Department of Justice

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HEDGE FUND MANAGER WILL PAY CIVIL PENALTY FOR VIOLATING ANTITRUST PRE-MERGER NOTIFICATION REQUIREMENTS

WASHINGTON, D.C. – A Connecticut hedge fund manager has agreed to pay a $350,000 civil penalty to settle charges that he violated premerger reporting requirements, the Department of Justice announced today.

The Department's Antitrust Division, at the request of the Federal Trade Commission, filed a civil lawsuit today in U.S. District Court in Washington, D.C. against Scott R. Sacane of South Norwalk, Connecticut, for violating the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR). At the same time, the Department filed a proposed settlement which if approved by the court will settle the charges.

According to the complaint, Sacane failed to comply with antitrust premerger notification and waiting period requirements before making substantial acquisitions of two companies through an investment fund that he controlled, Durus Life Science Master Fund. Sacane ultimately held more than 50 percent of the voting securities of Aksys Ltd. and more than $100 million of voting securities of Esperion Therapeutics Inc. without complying with the Act.

Aksys is headquartered in Lincolnshire, Illinois, and Esperion in Ann Arbor, Michigan.

The Hart-Scott-Rodino Act of 1976 imposes notification and waiting period requirements on individuals and companies over a certain size that must be satisfied before they can consummate acquisitions of stock or assets above a certain value, which was $50 million at the time of the violations alleged and is now adjusted annually to reflect changes in gross national product. A party is subject to a maximum civil penalty of $11,000 a day for each day it is in violation of the HSR Act. The complaint alleges that Sacane was in violation of the Act from February 24, 2003 through May 2, 2005.

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