

DEALS & DEAL MAKERS

Another SEC Official Challenges Probe of Pequot

*Latest Testimony Supports
Former Enforcement Lawyer;
'Something Smells Rotten'*

By SIOBHAN HUGHES

WASHINGTON—A second Securities and Exchange Commission official told Congress he had warned agency officials that “something smells rotten” about the SEC’s handling of an insider-trading probe of hedge-fund Pequot Capital Management.

The testimony from Eric Ribelin, who works in the office of market surveillance, provides a leg of support for the claims of former SEC enforcement attorney Gary Aguirre.

Mr. Aguirre says he was fired in September 2005 after his supervisors reversed course and stopped him from issuing subpoenas to current Morgan Stanley Chief Executive John Mack, whom Mr. Aguirre suspected of tipping off Pequot. SEC officials said they fired Mr. Aguirre

because his behavior became erratic and he couldn’t get along with his colleagues.

“I have serious misgivings about many decisions made in this investigation,” Mr. Ribelin wrote in September 2005 to Robert Hanson, an SEC branch chief who had supervised Mr. Aguirre. “I don’t know what all has driven the decisions. Something smells rotten, though.”

Senate Judiciary Committee Chairman Arlen Specter (R., Pa.) called the hearing to air allegations that the Pequot probe was derailed by political influence. The SEC staff closed its investigation of Pequot and Mr. Mack last week without recommending enforcement action. Morgan Stanley has said Mr. Mack, who testified to the SEC this past August, cooperated in the probe.

SEC enforcement director Linda Thomsen, former SEC associate enforcement director Paul Berger, SEC assistant director Mark Kreitman and Mr. Hanson joined forces to testify under oath yesterday that their probe of Pequot wasn’t derailed for political reasons. The SEC enforcement attorneys said they hadn’t had enough information to make it worthwhile to subpoena Mr. Mack.



Robert Hanson and Linda Thomsen of the SEC defend themselves yesterday.

The Judiciary Committee, together with the Senate Finance Committee, will release a report early next year that summarizes the evidence they have gathered through a congressional investigation. The SEC staff always has the option of reopening the Pequot probe. However, that is deemed unlikely because it would suggest that the SEC’s enforcement investigations are steered by Congress, undercutting its status as an independent agency.

In an interview after the hearing, Mr. Specter said that “I think that there was totally insufficient justification for the firing of [Mr.] Aguirre.” He said that they “manufactured a reevaluation as the basis for firing him.” Mr. Specter said he planned to study the transcript to determine “where we go next.”

“At best, this is a demonstration of very lax and inadequate enforcement by the SEC, and at worst, they have not pursued the evidence which was talked about relating to [Mr.] Mack” and Pequot chief Arthur Samberg, Mr. Specter said.