

MEMO# 1764

March 13, 1990

CALIFORNIA COMMISSION CLARIFIES DEFINITION OF "OTHER PUBLIC OFFICIALS" TO EXCLUDE INVESTMENT ADVISERS FROM CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS

- 1 - March 13, 1990 TO: INVESTMENT ADVISERS COMMITTEE NO. 7-90 RE: CALIFORNIA COMMISSION CLARIFIES DEFINITION OF "OTHER PUBLIC OFFICIALS" TO EXCLUDE INVESTMENT ADVISERS FROM CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS

As we previously informed you, certain public officials and consultants who have investment decision-making responsibility over California state and local funds must file a conflict of interest disclosure form (See Memorandum to Investment Advisers Committee No. 4-90, dated February 21, 1990). On February 27, 1990, as a result of comments by the Institute and Institute members, the General Counsel of the California Fair Political Practices Commission issued the attached memorandum effectively excluding from the conflict of interest disclosure filing requirement investment firms and others who otherwise would fall within the term "other public officials who manage public investments." Pursuant to California Government Code Section 87,200, city treasurers, county treasurers, and other public officials who manage public investments must file a conflict of interest disclosure form (Form 721 which requires disclosure of personal asset holdings by such individuals to the FPPC). The term public official has been defined in regulations to include consultants. The definition of consultant has been interpreted to include those who provide investment advice on a discretionary account basis. In the memorandum, however, the Commission states that the term "'other public officials who manage public investments' should also be construed narrowly. The included individuals would be elected officers or high-level public employees who manage public investments and members of boards and commissions who manage public investments. The memorandum further states: "It generally would not include employees of investment firms, brokerage houses, banks, or similar private entities which contract with government agencies to invest public moneys under the direction of these high-level officials." - 2 - Regulations will be drafted consistent with this interpretation. A hearing is scheduled for April 3, 1990, during which a discussion of draft regulations will be held. We will keep you informed. Robert L. Bunnan, Jr. Assistant General Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.