

MEMO# 1789

March 21, 1990

COURT PERMANENTLY ENJOINS INVESTMENT COMPANY FROM VIOLATING 1940 ACT

March 21, 1990 TO: SEC RULES MEMBERS NO. 23-90 RE: COURT PERMANENTLY ENJOINS
INVESTMENT COMPANY FROM VIOLATING 1940 ACT

_____ The United States District Court for the Western District of North Carolina has permanently enjoined Genesis Capital Corporation, a registered management investment company, from violating the registration, custody, fidelity bond, code of ethics, reporting and recordkeeping provisions of the Investment Company Act of 1940. The SEC filed a complaint last October against Genesis and several other defendants, alleging numerous violations of the 1940 Act and rules thereunder. A copy of the release summarizing the SEC's complaint is attached. The other defendants settled the charges against them, without admitting or denying the allegations. The SEC's complaint alleged that Genesis (1) violated Section 8(b) of the 1940 Act and Rule 8b-5 thereunder by failing to file a registration statement within three months after filing its notification of registration under Section 8(a), (2) violated Section 17(f) of the 1940 Act and Rule 17f-2 thereunder by failing to adopt required resolutions restricting access to the company's securities and similar investments to two or more designated persons jointly and by failing to retain an independent public accountant to verify such securities and investments, (3) violated Section 17(g) of the 1940 Act and Rule 17g-1 thereunder by failing to provide and maintain a fidelity bond, (4) violated Section 17(j) of the 1940 Act and Rule 17j-1(b)(1) thereunder by failing to adopt a written code of ethics, (5) violated Sections 30(a), (b) and (d) of the 1940 Act and Rules 30a-1, 30b1-1 and 30d-1 thereunder by failing to file annual reports and semi-annual reports on Form N-SAR with the SEC and failing to transmit annual and semi-annual reports to shareholders, and (6) violated Section 31(a) of the 1940 Act and Rule 31a-1 thereunder by failing to maintain and keep current books, accounts and other documents as required. The court's final judgment against Genesis, entered by default, permanently enjoins Genesis, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with them from directly or indirectly violating the above provisions. In its final order, the court also appointed F. Daniel Bell, former president of NASAA, as receiver for the assets of Genesis. Frances M. Stadler Assistant General Counsel Attachment