

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

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In the Matter of the Arbitration Between:

Names of the Claimants

William G. and Constance A. Karis

Case Number: 05-00944

Names of the Respondents

PNC Investments, Inc.

David C. DiCio

Hearing Site: Pittsburgh, Pennsylvania

Nature of the Dispute: Customers vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants, William G. and Constance A. Karis, hereinafter collectively referred to as "Claimants", were not represented by counsel and appeared *pro se*.

Respondents, PNC Investments, Inc. ("PNC") and David C. DiCio ("DiCio"), hereinafter collectively referred to as "Respondents", were represented by Elizabeth M. DeRienzo, Esq., Ulmer & Berne, LLP, Cleveland, Ohio.

**CASE INFORMATION**

Statement of Claim filed on or about February 23, 2005.

Claimants signed the Uniform Submission Agreement on February 16, 2005.

Statement of Answer and Motion to Dismiss filed by Respondents on April 29, 2005.

Respondent DiCio signed the Uniform Submission Agreement on June 15, 2005.

A representative of Respondent PNC executed the Uniform Submission Agreement on March 15, 2005.

Claimants filed a Response to the Motion to Dismiss on June 28, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: omission of material facts, and misrepresentation. The causes of action relates to the purchase of B class shares in Putnam Voyager and Putnam New Opportunities mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimants' claims are not eligible for arbitration pursuant to Rule 10304 of the NASD Code of Arbitration Procedure (the "Code";, statutes of limitation; all recommendations were suitable; ratification; failure to mitigate damages; Claimants' claims are barred by the doctrines of estoppel, waiver, and laches; and Claimants failed to plead their fraud claims with requisite particularity.

**RELIEF REQUESTED**

Claimants in their Statement of Claim requested:

Compensatory Damages

\$85,000.00

Respondents in their Statement of Answer and Motion to Dismiss requested that the Statement of Claim be dismissed in its entirety, that they be awarded costs and reasonable attorneys' fees, and that the Arbitration Panel (the "Panel") recommend the expungement of all references to this matter from Respondent DiCio's record maintained by the NASD Central Registration Depository ("CRD").

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

By Order dated July 15, 2005, the Panel denied Respondents' Motion to Dismiss.

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

1. All claims against Respondents PNC and DiCio are denied in their entirety;
2. All claims for attorneys' fees are denied in their entirety;
3. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

### **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 = \$ 225.00

#### **Member Fees**

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

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,700.00

Total Member Fees = \$3,550.00

Forum Fees and Assessments

The Panel has assessed forum 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 Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: July 22, 2005 1 session

Two (2) Hearing sessions @ \$750.00 = \$1,500.00

Hearing Date: November 1, 2005 2 sessions

Total Forum Fees = \$2,250.00

1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

**EEE SUMMARY**

1. Claimant are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Respondent PNC is assessed and shall pay the following fees:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,350.00
Balance Due NASD Dispute Resolution	= \$ 00.00

3. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

**ARBITRATION PANEL**

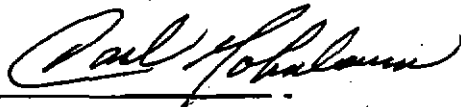
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Carl Hohnbaum	-	Non-Public Arbitrator, Presiding Chairperson
Edward A. Grupp, Esq.	-	Public Arbitrator, Panelist
Robert Charkovsky, Esq.	-	Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Carl Hohnbaum  
Non-Public Arbitrator, Presiding Chairperson



Signature Date

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Edward A. Grupp, Esq.  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Robert Charkovsky, Esq.  
Public Arbitrator, Panelist

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

11/15/05  
Date of Service (For NASD Dispute Resolution office use only)

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Robert Charkovsky, Esq.

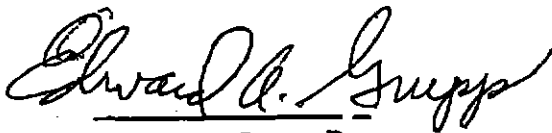
Non-Public Arbitrator, Presiding Chairperson

Public Arbitrator, Panelist

Public Arbitrator, Panelist

Concurring Arbitrators' SignaturesCarl Hohnbaum

Non-Public Arbitrator, Presiding Chairperson

Signature DateEdward A. Grupp, Esq.  
Public Arbitrator, PanelistNovember 8, 2005Signature DateRobert Charkovsky, Esq.

Public Arbitrator, Panelist

Signature DateDate of Service (For NASD Dispute Resolution office use only)

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Edward A. Grupp, Esq.	-	Public Arbitrator, Panelist
Robert Charkovsky, Esq.	-	-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

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Carl Hohnbaum  
Non-Public Arbitrator, Presiding Chairperson

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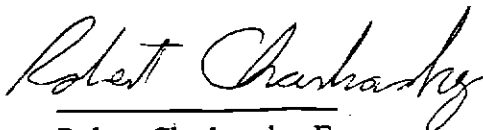
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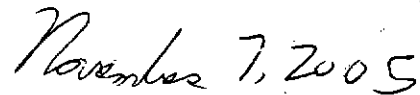
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Robert Charkovsky, Esq.  
~~Non~~-Public Arbitrator, Panelist



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Signature Date

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