

MEMO# 4014

August 13, 1992

SEC CENSURES INVESTMENT ADVISER AND ITS PRESIDENT WITH RESPECT TO TRADING ERROR

August 13, 1992 TO: INVESTMENT ADVISER MEMBERS NO. 40-92 INVESTMENT ADVISER
ASSOCIATE MEMBERS NO. 32-92 COMPLIANCE COMMITTEE NO. 11-92 RE: SEC CENSURES
INVESTMENT ADVISER AND ITS PRESIDENT WITH RESPECT TO TRADING ERROR

_____ The Securities and Exchange Commission recently (1) censured an investment adviser for failing to supervise its president and (2) issued a cease and desist order against the adviser's president, in connection with certain trading errors. The portfolio manager of twelve accounts managed by the adviser placed a "buy" order for securities, which were inadvertently executed by the adviser's trader as a "sell" order. The trader discovered the error the next day, and alerted the adviser's president, who settled the trade by delivering the same securities from two other accounts. One of the accounts subsequently repurchased half the shares that it had owned, at a higher price. After the SEC's initial inquiry, the adviser paid certain amounts to the two accounts. The SEC found that the president aided and abetted the violation of Sections 206(1) and 206(2) of the Investment Advisers Act, and that the adviser failed to reasonably supervise the president with a view to preventing his violation within the meaning of Section 203(e)(5) of the Investment Advisers Act. In particular, the SEC found that the adviser had no procedure directing that trading errors be handled in a particular, proper manner or that disclosure of the error and the means of rectification be made to any particular person. The SEC also found that the adviser had left the handling of the error to the president's discretion. The president, without admitting or denying the allegations, consented to an order to cease and desist from committing or causing a violation of Sections 206(1) and 206(2) of the Investment Advisers Act. The adviser, without admitting or denying the allegations, consented to a censure and to an undertaking to retain certified public accountants to review its policies and procedures with respect to trading errors and to make recommendations. The adviser also undertook to adopt policies and procedures reasonably designed to prevent a recurrence of the alleged violation. Copies of the SEC's orders are attached. Thomas M. Selman Assistant Counsel Attachment