



Department of Justice

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TWO NORTHERN VIRGINIA MEN PLEAD GUILTY IN CRIMINAL BID RIGGING SCHEMES INVOLVING RESIDENTIAL REAL ESTATE

WASHINGTON, D.C. -- Two northern Virginia men pleaded guilty today to participating in criminal bid rigging schemes to hold down prices at residential real estate auctions in northern Virginia, said the Department of Justice's Antitrust Division.

The men conspired with a group of real estate speculators who agreed not to bid against each other at certain real estate foreclosure auctions in northern Virginia, the Department said. Their agreement allowed them to buy real estate for low, noncompetitive prices.

The charges against Alexander Giap of McLean and Donald M. Kotowicz of Sterling, filed today in U.S. District Court in Alexandria, Virginia, are the result of the Department's ongoing antitrust investigation into foreclosure auction bid rigging in northern Virginia. As a result of the Department's previous antitrust investigation of real estate auction bid rigging in Washington, D.C., 12 individuals and one corporation were convicted.

Anne K. Bingaman, Assistant Attorney General in charge of the Department's Antitrust Division, said, "After the Department's crackdown on real estate auction bid rigging in D.C., one would think that those in the area would have gotten

the message that if you commit this kind of criminal behavior, you will be prosecuted. We are committed to fully investigating all aspects of this crime and prosecuting vigorously all participants in what appears to be a long-standing conspiracy."

The Department's Antitrust Division and U.S. Attorney Helen F. Fahey, of the Eastern District of Virginia worked jointly to bring about today's charges.

Giap pleaded guilty today to bid rigging, wire fraud and bank fraud for his involvement in three separate criminal schemes that involved the buying, selling and loan refinancing of residential real estate in northern Virginia. His involvement in the three schemes took place from 1991 until May 1995.

Kotowicz also pleaded guilty today for his participation in the bid rigging conspiracy at real estate foreclosure auctions in northern Virginia. His involvement in the conspiracy took place from September 1991 through April 1995. The bid rigging charges violate the Sherman Antitrust Act.

The Department charged that after the conspirators' designated bidder bought a property at a public auction, they would meet secretly to hold a second auction where each conspirator bid the amount, or "premium," above the public auction price he or she was willing to pay. The conspirator who bid the highest premium won the property. That premium amount was the group's illicit profit, and it was divided among the conspirators in payoffs made later. Giap participated in the bid rigging conspiracy from November 1991 through March 1994. Kotowicz participated in the conspiracy from September 1991 through April 1995.

Bingaman said the northern Virginia antitrust investigation, which is being conducted by the Division's Litigation I Section with the assistance of the Federal Bureau of Investigation, is continuing. Giap and Kotowicz have pledged to cooperate with investigators, Bingaman said.

Giap was also charged with wire fraud for using "straw buyers"--persons with good credit in whose names he filed false documents--to fraudulently obtain approximately \$750,000 in loans from Briner Inc., a Middleburg, Virginia, mortgage company. The Department said he did this by submitting false loan applications, tax returns, bank statements, and other documents on behalf of the straw buyers.

Giap was also charged for his involvement in a massive bank fraud scheme that took place from 1991 through April 1995. Banks and other lenders were fraudulently induced to make more than 40 loans, which totaled more than \$5.7 million and related to approximately 28 properties. The Department said Giap caused banks and other lenders to make loans they wrongly believed were secured by first mortgages and thought would be used to pay off other loans on the properties. The Department charged that Giap forged checks issued to pay off prior lenders and kept the money. The Department said he also forged documents to make banks think he had paid off old loans so that the banks would make him new loans.

The maximum potential penalties for Giap's three offenses is 38 years imprisonment, a fine of \$1.6 million and restitution for the losses caused by the schemes. The government estimates that

as a result of the fraud, six title companies will suffer most of the approximately \$5 million in losses.

The maximum penalty for individuals convicted of a Sherman Act violation committed after November 16, 1990, is three years in jail and a fine of the greatest of \$350,000, twice the pecuniary gain the individual derived from the crime, or twice the pecuniary loss suffered by the victims of the crime.

The maximum penalty for an individual convicted of wire fraud is five years imprisonment and a fine of \$250,000.

The maximum penalty for an individual convicted of bank fraud is 30 years imprisonment and a fine of \$1 million.

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