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VIA E-MAIL ONLY

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
E-mail: pubcom@finra.org

Re: FINRA Comment Letter

Dear Ms. Mitchell:

I am submitting this letter on behalf of myself and Silver Law Group. For over twenty years, I have dedicated myself to representing investors in FINRA arbitration claims. I am an active member of PIABA and the Co-Chair of the Securities and Investment Fraud Group of the American Association of Justice. My full bio is available on www.silverlaw.com. Over the course of my career, I have seen countless examples of elder financial abuse by FINRA registered financial advisors. My office represents many families in claims against small and large brokerage firms involving cases of financial advisors breaching a relationship of trust or fiduciary duty. We have handled multiple cases involving financial advisors who improperly serve as an executor or beneficiary of an estate.

FINRA's monthly report of disciplinary actions reveals innumerable examples of brokers improperly borrowing money from customers, wrongly convincing seniors to invest in outside investments or urging customers to make the advisor a beneficiary or trustee of an estate. Elder financial abuse is a growing problem in the United States. For example, we recently represented an elderly woman ("Flossie") with no local family. As Flossie's health deteriorated, a court order Guardian was appointed to help with her affairs. The Guardian was shocked to discover that a year earlier, Flossie's financial advisor coordinated with a lawyer to re-write Flossie's will making the financial advisor the beneficiary of her estate to the exclusion of Flossie's own son. Moreover, the financial advisor had already taken control of Flossie's checking account and was using her money for his personal expenses. As an independent financial advisor, the brokerage firm's supervisory system over the advisor was very lax. Ultimately, we were able to work with the Guardian to reverse the improperly executed estate documents and recover damages. Unfortunately, most victims are not going to have a guardian to help identify problems, leaving the door open for unscrupulous brokers to take advantage of these vulnerable individuals without the knowledge of victims' families, friends, or the brokerage firm.

The rule properly recognizes that a registered person's "immediate family" may make a registered person a part of an estate. Beyond this personal relationship, it is irrational to allow a registered person to become the executor or beneficiary of a customer's estate. However, the

proposed rule raises more ills than it seeks to cure. A family should not discover after the fact that a trusted professional improperly inserted themselves into an estate causing unnecessary emotional damage and financial burdens on the family.

Wall Street fought hard to win the battle defeating the fiduciary duty rule. It should not be allowed to become the fiduciary to an estate after a client passes on.

If a financial advisor disavows prior knowledge of being designated a trustee or beneficiary of an estate, a negative inference should immediately attach to the designation. And, if it is discovered that the financial advisor played a role in being appointed, FINRA rules should allow for some severe sanctions against the advisor.

We are in the midst of the largest generational transfer of wealth in history. There are an increasing number of opportunities for brokers who already stand in a position of trust with their customers to commit elder financial abuse, and the financial motivations to do so will only increase. It is imperative that stronger regulations are put in place to counter these factors.

I applaud FINRA for addressing this important issue. As an attorney who handles many elder financial fraud cases, I believe this is a growing problem that needs to be addressed.

Respectfully submitted,



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SLS/rf