

MEMO# 2285

October 24, 1990

SEC CHARGES FUND OFFICER WITH FRAUD IN CONNECTION WITH SALE OF AFFILIATED COMPANY; TRUSTEE TAKES POSSESSION OF FUND ASSETS

October 24, 1990 TO: BOARD OF GOVERNORS NO. 78-90 SEC RULES MEMBERS NO. 73-90
RE: SEC CHARGES FUND OFFICER WITH FRAUD IN CONNECTION WITH SALE OF AFFILIATED COMPANY; TRUSTEE TAKES POSSESSION OF FUND ASSETS

The SEC has charged the chief executive officer of a series mutual fund with several violations of the federal securities laws in connection with the sale to four series of the fund of shares of a non-public company that served as transfer agent and provided accounting, pricing and administrative services to the fund. According to the complaint, the officer had owned 96% of the company and had caused the fund to purchase his entire interest. The complaint alleged that the sale constituted a prohibited transaction with an affiliate under Section 17(a) of the Investment Company Act. In addition, the SEC alleged that the transaction violated the fund's investment restrictions. The SEC also alleged that the officer artificially raised the price of the affiliate's shares, causing the net asset values of the four series to be overstated. The SEC also charged that the fund made unauthorized loans to its investment adviser and to its employee stock option plan in violation of Section 21 of the Investment Company Act. Without admitting or denying the SEC's allegations, the officer agreed to be permanently enjoined from the industry. While the fund was not charged with any wrongdoing, it was named as a defendant so that a trustee could be appointed to take possession its assets and to calculate the proper net asset values for each of its series. Until the trustee revalues the stock of the affiliated company held in the fund's portfolios, it will be assigned a value of zero. A copy of SEC's release on the matter is attached. Craig S. Tyle Associate General Counsel Attachment