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FORMER CITY ATTORNEY PINS HOPE ON DERIVATIVES

Mike Aguirre Wants to Build Law Firm With Massive Litigation Stemming From Credit Collapse

By Pat Broderick

Daily Journal Staff Writer

SAN DIEGO - Michael J. Aguirre, the fiery former city attorney and pension reform crusader, has a new mission; making San Diego - and by extension his new law firm - the center of credit derivative litigation.

"These credit derivatives were presented as being a panacea, a cure-all for questionable credit issues," Aguirre said. "Many banks bought them, not fully appreciating what they were buying. This turned out to be fool's gold."

And Aguirre wasn't modest about his aspirations. He wants nothing short of effecting regulatory reforms, he said. "I've never been interested in putting on blinders and doing litigation in the abstract," he said. "Long-term solutions need to be hammered out in Congress."

Aguirre was vague about why he's the man to step out in front of the nation's top plaintiff firms who are already circling around this type of litigation or why San Diego should be the main venue, but he was sure of this: "There will be an enormous amount of litigation," he said.

Those who know the brash politician and lawyer aren't short on praise for his legal skills, but aren't so sure about his ambitious agenda.

"Everyone wants to be the star pitcher in the ballpark," said Arnold Rosenberg, a former general counsel at California Pacific Bank and chair of the litigation group at Bancroft, Avery & McAlister.

"There will be a big competition of lead counsel status with the class actions filed," said Rosenberg, now assistant dean at Thomas Jefferson School of Law. "San Diego will be vying with major plaintiff law firms in other cities to get a major piece of the work. Mike Aguirre might have the stature to get that, but a lot depends on the relative number of clients you can amass. It's an advantage for him that a lot of Southern California had such a major market for subprime lending."

Whatever the odds, observers said it is vintage Aguirre.

"He is a very aggressive and experienced lawyer," said Darren J. Robbins, founding partner at Coughlin Stoia Geller Rudman & Robbins, the San Diego-based securities class action powerhouse. "He obviously has some experience in securities litigation (...) so it doesn't surprise me that he is returning to that

market. Certainly given the credit crisis and mortgage meltdown we are experiencing now, there is more than enough opportunities to represent victims. There certainly is enough fraud to go around these days."

Aguirre, 59, began his career as a federal prosecutor in San Diego in the 1970s. Later, as an assistant counsel to the U.S. Senate's permanent subcommittee on investigations, he looked into employee benefit schemes.

He entered private practice in the 1980s and specialized in securities and investment fraud. He was one of the lead plaintiff's attorneys in high profile shareholder litigation against J. David Dominelli. The financier, who ran La Jolla-based J. David & Co., later was convicted and sentenced to prison for masterminding a multimillion-dollar investment swindle.

When Aguirre returned to the public sector as San Diego city attorney, he focused his attention on the city's ailing pension system. During his four-year tenure, he railed against what he called illegally approved pension benefits, filing countless lawsuits. The suits were ultimately unsuccessful, but both supporters and opponents of Aguirre tended to agree that for better or rose, he re-invented the office as an activist city attorney.

Now back in private practice, Aguirre continues to promote his image as a righter of financial wrongs. The future of his newly formed law firm, Aguirre, Morris & Severson, depends on that, so Aguirre is working diligently to get his name associated with the mortgage crisis litigation.

Last week, he held a credit derivative Web seminar at the San Diego County Bar Association. Among the speakers at the event was Pat Shea, a prominent San Diego attorney and businessman who worked on the 1994 Orange County bankruptcy.

"It's interesting how fast he was able to switch gears," said Shea, who's known Aguirre for years. "A lot of people who are motivated to get into public service, and worked as hard as he did to get in, become so captivated by the office they hold, they often have a difficult time re-entering the private sector. That wasn't the case for Mike."

Christopher S. Morris, Aguirre's partner at their newly minted downtown firm, said they were scouting for office locations immediately following Aguirre's loss in November to Superior Court Judge Jan Goldsmith.

They ended up leasing 1,600 square feet on the second floor of Columbia Court, an elegant, old world-type building located near the courts and City Hall. The red trolley cruises by outside.

"We found this and fell in love," said Morris, who headed Aguirre's criminal division in the city attorney's office. "The grand plan is to expand."

Whether they will depends much on Aguirre's ability to deliver on credit derivative litigation. For the time being, the office consists of Morris, Aguirre, partner Maria C. Severson - Aguirre's former civil division chief, and a secretary.

Morris and Severson said they are poised for some major action and that the firm currently is representing "high-profile" bank in a derivative swap case. They declined to identify the bank.

The firm also serves as legal counsel for the National Center for Regulatory Reform, a San Diego-based citizens group.

Michael L. Crowley, president of the San Diego Criminal Defense Bar Association, who once worked for Aguirre and also assisted him with the Dominelli case, said Aguirre's latest chapter doesn't surprise him.

"I can't think of a better person to take this on," **Crowley** said. "It's ripe for a reformer who has shown a knack for making a buck at the same time," even if money is not the biggest motivator.

Crowley said Aguirre can be rough around the edges, but his motivations are honest.

"His heart has always been in the right place, despite his inability to create allies around him," he said. "I never had a question about that, even though his tactics would drive me nuts."

That Aguirre, who is famous for his volatility, was able to convince his two former subordinates to join him in his new firm speaks volumes, **Crowley** said. "He can inspire that kind of loyalty."

Loyalty and fear. As city attorney, Aguirre replaced all but 20 of the 74 staffers that worked on the city's civil cases.

"He is the most impolitic politician," **Crowley** said. "Every other politician knows how to spin things in such a way that is palatable to the majority. He has no filter. That can work very well in litigation, but in politics, it didn't work all that well."

There was little sign of that volatility and temper one recent day as Aguirre strode into his new offices, brimming with good cheer and an air of manic energy. On the phone, his voice boomed down the halls as he regaled whoever was on the other end about the credit default market.

Seated in her office, partner Severson seemed oblivious to the volume. She pointed at her computer screen and shook her head.

"Here's an e-mail that came in from Mike at 1:26 a.m.," she said, "I am not awake to receive any of them."

Morris, who calls Morris "a force of nature," was equally bemused.

"I get e-mails at 3 a.m. and on weekends," he said. "I had to turn my e-mail buzzer off on my phone. No one works harder than Mike."

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