

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant  
Adrienne M. Mennemeyer

Case Number: 15-03275

vs.

Respondent  
PNC Investments

Hearing Site: St. Louis, Missouri

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant Adrienne M. Mennemeyer ("Claimant"): Thomas J. Momjian, Esq., Coss & Momjian LLP, Bala Cynwyd, Pennsylvania. Claimant was represented by Lawrence Goldberg, Esq., Goldberg, LLC, St. Louis, Missouri, from filing until Mr. Momjian's appearance on or about September 13, 2016.

For Respondent PNC Investments (Respondent"): Gary Lieberman, Esq., Littler Mendelson PC, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: December 3, 2015.  
Claimant signed the Submission Agreement: November 19, 2015.

Statement of Answer filed on or about: February 5, 2016.  
Respondent signed the Submission Agreement: February 1, 2016.

**CASE SUMMARY**

Claimant asserted the following causes of action: defamation, wrongful termination, unfair competition, tortious interference with business expectancy, and expungement. The causes of action related to Claimant's allegations that Respondent improperly terminated her and reported false information in its Form U5 filing pertaining to Claimant.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in an amount to be proven at hearing, punitive damages in an amount determined to be equitable, pre-

judgment interest, and costs in an amount not to exceed \$1,000,000.00, plus expungement, and all other appropriate relief.

In the Statement of Answer Respondent requested that Claimant's claims be dismissed, that it be awarded its costs and fees in defense of Claimant's claims, that Claimant be assessed arbitration fees and costs, and all other appropriate relief.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

The parties accepted the Panel's composition on the record at the hearing.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. PNC Investments is liable for and shall pay to Claimant Adrienne M. Mennemeyer the sum of \$300,000.00 in compensatory damages.
2. PNC Investments is liable for and shall pay to Claimant Adrienne M. Mennemeyer the sum of \$1,500,000.00 in punitive damages pursuant to *Hester v. Barnett*, 723 S.W.2d 544, 558 (Mo. 1987), *Heitzeberg v. Von Hoffman Press*, 100 S.W.2d 300, 309 (Mo. 1937), and *Baravati v. Josephthal* 28 F.3d 704, 708-711 (7th Cir. 1994).
3. PNC Investments is liable for and shall pay to Claimant Adrienne M. Mennemeyer interest on the above-stated sums at the rate of 9% per annum from and including the service date of this Award, through and including the date this Award is paid in full.
4. PNC Investments is liable for and shall pay to Claimant Adrienne M. Mennemeyer the sum of \$425.00 as reimbursement for the non-refundable portion of Claimant Adrienne M. Mennemeyer's filing fee.
5. The Panel recommends the expungement of the Termination Explanation in Section 3 of Claimant Adrienne M. Mennemeyer's (CRD #5077835) Form U5 filed by PNC Investments on December 23, 2013, from Claimant's registration records maintained by the CRD. The Termination Explanation shall be deleted and replaced with the following language: "Adrienne M. Mennemeyer was wrongfully discharged based on an allegation that she had violated a PNC Investments policy. PNC Investments failed to produce any evidence whatsoever that Adrienne M. Mennemeyer had violated any PNC Investments

policy. Adrienne M. Mennemeyer's discharge was pre-textual, arbitrary, and unreasonable. Adrienne M. Mennemeyer, at all times, acted in a manner public policy would encourage." The Reason for Termination shall remain the same.

6. The Panel also recommends the expungement of the "Yes" answer to Question 7F(1) of Claimant Adrienne M. Mennemeyer's Form U5 filed by PNC Investments on December 23, 2013, and maintained by the CRD. The "Yes" answer to Question 7F(1) shall be changed to "No" and the accompanying Termination Disclosure Reporting Page shall be deleted in its entirety.

The above recommendations are based on the defamatory nature of the information. The Form U5 is not automatically amended to include the changes indicated above. Claimant Adrienne M. Mennemeyer must forward a copy of this Award to FINRA's Registration and Disclosure Department for the amendments to be incorporated into the Form U5.

7. Any and all claims for relief not specifically addressed herein, including attorneys' fees, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

#### **Filing Fees**

FINRA Office of Dispute Resolution assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$ 1,725.00
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*\*The filing fee is made up of a non-refundable and a refundable portion.*

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent PNC Investments is assessed the following:

Member Surcharge	= \$ 2,475.00
Member Process Fee	= \$ 5,075.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed or waived:

October 25-28, 2016, adjournment requested by Claimant	Waived
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**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ \$450.00/session	= \$	450.00
Pre-hearing conference: February 10, 2017	1 session	
Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$	2,600.00
Pre-hearing conferences: April 8, 2016	1 session	
October 19, 2016	1 session	
Nine (9) hearing sessions @ \$1,300.00/session	= \$	11,700.00
Hearing Dates: April 4, 2017	2 sessions	
April 5, 2017	2 sessions	
April 6, 2017	2 sessions	
April 7, 2017	3 sessions	
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Total Hearing Session Fees	= \$	14,750.00

The Panel has assessed \$14,750.00.00 of the hearing session fees to Respondent PNC Investments.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

**ARBITRATION PANEL**

Frederick Michael Switzer, III	-	Public Arbitrator, Presiding Chairperson
Sheldon Weinhaus	-	Public Arbitrator
Teresa Marie Boyer Allgeyer	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

/s/ Frederick Michael Switzer, III  
Frederick Michael Switzer, III  
Public Arbitrator, Presiding Chairperson

04/17/17  
Signature Date

/s/ Sheldon Weinhaus  
Sheldon Weinhaus  
Public Arbitrator

04/17/17  
Signature Date

/s/ Teresa Marie Boyer Allgeyer  
Teresa Marie Boyer Allgeyer  
Non-Public Arbitrator

04/17/17  
Signature Date

04/18/17  
Date of Service (For FINRA Office of Dispute Resolution office use only)

**ARBITRATION PANEL**

Frederick Michael Switzer, III	-	Public Arbitrator, Presiding Chairperson
Sheldon Weinhaus	-	Public Arbitrator
Teresa Marie Boyer Allgeyer	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

*Fred Switzer*

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Frederick Michael Switzer, III  
Public Arbitrator, Presiding Chairperson

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April 17, 2017  
Signature Date

\_\_\_\_\_  
Sheldon Weinhaus  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Teresa Marie Boyer Allgeyer  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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Date of Service (For FINRA Office of Dispute Resolution office use only)

