

**PRESS RELEASE**

# Executive Pleads Guilty to Criminal Attempted Monopolization

Monday, October 31, 2022

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Office of Public Affairs

## Construction Company President Admits to Violating Section 2 of the Sherman Act

The president of a paving and asphalt contractor based in Billings, Montana, has pleaded guilty to attempting to monopolize the market for highway crack-sealing services in Montana and Wyoming.

According to the one-count felony charge filed on Sept. 19 in the U.S. District Court for the District of Montana, Nathan Nephi Zito attempted to monopolize the markets for highway crack-sealing services in Montana and Wyoming by proposing that his company and its competitor allocate regional markets. The charge states that as early as January 2020, Zito approached a competitor about a “strategic partnership” and proposed that the competitor stop competing with Zito’s company for highway crack-sealing projects administered by Montana and Wyoming. In return, Zito’s company would stop competing with the competitor for projects administered by South Dakota and Nebraska. Zito offered to pay his competitor \$100,000 as additional compensation for lost business in Montana and Wyoming. Zito further proposed that he and his competitor enter into a sham transaction to disguise their collusion. The charge states that Zito intended to monopolize the highway crack-sealing services markets in Montana and Wyoming. Today, the District Court accepted the guilty plea that was allocated on Oct. 14, when Zito admitted to the facts contained in the charge.

“Congress criminalized monopolization and attempted monopolization to combat criminal conduct that subverts competition,” said Assistant Attorney General Jonathan Kanter of the Justice Department’s Antitrust Division. “The Justice Department will continue to prosecute blatant and illegitimate monopoly behavior that subjects the American public to harm.”

“Any effort to cheat American taxpayers by subverting the government contracting process will be vigorously pursued by our office and our law enforcement partners,” said U.S. Attorney Jesse Laslovich for the District of Montana. “The result in this case shows that any person or entity in Montana that attempts to stifle competition by violating our federal antitrust laws will be held accountable for their criminal actions.”

“Maintaining our highway infrastructure is important to sustaining American prosperity,” said Inspector General Eric J. Soskin of the Department of Transportation. “U.S. taxpayers should have confidence in the integrity of the bidding process so that transportation dollars are spent on real improvements, not monopoly profits.”

Zito pleaded guilty to one count of attempted monopolization in violation of the Sherman Act. He faces a maximum sentence of 10 years' imprisonment and a maximum fine of \$1 million. The defendant's sentencing has been scheduled for Feb. 23, 2023.

The guilty plea is the result of a joint investigation conducted by the Antitrust Division's San Francisco Office, the U.S. Attorney's Office for the District of Montana and the Department of Transportation Office of Inspector General as part of the Justice Department's Procurement Collusion Strike Force (PCSF). In November 2019, the Department of Justice created the Procurement Collusion Strike Force (PCSF), a joint law enforcement effort to combat antitrust crimes and related fraudulent schemes that impact government procurement, grant and program funding at all levels of government – federal, state and local. To learn more about the PCSF, or to report information on market allocation, price fixing, bid rigging and other anticompetitive conduct related to defense-related spending, go to <https://www.justice.gov/procurement-collusion-strike-force>.

Anyone with information in connection with this investigation should contact the Antitrust Division's Complaint Center at 888-647-3258, or visit <http://www.justice.gov/atr/report-violations>.

*Updated October 31, 2022*

## Attachments

[Charge](#) [PDF, 555 KB]

[Plea Agreement](#) [PDF, 2 MB]

## Topic

**ANTITRUST**

## Component

[Antitrust Division](#)

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January 31, 2024

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