

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Carmen N. Capri (Claimant) v. PNC Investments (Respondent)

Case Number: 04-06594

Hearing Site: New York, New York

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Nature of the Dispute: Customer v. Member

**REPRESENTATION OF PARTIES**

Claimant Carmen N. Capri hereinafter referred to as "Claimant": James D. Hamilton, Jr., Esq.,  
Dubois, Sheehan, Hamilton & Levin, LLC, Camden, NJ.

Respondent PNC Investments hereinafter referred to as "Respondent": Anne M. Klepach, Esq.,  
Ulmer Berne LLP, Cleveland, OH.

**CASE INFORMATION**

Statement of Claim filed on or about: September 13, 2004.

Claimant signed the Uniform Submission Agreement: September 8, 2004.

Motion to Dismiss and/or Statement of Answer filed by Respondent on or about: December 10,  
2004.

Respondent signed the Uniform Submission Agreement: December 22, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; negligence; limit versus  
market order; breach of fiduciary duty; unauthorized trading; and omission of facts. The causes  
of action relate to Nuveen National Fund.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$10,385.77; interest; attorneys'  
fees; and the costs of arbitration.

Respondent requested that the Arbitrator dismiss the Statement of Claim in its entirety and award all costs incurred in defending this action, including reasonable attorneys' fees and forum fees.

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

At the hearing, Respondent submitted a Motion in Limine, after due consideration, the arbitrator denied the Motion in Limine.

### **AWARD**

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

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$8,423.27, plus interest at a rate of 6 1/2% per annum from June 26, 2002 to the date of payment of the Award.
2. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$ 125.00

#### **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, PNC Investments is a party.  
Member surcharge = \$ 425.00

#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: February 15, 2005 1 session	
Two (2) Hearing sessions @ \$450.00 per session	= \$ 900.00
Hearing Dates: September 30, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 1,350.00

1. The Arbitrator has assessed \$1,350.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 125.00
<u>Total Fees</u>	= \$ 125.00
<u>Less payments</u>	= \$ 575.00
<u>Refund Due Claimant</u>	= \$ 450.00

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$ 425.00
<u>Forum Fees</u>	= \$ 1,350.00
<u>Total Fees</u>	= \$ 1,775.00
<u>Less payments</u>	= \$ 425.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,350.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

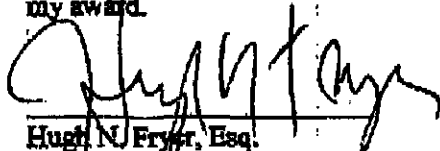
ARBITRATION PANEL

Hugh N. Fryer, Esq.

Sole Public Arbitrator

Arbitrator's Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

  
Hugh N. Fryer, Esq.  
Sole Public Arbitrator

10-05-05  
Signature Date

OCTOBER 7, 2005  
Date of Service (For NASD Dispute Resolution use only)