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Sandifur seeks delay of SEC suit

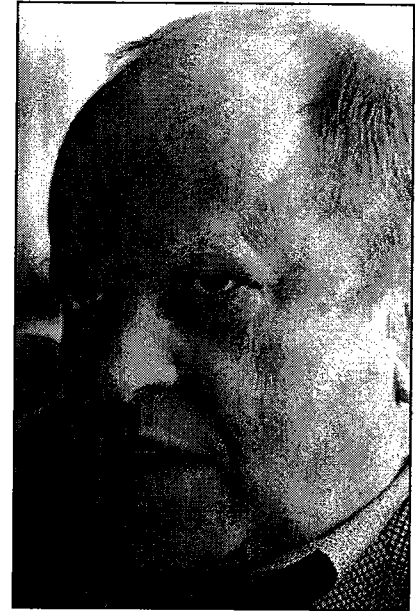
Former Met CEO fears possible criminal charges, his attorneys say

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Staff writer
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C. Paul Sandifur Jr. is clearly concerned about possible criminal charges and has asked a federal judge to postpone a separate lawsuit that could force the former chairman and CEO of Metropolitan Mortgage & Securities Co. to disclose potentially incriminating evidence.

The U.S. Securities and Exchange Commission sued Sandifur and other executives last year, alleging that they erected elaborate financial schemes to inflate real estate profits and make struggling Metropolitan appear profitable.

Sandifur has not responded to the civil complaint filed in U.S. District Court in Seattle for fear that the financial regulators are aiding federal prosecutors working on a separate criminal investigation, according to court documents filed by his attorneys.



Sandifur

Instead, Sandifur's lawyers have asked a federal judge to pause the SEC case until at least next October.

Seattle attorney Robert Mahler said if Sandifur is forced to answer the SEC complaint, it could set in motion evidence collection efforts that could ultimately undermine his rights against self-incrimination.

Sandifur has already exercised his Fifth Amendment privileges – including his refusal to answer questions during a March 1, 2005 deposition by SEC attorneys. The transcript of the questioning runs 69 pages with Sandifur saying little beyond his name and address. He is now retired and living in the Mexican border town of El Centro, Calif., 100 miles east of San Diego.

"His risk of criminal prosecution is clearly not fanciful," Mahler wrote in recent court filings. "And if history demonstrates anything, it is that the government generally targets the CEO for prosecution where large-scale securities fraud is alleged."

Mahler noted the prosecution of high-profile CEOs in major fraud cases involving Enron, WorldCom, HealthSouth, Tyco and Adelphia.

So far, only one former Metropolitan executive has been arrested and charged with crimes.

Tom Turner, who was president of affiliated company Summit Securities Inc., faces seven felony counts of misleading the auditors of a publicly traded company to perpetuate an accounting fraud.

Turner had discussed earlier this year a plea with prosecutors from the U.S. Department of Justice's

white collar crime section. Those negotiations have since broken down and Turner is scheduled to be tried in October.

The SEC's civil complaint against Sandifur and the other executives closely mirrors the criminal indictment against Turner.

Yet the similarities may not matter. The SEC contends in court documents that it has the right to pursue its complaint against Sandifur. The agency has collected hundreds of thousands internal Metropolitan documents including memos, notes from strategy sessions, e-mails between executives and depositions from dozens of former employees.

Another Sandifur attorney, Laurence Finegold, wrote in court documents that prosecutors had reviewed the SEC document collection.

After Turner was arrested and jailed overnight in Reno, Nev., Finegold sought to make arrangements that would spare Sandifur the same treatment if prosecutors decided to file criminal charges.

Finegold urged federal prosecutors to allow Sandifur to surrender through his attorneys so that he could quickly post bail and avoid a night in jail. No agreement on such an arrangement has been struck and Sandifur has yet to be charged with crimes.

A judge is expected to decide soon whether Sandifur will be allowed delay the SEC's case against him, or if he will be required to answer the complaint.