Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 20, 2012
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FORMER FINANCIAL SERVICES EXECUTIVE INDICTED FOR HIS PARTICIPATION IN A FAR-REACHING CONSPIRACY AND SCHEME TO DEFRAUD INVOLVING INVESTMENT CONTRACTS FOR THE PROCEEDS OF MUNICIPAL BONDS

WASHINGTON – A former financial services executive was indicted yesterday for his participation in a far-reaching conspiracy and scheme to defraud related to bidding for contracts for the investment of municipal bond proceeds and other municipal finance contracts, the Department of Justice announced.

The three-count indictment was filed yesterday in the U.S. District Court in Charlotte, N.C. The indictment charges Phillip D. Murphy, a former executive for a financial institution, with participating in a wire fraud scheme and separate fraud conspiracies from as early as 1998 until 2006.

The charged conspiracies and scheme to defraud relate to the provision of a type of contract, known as an investment agreement, 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 seek to invest money from a variety of sources, primarily the proceeds of municipal bonds that they issue to raise money for, among other things, public projects. Public entities typically hire a broker to conduct a competitive bidding process among various providers for the award of an investment agreement to invest such money. 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. The company that employed Murphy marketed financial products and services, including services as a provider of investment agreements.

"The individual charged yesterday allegedly participated in a complex fraud scheme and conspiracies to manipulate what was supposed to be a competitive process," said Scott D. Hammond, Deputy Assistant Attorney General of the Antitrust Division's Criminal Enforcement Program. "The division recently convicted at trial several individuals in this investigation, which is ongoing. We will continue to prosecute those who engage in such illegal and anticompetitive behavior."

The indictment charges that Murphy conspired with Rubin/Chambers, Dunhill Insurance Services Inc., also known as CDR Financial Products (CDR), a broker of municipal finance contracts, and others to increase the number and profitability of investment agreements and other municipal finance contracts awarded to the provider company where Murphy was employed. Murphy won investment agreements through CDR's manipulation of the bidding process in obtaining losing bids from other providers, which is explicitly prohibited by U.S. Treasury regulations. As a result of the information, various providers won investment agreements and other municipal finance contracts at artificially determined prices. In exchange for this information, Murphy submitted intentionally losing bids for certain investment agreements and other contracts when requested, and, on occasion, agreed to pay or arranged for kickbacks to be paid to CDR and other co-conspirator brokers.

The indictment also alleges that Murphy and co-conspirators misrepresented to municipal issuers or bond counsel that the bidding process was 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 if the issuers had true and accurate information regarding the bidding process. Such conduct placed the tax-exempt status of the underlying bonds in jeopardy.

According to court documents, the efforts by Murphy and his co-conspirators 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 Internal Revenue Service (IRS)'s ability to monitor compliance with U.S. Treasury regulations and impeded the IRS's ability to determine whether municipal issuers had correctly accounted for any money that was owed to the U.S. Treasury.

In a separate count, the indictment charges that Murphy conspired with others to falsify bank records related to marketing profits so that the co-conspirators could pay the kickbacks to CDR and others.

"Yesterday's charges outline a fraudulent scheme to subvert competition in the marketplace. Those who engage in this type of criminal activity not only stand to defraud public entities, but erode the public's trust in the competitive bidding process," said Janice K. Fedarcyk, Assistant Director in Charge of the FBI in New York. "The FBI will continue to work with the Antitrust Division to ensure the integrity of competitive bidding in public finance."

"This case demonstrates the value of a coordinated approach by multiple agencies and law enforcement authorities," said Internal Revenue Service-Criminal Investigation (IRS-CI) Chief Richard Weber. "IRS Criminal Investigation contributed to this joint effort by providing financial investigative expertise to uncover this complex and sophisticated scheme. Professionals, including financial service executives, should know we will devote all resources necessary to bring to justice those who commit financial crimes."

Murphy is charged with two counts of conspiracy and one count of wire fraud. The fraud conspiracy with which Murphy is charged carries a maximum penalty of five years in prison and a $250,000 fine. The wire fraud charge carries a maximum penalty of 30 years in prison and a

$1 million fine. The false bank records conspiracy carries a maximum penalty of five years in prison and a $250,000 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.

The charges announced today resulted from an ongoing investigation conducted by the Antitrust Division's New York and Cleveland Field Offices, the FBI and IRS-CI. 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.

To date, a total of 13 individuals and one company have pleaded guilty to charges stemming from the ongoing investigation. In May 2012, a federal jury in the Southern District of New York convicted Dominick Carollo, Steven Goldberg and Peter Grimm of multiple counts involving similar fraud conspiracies after a four-week trial. Three other former executives of a financial institution were indicted on Dec. 9, 2010, for participating in fraud schemes and conspiracies related to the bidding for investment agreements, and are awaiting trial, which is scheduled to begin in Manhattan on July 30, 2012.

Yesterday's indictment is part of efforts underway by President Obama's Financial Fraud Enforcement Task Force (FFETF) which was created in November 2009 to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. With more than 20 federal agencies, 94 U.S. attorneys' offices and state and local partners, it's the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets and conducting outreach to the public, victims, financial institutions and other organizations. Over the past three fiscal years, the Justice Department has filed more than 10,000 financial fraud cases against nearly 15,000 defendants including more than 2,700 mortgage fraud defendants. 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 212-335-8000, the FBI at 212-384-5000 or IRS-CI at 212-436-1761, or visit www.justice.gov/atr/contact/newcase.htm.

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