

Judge approves \$100M Dell accord (Update)

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Dell CEO Michael Dell, right, leaves federal court in Washington, Wednesday, Oct. 13, 2010. (AP Photo/Evan Vucci)

(AP) -- A federal judge on Wednesday approved Dell Inc.'s \$100 million settlement with the government of civil fraud charges.

Approval of the settlement by U.S. District Judge Richard Leon came after company Chairman and CEO Michael Dell assured Leon in a hearing that the computer maker will carry through the reforms it promised.

The Securities and Exchange Commission had said that Dell improperly used payments from Intel to pump up its profits to meet Wall Street targets over five years.

Dell himself agreed to pay a \$4 million fine in the settlement. The company agreed to tighten its procedures for disclosing financial information to shareholders.

Dell, based in Round Rock, Texas, is the world's third-largest PC maker behind Hewlett-Packard Co. and Taiwan's Acer Inc.

Michael Dell, who founded the company, is one of the most prominent figures in the technology industry, credited for revolutionizing the PC market by making personal computers cheap and widely accessible.

"I am fully committed to making sure that our company implements" all the reforms it has undertaken, he told Leon. "We've continued to make a wide variety of improvements. ... We will certainly live up to all the commitments in the settlement."

The company also agreed to improve its disclosure process by hiring an outside consultant and expanding its training of employees and oversight by outside attorneys.

The settlement reached in July culminated a five-year investigation by the SEC. While the \$100 million fine was far from the largest penalty levied against a company by the agency, the decision to charge a sitting chief executive of a major company and reach a seven-figure settlement with him was unusual.

So, too, was Leon's decision to hold a hearing on the proposed settlement. He noted that judges traditionally have approved SEC settlements without hearing them supported by the agency and the companies involved beforehand. But recently, Leon pointed out, several judges in separate cases have challenged the adequacy of the settlements and sent the two sides back to the bargaining table.

Last year, for example, a federal judge in New York rejected a proposed \$33 million settlement between the SEC and Bank of America Corp. to resolve civil charges accusing the bank of misleading shareholders when it acquired Merrill Lynch in early 2009. The judge reluctantly approved an amended \$150 million settlement in February, shortly before the case had been scheduled to go to trial.

In the Dell case, Leon said, he wanted to hold a hearing first to ensure that the settlement reflects "not only the letter but also the spirit" of the appropriate penalty for the company.

In its civil complaint, the SEC said that Michael Dell and two other company executives falsely portrayed the means by which Dell met or surpassed earnings targets from 2001 through 2006. 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 securities laws.

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