Dell To Pay $100 Million Over Wall Street Fraud

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WASHINGTON (AP) — Computer maker Dell Inc. is paying $100 million to settle civil charges that it fraudulently used payments from Intel to pump up its profits to meet Wall Street targets over five years, the government announced Thursday.

Under the settlement with the Securities and Exchange Commission, company Chairman and CEO Michael Dell also agreed to pay a separate $4 million civil penalty.

The settlement culminated a five-year investigation by the agency. While the $100 million fine was far from the largest penalty levied by the SEC, the decision to charge a sitting chief executive of a major company and reach a seven-figure settlement with him is rare. Founder Michael Dell is one of the most prominent figures in the technology industry, credited for revolutionizing the PC market by making the computers cheap and widely accessible.

The SEC had accused Michael Dell, former CEO Kevin Rollins and former Chief Financial Officer James Schneider of playing a role in the company's alleged violations of disclosure laws. Schneider and two other former executives were charged with taking part in the alleged fraudulent accounting.

Dell, based in Round Rock, Texas, is the world's third-largest PC maker behind Hewlett-Packard Co. and Taiwan's Acer Inc. The company's net income was $441 million in its fiscal first quarter this year, which ran from February through April.

The SEC said the company also failed to disclose to investors large payments it received from Intel Corp. in exchange for not using central processing units made by Intel's main rival, Advanced Micro Devices Inc. Those payments enabled Dell to meet its quarterly earnings targets, the agency said. After Intel stopped the payments, Dell again misled shareholders by not disclosing the real reason its profits had dropped, according to the SEC.

The company, Michael Dell, Rollins and Schneider falsely portrayed the means by which the company met or surpassed earnings targets from 2001 through 2006, the SEC said in a civil lawsuit. Without the payments from Intel, the agency said, Dell would have missed analysts' estimates in every quarter during that span.

The company and Michael Dell neither admitted nor denied wrongdoing. But they did agree to refrain from future violations of the securities laws. The company also agreed to improve its disclosure process by hiring an outside consultant and expanding its training of employees.

The presiding director of Dell's board, former senator Sam Nunn, issued a statement saying the board believes that the settlement is in the best interests of the

company, its customers and shareholders. The board "reaffirms its unanimous support for Michael Dell's continued leadership and the management team in its ongoing commitment to transparent accounting, integrity in financial reporting and strong corporate governance," Nunn said.

Michael Dell said: "We are pleased to have resolved this matter. We are committed to maintaining clear and accurate reporting of our periodic results, supporting our customers and executing our growth strategy."

The SEC also named Rollins, Schneider, former regional Vice President of Finance Nicholas Dunning and former Assistant Controller Leslie Jackson in the suit.

Rollins agreed to pay a $4 million civil penalty. Schneider is paying a $3 million penalty as well as $83,096 in restitution and $38,640 in interest. Dunning is paying a $50,000 penalty. In addition, Schneider agreed to a five-year suspension from working as an accountant for a public company; Dunning and Jackson agreed to three-year bars.

The SEC said its investigation of the Dell matter and the possible role of other individuals continues.

"Accuracy and completeness are the touchstones of public company disclosure under the federal securities laws," SEC Enforcement Director Robert Khuzami said in a statement. "Michael Dell and other senior Dell executives fell short of that standard repeatedly over many years, and today they are held accountable."

The company said last Friday that it was getting closer to settling the SEC's investigation and had proposed settlement terms to the agency's enforcement staff. Dell already had set aside $100 million to cover the potential cost of the settlement.

The company first disclosed an internal inquiry into its accounting in 2006, and said it was notified in August of that year of the SEC investigation. In 2007, it restated four years of earnings after it found that sales had been overstated by $359 million and income by $92 million.

Dunning's attorney, F. Joseph Warin, said his client was pleased to have resolved the case.

Dunning was a mid-level manager in Dell's European operations during the time in question, Warin said in a statement. "Numerous accountants participated in the preparation of Dell's books and records, and the SEC complaint asserts only that Mr. Dunning, who was not a practicing accountant, was not entirely accurate in his work preparing books and records during his tenure at Dell."

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