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## Plaintiffs' Bar Unhappy With Tip Process

JACKSONVILLE, Fla. — Got a beef against your broker? Regulators have made it easy for investors to come forward: Call one of their fraud hot lines and tell your story. The [Securities and Exchange Commission](#) may even give you cash if your tip pans out.

If only it were always that easy.

Members of the Public Investors Arbitration Bar Association, the industry group that represents lawyers who sue Wall Street firms, say they do often cooperate with regulators only to end up with a settlement that hurts their clients, the victims of the fraud. And Thursday at their annual conference in Jacksonville, they took their concerns to the Financial Regulatory Authority, or Finra, a Wall Street self-regulator.

“It takes a long time for things to happen and even when things do happen, all I ask in return is that you come to me before you let the weasels off the hook,” Joe Peiffer, a New Orleans lawyer, told Anthony Cavallaro, a vice president of Finra’s Office of Fraud Detection and Market Intelligence. “So why would I come to you when often it is counterproductive?”

Mr. Peiffer, who specializes in bringing multi-claimant cases against Wall Street, says regulatory settlements are typically watered down and include language that makes it harder for investors to prevail in arbitration. For instance firms often settle without admitting or denying guilt. And Mr. Peiffer said some regulatory settlements stipulated the findings could not be used in arbitration.

“This is a hard issue,” says a New York lawyer, Ross Intelisano, a partner with **Rich & Intelisano**. “Your gut always tells you to cooperate with regulators because you care and want to do the right thing so other investors won’t be hurt, but you don’t want to hurt your client in the process.”

In one case involving retirees at [Eastman Kodak](#), Mr. Peiffer said he and his clients spent hundreds of hours helping regulators gather evidence against [Morgan Stanley](#). Mr. Peiffer said he asked regulators during their investigation that, should they settle, they give him some notice so he could have a voice in ensuring the agreement didn’t hurt his clients. In March 2008, regulators announced they had reached a multimillion-dollar settlement with Morgan Stanley and two of its brokers. Mr. Peiffer learned about the

settlement, which included a restitution fund for many Kodak retirees, from a news release.

“The settlement language was potentially damaging in the end, and I just thought ‘why bother?’ ” he said.

Regulators walk a fine line when they decide to work with victims and plaintiff lawyers to shape settlements; their interests are not always aligned. But in some cases regulators have been known to reach out to victims before announcing settlement terms.

Mr. Cavallaro says his office typically deals only with the first call. “When we set up this office we knew there was some reluctance in coming forward, which is why we have been reaching out to the plaintiff bar,” he said. “We hope as a result over time, more calls will come.”

Finra established its Office of Fraud Detection and Market Intelligence in 2009. The Dodd-Frank financial law passed this year provides for the larger bounties for whistleblowers. People who turn over “original information” about frauds could net as much as 30 percent of the penalties and recovered money collected by the S.E.C.

Mr. Cavallaro said cases had already been brought thanks to calls to the Office of Fraud Detection. In March 2009, the hot line received a tip from a Pennsylvania newspaper editor about Robert Glenn Bard and his firm, Vision Specialist Group, an investment adviser registered with Pennsylvania and West Virginia. The editor was concerned about one of his advertisements and notified Finra. In July, the S.E.C. took action against Mr. Bard; a temporary restraining was issued freezing the assets of Mr. Bard and his firm.

The Office of the Whistleblower, a Finra division, made 27 referrals to either Finra or other regulators in 2009. In 2010 there have been approximately 40 referrals.

But not all the calls he gets are fraud related. Finra’s whistle-blower hot line, 866-96-FINRA, is the self-regulator’s only toll-free line and often people who don’t want to pay long-distance charges use it to phone staff members at Finra, he said.

“People who are cheap call and ask to be transferred,” he said.

A Finra spokeswoman said: “It’s critical for investors who feel that they have been victimized to complain to Finra. A great many enforcement actions result from investor complaints. The sooner we hear about wrongdoing, the sooner we are able to take action and keep other investors from being harmed.”

– *Susanne Craig*

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