United States Attorney Charles M. Oberly, III
District of Delaware

FOR IMMEDIATE RELEASE CONTACT: KIM REEVES
AUGUST 5, 2015 PHONE: (302) 573-6277, ext. 16287
WWW.USDOJ.GOV/USAO/DE

Former Executives of Wilmington Trust Indicted For Conspiracy and False Statements

WILMINGTON, Del. – Robert V.A. Harra, age 66, of Wilmington, David Gibson, age 58, of Wilmington, William North, age 55 of Bryn Mawr, Pennsylvania, and Kevyn Rakowski, age 61, of Lakewood Ranch, Florida, were indicted today for their respective roles in concealing from the Federal Reserve, the Securities and Exchange Commission (SEC) and the investing public the total quantity of past due loans on Wilmington Trust's books from October 2009 until November 2010. The Nineteen-Count Superseding Indictment charges defendants with making false statements in securities filings and to agencies of the United States government.

All defendants are charged with conspiracy to defraud the United States, to commit fraud in connection with the purchase and sale of securities, and making false statements to regulators (18 U.S.C. § 371). All defendants are charged with one count of false statements in connection with the purchase or sale of securities (18 U.S.C. § 1348), four counts of making false entries in banking records (18 U.S.C. § 1005), seven counts of making false statements to agencies of the United States government (18 U.S.C. § 1001), and two counts of making false statements in SEC reports (15 U.S.C. §§ 78m(a) and 78ff). Harra and Gibson are also charged with two additional counts of making false statements in SEC reports and Gibson is charged with three counts of falsely certifying financial reports (18 U.S.C. § 1348). North and Rakowski were previously charged with two counts of making false statements to an agency of the United States, relating to the concealment from the market and the Federal Reserve the total quantity of past due loans on the bank's books during the months of October and November 2009.

Wilmington Trust was required to report in its quarterly filings with both the SEC and the Federal Reserve the quantity of its loans for which payment was past due for 90 days or more. Investors and banking regulators consider the 90-day number in evaluating the health of a bank's loan portfolio. According to the Superseding Indictment, Harra, Gibson, North, and Rakowski helped conceal the truth about the health of Wilmington Trust's loan portfolio from the SEC, the investing public and from the bank's regulators.

The Superseding Indictment alleges that Harra, Gibson, North, and Rakowski participated in Wilmington Trust's failure to include in its reporting a material quantity of past due loans, despite the reporting requirements and knowing the significance of past due loan volume to investors and regulators. North, as the bank's Chief Credit Officer, approved the exclusion or "waiver" of such loans from internal reports that he knew would be used to generate the bank's external financial reports. As the bank's President and Head of Regional Banking, Harra encouraged the "waiver" of past due loans. He served as a primary point of contact with the bank's regulators during 2009 and 2010, signed bank regulatory filings, participated in quarterly earnings calls with investors, and did not disclose the bank's failure to report "waived" loans. The Chief Financial Officer, Gibson, also knew the bank had "waived" loans from public reporting and failed to disclose this. Despite this knowledge, Gibson helped to draft and approved SEC filings and certified that those same filings fairly presented the financial condition of Wilmington Trust. Rakowski, as Controller, approved the bank's filings with the SEC and the Federal Reserve knowing that those reports did not include past due loans that had been "waived."

In November 2010, Wilmington Trust was acquired by another bank at a discount of approximately 46% from the bank's share price the prior trading day.

In announcing the Superseding Indictment, United States Attorney for the District of Delaware Charles M. Oberly, III, stated, "This Superseding Indictment marks the next significant step in our investigation into the illegal conduct by at Wilmington Trust. The failure by these individuals to properly inform regulators and investors about the true financial condition of Wilmington Trust resulted in significant harm to those investors and losses to the Delaware community. As high-ranking bank executives, these individuals had an obligation to accurately report important financial metrics which enable investors to make informed decisions. Even in the wake of the financial crisis, their deception was neither permissible nor excusable."

"The deception explained in this indictment shows the defendants set out to hide information from the federal government. The men and women named in this case not only hid financial details from regulators but from the general public and investors," said acting Special Agent in Charge Scott Hinckley of the FBI in Delaware. "These aren't victimless crimes and those who committed them will be held accountable."

"The criminal charges filed today allege that four senior executives of a TARP bank did not want to face the consequences of telling the truth about past due loans on the bank's books, and in reporting to regulators, investors and shareholders," said Christy Romero, Special Inspector General for TARP (SIGTARP). "These TARP bankers allegedly engaged in a practice of waiving past-due loans from their external reports, and making mass extensions of past-due loans with limited – if any – underwriting and many lacking updated appraisals. In 2008 Treasury, on behalf of American taxpayers, invested $330 million in TARP bailout funds in Wilmington Trust. In 2010, the bank then turned to the market to raise capital using its falsely reported past due numbers. The bank was then sold at a severe discount, roughly half its discount from the prior day. Bankers across the nation were faced with declining economic conditions and rising past-due loans, and told the truth about those loans and losses. Bankers at Wilmington Trust did not. We commend United States Attorney Charles Oberly, III and our law enforcement partners for standing firm with SIGTARP to combat TARP-related crime."

“Bank executives hold positions of trust not only within their banks but also in the eyes of the public. That trust is broken when such executives abuse their power and commit crimes. This latest indictment should serve as a continued warning to anyone who is contemplating similar financial fraud, that their illegal activity will not go unnoticed” said Akeia Conner, Special Agent In Charge, IRS Criminal Investigation.

“Today’s indictment sends a clear message that bank executives who engage in fraud to deceive regulators and the public will be held accountable for their actions,” said Mark Bialek, Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau.The case is being investigated by the Federal Bureau of Investigation, the Department of Treasury’s Special Inspector General for the Troubled Asset Relief Program, the Internal Revenue Service’s Criminal Investigative Division, and the Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau. The Securities and Exchange Commission has also contributed to the investigation. The case is being prosecuted by Assistant U.S. Attorneys Robert Kravetz and Lesley Wolf of the District of Delaware.

The charges contained in an indictment are merely accusations, and a defendant is presumed innocent unless and until proven guilty.