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August 28, 2020

Office of Exemption Determinations
Application No. D-12011
U.S. Department of Labor, EBSA Office of Exemption Determinations
200 Constitution Avenue NW, Suite 400
Washington, DC 20210

Re: REQUEST TO TESTIFY AND OUTLINE

Re: ZRIN 1210-ZA29 [Application No. D-12011] "Improving Investment Advice for Workers & Retirees"

Ladies and Gentlemen:

I am writing to request to testify on behalf of the National Employment Law Project ("NELP") at the upcoming hearing on "Improving Investment Advice for Workers & Retirees." NELP submitted a comment letter on the rule proposal August 6th and requested a hearing. A copy of our letter is available here: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/public-comments/1210-ZA29/00057.pdf>

If invited to testify, I would focus on rebutting arguments put forward by various industry organizations in their comment letters. These testimony "could not be fully explored through written submission," because the comment letters submitted in response to the proposal were not posted for public review until after the comment deadline had passed.

I am prepared to testify as to why brokerage and insurance industry groups' arguments in support of basing the new class exemption on the non-fiduciary regulatory standards of the SEC are unfounded.

- Industry groups have failed to provide any evidence that the Reg. Best Interest rule has resulted in best interest advice.
- Industry groups have failed to provide any evidence that provisions in the Reg. Best Interest rule regarding conflicts of interest will prevent those conflicts from tainting their recommendations.
- Evidence will show that even after the Reg. Best Interest rule, firms continue to engage in a variety of harmful conflicts of interest that encourage and reward bad advice. The evidence will show that the brokerage model hasn't changed at all.

Sincerely,

Judith M. Conti
Government Affairs Director
National Employment Law Project

