

MEMO# 16548

September 17, 2003

NEW YORK STATE ATTORNEY GENERAL AND SEC FILE CHARGES AGAINST BROKER IN CONNECTION WITH MUTUAL FUND TRANSACTIONS

[16548] September 17, 2003 TO: SEC RULES MEMBERS No. 124-03 COMPLIANCE ADVISORY COMMITTEE No. 75-03 RE: NEW YORK STATE ATTORNEY GENERAL AND SEC FILE CHARGES AGAINST BROKER IN CONNECTION WITH MUTUAL FUND TRANSACTIONS The New York State Attorney General's office and the Securities and Exchange Commission announced state criminal and federal civil charges against a broker in connection with his activities involving the "late trading" of shares of mutual funds by a hedge fund.¹ The criminal complaint charges the broker with larceny and securities fraud.² The SEC's administrative order instituting proceedings against the broker alleges that he willfully violated and/or aided and abetted and caused violations of Section 17(a) of the Securities Act of 1933; Section 10(b) and 17(a) of the Securities Exchange Act of 1934 and Rules 10b-5, 17a-3 and 17a-4 thereunder; and Rule 22c-1 under Section 22(c) of the Investment Company Act of 1940.³ Ari Burstein Associate Counsel 1 A copy of the press release is available at www.sec.gov/news/press/2003-117.htm. The hedge fund, Canary Capital Partners, LLC, was named in a civil complaint filed recently by the New York Attorney General. See Memorandum to SEC Rules Members No. 117-03 and Compliance Advisory Committee No. 69-03, dated September 4, 2003 [16497]. 2 A copy of the criminal complaint is available at www.oag.state.ny.us/press/2003/sep/sihpol_complaint.pdf. 3 A copy of the SEC's administrative order is available at www.sec.gov/litigation/admin/33-8288.htm