

Hon. Jed S. Rakoff
U.S. District Court
Southern District of New York
October 5, 2009

Judge Rakoff,

I am the Washington, D.C. editor for Barron's, the Dow Jones investment magazine. I cover the White House, Congress, the regulators, and everything in-between. Currently, I am researching a news story about lawsuits brought by former NASD members who claim that their \$35,000-share of the proceeds of a merger between the NASD and the regulatory arm of the New York Stock Exchange was a low-ball payment possibly founded on a lie.

NASD claimed in proxy material in December, 2006 that the IRS precluded a larger payment. Yet the NASD did not receive a private letter ruling from the IRS on this payment until March, 2007. The members behind the lawsuits are skeptical that NASD was forthright about the reasons for paying out just \$35,000 each, (\$175 million according to a September 28 Wall Street Journal story) from a total pot of \$2.4 billion.

In one case (07-cv 02014) heard by the late Judge Shirley Kram, correspondence between NASD and the IRS was sealed. Judge Kram later dismissed the case; but it was remanded to you after a successful appeal. I am requesting that you unseal the letters.

There's an irony if the correspondence should reveal that NASD, now FINRA, deliberately lied to its members because then a self-regulatory body, charged with protecting the investors at large, may have engaged in fraud and violated federal securities laws by making false statements in proxy materials.

I am not a lawyer; but I do appreciate that our markets rely heavily on investor confidence. Our regulators, even members of self-regulatory bodies must adhere to the highest standards of conduct; and as a consequence also must be open to some public scrutiny.

Therefore I request access to the letters to ascertain if the very serious accusations made in these lawsuits are grounded in reality or merely the result of pique. We can't tolerate a public perception that there's one rule for the regulated and another law for the regulators.

Thank you,



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