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2013 FEB -5 A 9:41
U.S. DISTRICT COURT
SAN FRANCISCO, CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SI

CR 13 069
Original No.

16 UNITED STATES OF AMERICA

) INFORMATION

18 v.

) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Counts One & Three);
) 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud (Counts Two &
) Four)

20 GILBERT CHUNG,

21 Defendant.

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

24 GILBERT CHUNG,

25 the defendant herein, as follows:

26 BACKGROUND

27 1. At all times relevant to this Information, when California homeowners defaulted
28 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the

1 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
2 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
3 trustee was appointed to oversee the public auctions. These public auctions usually took place at
4 or near the courthouse of the county in which the properties were located. The auctioneer, acting
5 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
6 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
7 by the property, and, in some cases, the defaulting homeowner (collectively, “beneficiaries”).

8 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (San Francisco County)

9 THE COMBINATION AND CONSPIRACY

10 2. Beginning as early as February 2010 and continuing until in or about September
11 2010, the defendant GILBERT CHUNG and co-conspirators entered into and engaged in a
12 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
13 selected properties offered at public auctions in San Francisco County in the Northern District of
14 California, in unreasonable restraint of interstate trade and commerce, in violation of the
15 Sherman Act, Title 15, United States Code, Section 1.

16 3. The charged combination and conspiracy consisted of a continuing agreement,
17 understanding, and concert of action among the defendant and co-conspirators to suppress
18 competition by agreeing to refrain from or stop bidding against each other to purchase selected
19 properties at public auctions in San Francisco County at non-competitive 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 not to compete to purchase selected properties at public auctions
24 in San Francisco County;

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

27 c. refraining from or stopping bidding for the selected properties at the
28 public auctions.

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 (San Francisco County)

16 THE CONSPIRACY

17 8. Beginning as early as February 2010 and continuing until in or about September
18 2010 in San Francisco County in the Northern District of California, the defendant GILBERT
19 CHUNG 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 9. The objects of the conspiracy were to fraudulently acquire title to selected
25 properties sold at public auctions in San Francisco County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

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1 10. 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 11. 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. negotiating payoffs with one or more conspirators not to compete;
9 b. in some instances, falsely participating in foreclosure auctions to create
10 the appearance that they were bidding competitively when, in fact, they were not;
11 c. purchasing the selected properties at public auctions at suppressed prices;
12 d. paying conspirators monies that otherwise would have gone to the
13 beneficiaries;
14 e. taking steps to conceal the fact that monies were diverted from the
15 beneficiaries to the conspirators;
16 f. making and causing to be made materially false and misleading statements
17 on records of public auctions that trustees relied upon to distribute proceeds from the public
18 auction to the beneficiaries and convey title to properties sold at the public auction; and
19 g. causing the suppressed purchase price to be reported and paid to the
20 beneficiaries.

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

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JURISDICTION AND VENUE

13. 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.

COUNT THREE: 15 U.S.C. § 1 – Bid Rigging (San Mateo County)

THE COMBINATION AND CONSPIRACY

14. Beginning as early as January 2010 and continuing until in or about December 2010, the defendant GILBERT CHUNG and co-conspirators entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids to obtain selected properties offered at public auctions in San Mateo County in the Northern District of California, in unreasonable restraint of interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

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

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

a. agreeing not to compete to purchase selected properties at public auctions in San Mateo County;

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

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

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1 17. 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 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 15, UNITED STATES CODE, SECTION 1.

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

16 THE CONSPIRACY

17 20. Beginning as early as January 2010 and continuing until in or about December
18 2010 in San Mateo County in the Northern District of California, the defendant GILBERT
19 CHUNG 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 San Mateo County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

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1 22. Various entities and individuals, not made defendants in this Court, 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. negotiating payoffs with one or more conspirators not to compete;
9 b. purchasing selected properties at public auctions at suppressed prices;
10 c. paying conspirators monies that otherwise would have gone to the
11 beneficiaries;
12 d. taking steps to conceal the fact that monies were diverted from the
13 beneficiaries to the conspirators;
14 e. making and causing to be made materially false and misleading statements
15 on records of the public auctions that trustees relied upon to distribute proceeds from the public
16 auctions to the beneficiaries and convey title to properties sold at the public auctions; and
17 f. causing suppressed purchase prices to be reported and paid to the
18 beneficiaries.

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

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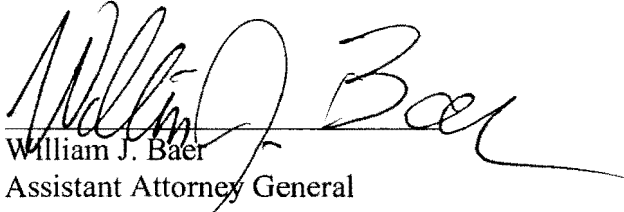
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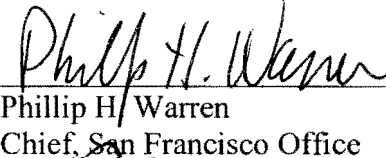
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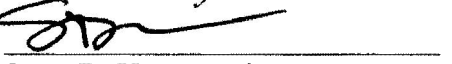
JURISDICTION AND VENUE

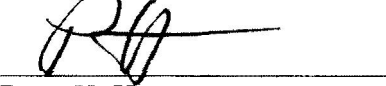
25. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

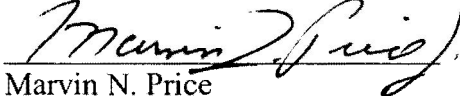
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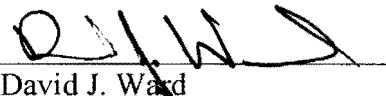

William J. Baer
Assistant Attorney General

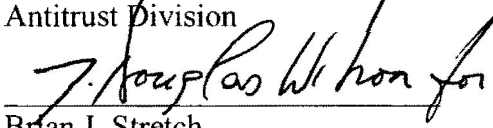

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