

**MEMO# 2875**

June 24, 1991

## **INSTITUTE FILES APPEAL IN MINNESOTA REGISTRATION FEE CASE**

June 24, 1991 TO: BOARD OF GOVERNORS NO. 44-91 STATE LIAISON COMMITTEE NO. 14-91  
UNIT INVESTMENT TRUST COMMITTEE NO. 23-91 RE: INSTITUTE FILES APPEAL IN  
MINNESOTA REGISTRATION FEE CASE

As we previously informed you, the Institute commenced a lawsuit in December 1987 against the State of Minnesota and the Commissioner of Commerce challenging the constitutionality of Minnesota's disparate registration fee structure. On February 14, 1991, the Minnesota District Court granted the State's motion for summary judgment and dismissed the Institute's complaint on the grounds that the Institute had not proved beyond a reasonable doubt that the fee provision violates the due process or equal protection clauses of the U.S. or Minnesota Constitutions or the commerce clause of the U.S. Constitution. (See Memorandum to Board of Governors No. 15-91, State Liaison Committee No. 6-91 and Unit Investment Trust Committee No. 8-91, dated March 5, 1991.) On May 22, 1991, the Institute filed an appeal with the Minnesota Court of Appeals from the lower court judgment. The brief submitted on June 21, 1991 by the Institute in support of its appeal contends as follows: 1. that the Minnesota registration fee provision violates the due process clause of the U.S. and Minnesota Constitutions by imposing a license fee for the registration of mutual funds and unit trusts that is unreasonable and oppressive in that it greatly exceeds and bears no reasonable relationship to the costs incurred by the State in regulating these securities; and 2. that the Minnesota registration fee provision violates the equal protection guarantee of the U.S. and Minnesota Constitutions because there is no rational basis for imposing a license fee for the registration of mutual funds and unit trusts that is vastly greater than the license fee for registration of other securities when the costs of registration and regulation are the same. \*

\* \* Attached is a copy of the Institute's brief. We will keep you advised of further developments. Patricia Louie Assistant General Counsel Attachment