Department of Justice

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FINANCIAL PRODUCTS AND SERVICES FIRM, TWO EXECUTIVES AND ONE FORMER EXECUTIVE INDICTED FOR ROLES IN CONSPIRACIES INVOLVING PROCEEDS OF MUNICIPAL BONDS

WASHINGTON — A Beverly Hills, Calif.-based financial products and services firm, two of its executives and one former executive were indicted today for their participation in bid-rigging and fraud conspiracies related to contracts for the investment of municipal bond proceeds and other related municipal finance contracts, the Department of Justice announced. Today's charges are the first to be filed in the Department's ongoing antitrust investigation into the municipal bonds industry.

The nine-count indictment was filed today in the U.S. District Court for the Southern District of New York in Manhattan. The indictment charges Rubin/Chambers, Dunhill Insurance Services Inc., also known as CDR Financial Products Inc. (CDR); David Rubin, the owner and president of CDR; Zevi Wolmark, also known as Stewart Wolmark, CDR's former chief financial officer and managing director; and Evan Andrew Zarefsky, CDR's vice president, with engaging in separate bid-rigging and fraud conspiracies with companies that provide a type of contract, known as an investment agreement, to state, county and local governments and agencies throughout the United States. These public entities were seeking to invest money from a variety of sources, primarily the proceeds of municipal bonds that they had issued to raise money for, among other things, public projects.

In addition, CDR, Rubin, Wolmark and Zarefsky are charged with participating in two separate wire fraud schemes. Rubin, Wolmark and CDR are charged with a third wire fraud scheme. The two executives and former executive are also charged with obstructing the Internal Revenue Service (IRS). Zarefsky is charged with making a false statement to government agents. Rubin is charged with receiving a kickback through a fraudulent bank transaction. According to the indictment, the various crimes took place at different times from approximately 1998 until at least November 2006.

"The Justice Department is committed to protecting the competitive process and will hold accountable individuals and companies who participate in illegal and anticompetitive conduct," said Christine A. Varney, Assistant Attorney General in charge of the Department's Antitrust Division.

According to the indictment, CDR was hired by public entities that issue municipal bonds to act as their broker and conduct what was supposed to be a competitive bidding process primarily for contracts for the investment of the money raised when municipal bonds are issued.

Competitive bidding for those contracts is the subject of regulations issued by the U.S. Department of the Treasury and is related to the tax-exempt status of the bonds, which gives the Treasury the right to a portion of the earnings from a municipality's investment agreement under certain circumstances. Compliance with the regulations is monitored by the IRS.

The indictment charges that CDR, Rubin, Wolmark and Zarefsky secretly manipulated and controlled the competitive bidding process in numerous ways to enrich themselves and the co-conspirator providers of the investment agreements, at the expense of the municipalities, the IRS, or both.

As a part of the bid-rigging conspiracy alleged in the indictment, CDR, Rubin, Wolmark, Zarefsky and other co-conspirators designated in advance which co-conspirator provider would be the winning bidder for certain investment agreements. According to the indictment, they also submitted or caused to be submitted to CDR intentionally losing bids. The indictment also alleges that co-conspirator providers paid kickbacks to CDR in the form of fees that were inflated or unearned in exchange for CDR's assistance in controlling the bidding process and ensuring that certain providers won bids they were allocated.

As part of the fraud conspiracies alleged in the indictment, CDR, Rubin, Wolmark and Zarefsky gave particular co-conspirator providers information about the prices, price levels or conditions in competitors' bids, a practice known as a "last look," which is explicitly prohibited by the Treasury regulations. In exchange, CDR received kickbacks from these providers and relied on them to submit intentionally losing bids when requested. The efforts by CDR and the three executives to control and manipulate the bidding for investment contracts, and the execution of a variety of certifications that covered up their scheme, also obstructed the IRS's ability to monitor compliance with the Treasury regulations and to determine whether municipal issuers had correctly accounted for any money that was owed to the Treasury.

The charges announced today resulted from an ongoing investigation that is being conducted by the Antitrust Division's New York Field Office, the FBI and IRS Criminal Investigation. The Division is coordinating its investigation with the Securities and Exchange Commission, the Office of the Comptroller of the Currency and the Federal Reserve Bank of New York.

"This case is fundamentally about collusion, the illegal rigging of a purportedly competitive bidding process," said Joseph M. Demarest Jr., Assistant Director-in-Charge of the FBI in New York. "The result was lower rates of return on the investment of bond proceeds for the state and local governments that hired CDR. In a climate of economic austerity, the conduct of the defendants and co-conspirators seems particularly predatory."

"IRS Criminal Investigation agents are working every day with our partners to follow financial leads to the source of criminal activity," said Patricia J. Haynes, Special Agent in Charge, IRS Criminal Investigation New York Field Office. "We will continue to pursue individuals and companies who defraud the IRS."

The bid-rigging conspiracy that Rubin, Wolmark and Zarefsky are charged with carries a maximum penalty of 10 years in prison and a $1 million fine. The fraud conspiracies that Rubin, Wolmark and Zarefsky are charged with carry a maximum penalty of five years in prison and a $250,000 fine. The wire fraud charges against the three individuals each carries a maximum penalty of 20 years in prison and a $1 million fine. The false statement charge against Zarefsky carries a maximum penalty of five years in prison and a $250,000 fine. The fraudulent bank transaction charge against Rubin carries a maximum penalty of 30 years in prison and a $1 million fine. The obstruction of the IRS charge against the three individuals carries a maximum penalty of three years in prison and a $5,000 fine. The maximum fines for each of these offenses may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

CDR faces a maximum fine of $100 million for the bid-rigging charge, $500,000 for each of the fraud conspiracies, and $500,000 for each of the wire fraud charges. The maximum fines for each of these offenses may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Anyone with information concerning bid rigging and related offenses in any financial markets should contact the Antitrust Division’s New York Field Office at 212-264-0390 or the FBI at 212-384-5000.

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