



**ILLINOIS STATE
BAR ASSOCIATION**

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Via email at pubcom@finra.org

Marcia E. Asquith
Office of Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC, 20006-1506

RE: Regulatory Notice 17-34 (October 18, 2017)

Dear Ms. Asquith:

I am submitting these comments on behalf of the Illinois State Bar Association's Unauthorized Practice of Law Task Force. The Task Force discussed the above referenced regulatory notice at its most recent meeting and reiterates the ISBA's position, as fully expressed in ISBA Professional Conduct Advisory Opinion 13-03, that non-lawyers representing parties in FINRA proceedings constitutes the unauthorized practice of law. Pursuant to ISBA policy, this letter has been reviewed and approved by ISBA President the Hon. Russell W. Hartigan (ret.).

In response to an inquiry about whether a non-lawyer can represent parties before a FINRA proceeding, the ISBA's Professional Conduct Committee concluded that such participation constituted the unauthorized practice of law. The Committee's rationale is fully expressed in Advisory Opinion 13-03, which was approved by the ISBA Board of Governors in January, 2013. A copy of the Opinion is attached. After a description of applicable Illinois law, the crux of the Opinion is that the nature of the representation compels lawyer participation. Factors considered include the complexity of the subject matter involved, the adversarial positions taken, and procedural formalities such as filing pleadings, possible discovery, examination of witnesses, and the conduct of evidentiary hearings.

The ISBA has a long and appropriate tradition of protecting the public by supporting reasonable and justifiable restrictions on non-lawyers engaging in the practice of law. The cases discussed in Opinion 13-03 reflect longstanding Illinois law and remain valid. While Illinois law provides a small window for non-lawyer representation of parties in some very limited administrative circumstances, those circumstances do not appear to be present in FINRA proceedings.

Finally, the ISBA is aware of other, non-FINRA, arbitration proceedings that give full effect to Illinois' restrictions on non-lawyer representation. The Task Force is aware of at least one proceeding where Opinion 13-03 was relied upon, in part, as authority for dismissing a proceeding where one of the parties was represented by a non-lawyer. Accordingly, FINRA's adoption of unambiguous regulations with respect to non-lawyer representation would help to further uniform regulation and guidance in Illinois.

Thank you for the opportunity to submit these comments. If you have any questions, or require any additional information, please do not hesitate to contact me.

Very truly yours,



Charles J. Northrup
General Counsel

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