

1 DAVID J. WARD (CSBN 239504)  
2 CHRISTINA M. WHEELER (CSBN 203395)  
3 LIDIA MAHER (CSBN 222253)  
4 JEANE HAMILTON (CSBN 157834)  
5 U.S. Department of Justice  
6 Antitrust Division  
7 450 Golden Gate Avenue  
8 Box 36046, Room 10-0101  
9 San Francisco, CA 94102  
10 lidia.maher@usdoj.gov  
11 Telephone: (415) 436-6660

12 Attorneys for the United States

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA

) No. CR 13-00670 CRB

17 v.

) **PLEA AGREEMENT**

18 KUO HSUAN "CHUCK" CHANG,  
19 Defendant.

20  
21 The United States of America and KUO HSUAN "CHUCK" CHANG ("defendant")  
22 hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal  
23 Rules of Criminal Procedure ("Fed. R. Crim. P.):

24 RIGHTS OF DEFENDANT

- 25 1. The defendant understands his rights:  
26 (a) to be represented by an attorney;  
27 (b) to be charged by Indictment;  
28 (c) to plead not guilty to any criminal charge brought against him;

1 (d) to have a trial by jury, at which he would be presumed not guilty of the  
2 charge and the United States would have to prove every essential element of the charged offense  
3 beyond a reasonable doubt for him to be found guilty;

4 (e) to confront and cross-examine witnesses against him and to subpoena  
5 witnesses in his defense at trial;

6 (f) not to be compelled to incriminate himself;

7 (g) to appeal his conviction, if he is found guilty; and

8 (h) to appeal the imposition of sentence against him.

9 AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

10 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph  
11 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any  
12 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal  
13 under 18 U.S.C. § 3742 or a motion under 28 U.S.C. §§ 2241 or 2255, that challenges the  
14 sentence imposed by the Court if that sentence is consistent with or below the Sentencing  
15 Guidelines range stipulated by the parties in Paragraph 9 of this Plea Agreement, regardless of  
16 how the sentence is determined by the Court. This Agreement does not affect the rights or  
17 obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this paragraph,  
18 however, shall act as a bar to the defendant perfecting any legal remedies he may otherwise have  
19 on appeal or collateral attack respecting claims of ineffective assistance of counsel or  
20 prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment  
21 at arraignment and will plead guilty to a two-count Information to be filed in the United States  
22 District Court for the Northern District of California. Count One of the Information charges the  
23 defendant with participating in a conspiracy to suppress and restrain competition by rigging bids  
24 to obtain selected properties offered at public real estate foreclosure auctions in San Francisco  
25 County, in the Northern District of California (“the selected properties”), in unreasonable  
26 restraint of interstate trade and commerce, in violation of the Sherman Act, 15 U.S.C. § 1,  
27 beginning as early as October 2009 and continuing until in or about November 2010 (“relevant  
28 period”). Count Two of the Information charges the defendant with conspiracy to commit mail

1 fraud in violation of 18 U.S.C. § 1349, in San Francisco County, California, during the relevant  
2 period.

3 3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to  
4 the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to  
5 the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below. The United  
6 States agrees that at the arraignment, it will stipulate to the release of the defendant on his  
7 personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

8 FACTUAL BASIS FOR CHARGED OFFENSES

9 4. The defendant agrees that he is guilty of the offenses to which he will plead  
10 guilty, and agrees that the following facts are true:

11 (a) As to Count One of the Information:

12 During the relevant period, the defendant participated in a conspiracy to rig bids to obtain  
13 the selected properties. The primary purpose of this conspiracy was to suppress and restrain  
14 competition to purchase the selected properties at non-competitive prices. To carry out their  
15 conspiracy, the defendant and his co-conspirators agreed not to compete to purchase the selected  
16 properties, designated which conspirator would win the selected properties at the public auctions  
17 for the group of conspirators, and refrained from or stopped bidding on the selected properties at  
18 the public auctions.

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

24 During the relevant period, the conspiratorial activities described above took place in the  
25 Northern District of California, and the real estate that was the subject of this conspiracy was  
26 located in this District.

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1 (b) As to Count Two of the Information:

2 During the relevant period, the defendant and his co-conspirators willfully and knowingly  
3 agreed to devise and intended to devise and to participate in a scheme and artifice to defraud  
4 mortgage holders, other holders of debt secured by the selected properties, and in some cases, the  
5 defaulting homeowners (collectively, “beneficiaries”), and to obtain money and property from  
6 them by means of materially false and fraudulent pretenses, representations, and promises. The  
7 objects of the conspiracy were to fraudulently acquire title to the selected properties, to make and  
8 receive payoffs, and to divert money to conspirators that would have gone to the beneficiaries.  
9 Among other things, the defendant and his co-conspirators executed a deceptive scheme by  
10 negotiating payoffs with one or more conspirators not to compete; in some instances, falsely  
11 participating in foreclosure auctions to create the appearance that they were bidding  
12 competitively when, in fact, they were not; purchasing the selected properties at public auctions  
13 at suppressed prices; paying conspirators monies that otherwise would have gone to the  
14 beneficiaries; taking steps to conceal the fact that monies were diverted from the beneficiaries to  
15 the conspirators; making and causing to be made materially false and misleading statements on  
16 records of public auctions that trustees relied upon to distribute proceeds from the public  
17 auctions to the beneficiaries and convey title to properties sold at the public auctions; and  
18 causing the suppressed purchase price to be reported and paid to the beneficiaries.

19 The defendant and others, for the purpose of executing the conspiracy described above  
20 and attempting to do so, knowingly used and caused to be used the United States Postal Service  
21 and private or commercial interstate carriers. For example, trustees used the United States mail  
22 and private or commercial interstate carriers to transmit Trustee’s Deeds Upon Sale and other  
23 title documents to participants in the conspiracy. These mailings were foreseeable to the  
24 defendant in the ordinary course of business.

25 During the relevant period, the real estate that was the subject of this conspiracy was  
26 located in the Northern District of California.

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POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for a violation of Count One, 15 U.S.C. § 1, is:

(a) a term of imprisonment for ten years (15 U.S.C. § 1);

(b) a fine in an amount equal to the greatest of (1) \$1 million, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b) and (d)); and

(c) a term of supervised release of not more than three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to an additional two years in prison (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) §5D1.2(a)(2)).

6. The defendant understands that the statutory maximum penalty that may be imposed against his upon conviction for a violation of Count Two, 18 U.S.C. § 1349, is:

(a) a term of imprisonment for thirty years (18 U.S.C. § 1349);

(b) a fine of not more than \$1 million; and

(c) a term of supervised release of not more than five years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to an additional three years in prison (18 U.S.C. § 3559(a)(2); 18 U.S.C. § 3583(b)(1) and (e)(3); and U.S.S.G. §5D1.2(a)(1)).

7. In addition, the defendant understands that:

(a) pursuant to U.S.S.G. §5E1.1 or 18 U.S.C. § 3663(a)(3), the Court may order him to pay restitution to the victims of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100 special assessment upon conviction for each charged crime, totaling \$200.

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SENTENCING GUIDELINES

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance-of-the-evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable, based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). Pursuant to U.S.S.G. §1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce or loss attributable to the defendant or in determining the defendant’s applicable Guidelines range, except to the extent provided in U.S.S.G. §1B1.8(b).

SENTENCING AGREEMENT

9. The United States and the defendant agree that the following Sentencing Guidelines apply:

- (a) Count One (15 U.S.C. § 1):
  - i. Base Offense Level, U.S.S.G. §2R1.1(a): 12
  - ii. Conduct involved agreement to submit non-competitive bids, U.S.S.G. §2R1.1(b)(1): +1
  - iii. Volume of Commerce, U.S.S.G. §2R1.1(b)(2)(A) (stipulated to be \$1,498,711): +2
- Total: 15
- Fine calculated as one to five percent of the volume of commerce, but not less than \$20,000, U.S.S.G. §2R1.1(c)(1): \$20,000 to \$74,936

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1 (b) Count Two (18 U.S.C. § 1349):

2	i.	Base Offense Level, U.S.S.G. §2X1.1(a)	
3		(incorporates base offense level from Guideline	
4		for substantive offense, U.S.S.G. §2B1.1(a)(1))	7
5	ii.	Adjustments, U.S.S.G. §2X1.1(a)	
6		(incorporates adjustments from Guideline for	
		substantive offense)	
7	a.	Loss > \$30,000, U.S.S.G. §2B1.1(b)(1)(D):	+6
8		Total:	13
9		Fine, U.S.S.G. §5E1.2(c)(3):	\$3,000 to \$30,000

10 Count One groups with Count Two under U.S.S.G. §3D1.2(b). According to U.S.S.G.  
 11 §3D1.3(a), the combined offense level is the highest offense level between these two subgroups.  
 12 Therefore, the offense level to be applied is the offense level for the subgroup consisting of  
 13 Count One, which results in a combined offense level of 15.

14 10. The United States agrees that it will make a motion, pursuant to U.S.S.G. §3E1.1,  
 15 for a downward adjustment of two levels for acceptance of responsibility due to the defendant's  
 16 timely notification of his intention to enter a guilty plea. Therefore, the ultimate Guidelines  
 17 calculations result in an adjusted offense level of 13, for a jail term of 12 to 18 months and a fine  
 18 of \$20,000 to \$74,936.

19 11. The defendant understands that the Court will order him to pay a special  
 20 assessment of \$100 per count (\$200 total) pursuant to 18 U.S.C. § 3013(a)(2)(A), in addition to  
 21 any fine imposed. The parties agree that there exists no aggravating or mitigating circumstance  
 22 of a kind, or to a degree, not adequately taken into consideration by the U.S. Sentencing  
 23 Commission in formulating the Sentencing Guidelines justifying a departure pursuant to  
 24 U.S.S.G. §5K2.0.

25 12. The Mandatory Victim Restitution Act requires the Court to order restitution to  
 26 the victims of certain offenses. The government and the defendant agree to recommend that the  
 27 Court order the defendant to pay restitution in the amount of \$8,000 pursuant to U.S.S.G.  
 28 §5E1.1(a). The defendant understands that this Plea Agreement is voidable by the government if

1 he fails to pay the restitution as ordered by the Court. The defendant further agrees that he will  
2 not seek to discharge any restitution obligation or any part of such obligation in any bankruptcy  
3 proceeding.

4 13. The United States and the defendant are not aware of any information that would  
5 affect the defendant's Criminal History Category. If no other information were discovered, the  
6 defendant's Criminal History Category would be I. The parties understand that the defendant's  
7 Criminal History Category is determined by the Court.

8 14. The defendant understands that the sentence to be imposed on him is within the  
9 sole discretion of the sentencing judge. The United States cannot and does not make any  
10 promises or representations as to what sentence the defendant will receive. However, the United  
11 States will inform the Probation Office and the Court of (a) this Agreement; (b) the nature and  
12 extent of the defendant's activities in this case and all other activities of the defendant that the  
13 United States deems relevant to sentencing; and (c) the nature and extent of the defendant's  
14 cooperation with the United States. In so doing, the United States may use any information it  
15 deems relevant, including information provided by the defendant both prior and subsequent to  
16 the signing of this Agreement. The United States reserves the right to make any statement to the  
17 Court or the Probation Office concerning the nature of the criminal violations charged in the  
18 attached Information, the participation of the defendant therein, and any other facts or  
19 circumstances that it deems relevant. The United States also reserves the right to comment on or  
20 to correct any representation made by or on behalf of the defendant and to supply any other  
21 information that the Court may require.

22 15. If the United States determines that the defendant has provided substantial  
23 assistance in any Federal Proceeding, as defined in Paragraph 18 of this Plea Agreement, and has  
24 otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion,  
25 pursuant to U.S.S.G. §5K1.1, advising the sentencing judge of all relevant facts pertaining to that  
26 determination and requesting the Court to sentence the defendant in light of the factors set forth  
27 in U.S.S.G. §5K1.1(a)(1)-(5). The defendant acknowledges that the decision whether he has  
28 provided substantial assistance in any Federal Proceeding and has otherwise complied with the



1 terms of this Plea Agreement is within the sole discretion of the United States. It is understood  
2 that, should the United States determine that the defendant has not provided substantial  
3 assistance in any Federal Proceeding, or should the United States determine that the defendant  
4 has violated any provision of this Plea Agreement, such a determination will release the United  
5 States from any obligation to file a motion pursuant to U.S.S.G. §5K1.1, but will not entitle the  
6 defendant to withdraw his guilty plea once it has been entered. The defendant further  
7 understands that, whether or not the United States files a motion pursuant to U.S.S.G. §5K1.1,  
8 the sentence to be imposed on him remains within the sole discretion of the sentencing judge.

9         16. Subject to the ongoing, full, and truthful cooperation of the defendant described in  
10 Paragraph 18 of this Plea Agreement, and before sentencing in the case, the United States will  
11 fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's  
12 cooperation and his commitment to prospective cooperation with the United States' investigation  
13 and prosecutions, all material facts relating to the defendant's involvement in the charged  
14 offenses, and all other relevant conduct. To enable the Court to have the benefit of all relevant  
15 sentencing information, the United States may request, and the defendant will not oppose, that  
16 sentencing be postponed until his cooperation is complete.

17         17. The United States and the defendant understand that the Court retains complete  
18 discretion to accept or reject either party's sentencing recommendation. The defendant  
19 understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a  
20 sentence consistent with either party's sentencing recommendation, he nevertheless has no right  
21 to withdraw his plea of guilty.

22   DEFENDANT'S COOPERATION

23         18. The defendant will cooperate fully and truthfully with the United States in the  
24 prosecution of this case, the conduct of the current federal investigation of violations of federal  
25 antitrust and related criminal laws involving the purchase of properties at public real estate  
26 foreclosure auctions in the Northern District of California, any other federal investigation  
27 resulting therefrom, and any litigation or other proceedings arising or resulting from any such

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1 investigation to which the United States is a party (“Federal Proceeding”). The ongoing, full,  
2 and truthful cooperation of the defendant shall include, but not be limited to:

3 (a) producing all non-privileged documents, including claimed personal  
4 documents, and other materials, wherever located, in the possession, custody, or control of the  
5 defendant, requested by attorneys and agents of the United States;

6 (b) making himself available for interviews, not at the expense of the United  
7 States, upon the request of attorneys and agents of the United States;

8 (c) responding fully and truthfully to all inquiries of the United States in  
9 connection with any Federal Proceeding, without falsely implicating any person or intentionally  
10 withholding any information, subject to the penalties of making false statements (18 U.S.C.  
11 § 1001) and obstruction of justice (18 U.S.C. § 1503, *et seq.*);

12 (d) otherwise voluntarily providing the United States with any non-privileged  
13 material or information, not requested in (a)-(c) of this paragraph, that he may have that is related  
14 to any Federal Proceeding; and

15 (e) when called upon to do so by the United States in connection with any  
16 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully,  
17 and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or  
18 declarations in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C.  
19 §§ 401-402), and obstruction of justice (18 U.S.C. § 1503, *et seq.*).

20 GOVERNMENT’S AGREEMENT

21 19. Subject to the full, truthful, and continuing cooperation of the defendant described  
22 in Paragraph 18 of this Plea Agreement, and upon the Court’s acceptance of the guilty plea  
23 called for by this Plea Agreement and the imposition of sentence, the United States will not bring  
24 further criminal charges against the defendant for any act or offense committed before the date of  
25 this Plea Agreement that was undertaken in furtherance of an antitrust conspiracy or in violation  
26 of any related criminal law involving the purchase of properties at public real estate foreclosure  
27 auctions in the Northern District of California (“Relevant Offenses”). The non-prosecution

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1 terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal  
2 tax or securities laws, or to any crime of violence.

3 20. The defendant understands that he may be subject to administrative action by  
4 federal or state agencies other than the United States Department of Justice, Antitrust Division,  
5 based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in  
6 no way controls whatever action, if any, other agencies may take. However, the United States  
7 agrees that, if requested, it will advise the appropriate officials of any governmental agency  
8 considering such administrative action of the fact, manner, and extent of the cooperation of the  
9 defendant as a matter for that agency to consider before determining what administrative action,  
10 if any, to take.

11 REPRESENTATION BY COUNSEL

12 21. The defendant has reviewed all legal and factual aspects of this case with his  
13 attorney and is fully satisfied with his attorney's legal representation. The defendant has  
14 thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory  
15 explanations from his attorney concerning each paragraph of this Plea Agreement and  
16 alternatives available to the defendant other than entering into this Plea Agreement. After  
17 conferring with his attorney and considering all available alternatives, the defendant has made a  
18 knowing and voluntary decision to enter into this Plea Agreement.

19 VOLUNTARY PLEA

20 22. The defendant's decision to enter into this Plea Agreement and to tender a plea of  
21 guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises,  
22 or representations other than the representations contained in this Plea Agreement. The United  
23 States has made no promises or representations to the defendant as to whether the Court will  
24 accept or reject the recommendations contained within this Plea Agreement.

25 VIOLATION OF PLEA AGREEMENT

26 23. The defendant agrees that, should the United States determine in good faith,  
27 during the period that any Federal Proceeding is pending, that the defendant has failed to provide  
28 full and truthful cooperation, as described in Paragraph 18 of this Plea Agreement, or has

1 otherwise violated any provision of this Plea Agreement, the United States will notify the  
2 defendant or his counsel in writing by personal or overnight delivery or facsimile transmission,  
3 and may also notify his counsel by telephone, of its intention to void any of its obligations under  
4 this Plea Agreement (except its obligations under this paragraph), and the defendant shall be  
5 subject to prosecution for any federal crime of which the United States has knowledge, including  
6 but not limited to, the substantive offenses relating to the investigation resulting in this Plea  
7 Agreement. The defendant may seek Court review of any determination made by the United  
8 States under this paragraph to void any of its obligations under the Plea Agreement. The  
9 defendant agrees that, in the event that the United States is released from its obligations under  
10 this Plea Agreement and brings criminal charges against the defendant for any Relevant  
11 Offenses, the statute of limitations period for such offense shall be tolled for the period between  
12 the date of the signing of this Plea Agreement and six months after the date the United States  
13 gave notice of its intent to void its obligations under this Plea Agreement.

14 24. The defendant understands and agrees that in any further prosecution of him  
15 resulting from the release of the United States from its obligations under this Plea Agreement  
16 based on the defendant's violation of the Plea Agreement, any documents, statements,  
17 information, testimony, or evidence provided by him to attorneys or agents of the United States,  
18 federal grand juries, or courts, and any leads derived therefrom, may be used against him in any  
19 such further prosecution. In addition, the defendant unconditionally waives his right to challenge  
20 the use of such evidence in any such further prosecution, notwithstanding the protections of Fed.  
21 R. Evid. 410.

#### 22 ENTIRETY OF AGREEMENT

23 25. This Plea Agreement constitutes the entire agreement between the United States  
24 and the defendant concerning the disposition of the criminal charges in this case. This Plea  
25 Agreement cannot be modified except in writing, signed by the United States and the defendant.

26 26. The undersigned attorneys for the United States have been authorized by the  
27 Attorney General of the United States to enter this Plea Agreement on behalf of the United  
28 States.

27. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

  
KURO HSUAN "CHUCK" CHANG  
Defendant

Dated: Nov, 4<sup>th</sup> 2013

  
TONY TAMBURELLO

Counsel for Defendant Kuo Hsuan "Chuck"  
Chang  
214 Duboce Avenue  
San Francisco, CA 94103-1099

Dated: NOV 4, 2013



LIDIA MAHER  
DAVID J. WARD  
CHRISTINA M. WHEELER  
JEANE HAMILTON  
Trial Attorneys  
U.S. Department of Justice  
Antitrust Division

Dated: November 4, 2013