

MEMO# 11672

February 24, 2000

ICI LETTER CONCERNING APPLICATION OF NASD RULES TO "INVERSE HYPERLINKS"

[11672] February 24, 2000 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 7-00 SEC RULES COMMITTEE No. 25-00 RE: ICI LETTER CONCERNING APPLICATION OF NASD RULES TO "INVERSE HYPERLINKS"

A working group of the Advertising Compliance Advisory Committee was formed recently to address whether NASD Regulation, Inc. should treat third-party information that is imported into a member's Internet site ("inverse hyperlinks") as hyperlinks for the purposes of the safe harbor from the content and filing requirements under the NASD advertising rules. The Institute filed the attached letter with NASDR today to request clarification on this issue. The Institute's letter requests that NASDR extend its existing position on the treatment of hyperlinks to accommodate new developments in linking information on the Internet. Specifically, the letter recommends that NASDR clarify that, as with the "ongoing hyperlinks" to third-party Internet sites described in the 1997 Hyperlink Letter, an NASD member will not be responsible under the NASD's rules for the content and filing of third-party information provided to users through an "inverse" or any other type of hyperlink if: ` The third-party information is clearly identified as such; ` Investors are put on notice that the member is not responsible for the content of the third-party information; and the conditions in the Hyperlink Letter, set forth below, are also met: ` The third-party information provided through the hyperlink is continuously available to investors who visit the member's site; ` The member has no discretion to alter the third-party information; ` Investors have access to the third-party information through the hyperlink whether or not it contains favorable material about the member; ` The linked information could be updated or changed by the third party and investors nonetheless would be able to access the third-party information through the hyperlink; and ` A member may not establish any form of hyperlink to third-party information if the member knows or has reason to know that the third-party material contains false or misleading information about the member's products or services. Doretha VanSlyke Zornada Assistant Counsel Attachment

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