

MEMO# 13331

April 11, 2001

DISTRICT COURT ENTERS INJUNCTION AGAINST FUND GROUP AND FREEZES ASSETS IN THREE FUNDS

[13331] April 11, 2001 TO: COMPLIANCE ADVISORY COMMITTEE No. 17-01 SEC RULES MEMBERS No. 32-01 RE: DISTRICT COURT ENTERS INJUNCTION AGAINST FUND GROUP AND FREEZES ASSETS IN THREE FUNDS The United States District Court for the Northern District of Illinois has ordered a permanent injunction and other relief against a fund group in connection with its failure to send annual reports to shareholders concerning three mutual funds and failure to file the reports with the Securities and Exchange Commission. The fund group consented to the entry of the order without admitting or denying any of the allegations in the Commission's complaint in this action.¹ A copy of the SEC litigation release concerning the district court action is attached and is summarized below. The SEC's complaint alleged that the fund group has failed to send and file annual reports for the funds because of the fund group's inability to obtain audited financial results for these funds for fiscal year 2000, due to its independent public accountant's concerns regarding the underlying valuations of the securities held in the funds. The complaint further alleged that while the auditors have commenced an audit of the funds, they have stated that they will disclaim any opinion as to the value of the securities held by the funds during fiscal year 2000, and, as a result, shareholders are being deprived of statutorily required fundamental financial information upon which they can base a decision to remain invested or to redeem their shares. The order permanently enjoins the fund group from further violations of Sections 30(b), (e) and (g) of the Investment Company Act of 1940 and Rules 30b2-1, 30d-1(a) and 30d-1(c) thereunder. In addition, the order freezes the assets held in the three funds and provides for the appointment of a receiver to take control of the assets of the funds, manage the funds, suspend redemptions in the funds and, if appropriate, liquidate the funds. The order does not affect other funds in the fund group. According to the litigation release, the SEC's investigation continues in this matter. Kathy D. Ireland Associate Counsel Attachment 1 SEC v. Heartland Group, Inc., Litigation Release No. 16938 (March 22, 2001). ²Attachment (in .pdf format)