

MEMO# 1777

March 19, 1990

INVESTMENT ADVISER NOT BOUND BY ARBITRATION CLAUSE IN BROKERAGE AGREEMENT

March 19, 1990 TO: INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 8-90 BROKER/DEALER
ASSOCIATE MEMBERS NO. 1-90 RE: INVESTMENT ADVISER NOT BOUND BY ARBITRATION
CLAUSE IN BROKERAGE AGREEMENT

_____ The U.S. Court of Appeals for the Seventh Circuit held that an investment adviser was not covered by an arbitration clause included in an agreement between the adviser's client and a brokerage firm that administered the trading program recommended by the adviser. The court stated that the arbitration clause in the contract between the investor and the brokerage firm does not apply to "anyone and everyone standing in an agency relationship with [the brokerage firm]." The court further noted that the client could have negotiated an arbitration clause in its contract with the adviser but could not reasonably assume that the arbitration clause in its contract with the brokerage firm would compel the adviser to arbitrate all disputes it might have with the investor. A copy of the court's opinion is attached. Amy B. Rosenblum
Assistant General Counsel Attachment

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