



**FOR IMMEDIATE RELEASE**

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## FORMER CEO OF TARP APPLICANT BANK CHARGED IN SCHEME TO DEFRAUD SHAREHOLDERS AND MISLEAD REGULATORS

### *Former President of the Bank Pleads Guilty for His Role*

WASHINGTON, DC - The former chief executive officer of TARP applicant TierOne Bank, a publicly traded commercial bank formerly headquartered in Lincoln, Neb., was charged on December 10, 2014, for his role in a scheme to defraud the bank's shareholders and mislead regulators by concealing the declining value of the bank's loan and real estate portfolio. Additionally, earlier this week, the former president and chief operating officer pleaded guilty for his role in the scheme.

Special Inspector General for the Troubled Asset Relief Program Christy Romero (SIGTARP), Assistant Attorney General Leslie R. Caldwell of the Justice Department's Criminal Division, and Special Agent in Charge of the FBI's Omaha Division Thomas R. Metz made the announcement.

"SIGTARP's investigation with the FBI, DOJ, and the U.S. Attorney's Office has resulted in criminal charges against Gilbert Lundstrom, former CEO of TARP applicant TierOne Bank, for hiding bank losses and past due loans arising from the bank's aggressive expansion out of its traditional lending areas," said Christy Romero, Special Inspector General for TARP (SIGTARP). "Lundstrom is essentially charged with having two set of books, with the books shown to regulators concealing tens of millions of dollars in delinquent loans. Rather than tell the truth that this aggressive expansion resulted in a loan portfolio declining in value that threatened the bank's capital position, this bank CEO is alleged to have engaged in a conspiracy to conceal the bank's true financial condition from regulators who were examining the bank and reviewing the bank's TARP application. Taxpayers shouldered the burden of TARP to make our system safer, not to fill holes on bank's books caused by fraud."

"Today's charges against the CEO of TierOne Bank represent our continuing drive to prosecute fraudulent conduct that jeopardizes our nation's financial institutions," said Assistant Attorney General Caldwell. "We will continue to investigate and prosecute bank executives who engage in deceptive and fraudulent behavior, fueled by greed."

Gilbert G. Lundstrom, 72, of Lincoln, Neb., was the CEO of TierOne Bank from 1999 to January 2010. According to allegations in the indictment, during that time, Lundstrom and others concealed the true value of TierOne's loan and real estate portfolio and provided falsely inflated figures in its required reports to the U.S. Securities and Exchange Commission (SEC) and the Office of Thrift Supervision (OTS). Specifically, Lundstrom and others allegedly used outdated property appraisals and rejected new appraisals that would have required TierOne to mark down the value of its real estate holdings. In

addition, Lundstrom and others allegedly delayed seeking new appraisals to conceal the depreciating value of the bank's loan collateral and restructured loan terms to disguise borrowers' inability to make timely interest and principal payments. As a result, Lundstrom and others were allegedly able to hide millions of dollars in losses from regulators and investors.

In 2008, TierOne submitted an application to the OTS seeking funds through the U.S. Department of the Treasury Troubled Asset Relief Program (TARP). Ultimately, TierOne withdrew its application and did not receive TARP funds. TierOne filed for bankruptcy shortly after the bank was shut down by OTS in June 2010.

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

James A. Laphen, 65, of Omaha, Neb., the former president and chief operating officer of TierOne, pleaded guilty earlier this week to conspiracy to commit securities fraud, wire fraud, making false entries in a bank's books and records, and making false statements before U.S. Magistrate Judge Cheryl R. Zwart of the District of Nebraska. His sentencing hearing is scheduled for February 27, 2015. On Sept. 9, 2014, TierOne's former chief credit officer, Don A. Langford, also pleaded guilty for his role in the fraud. His sentencing hearing will be scheduled at a later date.

The case was investigated by SIGTARP and the FBI's Omaha Division. The SEC also provided substantial assistance in the investigation. The case is being prosecuted by Trial Attorneys Henry P. Van Dyck and L. Rush Atkinson of the Justice Department Criminal Division's Fraud Section.

This prosecution was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force, which was established to wage an aggressive and coordinated effort to investigate and prosecute financial crimes. SIGTARP is a member of the task force. To learn more about the President's Financial Fraud Enforcement Task Force, please visit [www.StopFraud.gov](http://www.StopFraud.gov).

### **About SIGTARP**

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP.

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