

*Law Offices of*  
**LES GREENBERG**  
10732 Farragut Drive  
Culver City, California 90230-4105  
Tele. & Fax. (310) 838-8105  
E-Mail: plgreen@att.net  
www.LGEsquire.com

March 28, 2008

VIA EMAIL: [foiapa@sec.gov](mailto:foiapa@sec.gov)

FOIA/Privacy Act Officer  
Office of Freedom of Information and Privacy Act Operations  
U.S. Securities and Exchange Commission  
FOIA Office, Mail Stop 5100  
100 F Street, N.E.  
Washington, D.C. 20549

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

This request is made pursuant to the provisions of the Freedom of Information Act (5 U.S.C. §552, *et seq.*).

Please provide me with a copy of all writings, including drafts thereof, *e.g.*, letters, meeting minutes, emails, audits, reports, notes of oral communications and/or interviews, notices, that evidence;

- (1) that recommendations were transmitted to and received by the Commission with respect to Petition for Rulemaking 4-502 ("Petition");
- (2) the date(s) of the meeting(s) at which the Commission took action upon the Petition;
- (3) the identity of the Commissioners who voted in favor or against the action upon the Petition or abstained;
- (4) the Commission's agenda on the date(s) when the Commission took action upon the Petition;
- (5) the minutes of the meeting (s) at which the Commission took action upon the Petition.

**Reasons for Request**

On May 13, 2005, I filed the Petition with the SEC. The Petition deals with deficiencies in the securities arbitration process and suggested remedies. On August 19,

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2005, I received correspondence from the SEC, which informed me that the SEC forwarded the Petition to the Securities Industry Conference on Arbitration ("SICA") "to consider issues associated with" the Petition. Allegedly, in November 2006, SICA formally responded to the SEC's request.

The requested documents will demonstrate that the SEC unreasonably delayed in acting upon the Petition.

On December 12, 2006, I commenced litigation against the SEC based upon allegations, among others, that the SEC has unduly delayed acting upon the Petition. The requested information is expected to demonstrate dilatory conduct with regard to the Petition.

On March 27, 2008, the Secretary wrote, in part, "The Commission has carefully considered the Petition ... and has determined to refer it to the Financial Industry Regulatory Authority, Inc. ... for such action as it deems appropriate. ¶ Accordingly, the Commission hereby DENIES the Petition."

Rule 192a states, in pertinent part:

The Secretary shall acknowledge, in writing, receipt of the petition and refer it to the appropriate division or office for consideration and recommendation. Such recommendations shall be transmitted with the petition to the Commission for such action as the Commission deems appropriate. The Secretary shall notify the petitioner of the action taken by the Commission. (Emphasis added.)

### **Request for Waiver of Fees**

I request a waiver of all fees for documents provided in response to this request. The SEC, in response to my prior requests (Request Nos. 06-7533, 08-01852) for similar documents granted a fee waiver and designated me "as a non-commercial requestor and therefore fees limited to duplication of documents, if substantial."

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am an individual who seeks the information for personal use and not for a commercial use.

Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest.

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Documents obtained from the Request may be used as evidence to substantiate allegations in litigation and/or to reply to any opposition.

I will be able to understand and digest documents provided to me in response to the Request. From 1971 to 1973, I served as the Associate General Counsel and/or Compliance Director of Mitchum, Jones & Templeton, Inc., a regional New York Stock Exchange Member Firm. From 1973, I have been engaged in the private practice of law as a sole practitioner where substantially all representation dealt with financial/investment litigation. I have represented many individual investors and more than twenty (20) regional securities brokerage firms before arbitration panels and in various state and federal courts in hundreds of securities industry related disputes. I was admitted to the NASD panel of arbitrators in 1976. In addition, I have served on the panels of arbitrators of the American Arbitration Association, Pacific Stock Exchange, NYSE and Municipal Securities Rule Making Board. Further, I serve the Los Angeles civil courts and the Los Angeles County Bar Association as an arbitrator.

Documents derived from the Request would be analyzed by me and published on my website and in my email newsletter. Through my website, I publish information pertinent to the securities arbitration process, deficiencies in that process and suggested remedies. For more than two years, through an email newsletter to approximately 1,000 persons interested in securities arbitration, I have disseminated information concerning the securities arbitration process. Responses to some publications have indicated that recipients were not aware of the existence of SICA and/or its influence upon the SEC and the securities arbitration process.

Please communicate with me in the event that further information is required.

Very truly yours,

LES GREENBERG

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cc: Ms. Kristen S. Mackert (MackertK@sec.gov)