FOR RELEASE: JANUARY 11, 1995

WILLIAM FARLEY TO PAY $425,OOO CIVIL PENALTY TO SETTLE FEDERAL CHARGES OVER FAILURE TO NOTIFY GOVERNMENT IN ADVANCE OF WEST POINT-PEPPERELL STOCK PURCHASES

William F. Farley has agreed to pay a $425,000 civil penalty to settle federal charges that his firm, Farley Inc., failed to notify the nation's two antitrust enforcement agencies before acquiring stock in West Point-Pepperell, Inc. The government alleged that the prior notification was required under the Hart-Scott-Rodino (HSR) Act, which is designed to give the government an opportunity to review certain acquisitions and mergers before consummation to determine whether they would violate federal antitrust laws by substantially reducing competition and possibly raising consumer prices.

The settlement stems from charges filed by Federal Trade Commission staff attorneys, serving as Special Attorneys to the U.S. Attorney General, on Feb. 12, 1992. The federal complaint alleges that Chicago-based Farley Inc., a diversified company of which Farley was the majority shareholder, purchased shares of West Point without observing the notification and waiting requirements of the HSR Act. The act requires entities contemplating acquisitions of stock or voting securities of other companies, when the transactions meet certain thresholds, to notify the FTC and the Department of Justice, and then to wait a specified period while one of the two agencies reviews the transaction. The notification requirement generally applies when a stock purchase would bring the value of the purchaser's holdings in a company to more than $15 million. Under the HSR Rules, Farley was ultimately responsible for complying with the HSR requirements for Farley Inc.'s purchases, because Farley was the "ultimate parent entity" of Farley Inc., the government alleged.

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From March 24 through April 11, 1988, Farley Inc. purchased shares of West Point stock even though the first of those purchases brought its holdings above the $15 million HSR threshold, the government charged. At the time of those purchases, West Point was engaged in a hostile takeover of J.P. Stevens & Co.

Farley Inc. did not file the required HSR notification until May 23, 1988. As a result, the last day of the 30-day waiting period was June 22, 1988. The act provides for a civil penalty of up to $10,000 a day for each day that a person is in violation of the act. In the Farley case, the United States sought $910,000 for the 91 days from March 24 through June 22, 1988.

Farley Inc. made a cash tender offer for West Point on Oct. 24, 1988 and acquired a controlling interest of more than 95 percent of the outstanding shares of West Point in 1989.

Farley claimed that Farley Inc.'s March and April 1988 purchases of West Point voting securities came within the "solely for the purpose of investment" exemption to the HSR Act. Under that exemption, a purchaser may acquire up to 10 percent of a company's stock if the purchaser is acting "solely for the purpose of investment."

As the stipulation containing the settlement agreement states, however, the United States alleged that "Farley could not have been acting solely for the purpose of investment because he was considering the possibility of seeking to acquire control of West Point at the time of the purchases of West Point voting securities alleged to have been in violation of the HSR Act."

Farley Inc.'s March and April 1988 purchases of West Point voting securities were investigated by the FTC, beginning in 1989. In 1992, the Justice Department brought the present civil penalty action against Farley on behalf of the United States. The Justice Department was represented in the suit by FTC attorneys who were made Special Attorneys to the U.S. Attorney General.

During the course of the litigation, the United States successfully appealed an adverse discovery ruling by the district court. In November 1993, the U.S. Court of Appeals for the Seventh Circuit ruled that internal FTC documents were covered by the deliberative process and attorney work product privileges and, thus, were not relevant to the litigation.

The settlement agreement with Farley was filed today in U.S. District Court for the Northern District of Illinois, in Chicago.

NOTE: This stipulation is for settlement purposes only and does not constitute an admission by the defendant of a law violation. Such settlements have the force of law when signed by the judge.
Farley Settlement--01/11/95)

Copies of the stipulation containing the settlement agreement, as well as other documents associated with this case, are available from the FTC's Public Reference Branch, Room 130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580; 202-326-2222; TTY for the hearing impaired 202-326-2502.

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