

Sept. 9, 2018

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street, NW Washington, DC 20006-1506 <x-apple-data-detectors://5>

Re: FINRA Regulatory Notice 18-22

Dear Ms. Mitchell:

I support the proposed rule change to the FINRA Discovery Guide. Investors in arbitration need information about Respondent's insurance policies.

My firm, Deutsch & Lipner, represents investors. We did our first arbitration in 1985, and remain active advocates in the forum. I am also Professor of Law at the Zicklin School of Business at Baruch College, a past President of PIABA, a former member of the NAMC, and author of SECURITIES ARBITRATION DESK REFERENCE.

The proposal is long-overdue. Investors are often "coerced" into low settlements by firms and individuals who claim financial exigency. Investors have little ability to determine the validity of such claims until the collection stage. It is the stuff of litigation and settlement.

In cases where there is an insurance policy, however, the suggestion that there will be collection problems cannot justly be used as a settlement tactic. In such cases, concealment of insurance cannot be justified.

The existence, amount and terms of the insurance policy must be disclosed before can negotiations be conducted with candor and fairness. Yet FINRA rules do not currently require such disclosure.

The laws of New York give court plaintiffs the right to discover insurance information. See CPLR 3101 (d)(2)(f). The rule in FINRA arbitration should not be different and to the disadvantage of investors in arbitration.

Thank you for the opportunity to comment.

Respectfully,

Seth E. Lipner