



**Asia-Pacific
Economic Cooperation**

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Agenda Item: 14

Recent Bid-Rigging Investigations: Real Estate Foreclosure Auctions

Purpose: Consideration
Submitted by: United States



**Competition Policy and Law Group Meeting
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Recent Bid-Rigging Investigations: Real Estate Foreclosure Auctions

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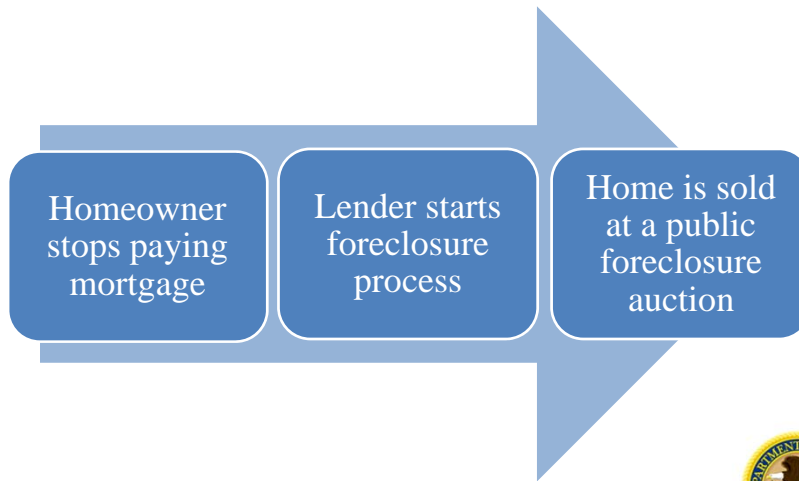
The views expressed herein do not purport to be those of the U.S. Department of Justice.

What are we investigating?

- Conspiracies to rig bids at foreclosure auctions in Western and Southeastern United States (Sherman Act)
- Fraud schemes (mail or bank fraud)



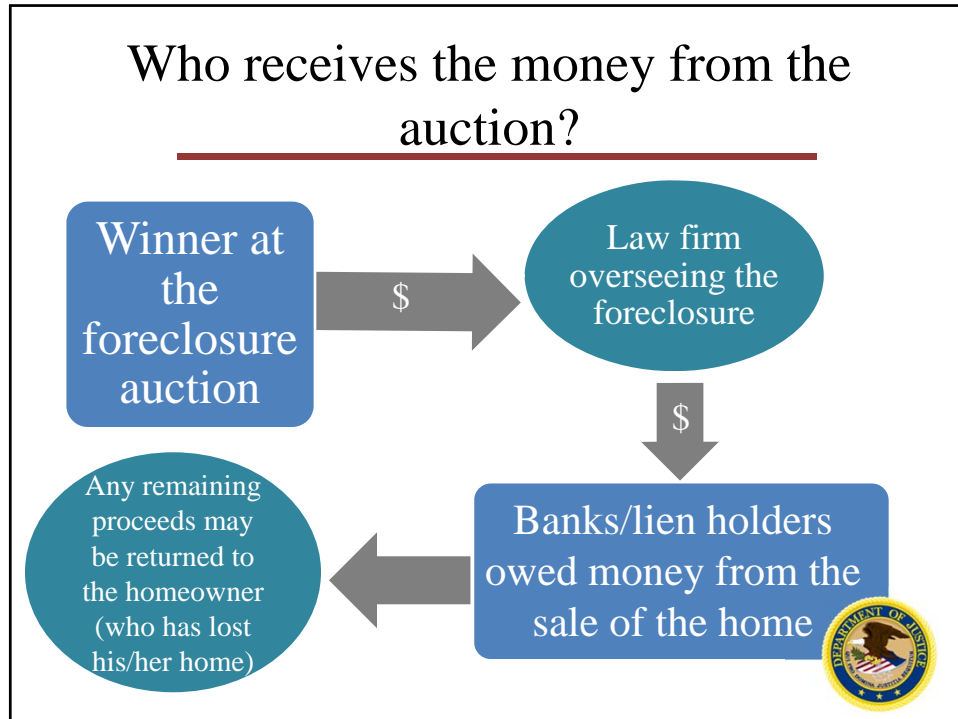
The foreclosure process



Examples of a foreclosure auction

- Date: A particular day of every month
- Where: Near the county courthouse
- Who:
 - Entity (sometimes a law firm) hired to oversee the foreclosure process
 - Auctioneer (“known as the crier”) calls out the properties
- What: Auctions off properties starting off at the minimum bid





Sherman Act (15 U.S.C. § 1)

- “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.” 15 U.S.C. § 1.
- Elements:
 - Agreement
 - Agreement concerns an unreasonable restraint of trade
 - Such as agreement to rig bids or fix prices
 - Unlawful conduct involves interstate commerce



Bid Rigging

Any agreement to rig bids is a violation of the Sherman Act

Bid Rigging: Agreement in advance to manipulate outcome of bidding process

Types:

- Agreeing not to bid in a competition
- Bidding with the intention to lose
- Each conspirator takes turns “winning” the competition



Conspiracy to Rig Bids at Foreclosure Auctions

- Illegal agreements among the bidders to designate a “winner” at the foreclosure sale
- Result:
 - Conspirator pays a lower price for the home being foreclosed upon
 - Conspirators who do not bid receive a payoff
 - Entities/people with the right to money from the foreclosure process receive less



How Do We Investigate?

- Outreach to vulnerable communities to generate leads; work with other fraud investigators (e.g., banking industry)
- Served Grand Jury subpoenas
 - To obtain documents
 - To compel witness testimony
- Reviewed documents and interviewed witnesses



Results So Far

- 14 Defendants charged in the Atlanta, Georgia area; 12 have pleaded guilty
- 56 individuals have pleaded guilty in Northern California; other cases in Alabama
- Sentences have included fines, restitution, and jail sentences up to 20 months
- Indictments are pending against 19 real estate investors in California

