

**FILED**

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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

) Criminal No.

)

) 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)

)

)

)

UNITED STATES OF AMERICA

v.

SU CHU CHOU CHENG, a/k/a TERRY

CHENG,

Defendant.

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

SU CHU CHOU CHENG,

the defendant herein, as follows:

BACKGROUND

1. At all times relevant to this Information, when California homeowners defaulted on their mortgages, mortgage holders could institute foreclosure proceedings and sell the properties through non-judicial public real estate foreclosure auctions ("public auctions"). These public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a

INFORMATION – SU CHU CHOU CHENG – 1

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

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

7 THE COMBINATION AND CONSPIRACY

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

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

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

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

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

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

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INFORMATION – SU CHU CHOU CHENG – 2

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

4                               TRADE AND COMMERCE

5           6.       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           7.       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 TWO: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Alameda County)

16                              THE CONSPIRACY

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

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

27           10.       Various entities and individuals, not made defendants in this Count, participated

28       //

INFORMATION – SU CHU CHOU CHENG – 3

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

3 MEANS AND METHODS

4 11. 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 12. 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 13. 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 COUNT THREE: 15 U.S.C. § 1 – Bid Rigging (Contra Costa County)

11 THE COMBINATION AND CONSPIRACY

12 14. Beginning as early as August 2008 and continuing until in or about January 2011,  
13 the defendant, SU CHU CHOU CHENG, and co-conspirators entered into and engaged in a  
14 combination and conspiracy to suppress and restrain competition by rigging bids to obtain  
15 selected properties offered at public auctions in Contra Costa County in the Northern District of  
16 California, in unreasonable restraint of interstate trade and commerce, in violation of the  
17 Sherman Act, Title 15, United States Code, Section 1.

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

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

25 a. agreeing not to compete to purchase selected properties at public auctions  
26 in Contra Costa County;

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

INFORMATION – SU CHU CHOU CHENG – 5

1 c. refraining from or stopping bidding for the selected properties at the  
2 public auctions.

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

6 TRADE AND COMMERCE

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

12 JURISDICTION AND VENUE

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

16 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1.

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

18 THE CONSPIRACY

19 20. Beginning as early as August 2008 and continuing until in or about January 2011  
20 in Contra Costa County in the Northern District of California, the defendant, SU CHU CHOU  
21 CHENG, and co-conspirators did willfully and knowingly combine, conspire, and agree with  
22 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise  
23 and intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to  
24 obtain money and property from beneficiaries by means of materially false and fraudulent  
25 pretenses, representations, and promises.

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

INFORMATION – SU CHU CHOU CHENG – 6

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

4                                   MEANS AND METHODS

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

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

28     //


INFORMATION – SU CHU CHOU CHENG – 7


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

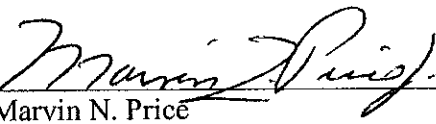
JURISDICTION AND VENUE

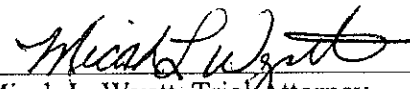
25. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

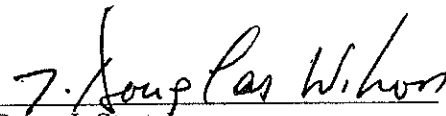
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

  
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