

## Firm Wins Rare Arb Legal Fees

Two arbitration panels have awarded legal fees to a broker/ dealer that fended off a pair of customer claims. Legal fees are rarely awarded to B/Ds, even if they win in arbitration, unless arbitrators determine investor claims are obviously frivolous, arbitration lawyers said. The **NASD** arbitration panels, without saying why, awarded the fees even though traditionally legal fees are usually awarded by the terms of a contract between parties, said **Richard Roth**, partner at **Littman, Krooks & Roth** in New York, who represented the firm, **Adolph Komorsky Investments**, in both arbitrations. "The cases send a warning to claimants who commence frivolous claims," Roth said.

Claims filed against the firm were based upon breach of contract, breach of fiduciary duty, fraud, failure to supervise, misrepresentation, unauthorized trading, unfair and deceptive practices, unfair dealing, unsuitability, unsuitability involving penny stock transactions and violations of NASD rules. J. Pat Sadler, president of the **Public Investors Arbitration Bar Association** (PIABA) and partner at **Sadler & Hovdesven** in Atlanta, said that it is extremely rare to see firms awarded legal fees. "Once a year is a lot," he added, noting that in order for to provide legal fees to be awarded a party contract or state statute must allow or authorize it, and even then arbitrators usually do not award legal fees. Legal fees being awarded to firms is not a front burner topic for PIABA, said Sadler, because it is so rare, nor has PIABA ever taken a position on it although it would likely be against it if it did.

**Timothy Canning**, sole practitioner in Eureka, Calif., who represented one of the investors claiming damages against the firm, did not return calls by press time. **David Neitlich**, sole practitioner in Boston, who represented another client against the firm, declined to comment.