

MEMO# 10731

February 16, 1999

SEC SANCTIONS FORMER PORTFOLIO MANAGER IN CONNECTION WITH GOVERNMENT INCOME FUND INVESTMENTS

* In the Matter of Worth V. Bruntjen, Admin. Proc. File No. 3-9657 (January 26, 1999). The portfolio manager was one of a number of parties against whom proceedings were instituted in connection with the fund's investments. In the Matter of Piper Capital Management, Inc., Release No. 33-7557, 34-40267, IA-1737 and IC-23333 (July 28, 1998). The order instituting these proceedings was summarized in Institute Memorandum to Accounting/Treasurers Members No. 21-98, Advertising Compliance Subcommittee No. 34-98, and SEC Rules Members No. 60-98, dated August 4, 1998. [10731] February 16, 1999 TO: ACCOUNTING/TREASURERS COMMITTEE No. 4-99 ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 5-99 SEC RULES MEMBERS No. 19-99 RE: SEC SANCTIONS FORMER PORTFOLIO MANAGER IN CONNECTION WITH GOVERNMENT INCOME FUND INVESTMENTS

The Securities and Exchange Commission recently settled administrative proceedings and imposed sanctions against the former portfolio manager of a government fixed-income mutual fund, in connection with the investments of the fund and its disclosures about the safety of investing in the fund.* The portfolio manager consented to the entry of an order, without admitting or denying its findings. A copy of the order is attached and is summarized below. The order states that the fund was marketed from 1988 through 1994 as a conservative investment, but that from 1992 through 1994, the portfolio manager exposed shareholders to significant undisclosed risks by investing a substantial amount of the fund's assets in rate-sensitive collateralized mortgage obligation derivatives. In addition, the order states that the portfolio manager magnified the increased risks of investments in derivatives by leveraging fund assets to purchase additional securities that would decline in value in a rising interest rate environment, and rendered certain statements concerning the use of leveraging to hedge against such risks materially false and misleading. The order also states that the portfolio manager compared the fund to, among other things, the Merrill Lynch 3-5 year Treasury Index in various written materials and communications, without disclosing that the risks of the fund's portfolio were greater than those of the index. Finally, the order states that, in various Schedules D of the investment adviser's Forms ADV, the portfolio manager misrepresented his educational background. The Commission found that the portfolio manager willfully violated Section 17(a) of the Securities Act of 1933 in that, in the offer and sale of securities, he employed devices, schemes and artifices to defraud, obtained money by means of untrue statements and the omission of material

facts, and engaged in transactions that operated as a fraud upon purchasers and prospective purchasers. The Commission further found that, by engaging in these activities in connection with the purchase and sale of securities, the portfolio manager willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. In addition, the Commission found that the portfolio manager willfully violated Section 207 of the Investment Advisers Act in making untrue statements of material fact in registration applications filed with the Commission under the Act. Finally, the Commission found that the portfolio manager willfully violated Section 34(b) of the Investment Company Act by making untrue statements of material facts and omitting material facts in registration statements, applications, reports, accounts, records, or other documents required to be kept pursuant to Section 31(a) of the Investment Company Act. The portfolio manager was ordered to cease and desist from committing or causing any violation and any future violation of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Section 207 of the Investment Advisers Act, and Section 34(b) of the Investment Company Act. He was also barred from association with any broker, dealer, investment adviser, investment company or municipal securities dealer, with the right to reapply for association after five years, and was ordered to pay a civil penalty of \$100,000.

Frances M. Stadler Deputy Senior Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326- 8304, and ask for this memo's attachment number: 10731.

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