questions about the honorarium or reimbursement of expenses to FINRA.

FINRA News Updates

Mary Schapiro, Chairman of the United States Securities and Exchange Commission

At a Chicago press conference on December 18, 2008, President-elect Barack Obama announced the nomination of FINRA CEO Mary Schapiro as Chairman of the United States Securities and Exchange Commission.

In his remarks, President-elect Obama said, "Mary is known as a regulator who's both smart and tough—so much so that she's been criticized by the same industry insiders who we need to get tough on. For years, she's used her position to educate investors about market risks, warn seniors and employers about retirement scams, and call for increased regulation of mortgage brokers long before this housing crisis hit. I know that Mary will provide the new ideas, new reforms and new spirit of accountability that the SEC desperately needs so that fraud like the Madoff scandal doesn't happen again."

Members of the FINRA staff congratulate Ms. Schapiro on this prestigious appointment.

FINRA's New Account Application Template

FINRA has developed a voluntary new account application template that firms may use as an example when designing or updating their own application forms for individual or joint accounts. For more information on the template, visit *www.finra.org/newaccount*.

It is important for arbitrators to note that firms are under no regulatory obligation to use the template or any portion of it—FINRA developed it as a voluntary resource. Therefore, a firm's choice to use or not to use the template should not have any impact on the outcome of an arbitration or mediation.

Securities Law Clinics

Members of FINRA's staff remain actively involved with various law schools, presenting mediation classes for New York University's Law School Mediation Clinic and for securities arbitration clinic students at Fordham Law School, St. John's University School of Law, Hofstra University School of Law and Cornell Law School.

Investor and Member Education

FINRA Dispute Resolution staff assisted in the creation and production of two FINRA webcast videos—one for investors and one for firms—that are available on our Web site. They introduce parties to FINRA Dispute Resolution, explain its arbitration and mediation services and provide visual examples designed to clarify how disputes are resolved in the forum.

Dispute Resolution National Update

Jean I. Feeney, Vice President and Chief Counsel of FINRA Dispute Resolution, announced her retirement, effective January 23, 2009. Ms. Feeney led the project team that launched the Dispute Resolution subsidiary in 2000, and became its first Chief Counsel. She was promoted to Vice President in 2002. FINRA wishes her all the best as she embarks on this new stage of her life.

Kenneth L. Andrichik will be assuming the additional role of Chief Counsel, in addition to his current responsibilities. His new title is Senior VP—Chief Counsel and Director of Mediation and Strategy. Mr. Andrichik began his career in 1980 in the Surveillance and Anti-Fraud Divisions of FINRA (formerly NASD). Between 1985 and 1990, he opened and managed the Midwest Regional Arbitration Office for FINRA. In 1990, he became the Deputy Director of the Arbitration Department, responsible for the operation of the largest dispute resolution forum in the securities industry. In 1995, Mr. Andrichik developed the first full-scale mediation program in the securities industry and became the Director of Mediation. Since 1999, he has led FINRA's initiatives to expand dispute resolution services internationally, and to explore strategies to promote new business opportunities for dispute resolution.

Mr. Andrichik is the immediate past chair of the New York City Bar Association Committee on Alternative Dispute Resolution. He currently serves as a member of the Board of Directors of the Association for Conflict Resolution's Greater New York Chapter and the CPR Institute's National Task Force on Diversity in ADR. He earned his degree in Finance from the University of Illinois and his law degree from Loyola University in Chicago. Please join us in congratulating Mr. Andrichik as he embarks on this new chapter in his career at FINRA.

Dispute Resolution Regional Updates

Participants must successfully complete the online portion of the Basic Arbitrator Training Program before attending an onsite training program. Please visit the Arbitrator Training page at *www.finra.org* for more information. FINRA generally requires a minimum of nine attendees to conduct an on-site session.

Northeast Region

Elizabeth R. Clancy, Vice President and Northeast Regional Director, announced her retirement, effective December 26, 2008. Since joining FINRA in 1997, Ms. Clancy witnessed a new method of selecting arbitrators, the growth of a mediation program, a new Code of Arbitration Procedure and a consolidation with the regulatory arm of the New York Stock Exchange. FINRA wishes Ms. Clancy success and happiness in her future endeavors.

Katherine M. Bayer, former Deputy Regional Director under Elizabeth Clancy, has been named the new Director for FINRA's Northeast Regional office. Ms. Bayer joined FINRA in August 1994 as a Staff Attorney and was promoted to Senior Attorney in 1997. In 2003, Ms. Bayer was promoted to Deputy Regional Director, where she assisted in the management of the regional office. Please join us in congratulating Ms. Bayer on her new role.

Arbitrator Training

During the next three months, the Northeast Regional Office will be conducting in-person Basic Arbitrator Training in these cities on the following dates:

Newark, NJ	March 10, 2009
Albany, NY	March 25, 2009
New York, NY	April 8, 2009
Montpelier, VT	April 22, 2009
Boston, MA	May 21, 2009

If you are interested in attending a Basic Panel Member Training program, please contact Cicely Moise at (212) 858-3963 or cicely.moise@finra.org.

Midwest Region

During the next three months, the Midwest Regional Office will be conducting in-person Basic Arbitrator Training in these cities on the following dates:

Indianapolis, IN	March 4, 2009
St. Louis, MO	March 18, 2009
Pittsburgh, PA	April 8, 2009
Cincinnati, OH	April 22, 2009
Chicago, IL	May 13, 2009
Houston, TX	May 20, 2009

If you are interested in attending a Basic Panel Member Training program, please contact Deborah Woods at (312) 899-4431 or deborah.woods@finra.org.

West Region

Judith Hale Norris, Vice President and Director of the West Regional office, announced her retirement, effective December 26, 2008. Prior to joining FINRA in 1986, Ms. Norris was the Chief Staff Counsel for the United States Court of Appeals for the District of Columbia Circuit and the United States Court of Appeals for the First Circuit. In 2002, FINRA promoted her to the position of Vice President. FINRA thanks Ms. Norris for her contribution to the forum, and wishes her a bright, challenging future.

Laura D. McNamire has been named the new Director for FINRA's West Regional office. Ms. McNamire joined FINRA in 2002 as a staff attorney in the West Region, and was subsequently promoted to the position of Case Administrator Manager. Please join us in congratulating Ms. McNamire on her new role with FINRA.

Arbitrator Training

During the next three months, the West Regional Office will conduct the following in-person Basic Arbitrator Training programs:

Salt Lake City, UT	March 3, 2009
Los Angeles, CA	April 20, 2009
Portland, OR	May 12, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Hannah Yoo at (213) 229-2362 or hannah.yoo@finra.org.

Southeast Region

During the next three months, the Southeast Regional Office will conduct the following in-person Basic Arbitrator Training programs:

Columbia, SC	March 11, 2009
Boca Raton, FL	March 25, 2009
Memphis, TN	April 7, 2009
Atlanta, GA	April 22, 2009
Birmingham, AL	May 13, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Lanette Cajigas at (561) 447-4911 or lanette.cajigas@finra.org.

Arbitrator Tip: FINRA Encourages Arbitrators to Answer Parties' Questions about Specific Investment Products

Under Customer Code of Arbitration Procedure Rule 12403(b)(2)and Industry Code of Arbitration Procedure Rule 13403(b)(2), parties may ask FINRA staff to provide additional information about a listed or appointed arbitrator. In those instances, staff will seek the additional information from the arbitrator, and will send any response to all parties at the same time. Often the additional information sought from the arbitrator involves the arbitrator's knowledge of, or experience with, the investment product in dispute.

Information about an arbitrator's knowledge or experience with the identified investment product enhances transparency and assists parties in selecting arbitrators. Since additional information with regard to an arbitrator's knowledge of, or experience with, an investment product is neither personal nor confidential, FINRA strongly encourages its arbitrators to answer investment product-related questions in a detailed and timely manner.

Directory

Linda D. Fienberg
President, FINRA Dispute Resolution

George H. Friedman
Executive Vice President and Director of FINRA Dispute Resolution

Kenneth L. Andrichik
Senior Vice President – Chief Counsel and Director of Mediation and Strategy

Dorothy Popp
Vice President and Director of Operations

Richard W. Berry
Vice President and Director of Case Administration

Barbara L. Brady
Vice President and Director of Neutral Management

Katherine M. Bayer
Regional Director
Northeast Region

Laura D. McNamire
Regional Director
West Region

Rose Schindler
Vice President and Regional Director
Southeast Region

James Schroder
Associate Vice President
MATRICS DR Business

Scott Carfello
Associate Vice President and Regional Director, Midwest Region

Jisook Lee
Associate Director of Neutral Management and Editor of *The Neutral Corner*

Editorial Board

David Carey	Case Administration
Julie Crotty	Mediation
Nicole Haynes	Northeast Region
Mignon McLemore	Office of Chief Counsel
Nene Ndem	Southeast Region
Paula R. Union	West Region
Patrick Walsh	Midwest Region

FINRA Dispute Resolution Offices

Northeast Region
One Liberty Plaza
165 Broadway, 27th Floor
New York, NY 10006
Phone: (212) 858-4200
Fax: (301) 527-4873

West Region
300 South Grand Avenue
Suite 900
Los Angeles, CA 90071
Phone: (213) 613-2680
Fax: (213) 613-2677

Southeast Region
Boca Center Tower 1
5200 Town Center Circle
Suite 200
Boca Raton, FL 33486
Phone: (561) 416-0277
Fax: (301) 527-4868

Midwest Region
55 West Monroe Street
Suite 2600
Chicago, IL 60603
Phone: (312) 899-4440
Fax: (312) 236-9239

The Neutral Corner is published by FINRA Dispute Resolution in conjunction with FINRA Corporate Communications. Send all correspondence to Jisook Lee, Associate Director of Neutral Management and Editor of *The Neutral Corner*:

FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 27th Floor
New York, NY 10006

Or call (212) 858-4400.

Investor protection. Market integrity.

FINRA
1735 K Street, NW
Washington, DC 20006-1506

www.finra.org

09_0034.1