

Undisclosed SEC Investigation Confirmed - Again

In February, Prospect Capital Insisted it Knew of No SEC Probe. But the SEC, Again, Confirms a Probe is On-Going.

If we alert you to existence of an undisclosed SEC probe, that means we filed a Freedom of Information Act (FOIA) request with the SEC on the company in question and have a response, in black-and-white, on government letterhead that supports our statement. Other interpretative guidance and disclosures appear below.

Analyst Summary: Information received just last week again confirms existence of an undisclosed SEC probe at Prospect Capital (PSEC). Along with earlier responses received from the SEC (in October & November 2015, as well as January and February 2016), this new information stands in direct conflict with statements made by the CEO of PSEC in a February conference call on which he insisted, "We know of no current or pending SEC investigation, inquiries or whatever you want to call it."

Facts of Interest or Concern: We first learned of undisclosed SEC investigative activity involving PSEC in Oct-2015. In letters dated 10-Nov-2015 and then on 25-Feb-2016, the SEC previously confirmed Prospect Capital was involved in unspecified SEC investigative activity. We found no disclosures of the same at those times. In a letter dated 23-Aug-2016, and received by us on Friday, 26-Aug-2016, the SEC has again confirmed this company's involvement in on-going enforcement proceedings. These proceedings remain undisclosed as of this date.

Notable Events from the Prospect Capital Timeline

08-Dec-2015: Probes Reporter warns of a confirmed and undisclosed SEC probe at PSEC (See, "[Will an Undisclosed SEC Probe Hurt The Dividend at Prospect Capital?](#)"). We wrote up our findings in a report that also appeared on the Seeking Alpha website on 11-Dec-2015.

11-Dec-2015: After the close, on a Friday, PSEC files an 8-K admitting for the first time there was in fact, an SEC probe that had ended in December. From the Prospect Capital 8-K filed Friday, 11-Dec-2015 –

In December 2015, the Company received from the Securities and Exchange Commission (the "SEC") a notice formally closing an investigation commenced in May 2014 and advising the Company the Staff did not intend to recommend an enforcement action by the SEC against the Company.

14-Dec-2015: Mr. Joseph Ferraro, General Counsel for PSEC, sends a letter to Seeking Alpha, accusing Probes Reporter and John Gavin (owner of Probes Reporter) of making "false and misleading statements" about his company, among other things. Mr. Ferraro was adamant that the SEC probe we uncovered was "well-disclosed" and "fully and truthfully disclosed." Our research at the time showed these claims were untrue. They still are. Those with an interest in further details are encouraged to read our report, [Prospect Capital Attacks Press Coverage, Critics: Our Response](#), published 22-Mar-2016.

12-Jan-2016: We again receive information from the SEC suggesting PSEC was involved in unspecified SEC investigative activity that was undisclosed at the time. We filed an administrative appeal challenging that response and seeking further verification and clarification from the SEC.

10-Feb-2016: In an earnings conference call, John Barry, Chairman and Chief Executive Officer of PSEC, makes the following statement regarding SEC investigative activity at his company –

"In the past several days, we have seen not only people spreading lies about our company, but also people who should know better, repeating those lies

without a shred of evidence, without a single identified source, without any diligent checking or any corroboration at all. **We know of no current or pending SEC investigation, inquiries or whatever you want to call it.** That is not sell-side research or journalism as each should be practiced in America, but rather fear driven rumormongering without any checking. And it is plain wrong. Plain and simple wrong. **[Emphasis added]**

We are amazed how many of the things we have seen written ever passed muster for editorial and quantity control with the management of a Wall Street research department, or a quality publication. This appears to be nothing short of a smear campaign to use lies as a campaign to try to hurt our company, and our shareholders. We are not interested in seeing that campaign succeed. Now we would like to get back to the important business of our Company.”

25-Feb-2016: Notwithstanding the CEO’s assurances of 10-Feb-2016, the SEC responds to our appeal by confirming the response given to us on 12-Jan-2016 was correct; that is, Prospect Capital is involved in on-going enforcement proceedings. These proceedings remain undisclosed as of this date.

23-Aug-2016: An investigation of Prospect Capital is confirmed by the SEC as on-going. No documents relating to closed SEC probes of the company are acknowledged or released.

Our Take: The CEO, its General Counsel, and all its senior leadership can squawk, threaten, and harrumph all they want, but it does not change the fact that Prospect Capital has at least one confirmed, but undisclosed SEC probe. It’s in black-and-white on government letterhead, and has been verified, just as it is anytime we issue these warnings.

In this case, we think there is a second probe you weren’t told about *and* records related to the probe that ended in December may be somehow relevant. Normally, the SEC releases documents on closed investigations. That did not happen here.

The best way forward is for PSEC to answer this simple question: What communications has the company had with the SEC’s Division of Enforcement at any time in the past year? The answer should be none after Dec-2015. But we aren’t betting it will be.

Important: The SEC reminds us that its assertion of the law enforcement exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security.

Better Disclosure for Better Decisions.®



Our **Disclosure Insight**® reports, like those coming from other financial news and data providers, provide the investing public with commentary and analysis on public company interactions between investors and/or with the SEC and other agencies. They are journalistically based in large part on our expertise with federal filings using the Freedom of Information Act.

“**Disclosure Games**®” is a trademarked term we use to highlight those public companies engaging in disclosure practices that in our opinion may be misleading, confusing, evasive, or otherwise lacking the transparency needed for investors to make well-informed investment decisions regarding a potentially material exposure.

Notes: *The SEC did not disclose the details on investigations referenced herein. All we know is that they somehow pertain to the conduct, transactions, and/or disclosures of the companies referenced. The SEC reminds us that its assertion of the law enforcement exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security. New SEC investigative activity could theoretically begin or end after the date covered by this latest information which would not be reflected here.*

To learn more about our research process, including how to best use this information in your own decision-making, [click here](#).

Our Terms of Service, relevant disclosures, and other legal notices [can be found here](#).

Copyright Warning and Notice

The works of authorship contained in the accompanying material, including but not limited to all data, design, text, images, charts and other data compilations or collective works are owned by Probes Reporter, LLC or one of its affiliates and may not be copied, reproduced, transmitted, displayed, performed, distributed, rented, sublicensed, altered, or stored for subsequent use, in whole or in part in any manner, without the prior written consent of Probes Reporter, LLC.

Photocopying or electronic distribution of any of the accompanying material or contents without the prior written consent of Probes Reporter, LLC violates U.S. copyright law, and may be punishable by statutory damages of up to \$150,000 per infringement, plus attorneys’ fees (17 USC 504 et. seq.). Without advance permission, illegal copying includes regular photocopying, faxing, excerpting, forwarding electronically, and sharing of online access.

Intellectual Property

© 2016 Probes Reporter, LLC. All rights reserved. Probes Reporter®; They Know it. Now You Know It.®; Better Disclosure for Better Decisions®; Disclosure Insight®; and, Disclosure Games®, are trademarks of Probes Reporter, LLC and are proprietary.

DISCLAIMER

Probes Reporter, LLC is not an investment adviser and does not offer or provide personalized investment advice. The information in our reports and appearing on ProbesReporter.com is not a solicitation connected to any security. The information we provide is obtained from company submissions and our own Freedom of Information requests made to the Securities and Exchange Commission. No representation or warranty is made as to the timeliness or completeness of any information found in our reports or on ProbesReporter.com.

Probes Reporter does not adopt the truth or falsity of the contents of any of the documents or filings referred to on this website, and no conclusion of wrongdoing should be inferred from the fact that an investigation has been initiated by the

SEC. Probes Reporter is not the guarantor of any investment and cannot be held liable for any losses or expenses incurred as a result of reliance upon any information contained herein, and ProbesReporter.com is not a substitute for your own due diligence, which may include advice from an investment professional.

With few exceptions, Probes Reporter, LLC prohibits its employees and principals from trading of any kind in any individual public company securities, or derivatives thereof, on any company on which production of any new research report has commenced. Such prohibitions shall remain in place until either 5 days after the individual research report has been published or its production otherwise ceases.

Probes Reporter, LLC does not engage in investment banking activities or take any security positions, except those necessary for routine corporate treasury functions

Our full trading policy, along with our Terms of Service, relevant disclosures, and other legal notices [can be found here](#).

Visit www.probesreporter.com to learn more about becoming a subscriber
. Or call 763-595-0900 (USA).
