

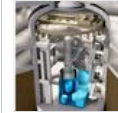
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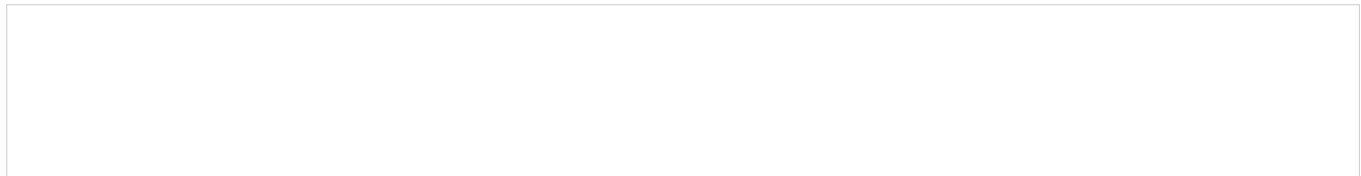
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FEBRUARY 17, 2010, 3:47 P.M. ET

COMPLIANCE WATCH: Finra Checking More Arbitrator Credentials

Article

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A DOW JONES NEWSWIRES COLUMN

NEW YORK (Dow Jones)--The Financial Industry Regulatory Authority is plugging a loophole that has allowed many of its 6,200 arbitrators to serve on its panels without first checking their credentials.

Finra Dispute Resolution, which runs the mandatory arbitration forum where industry members and investors must resolve their legal claims, began background verification of arbitrators in October 2003. However, the bona fides of those who had joined its ranks before then were not checked--until now.

The organization informed arbitrators in a January newsletter that it had launched a programwide effort to check the credentials of those who joined before October 2003. Finra has contracted a third-party vendor to verify employment histories, educational background and professional licenses, and to check for criminal records.

Finra has been sending a form letter to its members requesting their consent to the vetting, and arbitrators who don't consent won't be eligible for future assignments, according to the letter.

Finra began the new effort in November, according to the January newsletter. There was no public announcement at the time, which was less than a month after a Dow Jones Newswires story revealed questions about the credentials of one arbitrator in Dallas who sat on at least six panels.

That arbitrator, Malcolm W. Clarrissimeaux, was assigned to chair a case about ownership rights to an independent branch of Raymond James Financial Inc. (RJF) in Addison, Texas. He listed master's and doctoral degrees on his arbitrator disclosure form from Columbia State University.

A party in the case, adviser Christopher Wanken, challenged the arbitrator's credentials, pointing out that the only college with that name was shut down by court order in 1998 because it was a diploma mill operating from a Louisiana post-office box. Its owner, a hypnotist, pleaded guilty to nine counts of mail fraud in 2004. The purported school had no faculty, curriculum, tests or facilities, according to congressional testimony in 2004.

Clarrissimeaux had been an arbitrator for Finra and a predecessor, the National Association of Securities Dealers, since at least 2002, records show. He is no longer on Finra's roster of arbitrators.

A Finra spokesman told Dow Jones Newswires in October that it was considering background checks for the nearly 4,000 arbitrators who were exempt from the 2003 requirement. Finra accelerated its efforts to get the program under way after the Dow Jones Newswires story raised questions about Clarrissimeaux's background, he said.

The spokesman said it's too early to assess the findings of the background checks or whether any arbitrators will be removed as a result.

The new procedures will help the arbitration process, says Scott Shewan, president of the Public Investors Arbitration Bar Association, or Piaba, a Norman, Okla.-based group of lawyers who represent investors in securities arbitration. "Investors certainly want to have the highest-quality arbitrators possible," he said. "To the extent this would weed out problem arbitrators, I would think this is a good development."

Stuart Meissner, a New York-based lawyer who represents investors, calls the new background check procedures for grandfathered arbitrators "a start." He said he handled one case several years ago in which his own investigation revealed an arbitrator's criminal record for driving while intoxicated and assaulting his wife.

Investors and their lawyers, however, will continue to shoulder the burden of other inquiries, such as whether arbitrators are disclosing potential conflicts of interests, says Meissner.

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