

From: Terreni Law Firm, LLC <jennifer.heinmiller=terrenilaw.com@mail72.atl31.mcdlv.net>
To: Kester, Tonykester@aging.sc.gov
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Newsbrief

What's New at Terreni Law Firm, LLC

Hang in there! Spring is just around the corner! We hope you find this Newsbrief useful.

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Firm Updates

On February 10, Charlie Terreni participated in an EPA Clean Power Plan State Implementation Plan exercise that was conducted by the National Association of Regulatory Utility Commissioners (NARUC) and the Nicholas Institute of Duke University. The event was hosted by the Electric Cooperatives of South Carolina and included representatives of the state's utility community, regulators, and environmental groups.

FINRA Arbitration Process

You may have heard the tag line “*member of FINRA and SIPC*” at the end of a commercial for a brokerage firm. FINRA stands for the Financial Industry Regulatory Authority; SIPC is the Securities Investor Protection Corporation. In this newsbrief, we will talk about the FINRA arbitration process.

FINRA is the regulatory body for the securities industry, and its duties include enforcing industry rules, administering discipline to those who break the rules, detecting and preventing wrongdoing in the U.S. markets, and providing education and information for investors. In addition, it provides arbitration and mediation services for eligible cases. An alternative to litigation and mediation, arbitration is a formal process in which parties testify under oath and the arbitrator(s) determine a final and binding decision. Cases that are eligible for FINRA arbitration include those that involve investors, or those involving industry parties only, such as claims of improper investment advice or employment disputes between firms and their brokers.

The FINRA arbitration process is initiated by the claimant, filing a Statement of Claim, Submission Agreement, and the necessary filing fees with FINRA. The Statement of Claim includes the details of the dispute, the type of relief sought, and the parties from whom the claimant is requesting relief or damages (this can include interest, monetary damages, and specific performance). FINRA then serves the Statement of Claim on the named respondents. The respondents then have 45 days from receipt of the Statement of Claim to file an answer with FINRA and serve copies of the answer to all parties involved.

There are two types of FINRA arbitrators: “industry members” and “public members.” Industry members have experience in the financial industry, while public members are not required to have financial industry experience. To become a FINRA arbitrator, an individual must possess a minimum of two years of college-level credits and five years of paid, professional experience. Arbitrators are all required to successfully complete FINRA's arbitrator training program before serving on a case. After completion of the course, new arbitrators are added to FINRA's roster of more than 6,000 arbitrators and becomes eligible to hear cases.

Generally, a single arbitrator is appointed by FINRA without consulting the parties if the claim is for less than \$50,000. If the amount is between \$50,000 and \$100,000, the parties may select one or three arbitrators, whom FINRA will appoint, and if the claim is over \$100,000, the parties will select three arbitrators and FINRA will appoint them.

In investor cases with three panel members, FINRA randomly compiles three lists of arbitrators and their respective background information from the Neutral List Selection System: one composed of ten chair-qualified public arbitrators, one of ten public arbitrators, and one of ten non-public arbitrators who have extensive securities industry backgrounds. The lists are then sent to the parties, who may strike up to four arbitrators from each of the chair-qualified public lists and four from the public list. In addition, any party may opt for the All Public Panel Option by striking the names of all arbitrators on the non-public list.

A customer may also select the All Public Panel Option within thirty-five days of service of the Statement of Claim. Parties must then rank the remaining arbitrators. The respective parties' ranked lists are then combined and reviewed by FINRA and the highest-ranked available arbitrator from each list is appointed. Additionally, if there is no affirmative choice made by the customer, the default panel composition method is the Majority Public Panel Option, which consists of a chair-qualified public arbitrator, a public arbitrator, and a non-public arbitrator.

For industry cases between brokerage firms, if the amount sought is between \$50,000 and \$100,000, one non-public arbitrator will hear the case. If the amount is

greater than \$100,000, the panel will consist of three non-public arbitrators. In this case, two lists will be sent to the parties: one composed of twenty non-public arbitrators, and one of ten non-public chair-qualified arbitrators.

For industry cases between brokers and between or among brokerage firms and brokers, if the amount is between \$50,000 and \$100,000, one public chair-qualified arbitrator will be selected and appointed from a list of ten names. If the amount is greater than \$100,000 or for an unspecified amount, a panel of three arbitrators will be selected and appointed. One arbitrator will be selected from each of the following randomly-generated lists: one of ten chair-qualified public arbitrators, one of ten public arbitrators, and one of ten non-public arbitrators. In such cases, there is no All Public Panel Option.

The FINRA arbitration process is designed to be streamlined and cost-efficient. Once appointed, an arbitration panel will hold an initial prehearing conference, usually by telephone, to establish deadlines for the filing of pretrial motions, discovery, and the final hearing. Hearings are held on location, usually where the respondent is located, and are run according to FINRA's rules of procedure. FINRA arbitrators are neither required to follow the Civil Rules of Procedure nor the Rules of Evidence, but may refer to them for guidance. As is the case with most arbitration awards, decisions are meant to be final, and may only be challenged in court under limited circumstances.

Charlie Terreni is a FINRA Public Arbitrator and qualified Chairperson.

This newsbrief is an informational service for friends and clients of the Terreni Law Firm, LLC. 1508 Lady St., Columbia, South Carolina, 29201. These materials have been prepared for informational purposes only. They are not legal advice. This information is not intended to, and does not, create a lawyer-client relationship. Please contact Charlie Terreni if you have questions or concerns.

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Our mailing address is:

Terreni Law Firm, LLC
1508 Lady St.
Columbia, SC 29201

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