Department of Justice

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THREE FORMER FINANCIAL SERVICES EXECUTIVES INDICTED FOR FRAUDULENT CONDUCT AFFECTING CONTRACTS RELATED TO MUNICIPAL BONDS

WASHINGTON — Three former executives of a financial services company were indicted today for their participation in fraud schemes and conspiracies related to bidding for contracts for the investment of municipal bond proceeds and other municipal finance contracts, the Department of Justice announced. One executive was also indicted for witness tampering in connection with the department's ongoing investigation into anticompetitive and fraudulent conduct in the municipal bond industry.

The six-count indictment was filed today in U.S. District Court in New York City. The indictment charges Peter Ghavami, Gary Heinz and Michael Welty with participating in separate fraud schemes at various time periods from as early as 2001 until 2006. Ghavami, a Belgian national who was residing in Moscow, was originally charged by criminal complaint and was arrested last week at John F. Kennedy International Airport in New York.

"The individuals charged today allegedly participated in complex fraud schemes and conspiracies that subverted competition in the market for municipal finance contracts and deprived municipal bond issuers of the benefits of their investments to the detriment of the public," said Christine Varney, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "This type of anticompetitive activity in our financial markets will not be tolerated and the Antitrust Division will continue to prosecute those who engage in this illegal conduct. This includes individuals who purposely seek to obstruct the government's investigation."

The charged conspiracies and schemes all relate to a type of contract, known as an investment agreement, and other municipal finance contracts provided to public entities, such as state, county and local governments and agencies throughout the United States. Major financial institutions, including banks, investment banks, insurance companies and financial services companies, are among the providers of investment agreements and other related municipal finance contracts. Public entities typically hire a broker to conduct a competitive bidding process among various providers prior to awarding these agreements and contracts. Competitive bidding for these agreements 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.

According to the indictment, the financial services company where Ghavami, Heinz and Welty worked was a wholly-owned subsidiary of a foreign-based financial institution that had its principal place of business in New York City. The financial services company marketed financial products and services to various municipalities, acted as a provider for investment agreements and other municipal finance contracts, and in some instances, acted as a broker for such agreements and contracts.

According to the indictment, Ghavami, Heinz and Welty conspired with employees of various financial institutions to manipulate the bidding process for these agreements and contracts, by discussing with co-conspirators the price or price level their employers intended to bid and determining with their co-conspirators which financial institution would win a particular investment agreement or municipal finance contract.

The indictment also alleges that Ghavami, Heinz and Welty and their co-conspirators falsely certified that the bidding process on rigged deals was competitive and in compliance with U.S. Treasury regulations. This caused the municipal issuers to award investment agreements and other municipal finance contracts to providers that otherwise would not have been awarded the contracts, and in some instances, deprived the Internal Revenue Service and U.S. Treasury of money to which they were entitled.

The indictment further alleges that Ghavami, Heinz and Welty conspired with Beverly Hills, Calif.-based Rubin/Chambers, Dunhill Insurance Services Inc. (CDR) and others in order to obtain from CDR information about the prices and other information related to competing bids and then used that information to determine their employer's bid. In some cases, they submitted intentionally losing bids for agreements or contracts brokered by CDR to make it appear that their employer and parent company had legitimately competed for those agreements or contracts. They also allegedly agreed to pay and arranged for kickback payments to be made to CDR in the form of fees that were inflated, relative to the services performed, for CDR's assistance in controlling and manipulating the competitive bidding process in their employer's favor.

Ghavami, Heinz and Welty are also charged with participating in a conspiracy and fraud schemes in their capacity as brokers and advisors to municipal bond issuers. According to the indictment, in different instances, Ghavami, Heinz and Welty, acting as brokers, accepted various kickbacks on behalf of their employer in exchange for manipulating the bidding process and steering investment agreements and other municipal finance contracts to certain financial institutions and entities. According to the indictment, their conduct caused investment agreements to be awarded at artificially determined price levels and deprived the municipal issuers or the U.S. Treasury of money to which they otherwise would have been entitled.

The indictment also charges Heinz with witness tampering in November 2006, when after learning of the department's investigation, he is alleged to have told another individual, among other things, to meet with a second individual for the purpose of coordinating their stories about a rigged deal.

"Some criminals may believe that the more complex the financing arrangements are, the easier it will be to avoid detection and financial investigation by the authorities," IRS Criminal Investigation Special Agent in Charge, Charles R. Pine stated. "As the agency responsible for ensuring compliance in the municipal bond industry, we will continue to investigative fraudulent schemes and recommend prosecution of those who seek to illegally benefit at the expense of taxpayers."

"The distinction between the conduct of these defendants and crooks who engage in traditional bid-rigging is a distinction without a difference," said FBI Assistant Director-in-Charge Janice K. Fedarcyk. "Whether the collusive scheme involves contracts for street paving or trash collection or municipal bonds, fixing prices and colluding on bids is anticompetitive, harms the public, and is therefore in the crosshairs of the FBI."

One of the charged fraud conspiracies carries a maximum penalty of five years in prison and a $250,000 fine. The other two fraud conspiracies carry a maximum penalty per count of 20 years in prison and a $1 million fine. The two wire fraud charges also carry a maximum penalty per count of 20 years in prison and a $1 million fine. In addition, Heinz faces a maximum penalty of 20 years in prison and a $250,000 fine for the witness tampering charge. These maximum fines per count may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either amount is greater than the statutory maximum fine.

At a hearing yesterday, U.S. Magistrate Judge Dollinger refused to allow Ghavami to return to Russia and ordered that he be released on bail, pending satisfaction of a $10 million bond, that his travel be limited to the Southern and Eastern Districts of New York, and other conditions.

The charges announced today resulted from an ongoing investigation conducted by the Antitrust Division's New York Field Office and Chicago Field Office, the FBI and IRS Criminal Investigation. The division is coordinating its investigation with the U.S. Securities and Exchange Commission, the Office of the Comptroller of the Currency and the Federal Reserve Bank of New York. As part of this investigation, three former employees of CDR have pleaded guilty to bid-rigging and fraud conspiracies in relation to the ongoing investigation. Five other individuals have pleaded guilty to charges related to the ongoing investigation. In addition, three former financial services executives were indicted on July 27, 2010, for participating in fraud schemes and conspiracies related to the bidding for investment agreements. In October 2009, CDR, two of its employees and one former employee were charged for participating in bid-rigging and fraud conspiracies and related crimes. The CDR trial is scheduled to begin on Sept. 12, 2011.

Today's charges are part of efforts underway by President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes. For more information on the task force, visit www.StopFraud.gov.

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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