

**PENNMONT SECURITIES**

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October 26, 2011

United States Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

SEC  
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Section

OCT 31 2011

Attention: Ms. Elizabeth M. Murphy, Secretary to the Commission

Washington, DC

Re: SEC File:4-628-Petition under Rule 553(e) and 17 CFR §201.192(a)

Gentlemen:

This letter is being sent to you to supplement our previous correspondence relating to the matter noted above and to bring an important new matter to your attention.

As you may be aware, the United States Circuit Court for the Second Circuit recently issued its decision in the case of John J. Fiero and Fiero Brothers, Inc. v. Financial Industry Regulatory Authority, Inc., No. 09-cv-1556, slip op. (2d Cir. Oct. 5, 2011). We believe the decision supports several aspects of our petition with respect to the need for Commission action to review and repeal Rule 651 of the Philadelphia Stock Exchange (PHLX).

The Second Circuit makes a clear distinction between “effective upon filing” rules and those which require a longer Commission process, noting that the former approach is permitted to follow a shorter path because it is intended to be used by an SRO to clarify/implement powers that have already been given, not to create new powers. PHLX Rule 651 granted new powers to PHLX it did not possess before. Whether it was a for-profit or not-for-profit organization does not affect the impropriety of submitting the rule to the Commission as a housekeeping addition to its Rules and Regulations. As is clear from our April 29, 2011 petition to the Commission, Our view is that the PHLX rulemaking effort was fatally flawed, was inapplicable to the for-profit structure of PHLX, and that all interested parties should have had the opportunity to participate in a formal proceeding.

While the Second Circuit did not reach the issue, we would note that FINRA did not seek to impose its rule retroactively, while PHLX has taken such action.

Thank you for the opportunity to add our additional thoughts to your consideration of our petition and bring this important case to your attention.

Sincerely,



PENNMONT SECURITIES

Joseph D. Carapico, G.P.