

FILED
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HONORABLE K. WILKINS
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA

17 v.

18 JOSEPH J. GIRAUDO,
19 RAYMOND A. GRINSELL,
20 KEVIN B. CULLINANE,
21 JAMES F. APPENRODT, and
22 ABRAHAM S. FARAG,

23 Defendants.

CR 14 534

) INDICTMENT

) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Counts One & Six);
) 18 U.S.C. § 1341 – Mail Fraud (Counts
) Two, Three, Four, Five, Seven & Eight)

24 The Grand Jury charges that:

25 BACKGROUND

26 1. At all times relevant to this Indictment, when California homeowners defaulted on
27 their mortgages, mortgage holders could institute foreclosure proceedings and sell the properties
28 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 JOSEPH J. GIRAUDO
7 was a bidder at and purchased real estate at public auctions in San Mateo and San Francisco
8 counties, California.

9 3. During the period covered by this Indictment, defendant RAYMOND A.
10 GRINSELL was a bidder at and purchased real estate at public auctions in San Mateo and San
11 Francisco counties, California.

12 4. During the period covered by this Indictment, defendant KEVIN B. CULLINANE
13 was a bidder at and purchased real estate at public auctions in San Mateo County, California.

14 5. During the period covered by this Indictment, defendant JAMES F.
15 APPENRODT was a bidder at and purchased real estate at public auctions in San Mateo and San
16 Francisco counties, California, on behalf of defendant JOSEPH J. GIRAUDO and others.

17 6. During the period covered by this Indictment, defendant ABRAHAM S. FARAG
18 was a bidder at and purchased real estate at public auctions in San Mateo County, California.

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

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

- 22 a. JOSEPH J. GIRAUDO;
- 23 b. RAYMOND A. GRINSELL;
- 24 c. KEVIN B. CULLINANE;
- 25 d. JAMES F. APPENRODT; and
- 26 e. ABRAHAM S. FARAG.

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THE COMBINATION AND CONSPIRACY

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

9. Beginning no later than August 2008 and continuing until on or about January 11, 2011, the exact dates being unknown to the Grand Jury, the defendants, JOSEPH J. GIRAUDO, RAYMOND A. GRINSELL, KEVIN B. CULLINANE, JAMES F. APPENRODT, ABRAHAM S. FARAG, 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 dozens of 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 Section 1 of the Sherman Act, Title 15, United States Code.

10. 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 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.

MEANS AND METHODS

11. 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 or to stop competing to purchase selected properties at public auctions in return for payoffs;
- b. designating which conspirators would win selected properties at public auctions;
- c. refraining from or stopping bidding for selected properties at public auctions; and
- d. purchasing selected properties at public auctions at artificially suppressed prices.

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12. 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.

TRADE AND COMMERCE

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

a. substantial proceeds from the sale of properties purchased by the co-conspirators pursuant to the bid-rigging conspiracy were transmitted from locations in one state to certain beneficiaries located in other states;

b. instructions regarding the terms of sale of properties that would be purchased by the co-conspirators pursuant to the bid-rigging conspiracy were transmitted and communicated by certain beneficiaries located in one state to trustees located in other states;

c. paperwork related to the sale of properties purchased by the co-conspirators pursuant to the bid-rigging conspiracy was sent by trustees located in one state to certain beneficiaries located in other states, notifying them of the sale of properties in which the beneficiaries held an interest; and

d. beneficiaries included companies that operated in interstate commerce.

JURISDICTION AND VENUE

14. The combination and conspiracy charged in this Count 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 15, UNITED STATES CODE, SECTION 1.

COUNTS TWO THROUGH FIVE: 18 U.S.C. § 1341 – Mail Fraud (San Mateo County)

The Grand Jury further charges that:

THE SCHEME TO DEFRAUD

15. Paragraphs 1 through 6 of this Indictment are re-alleged and incorporated herein as if fully set forth in these Counts.

16. Beginning no later than August 2008 and continuing until on or about January 11, 2011, the exact dates being unknown to the Grand Jury, in San Mateo County in the Northern District of California, the defendants, JOSEPH J. GIRAUDO, RAYMOND A. GRINSELL, KEVIN B. CULLINANE, JAMES F. APPENRODT, ABRAHAM S. FARAG, 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, to use and knowingly cause to be used the United States mail and private or commercial interstate carriers.

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

MEANS AND METHODS OF THE SCHEME TO DEFRAUD

18. 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. paying co-schemers monies that otherwise would have gone to beneficiaries;
- b. taking steps to conceal the fact that monies were diverted from beneficiaries to co-schemers;
- c. 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 beneficiaries and convey title to selected properties sold at the public auctions; and
- d. causing the suppressed purchase price to be reported to beneficiaries.

USE OF THE MAILS

19. To carry out and attempt to carry out 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. For example, the defendants and

co-schemers caused trustees to use the United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds Upon Sale ("TDUS") and other related documents to participants in the scheme. These mailings were foreseeable to the defendants and mailed in the ordinary course of business.

20. 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 and commercial carriers, including the United States Postal Service, United Parcel Service, and FedEx, the items identified in each count below:

Count	Defendants	Approx. Date of Mailing	To	From	Description of Mailing
2	Joseph Giraudo Raymond Grinsell Kevin Cullinane Abraham Farag	3/9/2010	10 Santa Gina Ct., Hillsborough, CA 94010	Default Resolution Network	TDUS Regarding: 2544 Emmett Way, East Palo Alto, CA
3	Joseph Giraudo Raymond Grinsell Kevin Cullinane James Appenrodt	4/5/2010	311 S. Ellsworth Ave. San Mateo, CA 94401	Regional Trustee Services	TDUS Regarding: 974 Gellert Blvd., Daly City, CA
4	Joseph Giraudo Kevin Cullinane James Appenrodt Abraham Farag	5/13/2010	2300 Bridgeway, Sausalito, CA 94965	NDeX West, L.L.C.	TDUS Regarding: 91 El Portal Way, Daly City, CA
5	Joseph Giraudo Raymond Grinsell James Appenrodt	9/10/2010	63 Bovet Rd. #354 San Mateo, CA 94403	Quality Loan Service Corp.	TDUS Regarding: 81 Highland Ave, San Carlos, CA

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JURISDICTION AND VENUE

21. The scheme and artifice to defraud charged in these Counts 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.

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

The Grand Jury further charges that:

22. The following individuals are hereby indicted and made defendants on the charges stated in Count Six below:

- a. JOSEPH J. GIRAUDO;
- b. RAYMOND A. GRINSELL; and
- c. JAMES F. APPENRODT.

THE COMBINATION AND CONSPIRACY

23. Paragraphs 1 through 3 and paragraph 5 of this Indictment are re-alleged and incorporated herein as if fully set forth in this Count.

24. Beginning no later than November 2008 and continuing until on or about January 11, 2011, the exact dates being unknown to the Grand Jury, the defendants, JOSEPH J. GIRAUDO, RAYMOND A. GRINSELL, JAMES F. APPENRODT, 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 dozens of selected properties offered at public auctions in San Francisco 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.

25. 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 agreeing to refrain from or stop bidding against each other to purchase dozens of selected properties at public auctions in San Francisco County at non-competitive prices.

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MEANS AND METHODS

26. 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 or to stop competing to purchase selected properties at public auctions in returns for payoffs;
- b. designating which conspirators would win selected properties at public auctions;
- c. refraining from or stopping bidding for selected properties at public auctions; and,
- d. purchasing selected properties at public auctions at artificially suppressed prices.

27. 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.

TRADE AND COMMERCE

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

- a. substantial proceeds from the sale of properties purchased by the co-conspirators pursuant to the bid-rigging conspiracy were transmitted from locations in one state to certain beneficiaries located in other states;
- b. instructions regarding the terms of sale of properties that would be purchased by the co-conspirators pursuant to the bid-rigging conspiracy were transmitted and communicated by certain beneficiaries located in one state to trustees located in other states;
- c. paperwork related to the sale of properties purchased by the co-conspirators pursuant to the bid-rigging conspiracy was sent by trustees located in one state to

1 certain beneficiaries located in other states, notifying them of the sale of properties in which the
2 beneficiaries held an interest; and

3 d. beneficiaries included companies that operated in interstate commerce.

4 JURISDICTION AND VENUE

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

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

8 **COUNTS SEVEN & EIGHT: 18 U.S.C. § 1341 – Mail Fraud (San Francisco County)**

9 The Grand Jury further charges that:

10 THE SCHEME TO DEFRAUD

11 30. Paragraphs 1 through 3 and paragraph 5 of this Indictment are re-alleged and
12 incorporated herein as if fully set forth in these Counts.

13 31. Beginning no later than November 2008 and continuing until on or about January
14 11, 2011, the exact dates being unknown to the Grand Jury, in San Francisco County in the
15 Northern District of California, the defendants, JOSEPH J. GIRAUDO, RAYMOND A.
16 GRINSELL, JAMES F. APPENRODT, and others known and unknown to the Grand Jury, did
17 knowingly and with intent to defraud, devise and participate in a scheme and artifice to defraud
18 beneficiaries and to obtain money and property from beneficiaries by means of materially false
19 and fraudulent pretenses, representations, and promises, and, for purposes of executing such
20 scheme, to use and knowingly cause to be used the United States mail and private or commercial
21 interstate carriers.

22 32. The purpose of the scheme was to fraudulently acquire title to dozens of selected
23 properties sold at public auctions in San Francisco County and to divert money to co-schemers
24 that would have gone to beneficiaries.

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MEANS AND METHODS OF THE SCHEME TO DEFRAUD

33. 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. paying co-schemers monies that otherwise would have gone to beneficiaries;
- b. taking steps to conceal the fact that monies were diverted from beneficiaries to co-schemers;
- c. 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 beneficiaries and convey title to properties sold at the public auctions; and
- d. causing the suppressed purchase price to be reported to beneficiaries.

USE OF THE MAILS

34. To carry out and attempt to carry out 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. For example, the defendants and co-schemers caused trustees to use the United States mail and private or commercial interstate carriers to transmit TDUSs and other related documents to participants in the scheme. These mailings were foreseeable to the defendants and mailed in the ordinary course of business.

35. 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 and 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 of Mailing	To	From	Description of Mailing
7	Joseph Giraudo Raymond Grinsell	7/8/2010	2010 Ocean Ave. Suite E San Francisco, CA 94127	CR Title Services Inc.	TDUS Regarding: 4126 Pacheco St. San Francisco, CA
8	Joseph Giraudo Raymond Grinsell James Appenrodt	7/23/2010	1138 Taylor St. San Francisco, CA 94108	Northwest Trustee Services, Inc.	TDUS Regarding: 2094 46 th Ave San Francisco, CA

JURISDICTION AND VENUE

36. The scheme and artifice to defraud charged in these Counts 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)

37. Paragraphs 1 through 6, paragraphs 15 through 21, and paragraphs 30 through 36 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).

38. 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, Three, Four, Five, Seven, and Eight 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.

39. 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 38 above, shall be forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

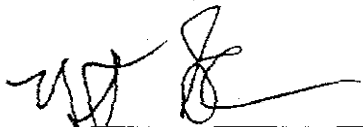
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Dated: 11-21-14

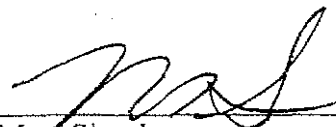
A TRUE BILL.



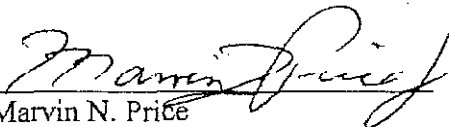
FOREPERSON



Brent Snyder
Deputy Assistant Attorney General



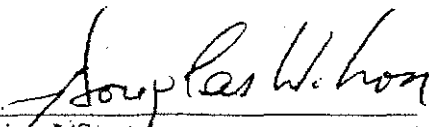
Marc Siegel
Chief, San Francisco Office



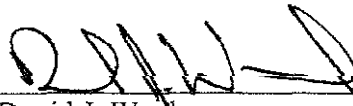
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