

MEMO# 4129

September 25, 1992

SEC SANCTIONS ADVISER AND PRINCIPAL FOR MISAPPROPRIATING INVESTMENT COMPANY ASSETS

September 25, 1992 TO: INVESTMENT ADVISER MEMBERS NO. 45-92 SEC RULES MEMBERS
NO. 42-92 COMPLIANCE COMMITTEE NO. 16-92 RE: SEC SANCTIONS ADVISER AND
PRINCIPAL FOR MISAPPROPRIATING INVESTMENT COMPANY ASSETS

The Securities and Exchange Commission recently sanctioned a registered investment adviser and its principal in connection with the misappropriation of the assets of an investment company client. In 1991, the adviser and its principal had been enjoined from future violations of Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder, Sections 206(1) and 206(2) of the Investment Advisers Act, and Sections 13(a)(3) and 36(a) of the Investment Company Act. The SEC's complaint alleged that the principal, through the adviser, had misappropriated approximately \$2.1 million, or 75% of the investment company's assets, by having the investment company purchase for its portfolio non-existent commercial paper, valuing the securities at \$2.1 million, and forwarding the \$2.1 million in the investment company's funds to an out-of-state account over which the principal had control. Without admitting or denying the allegations, the adviser consented to the revocation of its registration and the principal consented to a bar from association with any investment company, investment adviser, broker or dealer. Attached are copies of the SEC's orders and its litigation release in connection with the 1991 injunction. Thomas M. Selman Assistant Counsel Attachment