



Department of Justice



United States Attorney Benjamin B. Wagner
Eastern District of California

FOR IMMEDIATE RELEASE
FRIDAY, JANUARY 27, 2012
WWW.JUSTICE.GOV/USAO/CAE

CONTACT: LAUREN HORWOOD
(916) 554-2706

CALIFORNIA INVESTOR PLEADS GUILTY TO BID RIGGING AND FRAUD AT PUBLIC REAL ESTATE FORECLOSURE AUCTIONS

Ninth Guilty Plea in the Investigation to Date

SACRAMENTO, Calif. – A real estate investor pleaded guilty today in U.S. District Court in Sacramento to conspiring to rig bids and commit mail fraud at public real estate foreclosure auctions held in San Joaquin County, Calif., Sharis A. Pozen, Acting Assistant Attorney General of the Department of Justice’s Antitrust Division, and Benjamin B. Wagner, U.S. Attorney for the Eastern District of California, announced.

Kenneth A. Swanger pleaded guilty to conspiring with a group of real estate speculators who agreed not to bid against each other at certain public real estate foreclosure auctions in San Joaquin County. The primary purpose of the conspiracy was to suppress and restrain competition and to obtain selected real estate offered at San Joaquin County public foreclosure auctions at noncompetitive prices, the department said in court papers.

According to the court documents, after the conspirators’ designated bidder bought a property at a public auction, they would hold a second, private auction, at which each participating conspirator would bid the amount above the public auction price he or she was willing to pay. The conspirator who bid the highest amount at the end of the private auction won the property. The difference between the price at the public auction and that at the second auction was the group’s illicit profit. The illicit profit was divided among the conspirators in payoffs. According to his plea agreement, Swanger participated in the scheme beginning in or about June 2009 until in or about October 2009.

To date, nine individuals, including Swanger, have pleaded guilty in U.S. District Court for the Eastern District of California in connection with the investigation. They are: Anthony B. Ghio; John R. Vanzetti; Theodore B. Hutz; Richard W. Northcutt; Yama Marifat; Gregory L. Jackson; Walter Daniel Olmstead; and Robert Rose. In addition, four other investors, Wiley C. Chandler, Andrew B. Katakis, Donald M. Parker and Anthony B. Joachim, and one auctioneer, W. Theodore Longley, were indicted by a federal grand jury in Sacramento on Dec. 7, 2011.

“This type of illegal scheme undermines the transparency and integrity of the competitive market for residential real estate. Today’s guilty plea sends a clear message that the Department of Justice does not tolerate anticompetitive conduct that harms consumers,” said Acting Assistant Attorney General Pozen. “The Antitrust Division will continue to work with its law enforcement partners to prosecute the perpetrators of anticompetitive schemes in public real estate foreclosure auctions in the Sacramento area and into northern California.”

“The Department of Justice is bringing greater scrutiny to auctions of foreclosed properties as part of our effort to root out fraud in the real estate industry in all its forms,” said U.S. Attorney Wagner. “The days when a few players could rig these auctions for their own benefit are ending.”

Swanger pleaded guilty to bid rigging, a violation of the Sherman Act, which carries a maximum penalty of 10 years in prison and a \$1 million fine. The maximum fine 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. Swanger also pleaded guilty to conspiracy to commit mail fraud, which carries a maximum sentence of 30 years in prison and a \$1 million fine.

These charges arose from an ongoing federal antitrust investigation of fraud and bidding irregularities in certain real estate auctions in San Joaquin County. The investigation is being conducted by the Antitrust Division’s San Francisco Office, the U.S. Attorney’s Office for the Eastern District of California, the FBI’s Sacramento Division and the San Joaquin County District Attorney’s Office. Trial attorneys Anna Pletcher and Tai Milder from the Antitrust Division’s San Francisco Office and Assistant U.S. Attorney Russell L. Carlberg are prosecuting the case.

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. One component of the task force is the national Mortgage Fraud Working Group, co-chaired by U.S. Attorney Wagner. For more information on the task force, visit www.StopFraud.gov.

Anyone with information concerning bid rigging or fraud related to 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, contact the U.S. Attorney’s Office for the Eastern District of California at 916-554-2700 or contact the FBI’s Sacramento Division at 916-481-9110.

###