

S.E.C. Calls Pequot Study Thorough

By WALT BOGDANICH

WASHINGTON, Dec. 5 — Senior officials at the Securities and Exchange Commission vigorously defended the commission's investigation of a prominent hedge fund, **Pequot Capital Management**, telling the Senate Judiciary Committee on Tuesday that its inquiry was professional, thorough and untainted by outside political influence.

In their first detailed public comments about the investigation of Pequot, four current or former S.E.C. supervisors took aim at their former colleague and chief accuser, Gary J. Aguirre, saying his allegations that the agency had pulled its punches were unfounded and came from a fired employee whose temperament and judgment had caused problems in the office.

"He treated his colleagues with disrespect bordering on contempt," said Mark Kreitman, an assistant director of enforcement at the S.E.C. "His investigation of Pequot was poorly thought out, disorganized, and sloppily documented."

The testimony by S.E.C. officials, including the agency's inspector general, was met with considerable skepticism by Senator Arlen Specter, who is chairman of the Judiciary Committee, and Senator Charles E. Grassley, the Iowa Republican who heads the Finance Committee. Both panels are investigating the Securities and Exchange Commission's

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handling of the Pequot inquiry.

"At a minimum, it is very, very troubling what the S.E.C. has done here," Senator Specter, a Pennsylvania Republican, said, citing conflicting accounts of Mr. Aguirre's conduct and what he said was a long delay in taking testimony from John J. Mack, an influential Wall Street executive. "We are not finished with this, ladies and gentlemen."

Mr. Aguirre had previously told Congress that the Pequot investigation, which he led, was derailed in the summer of 2005 after his supervisors blocked him from taking testimony from Mr. Mack, a major fund-raiser for President Bush's re-election campaign.

Senator Grassley saved his most biting comments for the S.E.C.'s inspector general, Walter J. Stachnik, pointing out that the inspector gen-

Two senators expressed skepticism about the actions taken by the agency.

eral had not interviewed Mr. Aguirre before concluding that his charges were unfounded.

"Just calling up people accused of wrongdoing and asking them if they did it is not my idea of an investigation," Senator Grassley said.

Senator Specter said the inspector general's investigation was at best lax and at worst had the "overtone of cover-up."

Mr. Stachnik said his staff did not need to interview Mr. Aguirre because it had ample evidence from other sources to reach its conclusion. Mr. Stachnik eventually reopened his investigation, but in doing so he has raised new questions.

Senator Grassley accused Mr. Stachnik of trying to intimidate future whistleblowers by subpoenaing Mr. Aguirre's communications with Senate investigators.

Asked why he had done so, Mr. Stachnik said he could not answer the question because the Justice Department advised him not to discuss the matter. That prompted Senator Grassley to say in a rising voice, "You may be playing footsy with an executive branch of government that wants to curb congressional inquiry, even beyond this one."

The S.E.C. had been investigating a number of profitable trades by the hedge fund in advance of mergers or other market-moving news. The commission eventually interviewed Mr. Mack and closed its investigation last week without filing an enforcement action. Both Mr. Mack and Pequot's founder, Arthur J. Samberg, have repeatedly denied any improper conduct.

Mr. Aguirre's tenure at the S.E.C. was a troubled one, said his former supervisors, who in addition to Mr. Kreitman were Robert B. Hanson, a branch chief; Linda Thomsen, the agency's director of enforcement; and Paul R. Berger, a former associate director of enforcement. They said they could now respond publicly to Mr. Aguirre's charges because the Pequot case was no longer active.

Mr. Kreitman said Mr. Aguirre had become increasingly erratic, throwing tantrums and "storming down the halls in a furious crouch."

Ms. Thomsen called Mr. Aguirre's supervisors "smart, dedicated and honorable" officials who were not afraid to follow evidence wherever it might lead, even if it implicated "captains of industry."

Mr. Hanson said Mr. Aguirre reached conclusions not supported by evidence, and cited Mr. Aguirre's examination of Mr. Samberg of Pequot. "It was reported to me that Mr. Aguirre behaved unprofessionally and was extremely disorganized during the testimony," Mr. Hanson said.

Senator Grassley challenged that assertion. Noting that Mr. Hanson had not been at the examination, the senator said a completely different conclusion about Mr. Aguirre's conduct had been reached by L. Hilton Foster, one of the S.E.C.'s most-respected experts on insider trading.

Senator Grassley said Mr. Foster, who had attended the examination, told Senate investigators that Mr. Aguirre's questioning had elicited



Michael Temchine for The New York Times

Robert B. Hanson, right, an S.E.C. branch chief, testified at a Senate hearing yesterday, saying allegations by Gary J. Aguirre, left, a former colleague, were unfounded. At the hearing, Senator Charles E. Grassley criticized Walter J. Stachnik, center, inspector general of the agency.

"dynamite stuff," and that he intended to use the hearing transcript to train new attorneys.

Mr. Hanson said he had not spoken with Mr. Foster before reaching his conclusion.

Senator Specter said the S.E.C.'s harsh criticism of Mr. Aguirre did not square with the favorable job evaluations from his supervisors. In response, Mr. Kreitman said S.E.C. officials came to believe that they had been "overly generous" and decided to add a second, more critical evaluation.

That evaluation was not shared with Mr. Aguirre and was put in his file after he left the agency.

"It looks like that negative evaluation was created only after Aguirre started complaining," Senator Grassley said.

In a statement after the hearing, the senator added, "Neither the S.E.C. nor the inspector general can get around the fact that there is little or no documentary evidence to support the supervisors' claims about Mr. Aguirre."

The senior S.E.C. officials who tes-

tified Tuesday said politics played no role in the Pequot investigation. "I certainly knew that Mr. Mack was a very high profile individual, but I had no idea until I read in The New York Times recently about Mr. Mack's political connections," Mr. Hanson said.

S.E.C. officials said they had turned down Mr. Aguirre's request to interview Mr. Mack at the time because he had not made a strong enough case for doing so, and they pointed out that at no time was there any evidence that Mr. Mack had access to information that could have

constituted insider trading.

Eric Ribelin, an S.E.C. official who had worked on the Pequot case, testified that he had been "stunned and outraged" by Mr. Aguirre's firing. "Something smells rotten," he wrote in an e-mail message to one of his supervisors. "I'm nonplussed by issues big and small about the course of events going back to January."

Asked what he meant, Mr. Ribelin said Mr. Aguirre did not receive the support he needed within the S.E.C. to aggressively pursue his investigation.