

Merrill to Pay \$40 Million in Refco Case

By [SUZANNE BARLYN](#)

NEW YORK -- In one of the biggest awards levied against a Wall Street firm, Merrill Lynch & Co. has been ordered to pay \$39.8 million in a case that grew out of the collapse of financial firm Refco Inc.

The Financial Industry Regulatory Authority, or Finra, awarded \$30.6 million in compensatory damages and \$9.2 million in interest to the trustees of the Masonic Hall and Asylum Fund in Utica, N.Y.

The fund is an endowment for a health-care facility in Utica. It filed a claim against Merrill Lynch, now a unit of [Bank of America](#) Corp., alleging a subsidiary broker-dealer advised it to purchase a limited partnership interest in Sphinx Managed Futures Index Fund LP, a privately held fund in a business unit of Refco Inc.

Refco collapsed after announcing in 2005 that its chief executive hid \$430 million in bad debts from the company's auditors.

Matthew Farley, a securities attorney for Drinker Biddle in New York who represents brokerages, said the award could be among the top 10 entered against a brokerage.

"I've heard of bigger ones, but many of them are against empty chairs -- firms that went out of business," he said. Attorneys for the claimant declined to comment on the size of the award.

Merrill Lynch, in a statement, said it was disappointed with the ruling. It said the case arose from investments that predated Merrill Lynch's 2005 acquisition of a regional broker-dealer, Advest, which had provided the Masonic fund with investment advice.

The panel gave Merrill Lynch the right to pursue damages in bankruptcy proceedings for the Refco unit that ran the Sphinx fund. Merrill Lynch said it would pursue that claim.

—*Joe Bel Bruno contributed to this article.*

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