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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

WILLIAM H. GROSS, an individual,)	Case No. 30-2015-00813636-CU-BC-CJC
)	
Plaintiff,	)	DEFENDANT PACIFIC
v.	)	INVESTMENT MANAGEMENT
	)	COMPANY LLC'S ANSWER TO
PACIFIC INVESTMENT	)	PLAINTIFF'S COMPLAINT FOR
MANAGEMENT COMPANY LLC, a	)	CONSTRUCTIVE TERMINATION,
Delaware limited liability company,	)	BREACH OF CONTRACT, AND
ALLIANZ ASSET MANAGEMENT	)	BREACH OF COVENANT OF GOOD
OF AMERICA L.P., a Delaware limited	)	FAITH AND FAIR DEALING
partnership, and DOES 1 to 100,)	
inclusive,	)	Dept.: C34
	)	Hon. Martha K. Gooding
Defendants.)	
	)	Complaint Filed: October 8, 2015
)	
)	
)	

1 Pacific Investment Management Company LLC (“PIMCO”) hereby answers the Complaint
2 filed by William H. Gross (“Plaintiff” or “Mr. Gross”) as follows:

3 1. PIMCO denies the allegations of paragraph 1. By suing the investment
4 management firm where he made his career, Mr. Gross seeks to salvage a personal legacy that
5 he undermined with his own self-destructive behavior during his final year at PIMCO. Details
6 of Mr. Gross’s conduct in the workplace began to appear in the financial press in the wake of
7 CEO Mohamed El-Erian’s resignation in January 2014. Mr. Gross became consumed in the
8 months that followed with protecting his own public image above all else. In single-minded
9 pursuit of that objective, he undertook a disruptive and unacceptable course of conduct that
10 included breaking commitments to abide by management decisions, trying to sabotage the
11 careers of the former CEO and others he suspected of disloyalty, and treating his colleagues
12 abusively. When he encountered resistance to his demands, Mr. Gross repeatedly resorted to
13 threats to walk out the door at a moment’s notice if he did not get his way.

14 When Mr. Gross realized that PIMCO would not exempt him from the standards of
15 conduct expected of those entrusted with its leadership, he abruptly quit. He had no
16 employment agreement, and he acknowledged that leaving PIMCO before the end of the third
17 quarter of 2014 would render him ineligible for the profit sharing payments he now claims he
18 is owed.

19 Mr. Gross ended his career at PIMCO with no notice or transition, disregarding
20 the potential impact on the individual and institutional clients whose assets he was responsible
21 for managing. He exited PIMCO’s Newport Beach offices for the last time without telling
22 anyone he was leaving. His longtime colleagues first learned of Mr. Gross’s departure from a
23 press release issued by his new employer, Janus Capital Group, early on the morning of
24 September 26, 2014.

25 2. PIMCO admits that Mr. Gross was among a group of individuals who co-founded
26 PIMCO more than 40 years ago, that over the ensuing years Mr. Gross was closely involved
27 with PIMCO’s investment activities and became a world-renowned investor while at PIMCO,
28

1 and that during that period Mr. Gross was a senior executive of PIMCO who received
2 substantial income from PIMCO. PIMCO denies the remaining allegations in paragraph 2.

3 3. PIMCO denies the allegations of paragraph 3.

4 4. PIMCO denies the allegations of paragraph 4.

5 5. PIMCO denies the allegations of paragraph 5.

6 6. PIMCO admits that Mr. Gross, while at PIMCO, was a world-renowned
7 investment manager focusing on bonds and other fixed income securities, and that he has been
8 called the “Bond King” by the financial media. PIMCO is without knowledge or information
9 sufficient to form a belief as to the remaining allegations of paragraph 6, and on that basis
10 denies them.

11 7. PIMCO admits the allegations of paragraph 7.

12 8. PIMCO admits the allegations of paragraph 8, except the principal place of
13 business of Allianz Asset Management of America L.P. is at 650 Newport Center Drive,
14 Newport Beach, California.

15 9. The allegations of paragraph 9 constitute a legal conclusion to which no response
16 is required. To the extent a response is required, PIMCO denies the allegations of paragraph 9.

17 10. The allegations of paragraph 10 constitute a legal conclusion to which no
18 response is required. To the extent a response is required, PIMCO denies the allegations of
19 paragraph 10.

20 11. PIMCO is without knowledge or information sufficient to form a belief as to the
21 truth of the allegations of paragraph 11, and on that basis denies them.

22 12. PIMCO is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations of paragraph 12, and on that basis denies them.

24 13. PIMCO admits that Mr. Gross, Mr. Muzzy, and Mr. Podlich co-founded the
25 investment management business that became PIMCO in 1971. PIMCO is without knowledge
26 or information sufficient to form a belief as to the truth of the remaining allegations of
27 paragraph 13, and on that basis denies them.

1 14. PIMCO admits that Mr. Gross developed investment skills while working at
2 Pacific Mutual and PIMCO and received increasing recognition as an investment manager over
3 the course of his career at PIMCO, and PIMCO admits that Mr. Gross was a Certified
4 Financial Analyst. PIMCO denies the remaining allegations of paragraph 14.

5 15. PIMCO admits that Mr. Gross and others at PIMCO engaged in the active
6 management of fixed income investments, and that Mr. Gross was named a co-inventor on a
7 United States patent for a fixed income securities index. PIMCO is without knowledge or
8 information sufficient to form a belief as to the truth of the remaining allegations of paragraph
9 15, and on that basis denies them.

10 16. PIMCO admits that while at PIMCO Mr. Gross was recognized as an authority on
11 bond markets and became widely known as an investment manager. PIMCO is without
12 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
13 of paragraph 16, and on that basis denies them.

14 17. PIMCO admits that Mr. Gross and PIMCO popularized the phrase “the new
15 normal.” PIMCO is without knowledge or information sufficient to form a belief as to the
16 truth of the remaining allegations of paragraph 17, and on that basis denies them.

17 18. PIMCO denies the allegations of paragraph 18.

18 19. PIMCO admits that Mr. Gross was inducted into the Fixed-Income Analyst
19 Society Hall of Fame and has been named Morningstar Fixed Income Manager of the Year and
20 Fund Manager of the Decade. PIMCO is without knowledge or information sufficient to form
21 a belief as to the truth of the remaining allegations of paragraph 19, and on that basis denies
22 them.

23 20. PIMCO admits that, in 2013, PIMCO was managing nearly \$2 trillion in assets,
24 that the Total Return Fund at that time had nearly \$300 billion in assets under management,
25 and that Mr. Gross’s reputation and track record had contributed to PIMCO’s size by that time.
26 PIMCO denies the remaining allegations of paragraph 20.

27 21. PIMCO admits that in 2007 Mr. Gross was in his sixties and had been employed
28 by PIMCO for 35 years and Mr. Thompson was Chief Executive Officer of PIMCO. PIMCO

1 is without knowledge or information sufficient to form a belief as to the truth of the remaining
2 allegations of paragraph 21, and on that basis denies them.

3 22. PIMCO admits that Mr. El-Erian has had a distinguished career and served as
4 PIMCO's head of Emerging Markets from 1999 to 2006, and that in 2006 Mr. El-Erian left
5 PIMCO on good terms to become the President and Chief Executive Officer of Harvard
6 Management Company. PIMCO is without knowledge or information sufficient to form a
7 belief as to the truth of the remaining allegations of paragraph 22, and on that basis denies
8 them.

9 23. PIMCO is without knowledge or information sufficient to form a belief as to the
10 truth of the allegations of paragraph 23, and on that basis denies them.

11 24. PIMCO admits that Mr. El-Erian rejoined PIMCO in 2007 as co-Chief Executive
12 Officer with Mr. Thompson and co-Chief Investment Officer with Mr. Gross and that Mr. El-
13 Erian was a potential successor to one or both of these individuals. PIMCO denies the
14 remaining allegations of paragraph 24.

15 25. PIMCO denies the allegations of paragraph 25.

16 26. PIMCO denies the allegations of paragraph 26.

17 27. PIMCO admits that Mr. Gross at one point sought to change his role on the
18 PIMCO Investment Committee and attempted to unilaterally assign additional responsibilities
19 to Mr. El-Erian. PIMCO denies the remaining allegations of paragraph 27.

20 28. PIMCO denies the allegations of paragraph 28.

21 29. PIMCO admits that Mr. El-Erian resigned from PIMCO. PIMCO denies the
22 remaining allegations of paragraph 29. PIMCO undertook a CEO selection process to identify
23 Mr. El-Erian's successor. In a press release issued on January 21, 2014, PIMCO announced
24 that Mr. El-Erian had decided to step down from his role and leave the firm in mid-March
25 2014, when he would become an adviser to the Board of Management of non-party Allianz SE
26 on global economic and policy issues. PIMCO also announced in the press release the
27 appointments of Andrew Balls and Daniel Ivascyn as Deputy Chief Investment Officers,
28

1 reporting to Mr. Gross as Chief Investment Officer, and the appointment of Douglas Hodge as
2 Chief Executive Officer.

3 30. PIMCO admits that it undertook a CEO selection process to replace Mr. El-Erian.
4 PIMCO denies the remaining allegations of paragraph 30.

5 31. PIMCO admits that Mr. El-Erian remained CEO of PIMCO until March 2014.
6 PIMCO denies the remaining allegations of paragraph 31.

7 32. PIMCO admits that PIMCO announced Mr. El-Erian's resignation during a
8 meeting of the Managing Directors on January 21, 2014. PIMCO denies the remaining
9 allegations of paragraph 32. Mr. Gross personally informed at least one person outside the
10 company of Mr. El-Erian's plans to resign more than a week earlier.

11 33. To the extent that the allegations of paragraph 33 characterize the contents of a
12 *Financial Times* article published on January 22, 2014, the document speaks for itself.
13 PIMCO admits that Mr. Balls formerly worked for the *Financial Times* and spoke to the
14 reporter after PIMCO issued the January 21, 2014 press release announcing Mr. El-Erian's
15 resignation. PIMCO denies the remaining allegations of paragraph 33.

16 34. To the extent that the allegations of paragraph 34 characterize the contents of a
17 *Financial Times* article, the document speaks for itself. PIMCO denies the remaining
18 allegations of paragraph 34.

19 35. PIMCO denies the allegations of paragraph 35.

20 36. To the extent that the allegations of paragraph 36 characterize the contents of the
21 *Wall Street Journal* article, the document speaks for itself. PIMCO denies the remaining
22 allegations of paragraph 36. Following Mr. El-Erian's resignation, media coverage attributed
23 the departure to friction with Mr. Gross, and contained negative portrayals of Mr. Gross's
24 management style and treatment of his colleagues at PIMCO. Mr. Gross sought to take
25 matters into his own hands by speaking to reporters directly. In one of these instances, Mr.
26 Gross called Reuters reporter Jennifer Ablan while he was driving from Los Angeles to Orange
27 County. In a subsequent article authored by Ms. Ablan, published on March 7, 2014, Reuters
28 reported that Mr. Gross claimed on that call that Mr. El-Erian was "trying to undermine" him,

1 that he had “evidence” that Mr. El-Erian wrote the *Wall Street Journal* article, and that he had
2 been monitoring Mr. El-Erian’s phone calls. Mr. Gross denied making the statements
3 attributed to him and pledged to PIMCO’s Executive Committee not to comment further about
4 Mr. El-Erian in the press. He also produced what he claimed were contemporaneous
5 handwritten notes of his phone call with Ms. Ablan, taken in his car while he was pulled over
6 on the side of the 405 freeway. Mr. Gross claimed to have located the notes in the trunk of his
7 car. Attached as Exhibit A hereto are a copy of the purported notes and a typed transcription.

8 37. PIMCO denies the allegations of paragraph 37, except PIMCO admits that
9 PIMCO investigated compliance with its media policy following publication of the *Wall Street*
10 *Journal* article, and that the review identified calls between Mr. Balls and the *Financial Times*
11 and the *Wall Street Journal*.

12 38. PIMCO admits that Messrs. Gross, Hodge, Jacobs, and Flattum met with Mr.
13 Balls, that Mr. Balls confirmed that he communicated with the *Financial Times* and *Wall*
14 *Street Journal* reporters after speaking to Mr. El-Erian, who was CEO of PIMCO at the time,
15 regarding the articles, and that Mr. Balls signed a statement regarding those communications.
16 To the extent that the allegations of paragraph 38 characterize the contents of that statement,
17 the document speaks for itself. PIMCO denies the remaining allegations of paragraph 38.

18 39. PIMCO denies the allegations of paragraph 39, except that PIMCO admits that
19 Mr. Balls signed the statement referenced in PIMCO’s response to paragraph 38.

20 40. PIMCO denies the allegations of paragraph 40, except PIMCO admits that in
21 March 2014 Mr. Balls offered to resign from PIMCO.

22 41. PIMCO denies the allegations of paragraph 41.

23 42. PIMCO denies the allegations of paragraph 42, except PIMCO admits that Mr.
24 Gross urged the Executive Committee to immediately terminate Mr. El-Erian and deny him a
25 payment, that the Executive Committee denied Mr. Gross’s requests, and that at one point Mr.
26 Hodge warned Mr. Gross that he could be held accountable for his conduct.

27 43. PIMCO denies the allegations of paragraph 43. When the Executive Committee
28 would not go along with Mr. Gross’s efforts to attack Mr. El-Erian, Mr. Gross again sought to

1 take matters into his own hands. For example, in violation of prior commitments to the
2 Executive Committee, on April 10, 2014, Mr. Gross appeared on *Bloomberg TV* and vented his
3 frustration. He accused Mr. El-Erian of failing “to have spoken up and to have cleared the air
4 and supported the company he so proudly helped build,” and challenged Mr. El-Erian to
5 explain himself: “I would simply say, come on, Mohamed. Tell us why.” After this television
6 appearance, PIMCO’s Executive Committee imposed a temporary suspension on Mr. Gross’s
7 communications with the media. In response, Mr. Gross made threats that he might resign
8 from PIMCO. In light of Mr. Gross’s behavior, PIMCO engaged in contingency planning in
9 case he made good on his threats.

10 44. PIMCO admits that Mr. Ivascyn is a lead portfolio manager for certain PIMCO
11 private funds. PIMCO denies the remaining allegations of paragraph 44.

12 45. PIMCO denies the allegations of paragraph 45.

13 46. PIMCO denies the allegations of paragraph 46.

14 47. PIMCO denies the allegations of paragraph 47, except PIMCO admits that Mr.
15 Ivascyn became a member of the PIMCO Compensation Committee in 2013.

16 48. PIMCO denies the allegations of paragraph 48, except PIMCO admits that
17 PIMCO’s Profit Sharing Plan does not provide for specific allocation of profits by business
18 units and refers to the Amended and Restated Pacific Investment Management Company Non-
19 Qualified Profit Sharing Plan effective January 1, 2012 (the “Plan”), for a complete description
20 of its terms.

21 49. PIMCO denies the allegations of paragraph 49.

22 50. PIMCO denies the allegations of paragraph 50.

23 51. PIMCO denies the allegations of paragraph 51.

24 52. PIMCO denies the allegations of paragraph 52.

25 53. PIMCO admits that Mr. Harris serves as Chairman of the Board of certain
26 PIMCO sponsored investment companies. PIMCO denies the remaining allegations of
27 paragraph 53.

28 54. PIMCO denies the allegations of paragraph 54.

1 55. PIMCO denies the allegations of paragraph 55.

2 56. PIMCO denies the allegations of paragraph 56.

3 57. PIMCO denies the allegations of paragraph 57, except PIMCO admits that

4 PIMCO sought to negotiate a succession plan with Mr. Gross.

5 58. PIMCO denies the allegations of paragraph 58, except PIMCO admits that

6 Allianz SE is the ultimate parent company of PIMCO.

7 59. PIMCO denies the allegations of paragraph 59, except PIMCO admits that in

8 September 2014 members of PIMCO's Executive Committee engaged in discussions with Mr.

9 Gross regarding succession planning.

10 60. PIMCO admits that Michael Diekmann, then CEO of Allianz SE, travelled to

11 California in September 2014 to meet with Mr. Gross and others at PIMCO concerning Mr.

12 Gross's role at PIMCO, that Joachim Faber was the CEO of Allianz Global Investors AG (now

13 called Allianz Asset Management AG) until 2011, and that Mr. Thompson was a former CEO

14 of PIMCO. PIMCO denies the remaining allegations of paragraph 60.

15 61. PIMCO denies the allegations of paragraph 61.

16 62. PIMCO denies the allegations of paragraph 62.

17 63. PIMCO denies the allegations of paragraph 63.

18 64. PIMCO denies the allegations of paragraph 64.

19 65. PIMCO denies the allegations of paragraph 65, except PIMCO admits that Mr.

20 Diekmann arrived in California on the evening of September 17, 2014.

21 66. PIMCO denies the allegations of paragraph 66, except PIMCO admits that Mr.

22 Gross met with Mr. Diekmann in Newport Beach on the morning of September 18, 2014.

23 67. PIMCO denies the allegations of paragraph 67, except PIMCO admits that Mr.

24 Diekmann met with Mr. Hodge and Mr. Jacobs on September 18, 2014, after meeting with Mr.

25 Gross.

26 68. PIMCO denies the allegations of paragraph 68.

27

28

1 69. PIMCO denies the allegations of paragraph 69, except PIMCO admits that Mr.
2 Gross met with Mr. Diekmann, Mr. Hodge, and others at noon on September 18, 2014, not
3 September 25, 2014.

4 70. PIMCO denies the allegations of paragraph 70, except PIMCO admits that Mr.
5 Hodge presented a potential transition plan to Mr. Gross at the noon meeting on September 18,
6 2014.

7 71. PIMCO denies the allegations of paragraph 71, except PIMCO admits that
8 PIMCO proposed that Mr. Gross remain at PIMCO through December 2014 to facilitate an
9 orderly transition of his duties and responsibilities.

10 72. PIMCO denies the allegations of paragraph 72. Although Mr. Gross rejected
11 PIMCO's proposal during the noon meeting on September 18, 2014, PIMCO continued to
12 engage in negotiations with Mr. Gross and his personal attorneys up until Mr. Gross's sudden
13 resignation.

14 73. PIMCO denies the allegations of paragraph 73. On September 25, 2014, during a
15 meeting with Mr. Hodge and Mr. Flattum, Mr. Gross acknowledged that he would not be
16 eligible for a profit sharing payment for the third quarter of 2014 if he left PIMCO before the
17 end of the quarter. In the middle of the night, before walking out of PIMCO's offices for the
18 last time, Mr. Gross left behind a handwritten note (attached as Exhibit B hereto). Several
19 hours later, PIMCO found Mr. Gross's resignation note, after first learning of his departure
20 from media reports of an early morning press release issued by Janus Capital Group, Mr.
21 Gross's new employer. The note was addressed to "CEO, PIMCO" and stated, "This letter
22 will confirm my resignation from PIMCO as of Sept 26th, 2014 at 6:29 AM PST." It was
23 signed, "William H. Gross."

24 74. PIMCO admits that Exhibit 1 is a true and correct copy of the Plan and refers to
25 the Plan for a complete description of its terms. PIMCO denies the remaining allegations of
26 paragraph 74.

27 75. PIMCO admits that Mr. Gross received approximately \$300 million from PIMCO
28 over the course of 2013. PIMCO denies the remaining allegations of paragraph 75.

1 76. PIMCO admits that the Plan provides for profit sharing for quarters ending March
2 31, June 30, September 30, and December 31, and refers to the Plan for a complete description
3 of its terms. PIMCO denies the remaining allegations of paragraph 76.

4 77. PIMCO admits that Mr. Gross received profit sharing payments under the Plan
5 for the first two quarters of 2014. PIMCO denies the remaining allegations of paragraph 77.

6 78. PIMCO admits that Mr. Gross resigned from PIMCO before the end of the third
7 quarter of 2014 and that PIMCO informed Mr. Gross that he was not entitled to a profit sharing
8 payment for the third quarter of 2014. PIMCO denies the remaining allegations of paragraph
9 78.

10 79. PIMCO admits that no profit sharing payment was paid to Mr. Gross for the third
11 quarter of 2014. PIMCO denies the remaining allegations of paragraph 79.

12 80. PIMCO denies the allegations of paragraph 80.

13 81. PIMCO admits that PIMCO's Management Board is comprised of PIMCO
14 Managing Directors and that the Managing Directors participate in the election of PIMCO
15 executives to certain committees and offices for various terms. PIMCO denies the remaining
16 allegations of paragraph 81.

17 82. PIMCO denies the allegations of paragraph 82.

18 83. PIMCO admits that Mr. Gross was elected to the position of Chief Investment
19 Officer of PIMCO on more than one occasion. PIMCO denies the remaining allegations of
20 paragraph 83.

21 84. PIMCO denies the allegations of paragraph 84.

22 85. PIMCO denies the allegations of paragraph 85.

23 86. PIMCO admits that Mr. Gross received options to purchase PIMCO units that had
24 not vested at the time of his resignation. PIMCO denies the remaining allegations of
25 paragraph 86.

26 **FIRST CAUSE OF ACTION**

27 **(Constructive Termination)**

28 87. Paragraph 87 alleges no facts and requires no response.

1 88. PIMCO admits that, until Plaintiff's resignation, he was an employee of PIMCO.
2 PIMCO denies the remaining allegations of paragraph 88.

3 89. PIMCO denies the allegations of paragraph 89.

4 90. PIMCO denies the allegations of paragraph 90.

5 91. PIMCO denies the allegations of paragraph 91.

6 92. PIMCO denies the allegations of paragraph 92.

7 93. PIMCO denies the allegations of paragraph 93.

8 **SECOND CAUSE OF ACTION**

9 **(Breach of Written Contract)**

10 94. Paragraph 94 alleges no facts and requires no response.

11 95. PIMCO admits the allegations of paragraph 95.

12 96. PIMCO admits the allegations of paragraph 96.

13 97. PIMCO admits that Mr. Gross was a Participant in the Plan prior to his
14 resignation from PIMCO and refers to the Plan for a complete description of its terms.
15 PIMCO denies the remaining allegations of paragraph 97.

16 98. PIMCO denies the allegations of paragraph 98.

17 99. PIMCO admits that paragraph 99 accurately quotes with emendations a portion of
18 Section 3.1 of the Plan. PIMCO denies the remaining allegations of paragraph 99.

19 100. PIMCO admits that paragraph 100 accurately quotes with emendations a portion
20 of Section 3.4(a) of the Plan. PIMCO denies the remaining allegations of paragraph 100.

21 101. PIMCO admits that paragraph 101 accurately quotes with emendations a portion
22 of the definition of "Covered Quarter" in the Plan. PIMCO denies the remaining allegations of
23 paragraph 101.

24 102. PIMCO denies the allegations of paragraph 102.

25 103. PIMCO denies the allegations of paragraph 103.

26 104. PIMCO denies the allegations of paragraph 104.

1 **THIRD CAUSE OF ACTION**

2 **(Breach of Covenant of Good Faith and Fair Dealing)**

3 105. Paragraph 105 alleges no facts and requires no response.

4 106. PIMCO admits that Mr. Gross was a participant in the Plan prior to his
5 resignation from PIMCO. PIMCO denies the remaining allegations of paragraph 106.

6 107. PIMCO denies the allegations of paragraph 107.

7 108. PIMCO denies the allegations of paragraph 108.

8 109. PIMCO denies the allegations of paragraph 109.

9 110. PIMCO denies the allegations of paragraph 110.

10 **PLAINTIFF'S PRAYER FOR RELIEF**

11 PIMCO denies that Mr. Gross is entitled to any of the relief sought in his prayer for relief.

12 **AFFIRMATIVE DEFENSES**

13 Without admitting any of the facts alleged in the Complaint, PIMCO hereby asserts and
14 alleges the following separate and additional defenses, without prejudice to PIMCO's right to
15 argue that Plaintiff bears the burden of proof as to any one or more of said defenses.
16 Furthermore, all such defenses are pleaded in the alternative and do not constitute an admission of
17 liability or an admission that Plaintiff is entitled to any relief whatsoever. PIMCO may have
18 additional affirmative defenses of which it is not fully aware and reserves the right to assert
19 additional affirmative defenses after they are ascertained. PIMCO asserts the following separate
20 and additional defenses to the Complaint:

21 **FIRST DEFENSE**

22 **(Good Cause Based on Employee's Misconduct)**

23 1. As a separate defense to the Complaint, Plaintiff is barred from relief to the extent
24 the Complaint, and each purported cause of action asserted therein, is barred because good cause
25 existed to terminate Plaintiff's employment. At the time Mr. Gross resigned from PIMCO,
26 PIMCO had good cause to terminate Mr. Gross's employment based on his conduct. Mr. Gross's
27 misconduct included breaking commitments to abide by management decisions, trying to
28 sabotage the careers of the former CEO and others he suspected of disloyalty, treating his

1 colleagues abusively, and repeatedly threatening to resign without notice if he did not get his way.
2 PIMCO conducted a reasonable and good faith investigation of such misconduct and, on that
3 basis, would have had adequate grounds to terminate Mr. Gross's employment for cause at the
4 time he resigned.

5 **SECOND DEFENSE**

6 **(Waiver)**

7 2. As a separate defense to the Complaint, without admitting that Plaintiff had a claim
8 to a profit sharing payment for the third quarter of 2014, Plaintiff is barred from relief to the
9 extent Plaintiff has, by his actions, waived any right to recovery. Upon information and belief,
10 Mr. Gross understood his contractual rights under the Profit Sharing Plan. During a meeting on
11 September 25, 2014, Mr. Gross acknowledged that any resignation prior to the end of the third
12 quarter of 2014 would result in his forfeiting any potential profit sharing payment for that quarter
13 under the Plan. By subsequently resigning, Mr. Gross freely and knowingly waived any right he
14 may have had to such a payment.

15 **THIRD DEFENSE**

16 **(Failure to Reasonably Mitigate Damages)**

17 3. As a separate defense to the Complaint, without admitting any liability whatsoever
18 and without admitting that Plaintiff has suffered any loss or damage whatsoever, Plaintiff's claims
19 are barred and/or must be reduced in whole or in part due to Plaintiff's failure to reasonably
20 mitigate damages. Upon information and belief, Mr. Gross failed to make reasonable efforts to
21 minimize damages from his alleged discharge. Although Mr. Gross began his employment at
22 Janus Capital Group immediately upon resigning from PIMCO, he failed to use reasonable
23 diligence to find employment that was substantially comparable to his position at PIMCO, from
24 which he resigned.

25 **FOURTH DEFENSE**

26 **(No Damages)**

27 4. As a separate defense to the Complaint, Plaintiff is barred from relief to the extent
28 Plaintiff has suffered no damages in connection with the allegations set forth in the Complaint.

1 Mr. Gross asserts that he has suffered damages in excess of “\$200 million” (for example, in
2 paragraph 104), but provides no detail to explain how he arrives at that number. In fact, Mr.
3 Gross suffered no compensable damages in connection with the causes of action alleged in the
4 Complaint.

5 **FIFTH DEFENSE**

6 **(Additional Affirmative Defenses)**

7 5. PIMCO alleges all other affirmative defenses that may potentially become available
8 as a result of information developed through discovery or trial.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, PIMCO prays judgment as follows:

- 11 1. That Plaintiff take nothing from PIMCO by way of the Complaint;
- 12 2. That judgment be entered in favor of PIMCO;
- 13 3. That the Complaint be dismissed in its entirety and with prejudice;
- 14 4. For reasonable attorney’s fees, pursuant to Code of Civil Procedure
15 Section 128.5;
- 16 5. For costs of suit incurred herein; and
- 17 6. For such other and further relief as the Court may deem just and proper.

18
19 DATED: April 4, 2016

BOIES, SCHILLER & FLEXNER LLP

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Attorneys for Defendants

EXHIBIT A

Jennifer Alban phone call Reuben

Gross - Hello Jennifer this is Vicki
Gross from Pimco How are you

Alban - Oh hi Vicki it's been a long time

Gross - Yeah well I guess so, I'm
up here in LA with a little medical
problem for Sue but another matter
and off the record Jennifer I'm sure
you read stuff in the press about
Mohamed saying most of which
unfavorable Pimco. Would you
be willing to review that told our side
of story

Alban - Oh Vicki I respect both of
you, I couldn't do that. I just
respect Mohamed so that

Gross - Oh but we're being unbalanced
Jennifer, we have phone records

to prove it

Alban OH I don't believe Mohamed
would do that

Chris OH I can see he has you
wrapped around his little finger like

everyone else. Goodbye Jennifer,

BSPN.COM

Nick Studio Launch?

Sunset L Beverly Center

1-7-05

Jennifer Alban phone call
Reuters

Gross – Hello Jennifer this is Bill
Gross from PIMCO How are you

Alban – OH hi Bill its been a long time

Gross – Yeah well I guess so, I'm
up here in LA with a little medical
problem for Sue but another matter
and off the record Jennifer I'm sure
you read stuff in the press about
Mohamed resignation most of which
unfavorable PIMCO. Would you
be willing to review that told our side
of story

Alban OH Bill I respect both of
you, I couldnt do that. I just
respect Mohamed so that

Gross OH but wer [sic] being undermined
Jennifer, we have phone records
to prove it

Alban OH I dont believe Mohamed
would do that

Gross OH I can see he has you
wrapped around his little finger like
everyone else Goodbye Jennifer.

ESPN.com
Nick studio Lunch?
Sunset & Beverly Center
Frapies [sic]

EXHIBIT B

TO: CEO, PIMCO

This letter will confirm my
resignation from PIMCO as of Sept
26th, 2014 at 6:29 AM PST.

William H Gross