

**NASD DISPUTE RESOLUTION AWARD**

**NASD DISPUTE RESOLUTION**

CASE: 04-00894

Mike B. Duckworth, Claimant v. Merrill Lynch Pierce Fenner & Smith, Inc., Respondent.

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**ATTORNEYS:**

For Claimant, Mike B. Duckworth, ("Claimant"), appeared Jeffrey B. Kaplan, Esq., of the firm Dimond, Kaplan & Rothstein, P.A., Miami, FL.

For Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., ("Respondent"), appeared A. Inge Selden, III, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

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**NATURE OF DISPUTE:** Customer v. Member

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**DATE FILED:** February 6, 2004

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**CASE SUMMARY:** Claimant alleged that Respondent breached its fiduciary duty, was negligent, and committed common law fraud, fraudulent misrepresentation, and fraudulent inducement. Claimant's claim involved Focus 20 Fund stock. Claimant maintained that due to Respondent's actions, his account suffered financial losses.

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**Claim Data**

Claim: \$5,026.32, plus rescissory damages from sale of Focus 20 Fund and disgorgement of monies earned by Respondent from such transactions

Interest: Unspecified

Filing Fees: Unspecified

Other: Unspecified

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**Award Data**

Award: \$.00

Interest: \$.00

Filing Fees: \$.00

Other: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of the Claimant are dismissed in their entirety. 2) All requests for interest are denied. 3) All other relief requests are denied. 4) NASD Dispute Resolution shall retain the \$325.00 filing fee that the Claimant deposited previously.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$325.00 Member Surcharge previously invoiced.

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**ARBITRATOR**

Bobby M. Harges, J.D. - Sole Public Arbitrator

**AFFIRMATION**

I, Bobby M. Harges, J.D., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

Bobby M. Harges  
Bobby M. Harges, J.D.

July 16, 2004  
Signature Date

July 26, 2004  
Date of Service (For NASD-DR office use only)