

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

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CASE: 04-01495

The Estate of Carl A. Moritz, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc.,  
Respondent

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**ATTORNEYS:**

For Claimant The Estate of Carl A. Moritz ("Claimant") appeared Jeffery 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 vs. Member.

**DATE FILED:** March 4, 2004.

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**CASE SUMMARY:** Claimant alleged that it suffered financial damages as a result of Respondent's misrepresentations associated with the recommendation and sale of its proprietary mutual fund, the Merrill Lynch Focus Twenty Fund. Claimant maintained that due to Respondent's actions, the account suffered losses. Claimant's claim involved mutual funds.

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**Claim Data**

Claim: Rescission/Disgorgement  
Claim: \$13,285.45  
Interest: Unspecified  
Filing Fees: Unspecified  
Other: Unspecified

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**Award Data**

Claim: \$.00  
Award: \$4,680.00  
Interest: \$.00  
Filing Fees: \$212.50  
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) Respondent is liable and shall pay to the Claimant \$4,680.00. 2) All requests for interest are denied. 3) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 6) Respondent is liable and shall pay Claimant \$212.50 as reimbursement of one-half of the filing fee.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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Award 04-01495

Thomas A. Donovan

Sole Public Arbitrator

AFFIRMATION

I, Thomas A. Donovan, 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.



Thomas A. Donovan

10-18-2004

Signature Date

October 25, 2004

Date of Service (For NASD-DR office use only)