

MEMO# 1279

July 24, 1989

RECENT COMMISSION ENFORCEMENT ACTIONS

July 24, 1989 TO: SEC RULES MEMBERS NO. 33-89 STATE SECURITIES MEMBERS NO. 26-89 INVESTMENT ADVISER MEMBERS NO. 38-89 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 37-89 RE: RECENT COMMISSION ENFORCEMENT ACTIONS

In a release dated July 17, 1989, the Philadelphia Regional Office of the Securities and Exchange Commission announced the filing of a complaint against a fund group, its investment adviser and transfer agent, and the president and chairman of the board of both the funds and the adviser. The complaint alleges various violations of the valuation and reporting provisions of the Investment Company Act and the antifraud provisions of the Securities Act, Securities Exchange Act and Investment Advisers Act. Specifically, the SEC alleges that the funds failed to register their shares in states requiring registration. Consequently, the funds incurred material liabilities (in the form of unpaid registration fees), which resulted in their reported NAVs being inaccurate, and in the failure of the funds' prospectuses to disclose the adverse implications. The complaint also alleges violations of rules regarding custody, provision of investment advice without approval of fund trustees and reports and registration fees. In a separate action, the SEC has announced the institution of administrative proceedings and the imposition of remedial sanctions against an investment adviser to a mutual fund and its president and sole stockholder. In an action brought by the SEC, the adviser and its president had been permanently enjoined by a federal district court from violations of various provisions of federal securities laws. The SEC complaint in that case alleged several instances of violative conduct, including (1) redemption by the president of the adviser of initial shares of the fund without reimbursement for organizational expenses, in violation of representations in the fund's prospectus, (2) engaging in various investment practices in violation of the fund's investment restrictions, including trading securities on margin, (3) improper payment of marketing of expenses, and (4) selling and purchasing shares at an incorrect NAV due to the failure of the fund to properly accrue operating expenses and reflect the margin trades. In the order of settlement, the adviser and its president were barred from having custody or exercising discretionary authority over client funds, or for being associated with any person who engages in such activities, for a period of not less than four years. Copies of both releases are attached. Craig S. Tyle Assistant General Counsel Attachment

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