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

15 **CR 14 582**

16 UNITED STATES OF AMERICA,

17 v.

18 ALVIN FLORIDA, JR.;  
19 ROBERT ALHASHASH RASHEED;  
20 JOHN LEE BERRY, III, a/k/a "JB";  
21 REFUGIO DIAZ, a/k/a "Cuco";  
22 STEPHAN ALEXANDER FLORIDA;

23 Defendants.

) No.  
)  
) VIOLATIONS: 15 U.S.C. § 1 –  
) Bid Rigging (Count One);  
) 18 U.S.C. § 1341 – Mail Fraud (Counts  
) Two through Nine); 18 U.S.C. §  
) 981(a)(1)(C); 28 U.S.C. § 2461(c) –  
) Forfeiture  
)  
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24 INDICTMENT

25 The Grand Jury charges that:

26 BACKGROUND

27 1. At all times relevant to this Indictment, when California homeowners defaulted on  
28 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 trustee was

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

6 2. During the period covered by this Indictment, defendant ALVIN FLORIDA, JR.,  
7 was a bidder at and purchased real estate at public auctions in Alameda County, California, and  
8 directed employee defendants JOHN LEE BERRY, III, REFUGIO DIAZ, and STEPHAN  
9 ALEXANDER FLORIDA, and others to bid on and purchase real estate at public auctions in  
10 Alameda County, California.

11 3. During the period covered by this Indictment, defendant ROBERT ALHASHASH  
12 RASHEED was a bidder at and purchased real estate at public auctions in Alameda County,  
13 California.

14 4. During the period covered by this Indictment, defendants JOHN LEE BERRY,  
15 III, REFUGIO DIAZ, and STEPHAN ALEXANDER FLORIDA were bidders at and purchased  
16 real estate at public auctions in Alameda County, California, on behalf of defendant ALVIN  
17 FLORIDA, JR., and others.

18 **COUNT ONE: 15 U.S.C. § 1 – Bid Rigging**

19 5. The following individuals are hereby indicted and made defendants on the charge  
20 contained in Count One below:

- 21 a. ALVIN FLORIDA, JR.;
- 22 b. ROBERT ALHASHASH RASHEED;
- 23 c. REFUGIO DIAZ;
- 24 d. JOHN LEE BERRY, III; and
- 25 e. STEPHAN ALEXANDER FLORIDA.

26 **THE COMBINATION AND CONSPIRACY**

27 6. Paragraphs 1 through 4 of this Indictment are re-alleged and incorporated herein  
28 as if fully set forth in this Count.

7. Beginning as early as May 2008 and continuing until in or about December 2010, the exact dates being unknown to the Grand Jury, the defendants, ALVIN FLORIDA, JR., ROBERT ALHASHASH RASHEED, REFUGIO DIAZ, JOHN LEE BERRY, III, and STEPHAN ALEXANDER FLORIDA, and others known and unknown to the Grand Jury, entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids to obtain hundreds of selected properties offered at public auctions in Alameda County in the Northern District of California, in unreasonable restraint of interstate trade and commerce, in violation of Section 1 of the Sherman Act, Title 15, United States Code.

8. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to suppress competition by refraining from and stopping bidding against each other to purchase hundreds of selected properties at public auctions in Alameda County at non-competitive prices.

#### MEANS AND METHODS

9. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants 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;
- b. designating which conspirators would win selected properties at public auctions;
- c. refraining from and stopping bidding for selected properties at public auctions;
- d. purchasing selected properties at public auctions at artificially suppressed prices;
- e. negotiating, making, and receiving payoffs for agreeing not to compete with co-conspirators; and
- f. holding second, private auctions, known as "rounds," to determine the payoff amounts and the conspirators who would be awarded the selected properties.

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                                   TRADE AND COMMERCE

5           11. The public auctions and the business activities of the defendants and co-  
6 conspirators that are the subject of this Count were within the continuous and uninterrupted flow  
7 of, and substantially affected, interstate trade and commerce. For example, during the period  
8 covered by this Count:

- 9                   a. substantial proceeds from the sale of properties purchased by the  
10                   conspirators pursuant to the bid-rigging conspiracy were transmitted from  
11                   locations in one state to certain beneficiaries located in other states;  
12                   b. instructions regarding the terms of sale of properties that would be  
13                   purchased by the conspirators pursuant to the bid-rigging conspiracy were  
14                   transmitted and communicated by certain beneficiaries located in one state  
15                   to trustees located in other states;  
16                   c. paperwork related to the sale of properties purchased by the conspirators  
17                   pursuant to the bid-rigging conspiracy was sent by trustees located in one  
18                   state to certain beneficiaries located in other states, notifying them of the  
19                   sale of properties in which the beneficiaries held an interest; and  
20                   d. beneficiaries included companies that operated in interstate commerce.

21                                   JURISDICTION AND VENUE

22           12. The combination and conspiracy charged in this Count was carried out, in part, in  
23 the Northern District of California, within the five years preceding the return of this Indictment.

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

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**COUNTS TWO THROUGH NINE: 18 U.S.C. § 1341 – Mail Fraud**

The Grand Jury further charges that:

**SCHEME TO DEFRAUD**

13. Paragraphs 1 through 4 of this Indictment are re-alleged and incorporated herein as if fully set forth in these Counts.

14. Beginning as early as May 2008 and continuing until in or about December 2010, the exact dates being unknown to the Grand Jury, in Alameda County in the Northern District of California, the defendants, ALVIN FLORIDA, JR., ROBERT ALHASHASH RASHEED, REFUGIO DIAZ, JOHN LEE BERRY, III, and STEPHAN ALEXANDER FLORIDA, and others known and unknown to the Grand Jury, did knowingly and with intent to defraud, devise and participate in a scheme and artifice to defraud beneficiaries and to obtain money and property from beneficiaries by means of materially false and fraudulent pretenses, representations, and promises, and for purposes of executing such scheme, did use and knowingly cause to be used the United States mail and private or commercial interstate carriers.

15. The purpose of the scheme was to fraudulently acquire title to hundreds of selected properties sold at public auctions in Alameda County and to divert money to co-schemers that would have gone to beneficiaries.

**MEANS AND METHODS OF THE SCHEME TO DEFRAUD**

16. For the purpose of forming and carrying out the charged scheme to defraud, the defendants and co-schemers did those things that they schemed to do, including, among other things:

- a. holding second, private auctions, known as “rounds,” to determine payoff amounts and the schemers who would be awarded the selected properties;
- b. making and causing to be made materially false and misleading statements that trustees relied upon to distribute proceeds to beneficiaries and to convey title to selected properties;
- c. paying co-schemers monies that otherwise would have gone to beneficiaries;

- d. concealing rounds and payoffs from trustees and beneficiaries; and
- e. causing the suppressed purchase prices to be reported and paid to beneficiaries.

USE OF THE MAILS

17. In order to execute the scheme and artifice to defraud, the defendants and co-schemers knowingly used and caused to be used the United States Postal Service and private or commercial interstate carriers.

18. On or about the dates and with respect to the individual defendants specified as to each count set forth below, the defendants and co-schemers did knowingly cause to be delivered by United States mail and private or commercial carriers, including the United States Postal Service, United Parcel Service, and FedEx, the items identified in each Count below:

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Count	Defendants	Approx. Date	To	From	Description
2	Alvin Florida, Jr.; Refugio Diaz	12/11/2009	22538 Mission Blvd., Hayward, California	California Reconveyance Company	Trustee's Deed Upon Sale for 2335 94th Ave., Oakland, California
3	Alvin Florida, Jr.; Refugio Diaz	1/22/2010	437 Delvin Rd., Ste. 102, Napa, California	Priority Posting and Publishing	Purchase Money and Auction Paperwork for 5830 E. 17th Ave., Oakland, California
4	Alvin Florida, Jr.; Robert Alhashash Rasheed; John Lee Berry, III; Stephan Alexander Florida	3/4/2010	268 Saint Henry Dr., Fremont, California	CR Title Services, Inc.	Trustee's Deed Upon Sale for 5985 Corte Arboles, Pleasanton, California
5	Alvin Florida Jr.; John Lee Berry, III	3/31/2010	41111 Mission Blvd., Fremont, California	ReconTrust Company, N.A.	Trustee's Deed Upon Sale for 554 Andrews St., Livermore, California
6	Alvin Florida, Jr.	8/4/2010	585 Mandana Blvd. #9, Oakland, California	California Reconveyance Company	Trustee's Deed Upon Sale for 3058 Berlin Way, Oakland, California
7	Alvin Florida, Jr.; Robert Alhashash Rasheed; John Lee Berry, III	8/17/2010	2141 5th Ave., San Diego, California	ASAP Sales, Lender Processing Services, Inc.	Purchase Money and Auction Paperwork for 11830 Kilcullin Ct., Dublin, California
8	Alvin Florida, Jr.; Robert Alhashash Rasheed; Stephan Alexander Florida	9/9/2010	2100 Lakeshore Ave. Suite D, Oakland, California	Cal-Western Reconveyance Corporation	Trustee's Deed Upon Sale for 2100 66th Ave., Oakland, California
9	Alvin Florida, Jr.; Robert Alhashash Rasheed; John Lee Berry, III; Stephan Alexander Florida	11/23/2010	22538 Mission Blvd., Hayward, California	Cal-Western Reconveyance Corporation	Trustee's Deed Upon Sale for 2326 Maywood Ave., Oakland, California

JURISDICTION AND VENUE

19. The scheme and artifice to defraud charged in Counts Two through Nine was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

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

20. Paragraphs 1 through 4 and Paragraphs 13 through 19 of this Indictment are hereby re-alleged as if fully set forth herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

21. Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), upon conviction of the offenses alleged in Counts Two through Nine of this Indictment, each defendant so convicted shall be jointly and severally liable to forfeit to the United States any property constituting, or derived from, proceeds obtained directly or indirectly from the scheme and artifice to defraud alleged in said Counts.

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

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

any and all interest that the defendants have in any other property, up to the value of the property described in Paragraph 21, above, shall be forfeited to the United States pursuant to Title 21,

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1 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section  
2 2461(c).

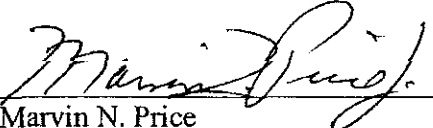
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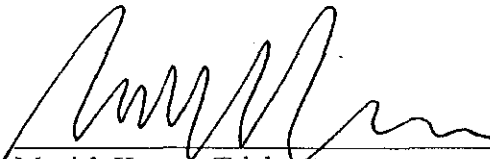
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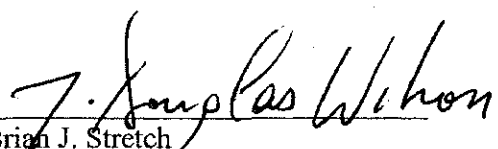
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34 Acting Under Authority Conferred  
35 by 28 U.S.C. § 515

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