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Investigators Said to Take Closer Look at Lehman

By BEN WHITE

Federal prosecutors from three jurisdictions have stepped up their investigations into the collapse of the investment bank Lehman Brothers, issuing at least a dozen subpoenas including one to the chief executive, Richard S. Fuld Jr., people close to the matter said Friday.

Federal prosecutors in Brooklyn, Manhattan and New Jersey are all examining events leading to Lehman's collapse and its subsequent bankruptcy filing, these people said.

One area of focus for New Jersey prosecutors is whether Mr. Fuld or other Lehman executives made misleading statements about the bank's condition to investors who took part in a \$6 billion infusion of capital announced by Lehman on June 9, one person close to the matter said. The new capital came as Lehman disclosed a \$2.8 billion second-quarter loss that sent its shares plunging.

The New Jersey Division of Investment, which put money into the capital raising, has received a subpoena, the person said. William Clark, director of the division, did not return a call seeking comment.

Prosecutors in Brooklyn and Manhattan are looking, among other things, at comments Lehman executives made during a Sept. 10 conference call five days before the company filed for bankruptcy.

They are also investigating whether Lehman put proper values on its large commercial real estate holdings, people close to the matter said.

People with direct knowledge of the inquiries requested that their names not be published because the investigations are at an early stage and no conclusions have been drawn.

Press officers for all three prosecutors' offices declined to comment. A spokesman for Mr. Fuld said he would not comment. Mr. Fuld has said publicly that all his statements about Lehman Brothers' condition were based on the best information he had available at the time.

The federal investigations and subpoenas were disclosed at a federal bankruptcy hearing on Thursday by Harvey R. Miller, a lawyer at the firm Weil, Gotshal & Manges who represents Lehman Brothers, and reported Friday morning in The New York Post. Other current and former Lehman executives who have been subpoenaed include Joseph Gregory, the former president, and Erin Callan, former chief financial

officer, a person with knowledge of the matter said.

Both executives were removed from their jobs shortly after Lehman reported the second-quarter loss. Mr. Gregory did not return calls for comment. Ms. Callan declined to comment through a spokeswoman for her current employer, Credit Suisse.

Legal experts said prosecutors would probably try to build fraud cases against Lehman executives by trying to find internal documents that contradict public statements made about the bank's financial health.

"The way they tend to present these sorts of cases is to contrast official public statements to investors with what seemed to be the true condition of the institution as discussed in e-mails and internal reports," said David Gourevitch, a defense lawyer and former prosecutor. "That is what happened in Enron and some of the other financial fraud investigations."

Mr. Gourevitch suggested it would be easier to bring cases based on possibly misleading statements than on the valuation of assets. "The defense is that nobody really knew what these things were worth," he said.

While the three prosecutors' offices have different areas of focus, their investigations could overlap and it remains unclear which, if any, offices will ultimately bring cases. Prosecutors often compete for high-profile targets and any case involving Mr. Fuld could be among the biggest to emerge from the Wall Street meltdown.

Carmen Ng contributed reporting.