

MEMO# 1489

October 24, 1989

SANCTIONS IMPOSED AGAINST A FUND'S ADVISER AND PRESIDENT OF THE ADVISER

October 24, 1989 TO: SEC RULES MEMBERS NO. 62-89 INVESTMENT ADVISER MEMBERS NO. 54-89 RE: SANCTIONS IMPOSED AGAINST A FUND'S ADVISER AND PRESIDENT OF THE ADVISER _____ Attached is an SEC enforcement order imposing sanctions against a fund's adviser and the president of the adviser. Based on a finding by the SEC of violations of the Investment Company Act of 1940 (the "1940 Act") and the Investment Advisers Act of 1940 (the "Advisers Act"), the investment adviser to a mutual fund and the adviser's president, who is also the chief executive and financial officer and owner of more than 50% of the outstanding shares of the adviser (the "president"), were permanently prohibited from serving as an employee, officer, director or member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of any of the foregoing. The president and the adviser were also compelled to refrain for a period of six months from soliciting or accepting new advisory clients. The SEC found that the president had aided and abetted the fund's violation of the provisions of the 1940 Act governing: the fund's custodial agreement; the "joint insured" bond of the fund; maintenance of reports made by "access persons"; the sale, redemption or repurchase of the fund's redeemable securities at current net asset value; redemption of the fund's shares; maintenance of the fund's books and records; and, the selection of the fund's independent public accountant. With respect to the adviser's activities, the SEC found that the president and the adviser willfully violated sections 15(a) (approval of the advisory contract) and 17(a)(2) (prohibition against an affiliated person, acting as principal, from purchasing securities from the fund of which the fund was not the issuer) of the 1940 Act. Moreover, findings were made that the president and the adviser violated various provisions of the Advisers Act. Amy B. Rosenblum Assistant General Counsel Attachment

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