



Failure to Disclose May Lead to Removal from the AAA Roster

American Arbitration Association® (AAA®) arbitrators may be placed on inactive status whenever any of their awards are challenged in court based on allegations that the arbitrator failed to properly disclose relationships with individuals, counsel, witnesses or parties to an arbitration. At the conclusion of the court proceedings concerning the challenge to the award and accompanying allegations against the arbitrator, the AAA will make a determination whether to return the arbitrator to active status or remove the arbitrator from the AAA's Roster.

Generally, inactive status means that the arbitrator is not being proposed for the parties' consideration on new cases and will likely have no impact on the arbitrator's status on pending cases. There may, however, be situations in which the AAA would remove an arbitrator from a pending case and declare the office vacant. Arbitrators should always reduce disclosures to writing even if the information is initially conveyed verbally; verbal disclosures are deemed to be insufficient to properly communicate disclosed information.

Canon II of the *Code of Ethics for Arbitrators In Commercial Disputes* (effective March 1, 2004) contains, in part, the following provisions to which AAA arbitrators must scrupulously adhere:

- A.** Persons who are requested to serve as arbitrators should, before accepting, disclose:
 - (1) Any known direct or indirect financial or personal interest in the outcome of the arbitration;
 - (2) Any known existing or past financial, business, professional or personal relationships which might reasonably affect impartiality or lack of independence in the eyes of any of the parties. For example, prospective arbitrators should disclose any such relationships which they personally have with any party or its lawyer, with any co-arbitrator, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving their families or household members or their current employers, partners, or professional or business associates that can be ascertained by reasonable efforts;
 - (3) The nature and extent of any prior knowledge they may have of the dispute; and
 - (4) Any other matters, relationships, or interests which they are obligated to disclose by the agreement of the parties, the rules or practices of an institution, or applicable law regulating arbitrator disclosure.
- B.** Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph A.
- C.** The obligation to disclose interests or relationships described in paragraph A is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, as soon as practicable, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.