

## Hurd in the crosshairs: SEC probe seen as limited

December 21 2010, By JORDAN ROBERTSON , AP Technology Writer

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In this Sept. 22, 2010 file photo, Oracle Corp. co-president Mark Hurd speaks during a keynote address at Oracle World in San Francisco. The Securities and Exchange Commission is investigating the circumstances of Hurd's forced resignation from Hewlett-Packard Co. in August, a surprising exit that triggered an immediate \$9 billion drop in HP's market value and involved allegations of sexual harassment and inappropriate sharing of inside information. (AP Photo/Paul Sakuma, File)

(AP) -- A federal probe of Mark Hurd's hasty resignation as Hewlett-Packard Co.'s CEO touches on some of the biggest names in technology.

Yet the potential damage to Hurd, HP or his current employer, [Oracle Corp.](#), is likely limited, legal experts say, because the allegations against

him are narrow and their underlying facts are murky.

Hurd's biggest headache in the Securities and Exchange Commission's investigation, which was revealed this week, likely won't be the allegations of sexual harassment or the findings of inaccurate expense reports that got him ousted from HP in August.

Potentially more problematic is an allegation by Hurd's accuser, a former HP marketing contractor named Jodie Fisher, that Hurd tipped her off in advance about HP's plans to buy technology services company [Electronic Data Systems](#) for \$13.9 billion in 2008.

Fisher later appeared to recant her statement, and there are some protections for revealing inside information to family members and other close confidantes if they don't trade on the information. Still, the SEC could sanction Hurd if it determines that he made a material disclosure and that Fisher didn't fall into a protected category.

"Tipping a takeover target is an original sin in the eyes of the SEC," said John Coffee Jr., a professor at Columbia Law School and an expert on securities regulation. "While there's no evidence that she traded on it, or that he was telling her to induce her to trade, it nonetheless violates the norms."

It's OK for executives to share secrets with some outside parties, such as spouses or close friends, if there's an established pattern of sharing confidential information with them. But Coffee said a one-time disclosure to someone without a legitimate need to know might get Hurd into trouble.

Coffee added that he doesn't believe that Oracle, which hired Hurd as a co-president one month after his ouster from HP, is at risk in the SEC investigation. Investigators also aren't likely to focus on HP for the way

it disclosed Hurd's exit, he said.

"I don't know that they have any business worrying about whether the board was too quick or too slow in a case involving somewhat gray and disputed allegations of sexual harassment," Coffee said.

HP, which says it is cooperating with the SEC investigation, has never publicly disclosed Fisher's allegation about the acquisition tip. In announcing Hurd's resignation, the world's biggest technology company said that although it found no evidence of sexual harassment, it found inaccurate expense reports for some of Hurd's private outings with Fisher.

Hurd argues that he didn't prepare his own expenses and that Fisher's name was inadvertently left off some reports, but included on others.

The Wall Street Journal reported that the SEC is looking at the possibility that Hurd destroyed computer evidence related to the case.

A person familiar with the case told The Associated Press that Hurd cleared his computer before he returned it to HP, to protect the privacy of family members who sometimes used the machine. That person spoke on condition of anonymity because the person was not authorized to speak publicly about the details.

Fisher helped organize and host HP networking events that Hurd would attend. She accused Hurd, who is married with children, of harassment after her work dried up. She blamed the reduction on her rebuffing his advances, a charge Hurd denies.

The SEC and Oracle declined to comment. Hurd spokesman David Satterfield has said that Hurd acted properly "in all respects."

SEC investigations are common after surprising, market-moving events. Often, any violations found are settled, sometimes without a fine.

One example is HP's 2007 settlement with the SEC over the sequence of events that led to the exposure of an embarrassing "pretexting" scandal, in which HP hired investigators to unearth private phone records of board members and journalists. HP did not pay a fine in that settlement, but agreed to not violate the disclosure requirements for public companies.

Coffee said that what's been publicly disclosed about the Hurd case so far "doesn't justify SEC litigation time." Rather than send armies of lawyers to argue the case in court, he said, the SEC would more likely try to settle any violations found.

HP is facing lawsuits over the handling of Hurd's resignation, in particular because some \$9 billion in its market value evaporated in the first trading day after the announcement of Hurd's departure.

Shares haven't fully recovered despite the fact that investors have generally been pleased by comments from Hurd's replacement, Leo Apotheker, the former CEO of software maker SAP AG. Apotheker has rescinded employee pay cuts imposed under Hurd and vowed to close gaps with rival IBM Corp. in software and research.

HP has also been criticized for the size of Hurd's severance package. He got a \$12.2 million cash payout and has filed papers to sell some \$30 million worth of stock that he got by exercising options that were part of his severance.

To squash a courtroom battle with HP over whether Hurd should be allowed to work at Oracle, an HP rival, Hurd agreed to give back some \$14 million in restricted stock to HP that he had also been given in his

severance.

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Citation: Hurd in the crosshairs: SEC probe seen as limited (2010, December 21) retrieved 14 May 2024 from <https://phys.org/news/2010-12-hurd-crosshairs-sec-probe-limited.html>

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