

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 04-00896

Sylvia Yarus & Lance Owen Yarus JTWROS, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimants, Sylvia Yarus & Lance Owen Yarus JTWROS, ("Claimants"), 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, Esq., III, of the firm Maynard Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customer v. Member.

DATE FILED: February 6, 2004.

CASE SUMMARY: Claimants alleged that Respondent violated the rules of the New York Stock Exchange and NASD, breached its fiduciary duty, and negligently, intentionally and/or recklessly misrepresented and/or omitted material facts in connection with investment into the Focus 20 Fund. Claimants maintained that due to Respondent's actions, the joint account suffered financial losses.

Claim Data

Claim: \$8,413.30

Interest: Unspecified

Filing Fees: Unspecified

Other: Unspecified

Award Data

Award: \$4,400.00

Interest: \$.00

Filing Fees: \$.00

Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay the claimants \$4,400.00. 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 Claimants deposited previously.

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

Robert D. Herschman, Esq. - Sole Public Arbitrator

AFFIRMATION

I, Robert D. Herschman, Esq., 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.

Robert D. Herschman
Robert D. Herschman, Esq.

9/8/04
Signature Date

September 15, 2004
Date of Service (For NASD-DR office use only)