

MEMO# 2155

August 31, 1990

SEC COMPLAINT ALLEGES PORTFOLIO MANAGER DEFRAUDED FUND AND ITS SHAREHOLDERS

August 31, 1990 TO: SEC RULES MEMBERS NO. 62-90 RE: SEC COMPLAINT ALLEGES
PORTFOLIO MANAGER DEFRAUDED FUND AND ITS SHAREHOLDERS

The SEC has filed a complaint in the United States District Court for the Western District of Texas alleging that the portfolio manager for a series of a registered investment company ("Fund") violated the federal securities laws by engaging in a scheme to defraud the Fund and its shareholders. A copy of the complaint is attached. According to the complaint, the portfolio manager caused the Fund to purchase securities of two Canadian companies at artificially inflated prices, in return for which he received kickbacks. Among other things, such purchases violated the Fund's investment policies that prohibited it from investing more than 5% of its assets in the securities of any one company, investing more than 5% of its assets in companies with operating histories of less than three years and acquiring more than 10% of the outstanding voting securities of a single company. The complaint also names as defendants two individuals who controlled the two Canadian companies mentioned above, based on their participation in the scheme. The complaint, which seeks permanent injunctions restraining the defendants' activities and orders for an accounting and disgorgement of unlawfully obtained profits, alleges that all three defendants through their actions in furtherance of the scheme violated Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act of 1933 as well as Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint further charges that the portfolio manager aided and abetted violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940. In addition, according to the complaint, the portfolio manager violated Sections 17(a)(1), 17(e)(1), 17(j) (and Rule 17j-1 thereunder), 36(a) and 37 of the Investment Company Act of 1940. Frances M. Stadler
Assistant General Counsel Attachment