

MEMO# 1383

August 31, 1989

SEC SANCTIONS ADVISER FOR VIOLATIONS OF RECORDKEEPING, BROCHURE, CUSTODY, AND OTHER ADVISED ACT RULES

September 5, 1989 TO: INVESTMENT ADVISER MEMBERS NO. 47-89 INVESTMENT ADVISER
ASSOCIATE MEMBERS NO. 47-89 RE: SEC SANCTIONS ADVISER FOR VIOLATIONS OF
RECORDKEEPING, BROCHURE, CUSTODY, AND OTHER ADVISED ACT RULES

On July 25, 1989, the Securities and Exchange Commission filed an order against an investment adviser for violations of provisions of the Investment Advisers Act of 1940 and certain rules thereunder. The adviser agreed to the settlement without admitting or denying the findings contained in the administrative proceeding order. A copy of the order is attached. The adviser was cited and sanctioned for: 1. willfully violating Section 203(c)(1)(D) of the Advisers Act and Rule 203-1(a) in that, although it filed balance sheets certified by a public accountant, such accountant was not independent within the meaning of Section 203(c); 2. willfully violating Rules 204-2(a)(2) and (7) in that it failed to maintain general ledgers reflecting asset, liability, reserve, capital, income and expense accounts; and trial balances; 3. violating Rule 204-2(a)(14) in that it failed to keep a record of the dates that each written disclosure statement was given to a client or prospective client; 4. willfully violating Rule 204-3 in that it failed to furnish each client or prospective client with a written disclosure statement; 5. willfully violating Section 205(a)(2) in that it failed consistently to provide in its investment advisory contracts a provision that such contracts could not be assigned without the client's written consent; and 6. willfully violating the custody rules under Rule 206(4)- 2 for failure to (a) maintain clients' funds and bank accounts in the name of the adviser as agent or trustee for such clients; and (b) failing to have an independent public accountant verify by actual examination without prior notice all clients' funds in the adviser's custody or possession at least once during each calendar year. Robert L. Bunn, Jr. Assistant General Counsel Attachment