

SEC Investigates Firing Of Wachovia Analyst

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WASHINGTON -(Dow Jones)- The Securities and Exchange Commission is investigating the firing of a Wachovia Corp. (WB) analyst, possibly in retaliation for the analyst refusing to buckle under to investment bankers who allegedly sought to influence his reports.

The investigation, which is in an early stage, could be the first test of regulations adopted in the wake of scandals involving stock analysts who issued upbeat reports to help win investment-banking business. Under an SEC rule adopted in 2002 to combat conflicts of interest, analysts must certify whether their reports accurately reflect their views and specify if they are being paid to make a specific recommendation.

Former Wachovia analyst Arturo Cifuentes was fired in April after he refused to certify his pay wasn't geared to his recommendations. Cifuentes, who specialized in collateralized debt obligations, did not respond to a request for comment, but his attorney, Jenice Malecki, said Cifuentes testified to the SEC in October. A separate suit alleging unfair termination filed by Cifuentes earlier this year with the Labor Department suggests that bankers repeatedly attempted to influence his reports in order to sell Wachovia products and services.

"The certification requirements were used as an excuse to terminate an employee who was reporting serious pressures that he fought off regularly," said Malecki. "Because of his termination, no reporting had to be made to the public about the analyst's unwillingness to certify."

An SEC spokesman declined to comment. Wachovia bankers didn't return phone calls or emails. Wachovia spokeswoman Christy Phillips said the company doesn't comment on current or former employees. She forwarded a statement saying that the Charlotte bank "is committed to effectively managing research analyst conflicts of interest" and that "given our policies and procedures, we believe any claims alleging that our fixed income research analysts are subject to improper influence are meritless."

One of the wrinkles: Cifuentes was a fixed-income analyst, a group that wasn't covered under the landmark \$1.4 billion settlement between regulators and 10 Wall Street banks over flawed research. Under the settlement, firms were required to sever links only between equity research and investment banking. Wachovia allegedly took advantage of the discrepancy, telling Cifuentes later that in fixed-income research, the wall between banking and research was "softer," according to the complaint filed with the Labor Department.

The question is whether the SEC will agree. Earlier this year, former SEC Chairman William Donaldson urged Wall Street to address conflicts in the area of fixed-income research. More recently, SEC Chairman Christopher Cox has indicated that continuing signs of analyst retaliation are a concern.

If the SEC finds Wachovia violated rules, it could potentially impose civil penalties or take other actions. The Department of Labor, which is supposed to wrap up the case by early next year, could award compensatory damages representing wages or bonuses denied to Cifuentes. Its interviews with the analyst and Wachovia management also could provide new information that could crop up should the case wind up in court.

Attempts To Influence Research

Wachovia's investment bankers contacted Cifuentes or his boss on at least nine occasions in a yearlong period to complain about his research or suggest topics to cover, according to the complaint. The bankers pushed him to write a report promoting a product that Cifuentes didn't think deserved a boost and cracked down on reports that they said generated complaints from potential clients, the complaint said.

It also alleges Cifuentes experienced more subtle forms of retaliation, such as being prevented from attending or sitting on panels at conferences related to his research while other Wachovia employees were given passes allowing them to attend.

In one of the earliest instances, Yu-Ming Wang, the head of structured products at Wachovia, and other bankers urged Cifuentes in February 2004 to write a report similar to one issued by Merrill Lynch & Co. (MER) that would be helpful in marketing the AXA CDO Equity Fund, according to the complaint. Cifuentes refused because he considered the request inappropriate and disagreed with Merrill Lynch's report, the complaint said.

Wang allegedly requested a research piece three months later on a product that Wachovia was marketing called Calibre, and Wachovia banker Steve Altemeier followed up in an email with Cifuentes inquiring "about collaborating in the Calibre piece as Yu-Ming requested." According to the complaint, Cifuentes responded that such a collaboration would be prohibited and refused to write an article.

The following year, another investment banker, Anthony Sciacca, called Cifuentes to complain that his research "makes the business difficult" and that a potential client, Pacific Investment Management Co., had canceled a meeting because of a report, according to the complaint. Sciacca asked Cifuentes to stop distributing the report, the complaint said.

Private Scorn, Public Praise

While he was being privately bullied, Cifuentes' work was receiving public praise, according to his complaint. The Treasury Department's Office of the Comptroller of the Currency invited him to speak to regulators; his report titled, "Anatomy of a Monte Carlo," criticized by an investment banker, won kudos from Wachovia's head of research, the complaint said.

In January, Cifuentes learned that his 2004 bonus would be less than expected, according to the complaint. His boss, Brian Lancaster, allegedly explained that the bonus was "dented" because investment banker Wang "thought you could work a little harder." Two Wachovia bankers sat in on meetings when decisions about analyst bonuses were determined, according to the complaint, including Tom Wickwire, who records show is also a partner with Wang in a \$5.4 billion money- management firm based at Wachovia's offices.

While Cifuentes had complained previously to his boss about attempts by investment bankers to influence his research, in February 2005 he sent a lengthy email to Wachovia's compliance officials. In the email, he detailed examples of pressure and said that "the work environment is seriously tainted and my ability to carry out independent research is under attack."

A showdown came in April, when Cifuentes informed Wachovia lawyer Donna Harris he couldn't certify that his compensation wasn't related to his opinions. He told her that he believed his pay had been reduced because investment bankers who criticized his work sat on the committee deciding his bonus and "so the intent of the regulations to promote an independent research environment had been violated."

In his complaint, Cifuentes said Harris told him the SEC regulation deals only with analysts being paid for giving certain opinions, not with the possibility of an analyst being penalized for expressing or withholding certain views.

Two days later, a day before the certification was due to the SEC, Cifuentes was fired, the complaint said. He said Wachovia later told him it had to fire him because his refusal to sign the statement meant he couldn't do his job.

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