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RICHARD W. BIEKING
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NORTHERN DISTRICT OF CALIFORNIA

1 E. KATE PATCHEN (NYRN 4104634)
2 MICAH L. WYATT (CSBN 267465)
3 MANISH KUMAR (CSBN 269493)
4 U.S. Department of Justice
5 Antitrust Division
6 450 Golden Gate Avenue
7 Box 36046, Room 10-0101
8 San Francisco, CA 94102
9 Telephone: (415) 934-5300
10 micah.wyatt@usdoj.gov

11 Attorneys for the United States

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

JST

15 UNITED STATES OF AMERICA

) Criminal No. CR14-00593
)
) INFORMATION
)
) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Counts One & Three);
) 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud (Counts Two &
) Four); 18 U.S.C. § 981(a)(1)(C) and 28
) U.S.C. § 2461(e) – Forfeiture

16 v.

17 CHUNG LI CHENG, a/k/a GEORGE CHENG,
18 Defendant.

19
20 The United States of America, acting through its attorneys, charges:

21 CHUNG LI CHENG,

22 the defendant herein, as follows:

23 BACKGROUND

24 1. At all times relevant to this Information, when California homeowners defaulted
25 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the
26 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
27 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
28 trustee was appointed to oversee the public auctions. These public auctions usually took place at

1 or near the courthouse of the county in which the properties were located. The auctioneer, acting
2 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
3 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
4 by the property, and, in some cases, the defaulting homeowner (collectively, "beneficiaries").

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

6 THE COMBINATION AND CONSPIRACY

7 2. Beginning as early as May 2008 and continuing until in or about January 2011,
8 the defendant, CHUNG LI CHENG, and co-conspirators entered into and engaged in a
9 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
10 selected properties offered at public auctions in Alameda County in the Northern District of
11 California, in unreasonable restraint of interstate trade and commerce, in violation of the
12 Sherman Act, Title 15, United States Code, Section 1.

13 3. The charged combination and conspiracy consisted of a continuing agreement,
14 understanding, and concert of action among the defendant and co-conspirators to suppress
15 competition by agreeing to refrain from or stop bidding against each other to purchase selected
16 properties at public auctions in Alameda County at non-competitive prices.

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

20 a. agreeing not to compete to purchase selected properties at public auctions
21 in Alameda County;

22 b. designating which conspirator would win the selected properties at the
23 public auctions for the group of conspirators; and

24 c. refraining from or stopping bidding for the selected properties at the
25 public auctions.

26 5. Various entities and individuals, not made defendants in this Count, participated
27 as conspirators in the offense charged and performed acts and made statements in furtherance
28 thereof.

INFORMATION – CHUNG LI CHENG – 2

1 TRADE AND COMMERCE

2 6. During the period covered by this Information, the business activities of the
3 defendant and co-conspirators that are the subject of this Information were within the flow of,
4 and substantially affected, interstate trade and commerce. For example, beneficiaries located in
5 states other than California received proceeds from the public auctions that were subject to the
6 bid-rigging conspiracy.

7 JURISDICTION AND VENUE

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

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

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

13 THE CONSPIRACY

14 8. Beginning as early as May 2008 and continuing until in or about January 2011 in
15 Alameda County in the Northern District of California, the defendant, CHUNG LI CHENG, and
16 co-conspirators did willfully and knowingly combine, conspire, and agree with each other to
17 violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to
18 devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain money and
19 property from beneficiaries by means of materially false and fraudulent pretenses,
20 representations, and promises.

21 9. The objects of the conspiracy were to fraudulently acquire title to selected
22 properties sold at public auctions in Alameda County, to make and receive payoffs, and to divert
23 money to conspirators that would have gone to the beneficiaries.

24 10. Various entities and individuals, not made defendants in this Count, participated
25 as co-conspirators in the offense charged and performed acts and made statements in furtherance
26 thereof.

27 MEANS AND METHODS

28 11. For the purpose of forming and carrying out the charged conspiracy, the

1 defendant and co-conspirators did those things that they conspired to do, including, among other
2 things:

- 3 a. purchasing selected properties at public auctions at suppressed prices;
- 4 b. in some instances, negotiating payoffs with one or more conspirators not
5 to compete;
- 6 c. in many other instances, holding second, private auctions, at or near the
7 courthouse steps where the public auctions were held, frequently referred to as "rounds," open
8 only to members of the conspiracy, to bid for title to the selected properties;
- 9 d. awarding the selected properties to the conspirators who submitted the
10 highest bids at the second, private auctions;
- 11 e. transferring the right to title to the selected properties into the names of the
12 conspirators who submitted the highest bids at the second, private auctions;
- 13 f. paying conspirators monies that otherwise would have gone to
14 beneficiaries, using either a predetermined formula based on the bidding at the second, private
15 auction or through direct negotiations among the conspirators;
- 16 g. taking steps to conceal the fact that monies were diverted from the
17 beneficiaries to the conspirators;
- 18 h. making and causing to be made materially false and misleading statements
19 on records of public auctions that trustees relied upon to distribute proceeds from the public
20 auction to the beneficiaries and convey title to properties sold at the public auction; and
- 21 i. causing the suppressed purchase price to be reported and paid to the
22 beneficiaries.

23 12. For the purpose of executing the scheme and artifice to defraud and attempting to
24 do so, the defendant and co-conspirators knowingly used and caused to be used the United States
25 Postal Service and private or commercial interstate carriers. For example, trustees used the
26 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds
27 Upon Sale and other title documents to participants in the conspiracy. These mailings were
28 foreseeable to the defendant in the ordinary course of business.

1 17. Various entities and individuals, not made defendants in this Court, participated
2 as conspirators in the offense charged and performed acts and made statements in furtherance
3 thereof.

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, beneficiaries located in
8 states other than California received proceeds from the public auctions that were subject to the
9 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 18, 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 August 2008 and continuing until in or about January 2011
18 in Contra Costa County in the Northern District of California, the defendant, CHUNG LI
19 CHENG, 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 and participate in a scheme and artifice to defraud beneficiaries, and to
22 obtain money and property from beneficiaries by means of materially false and fraudulent
23 pretenses, representations, and promises.

24 21. The objects of the conspiracy were to fraudulently acquire title to selected
25 properties sold at public auctions in Contra Costa County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

27 22. Various entities and individuals, not made defendants in this Court, participated

28 //

1 as co-conspirators in the offense charged and performed acts and made statements in furtherance
2 thereof.

3 MEANS AND METHODS

4 23. For the purpose of forming and carrying out the charged conspiracy, the
5 defendant and co-conspirators did those things that they conspired to do, including, among other
6 things:

- 7 a. purchasing selected properties at public auctions at suppressed prices;
8 b. in some instances, negotiating payoffs with one or more conspirators not
9 to compete;
10 c. in many other instances, holding second, private auctions, at or near the
11 courthouse steps where the public auctions were held, frequently referred to as "rounds," open
12 only to members of the conspiracy, to bid for title to the selected properties;
13 d. awarding the selected properties to the conspirators who submitted the
14 highest bids at the second, private auctions;
15 e. transferring the right to title to the selected properties into the names of the
16 conspirators who submitted the highest bids at the second, private auctions;
17 f. paying conspirators monies that otherwise would have gone to
18 beneficiaries, using either a predetermined formula based on the bidding at the second, private
19 auction or through direct negotiations among the conspirators;
20 g. taking steps to conceal the fact that monies were diverted from the
21 beneficiaries to the conspirators;
22 h. making and causing to be made materially false and misleading statements
23 on records of public auctions that trustees relied upon to distribute proceeds from the public
24 auction to the beneficiaries and convey title to properties sold at the public auction; and
25 i. causing the suppressed purchase price to be reported and paid to the
26 beneficiaries.

27 24. For the purpose of executing the scheme and artifice to defraud and attempting to
28 do so, the defendant and co-conspirators knowingly used and caused to be used the United States

1 Postal Service and private or commercial interstate carriers. For example, trustees used the
2 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds
3 Upon Sale and other title documents to participants in the conspiracy. These mailings were
4 foreseeable to the defendant in the ordinary course of business.

5 JURISDICTION AND VENUE

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

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

10 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

11 26. Paragraph 1 and Paragraphs 8 through 13 and Paragraphs 20 through 25 are
12 hereby re-alleged as if fully set forth here for the purpose of alleging forfeiture pursuant to the
13 provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States
14 Code, Section 2461(c).

15 27. Upon conviction of the offenses alleged in Counts Two and Four of this
16 Information, the defendant:

17 CHUNG LI CHENG,

18 shall forfeit to the United States pursuant to Title 18, United State Code, Section 981(a)(1)(C)
19 and Title 28, United States Code, Section 2461(c), any property constituting, or derived from,
20 proceeds the defendant obtained directly or indirectly as the result of said violation, including a
21 monetary forfeiture judgment in the amount of \$209,587.

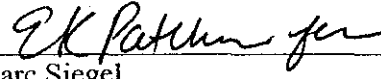
22 28. If, as a result of any act or omission of the defendant, any of said property:

- 23 a. cannot be located upon the exercise of due diligence;
24 b. has been transferred or sold to, or deposited with, a third party;
25 c. has been placed beyond the jurisdiction of the Court;
26 d. has been substantially diminished in value; or
27 e. has been commingled with other property which cannot be divided
28 without difficulty,

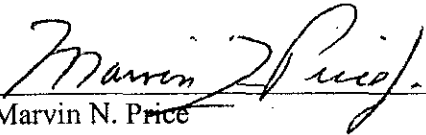
1 any and all interest that the defendant has in any other property, up to the value of the property
2 described in Paragraph 15 above, shall be forfeited to the United States pursuant to Title 21,
3 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section
4 2461(c).

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7 Brent Snyder
8 Deputy Assistant Attorney General
9 United States Department of Justice
10 Antitrust Division

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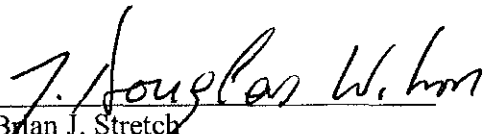
7 Marc Siegel
8 Chief, San Francisco Office

11 

12 Marvin N. Price
13 Director of Criminal Enforcement
14 United States Department of Justice
15 Antitrust Division

11 

12 Micah L. Wyatt, Trial Attorney
13 E. Kate Patchen, Assistant Chief
14 Manish Kumar, Trial Attorney
15 United States Department of Justice
16 Antitrust Division

17 

18 Brian J. Stretch
19 Attorney for the United States
20 Acting Under Authority Conferred
21 by 28 U.S.C. § 515