

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

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**CASE:** 04-01496

**Charles W. Harlan Claimant v. Merrill Lynch, Pierce, Fenner and Smith, Inc., Respondent.**

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**ATTORNEYS:**

For Claimant, Charles W. Harlan ("Claimant") appeared Jeffrey B. Kaplan, Esq., and Scott M. Diamond, Esq., of the firm Dimond Kaplan & Rothstein, P.A. Miami, FL.

For Respondent, Merrill Lynch, Pierce, Fenner and Smith, Inc., ("Respondent") Bradley B. Rounsaville, Esq., of the firm Maynard, Cooper & Gale, P.C. Birmingham, AL.

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

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

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**CASE SUMMARY:** Claimant alleged that Respondent intentionally and recklessly failed to disclose material facts in its recommendation and sale of its proprietary mutual fund, the Merrill Lynch Focus Twenty Fund (the "Focus 20 Fund"). Claimant maintained that as a result of Respondent's actions, his account suffered losses.

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**Claim Data**

Claim: \$22,025.00  
Interest: Unspecified  
Attorney Fees: Unspecified  
Filing Fees: Unspecified  
Other: Unspecified

**Award Data**

Award: \$.00  
Interest: \$.00  
Attorney Fees: \$.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 Claimant are dismissed in their entirety. 2) All requests for interest are denied. 3) All request for attorney fees are denied. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 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 \$425.00 Member Surcharge previously invoiced.

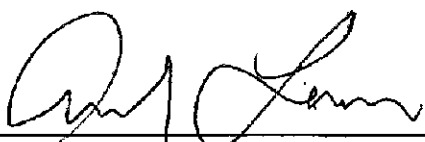
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Award 04-01496

Armand Lione - Sole-Public Arbitrator

AFFIRMATION

I, Armand Lione, 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.

  
Armand Lione

10/20/04  
Signature Date

October 29, 2004  
Date of Service (For NASD-DR office use only)