

MEMO# 2208

September 25, 1990

MUTUAL FUND ADVISER REGISTRATION REVOKED FOR VIOLATIONS OF ANTIFRAUD PROVISIONS OF SECURITIES LAWS AND THE 1940 ACT

- 1 - September 25, 1990 TO: SEC RULES MEMBERS NO. 68-90 INVESTMENT ADVISER MEMBERS NO. 46-90 RE: MUTUAL FUND ADVISER REGISTRATION REVOKED FOR VIOLATIONS OF ANTIFRAUD PROVISIONS OF SECURITIES LAWS AND THE 1940 ACT

The SEC recently revoked the registration of an investment adviser to a mutual fund based on violations of the antifraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940. The SEC also determined that the adviser, acting as adviser to a registered investment company, willfully aided and abetted the violation of several provisions of the Investment Company Act of 1940. The adviser pursued a strategy involving the purchase in odd lots of so-called "failed bonds" (bonds that would not be delivered by the settlement date). The adviser failed to adequately disclose that its investment strategy contained certain risks and that advertised yields could not be sustained. In addition, the adviser was found to have fraudulently represented that dividends paid by the fund were exempt from California income tax. Furthermore, the adviser aided and abetted the fund's violation of Sections 13(a)(2) and (3) of the Investment Company Act because, as a result of its investment strategy, the fund borrowed in excess of the limitation contained in the prospectus. The adviser also caused the fund to violate Rule 22c-1 as a result of sales and redemptions at prices that were not based on their current net asset value. The adviser valued the shares of the fund based on round lots of bonds, rather than the odd lots purchased by the fund. The fund also made distribution payments in violation of Rule 12b-1 because the fund had no written agreement with its advertising firm. Finally, the adviser failed to maintain the required records under Rule 31a-1(b) of the Investment Company Act.

- 2 - The adviser's registration was revoked because of its serious misconduct, prior violations and the fact that previous disciplinary action did not prevent the adviser from quickly engaging in the same kind of misconduct. A copy of the SEC decision is attached. We will keep you informed of related developments.

W. Richard Mason Assistant General Counsel Attachment