

MEMO# 3206

October 18, 1991

FLORIDA SUPREME COURT HOLDS MAIL SALE FROM NEW YORK OFFICES WAS SALE OF SECURITIES IN FLORIDA

October 18, 1991 TO: STATE SECURITIES MEMBERS NO. 48-91 RE: FLORIDA SUPREME COURT HOLDS MAIL SALE FROM NEW YORK OFFICES WAS SALE OF SECURITIES IN FLORIDA

The issue of whether a securities broker in Connecticut and New York was making a sale of securities in Florida within the meaning of Fla.Stat. Section 517.12, when he or she receives an order or check by mail from a Florida resident and acts on that request by purchasing securities in New York was answered in the affirmative by the Florida Supreme Court. The plaintiff, a Florida resident, read a magazine article about the defendant and his success with small market speculators. Thereafter, plaintiff sent money to the defendant (a registered New York broker) to purchase securities for him in New York. After a period of years, the relationship was terminated. Plaintiff subsequently filed a lawsuit asserting that defendant had sold securities to him by mail without complying with the dealer registration requirement of Section 517.12 and mismanagement of his account. Section 517.12 provides: "(1) No dealer ... of securities shall sell or offer for sale any securities in or from offices in this state, or sell securities in this state to persons of this state from offices outside this state, by mail or otherwise, unless the person has been registered with the department pursuant to the provisions of this section." Defendant asserted that he never sold securities in Florida because he did all his business in his offices in New York and Connecticut and through brokerage offices outside of Florida. However, the court rejected this argument and held that the defendant was clearly subject to the jurisdiction of Florida courts and the dealer registration requirements of Florida applied to him. A copy of the Florida Supreme Court's decision is attached. Patricia Louie Assistant General Counsel Attachment

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