

MEMO# 3408

January 3, 1992

TWO INVESTMENT ADVISERS AND THEIR SOLE OWNER ENJOINED FOR ALLEGEDLY DEFRAUDING MUNICIPAL CLIENTS

January 3, 1992 TO: INVESTMENT ADVISER MEMBERS NO. 1-92 INVESTMENT ADVISER
ASSOCIATE MEMBERS NO. 1-92 RE: TWO INVESTMENT ADVISERS AND THEIR SOLE OWNER
ENJOINED FOR ALLEGEDLY DEFRAUDING MUNICIPAL CLIENTS

The U.S. District Court for Central California has issued preliminary injunctions against two investment advisers and their principal and sole owner (the "Principal") for allegedly defrauding municipal clients. The SEC alleged that the defendants engaged in a fraudulent scheme involving approximately \$100 million. The Principal has been indicted by a federal grand jury on thirty charges of fraud. The SEC investigated the defendants activities after learning that nearly all of the \$10 million portfolio that the advisers managed for one client, a small municipality, was missing, and that the defendants had effected numerous securities transactions on behalf of their client, without the knowledge of this client. When defendants learned that the Commission was attempting to verify the existence of this client's funds, the Principal quickly transferred cash and securities to the client's account from other accounts controlled by defendants. The SEC alleged that in order to obtain the funds necessary to cover the shortage, the Principal defrauded other advisory clients by engaging in fraudulent transactions in securities by purchasing Treasury notes in his own account, then reselling them to at least two advisory clients at inflated prices, netting over \$10 million in five transactions in late November 1991. In addition, the SEC has submitted evidence indicating that the Principal defrauded advisory clients out of additional monies by withdrawing Treasury notes from the account of one client and selling them without the consent of that client, thereby obtaining possession of the cash proceeds. He then funnelled at least some of these funds to other advisory clients. The court has appointed a receiver for the advisers and to conduct an investigation to locate and account for all assets of the defendants, including those held for advisory clients. The court, upon the recommendation of the receiver, lifted the freeze that was imposed on the \$1.2 billion in the advisers' client accounts. However, the court ordered that the asset freeze on the advisers' corporate assets and on the Principal's personal assets be continued to preserve a source for potential disgorgement and penalties. A copy of the litigation releases issued in this case are attached. We will keep you informed of developments. Amy B.R. Lancellotta Associate General Counsel Attachment

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