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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

**FILED**  
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 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

**CR12-00448 YGR**

UNITED STATES OF AMERICA

v.

DOUGLAS DITMER,

Defendant.

) 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)  
 )  
 )  
 )

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

DOUGLAS DITMER,

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

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

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

8 THE COMBINATION AND CONSPIRACY

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

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

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

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

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

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

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INFORMATION – DOUGLAS DITMER – 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 (Contra Costa County)

16                              THE CONSPIRACY

17           8.       Beginning as early as July 2008 and continuing until in or about January 2011 in  
18 Contra Costa County in the Northern District of California, the defendant DOUGLAS DITMER  
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 Contra Costa County, to make and receive payoffs, and to  
26 divert money to conspirators that would have gone to the beneficiaries.

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

28       //

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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 (Alameda County)

11 THE COMBINATION AND CONSPIRACY

12 14. Beginning as early as June 2007 and continuing until in or about January 2011,  
13 the defendant DOUGLAS DITMER 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 Alameda 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 Alameda 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 Alameda County;

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

INFORMATION – DOUGLAS DITMER – 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 15, UNITED STATES CODE, SECTION 1.

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

18 THE CONSPIRACY

19 20. Beginning as early as June 2007 and continuing until in or about January 2011 in  
20 Alameda County in the Northern District of California, the defendant DOUGLAS DITMER and  
21 co-conspirators did willfully and knowingly combine, conspire, and agree with each other to  
22 violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to  
23 devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain money and  
24 property from beneficiaries by means of materially false and fraudulent pretenses,  
25 representations, and promises.

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

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

## MEANS AND METHODS

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

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

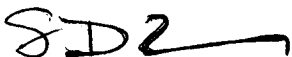
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24. For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendant and co-conspirators knowingly used and caused to be used the United States Postal Service and private or commercial interstate carriers. For 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.

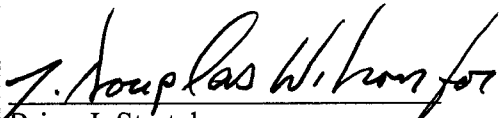
#### JURISDICTION AND VENUE

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.

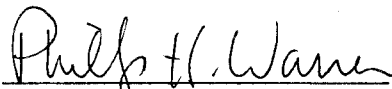
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.




Scott D. Hammond  
Deputy Assistant Attorney General



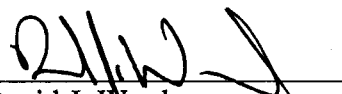
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