



Department of Justice



FOR IMMEDIATE RELEASE
THURSDAY, JUNE 30, 2011
WWW.JUSTICE.GOV

AT
(202) 514-2007
TTY (866) 544-5309

CALIFORNIA REAL ESTATE INVESTORS AGREE TO PLEAD GUILTY TO BID RIGGING AT PUBLIC FORECLOSURE AUCTIONS

Investigation Yields Eight Plea Agreements

WASHINGTON – Eight California real estate investors have agreed to plead guilty for their roles in two separate conspiracies to rig bids and commit mail fraud at public real estate foreclosure auctions in Northern California, the Department of Justice announced.

Charges were filed today in U.S. District Court for the Northern District of California in Oakland, Calif., against Thomas Franciose of San Francisco; William Freeborn of Alamo, Calif.; Robert Kramer of Oakland, Calif.; Thomas Legault of Clayton, Calif.; David Mergen of Berkeley, Calif.; Brian McKinzie of Hayward, Calif.; Jaime Wong of Dublin, Calif.; and Jorge Wong of San Leandro, Calif.

According to the felony charges, the real estate investors participated in a conspiracy to rig bids by agreeing to refrain from bidding against one another at public real estate foreclosure auctions in Contra Costa County and Alameda County, Calif. While some of the conspirators participated in the conspiracies in both Alameda and Contra Costa Counties, the collusive activity occurred independently in each county, and some individuals only participated in the conspiracy in one county.

“While the country faces unprecedented home foreclosure rates, the collusion taking place at these auctions is artificially driving down foreclosed home prices and is lining the pockets of the colluding real estate investors,” said Christine Varney, Assistant Attorney General in charge of the Department of Justice’s Antitrust Division. “The Antitrust Division will vigorously pursue these kinds of collusive schemes that eliminate competition from the marketplace.”

The department said that the primary purpose of the conspiracies was to suppress and restrain competition to obtain selected real estate offered at Alameda and Contra Costa County public foreclosure auctions at noncompetitive prices. When real estate properties are sold at these auctions, the proceeds are used to pay off the mortgage and other debt attached to the property, with remaining proceeds, if any, paid to the homeowner.

“Through the hard work and partnership between the FBI and the Antitrust Division, we have been able to secure a victory in our fight against bid-rigging and anticompetitive practices in foreclosure auctions,” said FBI Special Agent in Charge Stephanie Douglas of the San Francisco Field Office. “We continue to ask for the public’s assistance in identifying and reporting those engaged in this type of activity.”

According to the court documents, the real estate investors conspired with others not to bid against one another at public real estate foreclosure auctions in Northern California, participating in a conspiracy in various lengths of time between May 2008 and January 2011. After the conspirators’ designated bidder bought a property, the conspirators would hold a secret, private auction at which each participant would bid the amount above the public auction price he was willing to pay. The department said that the secret, private auctions took place at or near the courthouse steps where the public auctions were held. The highest bidder at the private auction won the property. According to the court documents, the difference between the public auction price and that at the second auction was the group’s illicit profit, and it was divided among the conspirators, often in cash.

In addition, the eight conspirators were charged with using the U.S. mail in carrying out their conspiracy to defraud financial institutions by paying potential competitors not to bid competitively in the public auctions for foreclosed properties, according to court filings.

Franciose, Jaime Wong and Jorge Wong were charged with one count each of bid rigging to obtain selected real estate at foreclosure auctions in Alameda County and one count each of conspiracy to commit mail fraud. Freeborn and Legault were charged with one count each of bid rigging to obtain selected real estate at foreclosure auctions in Contra Costa County and one count each of conspiracy to commit mail fraud. Kramer, Margen and McKinzie were each charged with two counts of bid rigging to obtain selected real estate at foreclosure auctions in Alameda and Contra Costa Counties and two counts each of conspiracy to commit mail fraud.

Each violation of the Sherman Act carries a maximum penalty of 10 years in prison and a \$1 million fine for individuals. Each count of conspiracy to commit mail fraud carries a maximum sentence of 30 years in prison and a \$1 million fine. The maximum fine for the Sherman Act charges may be increased to twice the gain derived from the crime or twice the loss suffered by the victim if either amount is greater than the \$1 million statutory maximum.

The Antitrust Division and the FBI have identified a pattern of collusive schemes among real estate investors aimed at eliminating competition at real estate foreclosure auctions, and today’s charges are part of the department’s ongoing effort to combat this conduct and restore competition to public auctions. The investigation into fraud and bid rigging at certain real estate foreclosure auctions in Northern California is being conducted by the Antitrust Division’s San Francisco Office and the FBI’s San Francisco office. Anyone with information concerning bid rigging or fraud related to public real estate foreclosure auctions should contact the Antitrust Division’s San Francisco Office at 415-436-6660, visit www.justice.gov/atr/contact/newcase.htm, or call the FBI tip line at 415-553-7400.

Today's charges are part of efforts underway by President Barack Obama's Financial Fraud Enforcement Task Force (FFETF). 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.

#

11-858