

A Too Familiar DOJ Press Release with a Sad Detail

AntitrustConnect Blog

July 20, 2018

Robert E. Connolly (GeyerGorey LLP)

Please refer to this post as: Robert E. Connolly, 'A Too Familiar DOJ Press Release with a Sad Detail', AntitrustConnect Blog, July 20 2018, <http://antitrustconnect.com/2018/07/20/familiar-doj-press-release-sad-detail/>

The DOJ issued a standard press release yesterday announcing yet another individual guilty plea in its long running real estate foreclosure auction collusion investigation: Seventh Mississippi Real Estate Investor Pleads Guilty to Conspiring to Rig Bids at Public Foreclosure Auctions. According to the press release to date there have been “convictions of well over 100 other individuals who rigged foreclosure auctions all across the country.” Many of those convicted have been sentenced to prison.

What jumped out at me about the press release was that the individual is pleading guilty to rigging auctions “from at least as early as August 20, 2009 through at least as late as **December 14, 2016.**” In other words, while the DOJ investigation, prosecution and sentencing of others to prison, this defendant continued to collude at auctions. And you can’t collude by yourself, so others were still joining in. I suppose it is more sad than surprising. [People still rob banks.] The temptation for a quick (and illegal) buck by colluding at auctions is too great for some to pass up. After all, this the real estate foreclosure auction investigation is by no means the first widespread auction collusion investigation the Antitrust Division has had with large numbers of criminal prosecutions. When I was the Chief of the Philadelphia office we prosecuted auction “rings” in antiques, jewelry, various types of commercial equipment and Department of Defense surplus auctions. In every investigation we learned was that collusion at auctions was a “way of life” in that business. The individuals prosecuted had excuses for their behavior: “it’s the only way to make money” “there were still other bidders we had to compete against” “the auctioneers pulled phantom bids” “it was a cloudy day”

“it was a sunny day” and on and on. But, each person I dealt with understood that what they were doing was a fraud. One guy even remarked in answer to a question about the collusion: “You mean the combination?” I remember that many years later because I had never heard the Sherman Act term “combination” actually used by someone who was in one. [Auction conspirators frequently use the term “the ring.”]

Like many white-collar criminals, auction collusion defendants have not had previous encounters with the law. The entire lengthy process of the investigation, prosecution, and jail sentence if there is one, is usually an absolutely devastating experience to the individuals’ business, family life and self. It can be tempting get involved in an auction ring if you compete against the same individuals/businesses time after time. But, in my experience, auctions rings were by far the easiest bid rigging crime to prosecute. The payoffs to the ring members leave a detailed road map of who was involved and what the scam was.

I don’t know who reads Cartel Capers. Probably not many in the auction business. But, if you are and you are invited into an auction ring, RUN. Be conspicuous that you are not part of the group. If you are in an auction ring, GET OUT. You may want to speak with an attorney and consider the Antitrust Division’s Leniency Program. If it’s the only way to make money, find another line of work. (But don’t rob banks.)

Thanks for reading. [Bob Connolly](#)

This post originally appeared on the [Cartel Capers](#) blog.