

MEMO# 5195

October 1, 1993

INVESTMENT ADVISER AND ITS OWNER SETTLE ACTION BROUGHT FOR IMPROPER SECURITIES TRANSACTIONS

October 1, 1993 TO: COMPLIANCE COMMITTEE NO. 23-93 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 39-93 INVESTMENT ADVISER MEMBERS NO. 51-93 RE: INVESTMENT ADVISER AND ITS OWNER SETTLE ACTION BROUGHT FOR IMPROPER SECURITIES TRANSACTIONS

_____ A registered investment adviser and its sole owner and chief executive officer recently settled a civil action brought by the Securities and Exchange Commission. The Commission alleged that in two private placements in which common stock was offered only to purchasers of high yield securities, the advisory firm's owner purchased the high yield securities for clients and purchased the common stock for himself, without disclosing to those clients the availability of the common stock or his purchase. The Commission also alleged that he acted as a principal in securities transactions with his firm's clients without obtaining their consent and participated in joint securities transactions with his firm's clients and mutual fund clients of another firm with which he was associated. In some of these joint transactions, he immediately resold his (but not his clients') securities at a prearranged markup. The Commission also alleged that he did not report any of his personal securities transactions to the funds' investment adviser from 1984 to 1989. Finally, the Commission alleged that his firm's Form ADV materially misrepresented his firm's policies regarding his personal securities transactions. Without admitting or denying the allegations, he consented to disgorge \$1 million and he and his firm agreed to a permanent injunction from future violations of the antifraud and various other provisions of the federal securities laws. The Commission also announced that he had (without admitting or denying the Commission's findings) consented to an administrative order requiring him to retain an independent consultant to recommend a compliance system that he must institute and biannually to audit his and his firm's personal securities transactions for five years. * * * Attached is a copy of the Commission's litigation release. Thomas M. Selman Assistant Counsel Attachment