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ARIZONA CORPORATION COMMISSION

July 7, 2004

W.T. Eggleston, Esq.
Fennemore Craig
Suite 2600
3003 North Central Avenue
Phoenix, Arizona 85012-2913

RE: No-Action Request by Koch Industries, Inc.
A.R.S. § 44-3101(5) and § 44-3101(6)

Dear Mr. Eggleston:

The Securities Division has reviewed the no-action letter request dated May 24, 2004, and the supplemental letter dated June 28, 2004, submitted on behalf of the company referenced above. On the basis of the information set forth in these letters, the Securities Division declines to issue a no-action letter. We have attached photocopies of the letters containing the facts upon which this position is based.

Very truly yours,

MATTHEW J. NEUBERT
Director of Securities

Attachment

COPY

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FENNEMORE CRAIG

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June 28, 2004

BY HAND DELIVERY

Securities Division
Arizona Corporation Commission
1300 West Washington Street
Third Floor
Phoenix, Arizona 85007
Attn: Cheryl T. Farson, General Counsel

Re: No-Action Letter Request by Koch Industries, Inc. Regarding the Arizona Investment Management Act
File No. 10686.001
Your File No. S-254-NOAC

Ladies and Gentlemen:

We are writing in response to your letter dated June 8, 2004 and to supplement our no-action request letter dated May 24, 2004. The primary purpose of this letter is to respond to your

requests for supplemental information. Capitalized terms used but not otherwise defined herein have the meanings assigned to them in our prior letter.

RESPONSES TO REQUESTS FOR SUPPLEMENTAL INFORMATION

The following numbered items, which set forth Koch Industries' responses to your requests for supplemental information, correspond to the numbers of the paragraphs in your letter.

1. The Business of Koch Financial. Koch Financial Corporation ("Koch Financial") is a leading provider of tax-exempt lease financing to cities, states, school districts and other governmental entities nationwide. Additionally, Koch Financial's investment and trading group is engaged in buying, selling, trading and investing in tax-exempt and tax advantaged assets, such as municipal bonds. The group employs various in-depth analytical tools and its understanding of municipal markets to make sound investment decisions.

2. The Primary Corporate Duties of the Koch Financial Executive Level Employees Who Would be the Managers and Officers of the Fund. The Chief Executive Officer (the "CEO") and the Chief Financial Officer (the "CFO") of Koch Financial would be the managers and officers of the Fund. The CEO's primary corporate duties involve the overall management of Koch Financial. The CFO's primary corporate duties involve all corporate finance, treasury, trading, accounting and market risk management activities for Koch Financial. The CEO and CFO are intimately involved in the development of Koch Financial's proprietary trading strategies, many of which would be utilized on behalf of the Fund.

3. The Services[1] to the Fund Are Tangential or Generally Incidental to the Corporate Duties of the Executive Level Employees To Koch Financial. Given the roles of the CEO and CFO and their duties to Koch Financial that are described in Item 1 above, it is clear that their services to the Fund would be merely tangential or generally incidental to their corporate duties to Koch Financial. Koch expects that the Fund would use the same trading strategies that Koch Financial uses and that many of the same trades executed on behalf of Koch Financial would be executed on behalf of the Fund. In other words, there would be little work required by the CEO and CFO on behalf of the Fund because the Fund would be doing little more than mirroring the strategies and trades, or a portion of the strategies and trades, which the CEO and CFO already

[1] Your letter requested this information with respect to the "investment advisory services" the managers and officers would be providing to the Fund. For the reasons set forth in the text below under the heading "Additional Analysis," we do not believe that the services to the Fund are "investment advisory services" because the managers and officers of the Fund would not be "advising others" and, therefore, would not be providing "investment advisory services."

are executing in their corporate roles with Koch Financial. In short, a de minimis amount of their workday would be spent on Fund matters, and their services to the Fund would be merely tangential or generally incidental to their corporate duties to Koch Financial.

4. The Managers and Officers of the Fund Are Not Anticipated to Receive Compensation. With respect to the compensation element, your letter cites S.E.C. Release No. IA-1092, October 8, 1987, section II(A)(3) (the "Release"); Touche Holdings, Inc., SEC No-Action Letter, 1987 WL 108852 (Dec. 30, 1987) ("Touche"); and Independent Drug Wholesalers Group, Inc., SEC No-Action Letter, 1992 WL 105170 (Apr. 16, 1992) ("IDWG"). There, the Securities and Exchange Commission defined "compensation" as the receipt of any economic benefit.

Here, unlike the annual fee to cover the cost of the services in Touche, the Fund would not pay any fee, commission or provide any other economic benefit to the officers and managers of the Fund. Further, Koch Industries and Koch Financial (collectively with their affiliates, "Koch") do not anticipate that the officers and managers of the Fund would receive any economic benefit from Koch as a result of their services to the Fund. As described in Item 3 above, a de minimis amount of their workday would be spent on Fund matters and their services to the Fund would be merely tangential or generally incidental to their corporate duties as the CEO and CFO of Koch Financial. Further, their salaries and bonuses are paid by Koch Financial, and Koch does not anticipate that their salaries or bonuses would be affected by either the services they would provide to the Fund or the performance of the Fund. We should point out, however, that Koch Financial's bonus system is a discretionary or subjective bonus system with bonuses awarded primarily by Koch Industries' CEO and significant shareholder, who is also expected to be the largest investor in the Fund. Accordingly, Koch cannot say definitively that their services or the performance of the Fund would not affect their bonuses. In fact, we do not believe that any company with a discretionary or subjective bonus system, rather than a formulaic or objective bonus system, could ever say with certainty that bonuses would not be affected.

ADDITIONAL ANALYSIS

In addition to the above responses to the Division's request for supplemental information, we set forth the following additional analysis for your consideration.

First, the "compensation" and "advising others" portions of the definition of an "investment adviser" are independent elements of the definition, and the absence of either element results in there being no investment adviser. Thus, if you concur with our analysis on either of these two elements, you should conclude there is no investment adviser here. We note that your letter appears to focus on the compensation element. For all the reasons noted in our

prior letter, we continue to believe that the officers and managers of the Fund would not be "advising others." Rather, they would be making trading decisions in the name and on behalf of the Fund itself and not for the members of the Fund, and they would be an integral part of the Fund's management structure with authority like that of the board of directors of a corporation. Accordingly, they would not be advising others.

Second, even if you disagree with our analysis and conclude that both these elements are present here, you should nonetheless conclude that the Division will not take any enforcement action absent licensure because there is no need for the protections afforded by licensure given the following facts and circumstances:

- The Fund would have as both its members and its officers and managers only members of senior management of Koch Industries or its affiliates, and, therefore, there is a community of interest in the Fund. Moreover, the Fund's officers and managers also would be members of the Fund, evidencing an identity of interest with the Fund.

- The Fund would be a purely private fund for Koch Executives and would not involve the general public.

- All of the Koch Executives are "accredited investors" and are highly sophisticated in business and financial matters, as evidenced by their status as senior managers of Koch.[2]

See Touche (finding both "compensation" and "advising others" elements present but nonetheless taking a no-action position because, among other things, "all prospective limited partners are experienced and sophisticated in accounting and business and financial matters as evidenced by their having achieved partnership in an accounting firm commonly referred to as one of the 'big eight' accounting firms); see also A.R.S. § 44-3152(B) (commission may by order exempt persons from licensure if it "determines that it is not necessary for [the persons] to be licensed to protect the public interest because of the special characteristics of the securities or transactions in which the [persons] may be involved").

[2] Koch anticipates that the Fund would have approximately 30 members of Koch's senior most management. Koch is among the largest private companies in the United States and has approximately 30,000 total employees.

CONCLUSION

For the reasons set forth above and in our prior letter, neither the "advising others" element nor the "for compensation" element of the Act's definition of an "investment adviser" is satisfied here. Accordingly, it is our opinion that none of Koch Industries, the Fund or the Fund's officers or managers is required to be licensed as an "investment adviser" or "investment adviser representative" under the Act. Further, even if the Division finds both these elements to be present, there is no need for the protections afforded by licensure under the facts and circumstances of this case.

Accordingly, we respectfully request a response as soon as practicable that indicates your concurrence that Koch Industries, the Fund and the Fund's officers and managers would not be "investment advisers" or "investment adviser representatives" under the Act. Alternatively, we request a response that the Division will not take any enforcement action if Koch Industries, the Fund and the Fund's officers and managers proceed as described in this request without being licensed as "investment advisers" or "investment adviser representatives" under the Act. If for any reason you do not concur with this conclusion, we respectfully request an opportunity to confer with you prior to any written response to this letter. If you need any additional information or have any questions regarding the foregoing, please call Bill Eggleston of this firm at (602) 916-5328.

Respectfully submitted,

FENNEMORE CRAIG, P.C.

Bill Eggleston

By: W. T. Eggleston, Jr.

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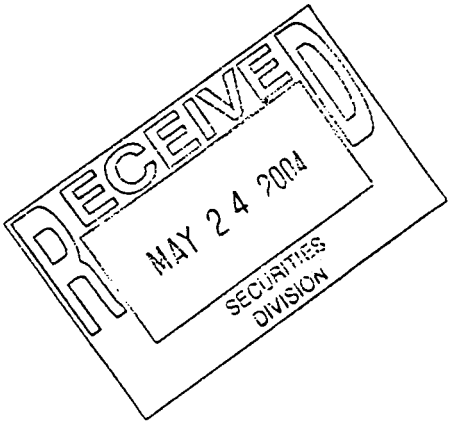
May 24, 2004



BY HAND DELIVERY

Securities Division
Arizona Corporation Commission
1300 West Washington Street
Third Floor
Phoenix, Arizona 85007
Attn: Associate General Counsel

Re: No-Action Letter Request by Koch Industries, Inc. Regarding the Arizona Investment Management Act
File No: 10686.001

Ladies and Gentlemen:

We are counsel to Koch Industries, Inc., a Kansas corporation ("Koch Industries"), and have been authorized to write on its behalf. Koch Industries is a privately held company that owns a diverse group of companies with operations in over 30 countries. Members of senior management of Koch Industries or its affiliates ("Koch Executives") are considering creating a

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Delaware limited liability company (the "Fund") that would invest in a variety of instruments, including fixed-rate, tax-exempt municipal bonds. The Fund's managers or officers would make all of its trading decisions, and the Fund would execute all of its trades through a licensed broker-dealer that would act as the intermediary.

Pursuant to A.R.S. §§ 44-3135 and 44-1826, we are writing to request assurance that the Securities Division of the Arizona Corporation Commission (the "Division") will not take any enforcement action against Koch Industries, the Fund or the Fund's managers or officers for failing to be licensed as investment advisers or investment adviser representatives under the Arizona Investment Management Act, A.R.S. § 44-3101, et seq. (the "Act"). For the reasons set forth below, we believe that Koch Industries, the Fund and the Fund's managers and officers should not be subject to such licensing requirements. Pursuant to §§ 44-1861(M) and 44-3135, enclosed is a $200 check made payable to the "Arizona Corporation Commission" for the non-refundable filing fee in connection with this no-action request.

STATEMENT OF FACTS

The Koch Executives are considering creating the Fund, which would invest in a variety of instruments, including fixed-rate, tax-exempt municipal bonds. The Fund would offer limited liability company interests to "accredited investors" under Rule 506 of Regulation D promulgated pursuant to the Securities Act of 1933 (the "Securities Act"). The members of the Fund would consist of only Koch Executives. The Fund would be managed by its managers or officers and not by its members. The members would be passive investors who would have no voting or decision-making authority with respect to any of the fund's investment decisions. Like its members, the managers and officers of the Fund would be affiliated with Koch Industries. Specifically, they would be executive level employees of Koch Financial Corporation, a subsidiary of Koch Industries.

In connection with its investment activities, the Fund would utilize proprietary hedging strategies and swap agreements. The Fund would make all of its own strategy and trading decisions, acting through its managers or officers. The managers and officers would receive no compensation from the Fund for their role in making strategy and trading decisions in the name of and on behalf of the Fund. There would be no separate entity acting as a managing agent for the Fund, and Koch Industries would not be involved in the Fund's trading strategies or trading decisions. The Fund would not have any employees.

Koch Industries' involvement in the Fund would be limited to assisting Koch Executives with the initial organization of the Fund and making known the opportunity for Koch Executives to buy limited liability company interests from the Fund. The Fund would make the opportunity to invest in the Fund known to Koch Executives through an offering memorandum or other

written material prepared by the Fund that would not suggest that either Koch Industries or the Fund is giving any investment advice and would not encourage the making of any investment in the Fund. No commissions would be charged in connection with the sale of limited liability company interests in the Fund. Koch Industries would not have a limited liability company interest in the Fund, would not share in the profits or losses of the Fund and would not receive compensation with respect to the Fund.

Because its limited liability company interests would be owned by not more than 100 persons and it would not be making a public offering of such interests, the Fund would not be an "investment company" under the Investment Company Act of 1940 (the "Investment Company Act") and, therefore, would not be required to register as such. In addition, the sale of limited liability company interests in the Fund would be exempt from registration under the Securities Act and the Arizona Securities Act because it would be conducted in accordance with Rule 506 of Regulation D promulgated pursuant to the Securities Act. The Fund would not be a licensed broker-dealer, but would execute all of its trades through a licensed broker-dealer that would act as the intermediary.

SUMMARY OF STATUTORY AND REGULATORY PROVISIONS

A.R.S. § 44-3151 prohibits a person from transacting business in Arizona as an investment adviser or investment adviser representative unless the person is licensed or exempt from licensure. The Act also regulates investment advisers and investment adviser representatives generally in addition to the licensure requirements. Subject to certain exceptions, an "investment adviser" is

> any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

§ 44-3101(5) (emphasis added). An "investment adviser representative" is any partner, officer or director of an investment adviser or person performing a similar function who makes recommendations, manages accounts or portfolios, etc. § 44-3101(6). Accordingly, under each of the two definitions there are two crucial elements that must be satisfied before a person falls within the definition – "advising others" about securities and doing it "for compensation."

In interpreting the definitions and other terms in the Act, the Division may refer to identical terms or phrases in the Investment Advisers Act, including regulations or interpretive

releases. § 44-3102. The definition of "investment adviser" under Section 202(a)(11) of the Investment Advisers Act is identical to the definition under the Act that was quoted above.

DISCUSSION AND ANALYSIS OF THE LAW AS IT RELATES TO THE FACTS AND STATEMENT OF LEGAL AUTHORITY FOR GRANTING THE REQUEST

I. KOCH INDUSTRIES IS NOT AN INVESTMENT ADVISER BECAUSE IT IS NOT ADVISING OTHERS FOR COMPENSATION.

The Fund would make all of its own strategy and trading decisions, acting through its managers or officers, and Koch Industries would not be involved in the Fund's trading strategies or trading decisions. Koch Industries' involvement in the Fund would be limited to assisting Koch Executives with the initial organization of the Fund and making known the opportunity for Koch Executives to buy limited liability company interests from the Fund. The Fund would make the opportunity to invest in the Fund known to Koch Executives through an offering memorandum or other written material prepared by the Fund that would not suggest that Koch Industries is giving any investment advice and would not encourage the making of any investment in the Fund. No commissions would be charged in connection with the sale of limited liability company interests in the Fund. Koch Industries would not have a limited liability company interest in the Fund, would not share in the profits or losses of the Fund and would not receive any compensation with respect to the Fund.

Because Koch Industries would not be involved in the Fund's trading strategies or trading decisions and because it would not receive any compensation or commissions and would not share in the profits or losses of the Fund, it would not be a "person who, for compensation, engages in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing or selling securities." A.R.S. § 44-3101(5) (emphasis added). Accordingly, it would not be an "investment adviser" to the Fund. Likewise, because Koch Industries would not give any investment advice to Koch Executives and would not encourage the making of any investment in the Fund, and because Koch Industries would not receive any compensation or commissions and would not share in the profits or losses of the Fund, it would not be an "investment adviser" to Koch Executives.[1]

[1] Koch Industries cannot be an "investment adviser representative" because it is an entity and the definition of "investment adviser representative" contemplates individuals and not entities. See § 44-3101(6) ("investment adviser representative" is a partner, officer or director of an investment adviser "or any other individual who is employed by or associated with an investment adviser" who makes recommendations, manages accounts or portfolios, etc.) (emphasis added).

II. THE FUND IS NOT AN INVESTMENT ADVISER BECAUSE IT IS NOT ADVISING OTHERS FOR COMPENSATION.

The Fund would make the opportunity to invest in the Fund known to Koch Executives through an offering memorandum or other written material prepared by the Fund that would not suggest that the Fund is giving any investment advice and would not encourage the making of any investment in the Fund. No commissions would be charged in connection with the sale of limited liability company interests in the Fund, and the Fund would not receive any commissions or other compensation with respect to investments in the Fund other than the cost of the limited liability company interest.

The Division should conclude as a matter of law that the Fund cannot be an investment adviser with respect to activities involving its own securities because it is not "advising others" within the meaning of A.R.S. § 44-3101(5). Rather, it is merely attempting to sell its own securities. Further, even if the Division should choose not to reach this conclusion as a matter of law, it should do so on the facts presented in this request. Because the Fund would not suggest to Koch Executives that it is giving any investment advice and would not encourage the making of any investment in the Fund, and because the Fund would not receive any commissions or other compensation with respect to investments in the Fund other than the cost of a limited liability company interest, it too would not be a "person who, for compensation, engages in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing or selling securities." A.R.S. § 44-3101(5) (emphasis added). Accordingly, it would not be an "investment adviser" to Koch Executives.[2]

III. THE MANAGERS AND OFFICERS OF THE FUND ARE NOT INVESTMENT ADVISERS BECAUSE THEY ARE NOT ADVISING OTHERS FOR COMPENSATION, AND THEY ARE NOT INVESTMENT ADVISER REPRESENTATIVES BECAUSE THEY ARE NOT EMPLOYED BY OR ASSOCIATED WITH AN INVESTMENT ADVISER.

The Fund would be a Delaware limited liability company that would be managed by its managers and not by its members. Under Delaware law (and the law of all other states), a properly formed limited liability company, like a corporation, is "a separate legal entity." Delaware Limited Liability Company Act, § 18-201(b). Further, as a separate legal entity that is

[2] The Fund cannot be an "investment adviser representative" because it is an entity and the definition of "investment adviser representative" contemplates individuals and not entities. See § 44-3101(6) ("investment adviser representative" is a partner, officer or director of an investment adviser "or any other individual who is employed by or associated with an investment adviser" who makes recommendations, manages accounts or portfolios, etc.) (emphasis added).

not an individual, it is managed by and can act only through its members or managers. § 18-402.[3] In this case, because the Fund would be a manager-managed and not a member-managed limited liability company, it can act only through its managers or officers.

When the Fund's managers and officers determine the Fund's strategy and make the Fund's trading decisions, they would be doing so in the name and on behalf of the Fund itself and not for the members of the Fund. Further, they would receive no compensation from the Fund for their role in making these strategy and trading decisions. Accordingly, they would not be with respect to the Fund persons "who, for compensation, engage in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing or selling securities." A.R.S. § 44-3101(5) (emphasis added). Likewise, because they would not suggest to Koch Executives that they are giving any investment advice and would not encourage the making of any investment in the Fund, and because they would not receive any compensation or commissions from the Fund (other than sharing in the profits or losses of the Fund like any other member if they purchase limited liability company interests themselves), they would not be "investment advisers" to Koch Executives.

In interpreting the definitions and other terms in the Act, the Division may refer to identical terms or phrases in the Investment Advisers Act, including regulations or interpretive releases. A.R.S. § 44-3102. The definition of "investment adviser" under Section 202(a)(11) of the Investment Advisers Act is identical to the definition under the Act that was quoted above. Thus, the Division should refer to interpretations of the "investment adviser" definition under Section 202(a)(11).

One of those interpretations reached the same conclusion as this request does in the case of a limited partnership and its investment committee. PaineWebber Thrifts Investors, Inc., SEC No-Action Letter, 1989 WL 246331 (Aug. 15, 1989). In PaineWebber, the Staff of the Securities and Exchange Commission concluded that it would not recommend enforcement action if the investment committee did not register under the Investment Advisers Act "because the Committee is an integral part of the Partnership's management structure with oversight and management authority comparable to that of the board of directors of a corporation," because the Committee therefore is "not in the 'business of advising others,'" and because the Committee members receive no compensation for serving on the Committee. Id. Likewise, under Delaware law, the managers and officers of the Fund are "an integral part of the Fund's management structure with oversight and management authority comparable to that of the board of directors of a corporation," and therefore are "not in the 'business of advising others." Further, they too receive no compensation from the Fund for serving as managers and officers. Thus, they are not

[3] The members or managers also can delegate their rights to manage and control the business to agents, officers and employees of a member or manager or of the limited liability company. § 18-407.

"investment advisers." See also Selzer v. Bank of Bermuda Ltd., 385 F. Supp. 415, 420 (S.D.N.Y. 1974) (trustee dealing in securities for its trust not investment adviser because trustee is not advising trust but acting as principal); Cornelius C. Rose, SEC No-Action Letter, 1978 WL 11634 (June 2, 1978) (person who resigned from separate consulting relationship and served solely as chairman of board for investment company not investment adviser because, as chairman, he "would not give advice with respect to securities transactions apart from consultations and recommendations typically given by all Directors in the ordinary fulfillment of their duties as such"); Lanchart Industries, Inc., SEC No-Action Letter, 1977 WL 13943 (Mar. 2, 1977) (neither sponsoring company nor administrative committee of employee stock ownership plan investment adviser required to register); VII L. Loss & J. Seligman, Securities Regulation at 3344 (2003) ("it has not been suggested that the president of an internally managed corporate investment company should be considered to be an investment adviser to his or her stockholder 'clients'") (emphasis in original).

Finally, the managers and officers would not be "investment adviser representatives" because, for the reasons stated in Sections I and II above, Koch Industries and the Fund are not "investment advisers." A.R.S. § 44-3101(6) ("investment adviser representative" is "any partner, officer or director of an investment adviser" or person performing a similar function who makes recommendations, manages accounts or portfolios, etc.) (emphasis added).

STATEMENT OF THE REASONS A NO-ACTION LETTER IS APPROPRIATE AND EXPLANATION OF ANY ADVERSE OR BENEFICIAL EFFECT ON THE PUBLIC INTEREST FROM THE GRANTING OF THE REQUEST

A no-action letter is appropriate because: (1) the director is authorized to respond to written requests from interested persons for interpretive no-action letters under the Act pursuant to A.R.S. §§ 44-3135 and 44-1826; (2) the Staff recommended submitting a formal no-action request if Koch Industries desires guidance from the Division; and (3) the above legal analysis indicates that no-action relief is consistent with the law. In addition, because the Fund is a purely private fund that would involve only Koch Executives (all of whom are "accredited investors") and would not involve the general public, and because no-action relief is consistent with the Act in any event, there would be no adverse effect on the public interest from the granting of the request.

Further, granting the request would have a beneficial effect on the public interest because any contrary conclusion (i.e., that licensing of the Fund or its managers or officers is required under these facts):

- would make it virtually impossible for any entity (e.g., a fund, a venture capital firm, or even a publicly-traded corporation) to make any investments in securities without having its directors, officers, etc. who are making the decisions for the entity register as investment advisers or investment adviser representatives and without having the entity itself register as an investment adviser;

- would be inconsistent with the intent of the Act; and

- would appear to be an attempt to indirectly regulate the operation of the Fund itself, which is a proper topic of regulation under the Investment Company Act (here the Fund would be exempt from registration) but not under the Act.

Although no-action letters may not be relied upon by third parties, the Division has noted on its website that third parties routinely use them as a resource in analyzing the Division's interpretations or policies with respect to the Act. Granting the request and publishing a no-action letter would help to clarify that licensure under the Act is not required in situations where, as here, there is no "advice to others" or "compensation" within the meaning of the Act and the transaction involved is exempt under the other applicable federal and state regulatory schemes (i.e., the Securities Acts, the Investment Company Act and the Investment Advisers Act).

CERTIFICATIONS AND ACKNOWLEDGMENTS PURSUANT TO A.R.S. § 44-1826

Pursuant to A.R.S. § 44-1826, Koch Industries certifies and acknowledges as follows:

1. To Koch Industries' knowledge, the transaction described in this request is not directly or indirectly the subject of any pending or final judicial, SRO or administrative proceeding.

2. The transaction described in this request has not been commenced.

3. This request, together with any documents or information submitted and any response from the Division, is public information that may be released for publication, except as otherwise provided by law.

CONCLUSION

For the reasons set forth above, neither the "advising others" element nor the "for compensation" element of the Act's definition of an "investment adviser" is satisfied here. Accordingly, it is our opinion that none of Koch Industries, the Fund or the Fund's officers or

managers is required to be licensed as an "investment adviser" or "investment adviser representative" under the Act.

Accordingly, we respectfully request a response as soon as practicable that indicates that the Division will not take any enforcement action if Koch Industries, the Fund and the Fund's officers and managers proceed as described in this request without being licensed as "investment advisers" or "investment adviser representatives" under the Act. If for any reason you do not concur with this conclusion, we respectfully request an opportunity to confer with you prior to any written response to this letter. If you need any additional information or have any questions regarding the foregoing, please call Bill Eggleston of this firm at (602) 916-5328.

Respectfully submitted,

FENNEMORE CRAIG, P.C.

Bill Eggleston

By: W. T. Eggleston, Jr.

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