



U.S. Securities and Exchange Commission

SEC Charges Pequot Capital Management and CEO Arthur Samberg With Insider Trading

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Washington, D.C., May 27, 2010 — The Securities and Exchange Commission today charged Connecticut-based hedge fund manager Pequot Capital Management, Inc., and its Chairman and CEO Arthur Samberg with insider trading in Microsoft Corporation securities. The SEC separately brought an enforcement action against a former Microsoft employee who later worked at Pequot for allegedly tipping the firm and Samberg with nonpublic information about Microsoft's earnings.

Pequot and Samberg agreed to pay nearly \$28 million to settle the SEC's charges. The SEC Division of Enforcement's case against the tipper, David Zilkha, will continue in an administrative proceeding before the Commission.

Additional Materials

- ▶ [SEC Complaint](#)
- ▶ [SEC Order Against David E. Zilkha](#)

"The cases have two particularly troubling aspects — a hedge fund manager trading on illegal insider information, and his tipper source who withheld crucial information about the scheme during an SEC investigation," said Robert Khuzami, Director of the SEC's Division of Enforcement. "Both are high-priority targets for SEC Enforcement."

The SEC's complaint against Pequot and Samberg, filed in U.S. District Court in Connecticut, alleges that amid rumors in April 2001 that Microsoft would miss its earnings estimates for the quarter that had just ended, Samberg sought information from Zilkha, a Microsoft employee who had just accepted an offer from Samberg to work at Pequot. Zilkha quickly reached out to a Microsoft colleague, who sent him an e-mail stating that the company would meet or beat its earnings estimates for the quarter.

According to the SEC's complaint, Zilkha then conveyed to Samberg his understanding that Microsoft would meet or beat its earnings estimates. Samberg thereafter traded in Microsoft on behalf of funds managed by Pequot. On April 19, after the market had closed, Microsoft announced that it beat its earnings estimates, driving up the price of Microsoft's stock. As a result of the illegal trading by Pequot and Samberg, the Pequot funds made more than \$14 million.

Pequot and Samberg agreed to settle the SEC's charges without admitting or denying the SEC's allegations against them. Pequot and Samberg agreed to pay a total of nearly \$18 million in disgorgement of trading profits and prejudgment interest as well as \$10 million in penalties. With the exception

of certain activities aimed solely at winding down Pequot, Samberg also has agreed to be barred from association with an investment adviser.

In the insider trading enforcement action against Zilkha, the SEC Division of Enforcement also alleges that during a prior investigation into his conduct, Zilkha concealed from the SEC staff that he had received inside information about Microsoft's earnings and then recommended that Samberg buy Microsoft securities on the basis of this information. The Enforcement Division alleges that in 2005 and 2006, Zilkha did not produce nor disclose the existence of the e-mail he had received from a Microsoft colleague concerning Microsoft's earnings, despite subpoenas and direct questions that required him to do so.

In January 2009, the SEC staff first received direct evidence that Zilkha had material, nonpublic information about Microsoft — when staff was provided copies of e-mails that had been located on a computer hard drive that was then in the possession of Zilkha's ex-wife.

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