

**United States Senate**  
COMMITTEE ON FINANCE  
WASHINGTON, DC 20510-6200

October 21, 2008

**Via Electronic Transmission**

The Honorable Christopher Cox  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Dear Chairman Cox:

On September 30, 2008—more than a year after Senator Specter and I issued our final report on the investigation of the SEC’s handling of the Pequot investigation and the termination of Gary Aguirre—the SEC’s Inspector General recommended that you take action to hold Aguirre’s supervisors accountable. Among other things, the Inspector General specifically recommended that you hold them accountable for inappropriately disclosing information about ongoing investigations to outside parties. He echoed the concerns we expressed in the final report, which you pledged to address last year.

In light of this background, I am deeply troubled by new allegations that senior Enforcement officials may have repeated this pattern of conduct in connection with the collapse and purchase of Bear Stearns. Specifically, I have received anonymous but specific information that:

[T]he enforcement director gave information to the [General Counsel] of JP Morgan Chase (himself a former SEC enforcement director) about the state of various investigations into Bear. The GC had called the director to get assurances and inside knowledge from the SEC to help Morgan’s negotiating position (i.e. how much to bid). This inside information, gotten through a personal relationship, would be critical in helping Morgan put together a low-ball bid to Bear and the US government: Morgan could cite litigation (as ill as valuation) uncertainties, while having the assurance (that at least from the SEC) the risk of litigation was not really that great. This could have materially affected the amount of guarantees that Morgan was able to negotiate from the Federal Reserve.

Moreover, the Enforcement Director also allegedly “made representations about the investigation without talking . . . to the staff doing the investigation.” The similarity of these allegations to the conduct criticized in our report and the Inspector General’s report is striking. Such conduct would reinforce the appearance that Enforcement decisions, and disclosures of information about them, are sometimes based not on the merits, but rather on access to senior officials by influential representatives of power brokers on Wall Street. In light of these allegations and the ongoing financial crisis, there has never been a more critical time to take swift action to restore confidence in the SEC Enforcement Division.

Accordingly, please explain what action you will propose to hold Aguirre's supervisors accountable during the administrative proceedings now underway. In view of these allegations, please provide the following with respect to Bear Stearns:

- 1) A detailed summary of each of the SEC investigations pending in February or March 2008 concerning the investment bank. The summary should include (a) the dates on which any Matter Under Investigation (MUI) was opened and/or closed, (b) the dates on which any Formal Order of Investigation ("Formal Order") was considered and approved or rejected by the Commission, (c) the dates on which any draft Ills Notice was ever prepared, regardless of whether it was finalized, and (d) a description of the nature of the potential violations by Bear Stearns or its employees.
- 2) Any and all records of communications between SEC staff and representatives of J.P. Morgan Chase in February or March 2008 related to any of the cases described above. To the extent that no such records exist, please provide a detailed description of any such contacts that occurred without a record having been made and describe why no record of the communications was made.

Thank you for your continued cooperation on these important matters. Any questions or concerns should be directed to Jason Foster of my staff at (202) 224-4515. I look forward to hearing from you by no later than October 28, 2008. All documents responsive to this request should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov).

Sincerely,



Charles E. Grassley  
Ranking Member

Cc: The Honorable Kathleen L. Casey  
The Honorable Elisse B. Walter  
The Honorable Luis A. Aguilar  
The Honorable Troy A. Paredes  
The Honorable David Kotz

The Honorable Arlen Specter  
Ranking Member, Senate Committee on the Judiciary

Attachment

October 7, 2008

Dear Mr. Kotz,

You issued a report yesterday about how the Pequot investigation was mishandled by the SEC enforcement division. You focused on the director's communications with outsiders about those investigations and you noted that she did not talk to the staff actually investigating the matter before she talked to lawyers representing those under investigation.

In addition to what you found regarding the Pequot investigation, you should look into how this course of conduct replayed itself in the case of the collapse of Bear Stearns in March. The enforcement director gave information to the GC of JP Morgan Chase (himself a former SEC enforcement director) about the state of the various SEC investigations into Bear. The GC had called the director to get assurances and inside knowledge from the SEC to help Morgan's negotiating position (i.e., how much to bid). This inside information, gotten through a personal relationship, would be critical in helping Morgan put together a low-ball bid to Bear and the US Government: Morgan could cite litigation (as well as valuation) uncertainties, while having the assurance that (at least from the SEC) the risk of litigation was not really that great. This could have materially affected the amount of guarantees that Morgan was able to negotiate from the Federal Reserve.

Contrary to her own policy that she put in place herself following the Pequot controversy, the director made representations about the investigation without talking to staff. During that weekend, she never attempted to talk to the staff doing the investigation.

This additional information goes to the heart of the problems that you correctly focused on. It also shows that the enforcement leadership does not appreciate the problems with this conduct, even when they instate procedures to avoid it.

Cc: Sen Grassley