The New York Sun

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'A Full Airing'

New York Sun Staff Editorial
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New Yorkers could be forgiven if they found themselves scratching their heads over the decision of the New York Times to park at the top of its front page on Sunday a story under the headline "S.E.C. Inquiry on Hedge Fund Draws Scrutiny." The story, written by two excellent reporters, involved allegations of insider trading involving Pequot Capital Management, a fund headquartered at Westport, Conn.

The hero of the Times coverage of the case has been one Gary Aguirre, a lawyer who claims he was fired by the Securities and Exchange Commission, just days after receiving a merit raise, for the "sin" of insisting that the SEC take testimony from the chief executive of Morgan Stanley, John Mack.

Mr. Mack, as the Times pointed out, is a fundraiser for President Bush. The implication of the Gray Lady's reporting has been clear — a politicized SEC hindered the investigation of a big, bad hedge fund to protect a friend of the president. The Beltway has certainly found it compelling. Thanks to the dispatches in the Times, Mr. Aguirre found himself guest of honor at a Senate hearing on the SEC's regulation of hedge funds. There's just one problem. The SEC ultimately announced that it would not be pursuing insider-trading charges against Pequot or Mr. Mack.

That in and of itself is not surprising, particularly when one considers the paucity of evidence of wrongdoing despite all the ink the Times has spilled. For example, one transaction under investigation involved Pequot's purchase of shares in early July 2001, ahead of the announcement of the merger, on July 30, 2001, of General Electric and Heller Financial. Yet it turns out that rumors of the merger were swirling in Wall Street at the time; speculation of the deal had made it into the pages of the Wall Street Journal as early as March 2001.

Mr. Mack, meantime, became chief of Credit Suisse First Boston, Heller's adviser in the deal, right before the Heller–GE announcement. The Times's reporting suggested that Mr. Mack, himself at times a Pequot investor and reportedly a friend of Pequot's manager, Arthur Samberg, could have been a conduit for insider information. But, as the Journal has reported, Mr. Mack did not take over CSFB until after Pequot starting making the purchase of Heller shares. Thus, there wasn't a lot of, if any, inside information left on which to trade by the time Pequot apparently decided to get in on the action.

Mystified New Yorkers were left wondering what could possibly explain the Times's fascination with this story. Some might say it's Mr. Mack's connection to Mr. Bush, but it could just as easily be Mr. Mack's connection to Morgan

Stanley. That is the bank that, earlier this year, withheld its proxy votes for members of the board of the New York Times Co. to protest the Sulzberger family's preferential voting status. A Morgan Stanley analyst complained at the time that the Times was underperforming as a business in large part because of the ossified management perpetuated by the ruling family's use of super-voting shares to control the Times despite a relatively puny stake in the Times company.

As these columns have previously noted, the Sun doesn't quarrel with the idea of family ownership, which has been a feature of many of America's greatest newspapers. Yet the Times's failure to mention in any of its pieces on Morgan and Mr. Mack that Morgan was the principal antagonist of the Times management at this year's Times annual meeting was certainly noticed around town. We're told that at Morgan people have been puzzling over both the timing and treatment of the stories and the paper's propensity for emblazoning anti-Mack stories on the front page while relegating to an inside section news that the SEC had cleared Mr. Mack of any wrongdoing. A spokeswoman for the Times, Catherine Mathis, calls any such speculation "patently absurd" and avers, in respect of Morgan's move at the annual meeting and the Time's coverage of Mr. Mack, that "one has nothing to do with the other." A Times editorial yesterday called for a "full airing" of the SEC matter in the Congress. How about in the Times?

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Public Interest Lawsuit Suing The New York Times for Journalistic Fraud

The New York Times' knowingly dishonest news reporting and editorializing are the subject of a public interest lawsuit against it for journalistic fraud.

This first-of-its-kind lawsuit is brought by the non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), whose website, www.judgewatch.org, posts THREE PRESS RELEASES and THE FULL RECORD, accessible *via* a sidebar panel entitled "Suing The New York Times".

The lawsuit charges The Times with betraying its First Amendment responsibilities to the public and that it has been election-rigging for Attorney General Spitzer and Senator Clinton, among others, by refusing to report on their records in office with respect to judicial selection and discipline. This, with knowledge that such reporting would rightfully end their electoral prospects, if not generate disciplinary and criminal prosecutions against them for corruption.

The lawsuit -- now seven months old -- has yet to be reported by ANY media, including The New York Sun.

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