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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FILED
JUN 30 2011
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES OF AMERICA

) Criminal No.

)

) **INFORMATION**

)

v.

) VIOLATIONS: 15 U.S.C. § 1 –

) Bid Rigging (Counts One & Three);

) 18 U.S.C. § 1349 – Conspiracy to

GRANT ALVERNAZ,

) Commit Mail Fraud (Counts Two &

Defendant.

) Four)

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The United States of America, acting through its attorneys, charges:

GRANT ALVERNAZ,

the defendant herein, as follows:

BACKGROUND

1. When California homeowners default on their mortgages, the lender or loan servicer can institute foreclosure proceedings through a non-judicial public foreclosure auction. These public auctions typically take place at or near the county courthouse. At the auction an auctioneer sells the property to the bidder offering the highest purchase price. Proceeds from the

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1 sale are then used to pay off the mortgage and other debt attached to the property. Proceeds
2 remaining from the sale are then paid to the homeowner.

3 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (Alameda County)

4 THE COMBINATION AND CONSPIRACY

5 2. Beginning as early as March 2009 and continuing until in or about November
6 2010, the defendant GRANT ALVERNAZ and co-conspirators entered into and engaged in a
7 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
8 selected real estate offered at Alameda County, California public real estate foreclosure auctions
9 in the Northern District of California, in unreasonable restraint of interstate trade and commerce,
10 in violation of the Sherman Act, Title 15, United States Code, Section 1.

11 3. The charged combination and conspiracy consisted of a continuing agreement,
12 understanding, and concert of action among the defendant and co-conspirators, the substantial
13 terms of which were:

14 a. to suppress competition by agreeing to refrain from full competitive
15 bidding against each other to obtain selected real estate offered at Alameda County, California
16 public real estate foreclosure auctions;

17 b. to make payoffs to one another in return for suppressing competition for
18 selected real estate offered at public real estate foreclosure auctions; and

19 c. to obtain title to selected real estate sold at non-competitive, rigged prices.

20 4. For the purpose of forming and carrying out the charged combination and
21 conspiracy, the defendant and co-conspirators did those things that they combined and conspired
22 to do, including, among other things:

23 a. agreeing, during meetings, conversations, and communications, to rig bids
24 to obtain selected real estate offered at Alameda County, California public real estate foreclosure
25 auctions;

26 b. designating, in various ways, which conspirator would win the selected
27 real estate at the public real estate foreclosure auctions for the group of conspirators;

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1 c. bidding at non-competitive amounts or refraining from bidding for the
2 selected real estate at the public real estate foreclosure auctions;

3 d. in some instances, engaging in direct negotiations with one or more
4 co-conspirators to pay one another not to compete for selected real estate at the public real estate
5 foreclosure auctions;

6 e. in many other instances, holding secret private auctions, at or near the
7 courthouse steps where the public auctions were held, open only to members of the conspiracy,
8 to rebid for the selected real estate obtained at the public real estate foreclosure auctions;

9 f. awarding the selected real estate to the conspirators who submitted the
10 highest bids at the private auctions; and

11 g. distributing the proceeds of the private auctions, including cash payoffs,
12 based upon a predetermined formula agreed upon by the members of the conspiracy.

13 5. Various entities and individuals, not made defendants in this Information,
14 participated as co-conspirators in the offenses charged in this Information and performed acts
15 and made statements in furtherance of them.

16 TRADE AND COMMERCE

17 6. During the period covered by this Information, the business activities of the
18 defendant and co-conspirators that are the subject of this Information were within the flow of,
19 and substantially affected, interstate trade and commerce. For example, mortgage holders
20 located in states other than California received proceeds from the public real estate foreclosure
21 auctions that were subject to the bid-rigging conspiracy.

22 JURISDICTION AND VENUE

23 7. The combination and conspiracy charged in this Information was carried out, in
24 part, in the Northern District of California, within the five years preceding the filing of this
25 Information.

26 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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1 COUNT TWO: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Alameda County)

2 THE CONSPIRACY

3 8. Beginning as early as March 2009 and continuing until in or about November
 4 2010 in Alameda County in the Northern District of California, the defendant GRANT
 5 ALVERNAZ and co-conspirators did willfully and knowingly combine, conspire, and agree with
 6 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
 7 and intend to devise a material scheme or artifice to defraud financial institutions and others and
 8 to obtain money and property by materially false and fraudulent pretenses and, for the purpose of
 9 executing or attempting to execute such scheme or artifice, to knowingly use and cause to be
 10 used the United States Postal Service or any private or commercial interstate carrier, in violation
 11 of Title 18, United States Code, Section 1349.

12 9. It was an object of the conspiracy that the defendant and his co-conspirators
 13 suppress competition by acquiring title to selected real estate at prices lower than would have
 14 resulted from fully competitive auctions, carried out by making payoffs to co-conspirators
 15 through direct negotiations or by holding second, private auctions and dividing the profits of the
 16 scheme (the difference between the public auction prices and the prices paid at the private
 17 auctions) among themselves. In other words, the defendant and co-conspirators manipulated the
 18 sales price of selected real estate, causing false, artificially low sales prices to be reported and
 19 paid to victims of the scheme. It was a further object of the conspiracy that the defendant and
 20 co-conspirators obtain title to the fraudulently acquired real estate, including recorded proof of
 21 title, in order to permit later sale of the fraudulently acquired real estate and receive additional
 22 profits from those sales.

23 MEANS AND METHODS

24 The principal means and methods used to accomplish the conspiracy were as follows:

25 10. Each and every allegation contained in Paragraphs 4 and 5 of Count One of this
 26 Information is here realleged as if fully set forth in this Count.

27 11. For the purpose of executing the scheme or artifice to defraud, the defendant and
 28 co-conspirators did knowingly cause Trustee's Deeds Upon Sale for the fraudulently obtained

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1 real estate to be sent or delivered by the United States Postal Service or a private or commercial
2 interstate carrier. These mailings were foreseeable to the defendant in the ordinary course of
3 business.

4 OVERT ACTS

5 12. In addition to causing the use of the United States Postal Service or a private or
6 commercial interstate carrier in furtherance of the conspiracy and to effect the illegal objects
7 thereof, the defendant and co-conspirators, in the manner described in Count One, Paragraph 4,
8 and for the purpose of carrying out the charged conspiracy, on multiple occasions paid out and
9 received substantial sums in payoffs in exchange for their agreement not to compete at the
10 Alameda County, California public real estate foreclosure auctions in the Northern District of
11 California.

12 JURISDICTION AND VENUE

13 13. The combination, conspiracy, and agreement to violate Title 18, United States
14 Code, Section 1341 charged in this Information was carried out, in part, in the Northern District
15 of California, within the five years preceding the filing of this Information.

16 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

17 COUNT THREE: 15 U.S.C. § 1 – Bid Rigging (Contra Costa County)

18 THE COMBINATION AND CONSPIRACY

19 14. Beginning as early as February 2009 and continuing until in or about December
20 2010, the defendant GRANT ALVERNAZ and co-conspirators entered into and engaged in a
21 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
22 selected real estate offered at Contra Costa County, California public real estate foreclosure
23 auctions in the Northern District of California, in unreasonable restraint of interstate trade and
24 commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

25 15. The charged combination and conspiracy consisted of a continuing agreement,
26 understanding, and concert of action among the defendant and co-conspirators, the substantial
27 terms of which were:

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1 a. to suppress competition by agreeing to refrain from full competitive
2 bidding against each other to obtain selected real estate offered at Contra Costa County,
3 California public real estate foreclosure auctions;

4 b. to make payoffs to one another in return for suppressing competition for
5 selected real estate offered at public real estate foreclosure auctions; and

6 c. to obtain title to selected real estate sold at non-competitive, rigged prices.

7 16. For the purpose of forming and carrying out the charged combination and
8 conspiracy, the defendant and co-conspirators did those things that they combined and conspired
9 to do, including, among other things:

10 a. agreeing, during meetings, conversations, and communications, to rig bids
11 to obtain selected real estate offered at Contra Costa County, California public real estate
12 foreclosure auctions;

13 b. designating, in various ways, which conspirator would win the selected
14 real estate at the public real estate foreclosure auctions for the group of conspirators;

15 c. bidding at non-competitive amounts or refraining from bidding for the
16 selected real estate at the public real estate foreclosure auctions;

17 d. in some instances, engaging in direct negotiations with one or more
18 co-conspirators to pay one another not to compete for selected real estate at the public real estate
19 foreclosure auctions;

20 e. in many other instances, holding secret private auctions, at or near the
21 courthouse steps where the public auctions were held, open only to members of the conspiracy,
22 to rebid for the selected real estate obtained at the public real estate foreclosure auctions;

23 f. awarding the selected real estate to the conspirators who submitted the
24 highest bids at the private auctions; and

25 g. distributing the proceeds of the private auctions, including cash payoffs,
26 based upon a predetermined formula agreed upon by the members of the conspiracy.

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1 17. Various entities and individuals, not made defendants in this Information,
2 participated as co-conspirators in the offenses charged in this Information and performed acts
3 and made statements in furtherance of them.

4 TRADE AND COMMERCE

5 18. During the period covered by this Information, the business activities of the
6 defendant and co-conspirators that are the subject of this Information were within the flow of,
7 and substantially affected, interstate trade and commerce. For example, mortgage holders
8 located in states other than California received proceeds from the public real estate foreclosure
9 auctions that were subject to the bid-rigging conspiracy.

10 JURISDICTION AND VENUE

11 19. The combination and conspiracy charged in this Information was carried out, in
12 part, in the Northern District of California, within the five years preceding the filing of this
13 Information.

14 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

15 COUNT FOUR: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Contra Costa County)

16 THE CONSPIRACY

17 20. Beginning as early as February 2009 and continuing until in or about December
18 2010 in Contra Costa County in the Northern District of California, the defendant GRANT
19 ALVERNAZ and co-conspirators did willfully and knowingly combine, conspire, and agree with
20 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
21 and intend to devise a material scheme or artifice to defraud financial institutions and others and
22 to obtain money and property by materially false and fraudulent pretenses and, for the purpose of
23 executing or attempting to execute such scheme or artifice, to knowingly use and cause to be
24 used the United States Postal Service or any private or commercial interstate carrier, in violation
25 of Title 18, United States Code, Section 1349.

26 21. It was an object of the conspiracy that the defendant and his co-conspirators
27 suppress competition by acquiring title to selected real estate at prices lower than would have
28 resulted from fully competitive auctions, carried out by making payoffs to co-conspirators

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1 through direct negotiations or by holding second, private auctions and dividing the profits of the
2 scheme (the difference between the public auction prices and the prices paid at the private
3 auctions) among themselves. In other words, the defendant and co-conspirators manipulated the
4 sales price of selected real estate, causing false, artificially low sales prices to be reported and
5 paid to victims of the scheme. It was a further object of the conspiracy that the defendant and
6 co-conspirators obtain title to the fraudulently acquired real estate, including recorded proof of
7 title, in order to permit later sale of the fraudulently acquired real estate and receive additional
8 profits from those sales.

9 MEANS AND METHODS

10 The principal means and methods used to accomplish the conspiracy were as follows:

11 22. Each and every allegation contained in Paragraphs 16 and 17 of Count Three of
12 this Information is here realleged as if fully set forth in this Count.

13 23. For the purpose of executing the scheme or artifice to defraud, the defendant and
14 co-conspirators did knowingly cause Trustee's Deeds Upon Sale for the fraudulently obtained
15 real estate to be sent or delivered by the United States Postal Service or a private or commercial
16 interstate carrier. These mailings were foreseeable to the defendant in the ordinary course of
17 business.

18 OVERT ACTS

19 24. In addition to causing the use of the United States Postal Service or a private or
20 commercial interstate carrier in furtherance of the conspiracy and to effect the illegal objects
21 thereof, the defendant and co-conspirators, in the manner described in Count Three, Paragraph
22 16, and for the purpose of carrying out the charged conspiracy, on multiple occasions paid out
23 and received substantial sums in payoffs in exchange for their agreement not to compete at the
24 Contra Costa County, California public real estate foreclosure auctions in the Northern District
25 of California.

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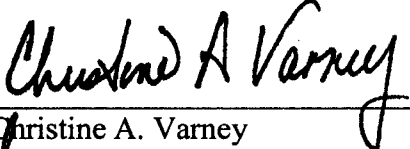
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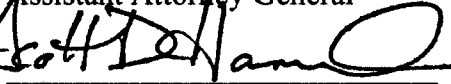
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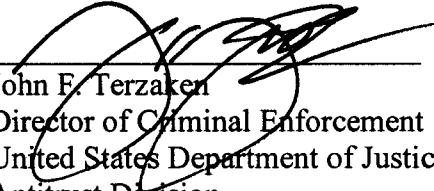
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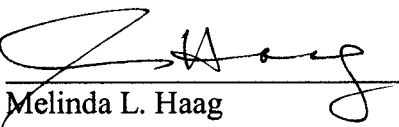
25. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

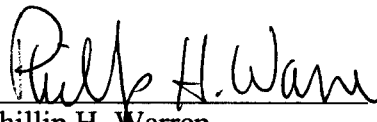
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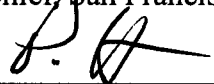

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