

November 9, 2012

Jeffrey E. Schaff
President
Securities Experts' Roundtable, Inc.

Dear Mr. Schaff:

I am responding to your letter of September 28, 2012 regarding electronic devices used during arbitration hearings. Thank you for alerting us to the issue of potentially unfair recording or transmission of arbitration hearings. The examples you cited of surreptitious recordings raise potential problems for the arbitration process. We want arbitrators to be prepared to handle issues related to any unauthorized recording of hearings. Members of the Securities Experts Roundtable can assist by raising the issues as they come up in hearings.

In response to your letter, FINRA is developing an article in *The Neutral Corner*, our newsletter for arbitrators and mediators, educating our neutrals about this concern. As you know, our rules require every hearing to be recorded and the parties are entitled to a copy of the verbatim record. However, the portability of new electronic devices adds challenges regarding the simultaneous transmission of the proceedings. Some parties may try to use those capabilities inappropriately.

We will consider changes to the arbitration hearing script to alert parties to the importance of seeking approval of the other participants and the arbitrators before attempting to transmit or record the proceedings.

Thank you for raising this issue so that we can attempt to address it early.

Sincerely,


Kenneth Andrichik

cc: Linda D. Fienberg, President, FINRA Dispute Resolution
Rick Berry, Senior Vice President, FINRA Case Administration