

MEMO# 4492

February 8, 1993

SEC SANCTIONS ADVISER FOR BOOKS AND RECORDS VIOLATIONS

February 8, 1993 TO: INVESTMENT ADVISER MEMBERS NO. 11-93 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 6-93 COMPLIANCE COMMITTEE NO. 4-93 RE: SEC SANCTIONS ADVISER FOR BOOKS AND RECORDS VIOLATIONS

The Securities and Exchange Commission recently sanctioned an investment adviser and its sole proprietor for committing books and records and reporting violations under the Investment Advisers Act of 1940. In October, Douglas Scheidt, Assistant Director, Office of Enforcement Liaison in the Division of Investment Management, gave a speech in which he emphasized that this and other books and records cases reflect the importance that the Commission attaches to the books and records provisions. He also said that he would not be surprised to see other books and records cases in the future. A copy of the Commission's order is attached. The Commission found that in three different examinations the adviser had failed to provide certain ledgers and trial balances related to the advisory business (the "Required Books"). The Commission also found that the adviser had failed to file timely amendments to its Form ADV, stating that (1) it offers investment advisory services for a percentage of assets under management and (2) Oregon had issued a cease and desist order against the sole proprietor and fined him \$750. Finally, the Commission found that the adviser had failed to file timely annual reports with the Commission. Without admitting or denying the Commission's findings, the adviser and sole proprietor consented (1) to cease and desist from further violations of Section 204 of the Investment Advisers Act and Rules 204-2(a)(2) and (6), Rule 204-1(b)(1), and Rule 204-1(c); (2) to retain a qualified person to establish and maintain the Required Books or to retain a qualified person to train an employee to do so; and (3) to notify the Commission that those actions had been taken. Thomas M. Selman Assistant Counsel Attachment