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Asensio About Aguirre: 'Running Amok'

By Christopher Faille, Financial Correspondent
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NEW YORK (HedgeWorld.com)—Manuel Asensio, who crossed swords with Arthur Samberg a decade ago, has come to his defense this week.

Last week's hearing on the Securities and Exchange Commission's enforcement of the prohibition of insider trading Previous HedgeWorld Story focused on the allegations that the SEC had bowed to political pressure in blocking the desire of one of its investigators, Gary Aguirre, to take a deposition of Morgan Stanley head John Mack.

In this context, Mr. Asensio wanted to make known his view that there "could be an excellent legal and factual basis for the SEC's initial decision to block the investigator from taking Mr. Mack's deposition. Perhaps the SEC's poor judgment was … in hiring and retaining the accuser, and choosing perhaps this particular moment [September 2005] to terminate him."

Mr. Aguirre's theory, developed in the spring and summer of 2005, was that Mr. Mack, the former chairman of the hedge fund Pequot Capital Management Inc., Westport, Conn., had improperly passed information along to his friend and former associate, Pequot founder Art Samberg, in connection with GE's acquisition of Heller Financial.

Mr. Asensio pointed out in the statement that he knows Mr. Samberg, and that the two were on the opposite sides of a very public controversy over Diana Corp in 1996.

Diana was a Calabasas, Calif.-based corporation that claimed, beginning in 1995, to have developed a state-of-the-art proprietary data delivery system. According to an August 1995 press release, their system would provide "all-digital transmission from the point of entry to the service provider's platform for improved error-corrected data throughput."

Mr. Samberg was president of Dawson Samberg Capital Management Inc., which specialized in technology stocks and held a large long position in Diana in the fall of 1996, when Mr. Asensio was on the short side of the same equity. Mr. Asensio's release Monday [Dec. 11] mentioned this as a situation in which he had developed a "high degree of conviction that the stock [of Diana was] an overvalued fraud," and Dawson Samberg—which may have spent as much as $1.2 million buying Diana stock on the afternoon of Oct. 15, 1996—had reached the "exact opposite" conclusion.

In this case, it was Mr. Asensio who got the call right. Diana had been trading at more than $100 in May 1996. By the end of April 1997, its stock was trading at only $2.25 a share. Nonetheless, as Mr. Asensio rather grandiloquently stated, this "by no means makes us [at Asensio & Co.] better investors than Mr. Samberg, much less any more noble."

Although the full truth about the Pequot investigation may never be available, he wrote, what is undeniable is that Messrs. Mack and Samberg were, "if only for a brief moment, humbled by the likes of an erratic, unprofessional, and extremely disorganized bureaucrat running amok with officially-labelled ‘unfounded' accusations."