

MEMO# 12212

July 13, 2000

DISTRICT COURT INJUNCTION AND SEC BAR ORDER ENTERED AGAINST PORTFOLIO MANAGER FOR PERSONAL TRADING VIOLATIONS

[12212] July 13, 2000 TO: COMPLIANCE ADVISORY COMMITTEE No. 25-00 INVESTMENT ADVISER ASSOCIATE MEMBERS No. 23-00 INVESTMENT ADVISER MEMBERS No. 25-00 RE: DISTRICT COURT INJUNCTION AND SEC BAR ORDER ENTERED AGAINST PORTFOLIO MANAGER FOR PERSONAL TRADING VIOLATIONS The United States District Court for the Southern District of California has entered a judgment of permanent injunction and other relief against a former portfolio manager at two investment advisory firms in connection with personal trading violations.¹ In a related matter, the SEC accepted an offer of settlement and barred the portfolio manager from associating with any investment adviser.² The portfolio manager consented to the entry of the judgment and the SEC order without admitting or denying the allegations in the complaint or the findings in the order. Copies of the SEC order and the SEC litigation release concerning the district court judgment are attached and are summarized below. The SEC's complaint in the district court action alleged that, from 1991 through 1995, the portfolio manager failed to disclose his conflict of interest in fraudulently allocating over \$900,000 in profitable equity day trades to his personal account at the expense of client accounts. The complaint also alleged that the portfolio manager aided and abetted books and records violations of one of the investment advisory firms by failing to report his personal trading to the firm completely and accurately. The judgment permanently enjoins the portfolio manager from future violations of the antifraud provisions of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and Sections 206(1) and 206(2) of the Investment Advisers Act, and from aiding and abetting violations of the books and records provisions of Section 204 of the Advisers Act and Rule 204-2(a)(12) thereunder. In addition, the judgment orders the portfolio manager to disgorge his profits of over \$900,000 with prejudgment interest (with all but \$24,000 of that amount waived). Kathy D. Ireland Associate Counsel Attachment 1 SEC v. Lyons, Civil Action No. 98-CV-1471 TW (RBB) (S.D. Cal. 2000). 2 In the Matter of Timothy J. Lyons, Admin. Proc. File No. 3-10237 (June 20, 2000). The SEC previously settled a related administrative proceeding with one of the investment advisers with which the portfolio manager had been associated. See Memorandum to Compliance Advisory Committee No. 23-98, Investment Adviser Associate Members No. 22-98, and Investment Adviser Members No. 23-98, dated August 21, 1998. 2Note: Not all recipients receive the attachment. To obtain a copy of the attachment to which this memo refers, please call the ICI Library at (202) 326-8304 and request the attachment for memo 12212. ICI Members may retrieve this memo and its attachment from ICINet (<http://members.ici.org>).

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