

**MEMO# 3876**

June 22, 1992

## **FORMER ASSISTANT PORTFOLIO MANAGER SETTLES CHARGES IN CONNECTION WITH ALLEGED FRAUDULENT KICKBACK SCHEME**

June 22, 1992 TO: SEC RULES MEMBERS NO. 26-92 COMPLIANCE COMMITTEE NO. 6-92 RE:  
FORMER ASSISTANT PORTFOLIO MANAGER SETTLES CHARGES IN CONNECTION WITH  
ALLEGED FRAUDULENT KICKBACK SCHEME

\_\_\_\_\_ The Securities and Exchange Commission recently filed a complaint in the United States District Court for the District of Columbia against a former mutual fund assistant portfolio manager and his friend in connection with their involvement in an alleged fraudulent kickback scheme. Copies of the Commission's complaint and the related litigation release are attached. The complaint alleges, among other things, that the portfolio manager and his friend engaged in a scheme with a senior officer of a corporation whereby the portfolio manager would inform the senior officer which high yield bonds he was recommending for purchase by the mutual funds advised by his employer. The senior officer then allegedly arranged for accounts under the control of his immediate family to purchase those high yield bonds, which were later sold to the funds at inflated prices. According to the complaint, the senior officer diverted corporate funds representing a portion of the trading profits from the high yield bonds to the portfolio manager and his friend. As a result of these activities, the complaint alleges, the portfolio manager and his friend violated Section 10(b) of the Securities Exchange Act of 1934 and Rules 10b-5 and 13b2-1 thereunder, and aided and abetted violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder, Section 204 of the Investment Advisers Act of 1940 and Rules 204-1(b)(1), (2) and (3) thereunder, and Section 17(e)(1) of the Investment Company Act of 1940. Simultaneously with the filing of the complaint, the portfolio manager and his friend consented to be permanently enjoined from violating or aiding or abetting violations of the above-cited provisions. The portfolio manager and his friend were ordered to disgorge their illegal profits, although the SEC waived some of this disgorgement based on the respective financial conditions of the two individuals. Both men consented to cooperate with the Commission in connection with its continuing investigation of this matter, and consented to the institution of proceedings to permanently bar them from the securities industry. (The SEC subsequently instituted such proceedings and issued related orders.) The portfolio manager and his friend also face criminal charges brought by the U.S. Attorney's office in the United States District Court for the Southern District of New York. Frances M. Stadler Assistant Counsel Attachments

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.