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FILED

MAY 8 2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,
13
Plaintiff,

14 v.

15 ANDREW B. KATAKIS,
16 DONALD M. PARKER,
17 ANTHONY B. JOACHIM, and
18 W. THEODORE LONGLEY,
19 Defendants.

No. 2:11-CR-0511-WBS

VIOLATIONS: 15 U.S.C. § 1 -
Bid Rigging; 18 U.S.C. § 1349
- Conspiracy to Commit Mail
Fraud; 18 U.S.C. § 1519 -
Destruction, Alteration, or
Falsification of Records in a
Federal Investigation.

20
21 S U P E R S E D I N G I N D I C T M E N T
22

23 COUNT ONE: [15 U.S.C. § 1 - Bid Rigging]

24 The Grand Jury charges:

25 ANDREW B. KATAKIS,
DONALD M. PARKER,
26 ANTHONY B. JOACHIM, and
W. THEODORE LONGLEY,
27

28 defendants herein, as follows:

1 6. Various corporations and individuals, not defendants
2 in this Indictment, participated as coconspirators in the
3 offense charged herein and performed acts and made statements in
4 furtherance of them.

5 **THE COMBINATION AND CONSPIRACY**

6 7. Beginning at least as early as in or about September
7 2008, and continuing until as late as in or about October 2009,
8 the defendants, ANDREW B. KATAKIS, DONALD M. PARKER, ANTHONY B.
9 JOACHIM, W. THEODORE LONGLEY, and others known and unknown to
10 the Grand Jury, entered into and engaged in a combination and
11 conspiracy to suppress and restrain competition by rigging bids
12 to obtain selected properties offered at public auctions in San
13 Joaquin County in the Eastern District of California, in
14 unreasonable restraint of interstate trade and commerce, in
15 violation of the Sherman Act, Title 15, United States Code,
16 Section 1.

17 8. The charged combination and conspiracy consisted of a
18 continuing agreement, understanding, and concert of action among
19 the defendants and coconspirators to suppress competition by
20 agreeing to refrain from bidding against each other to purchase
21 selected properties at public auctions in San Joaquin County.

22 9. The defendant W. THEODORE LONGLEY aided, abetted,
23 counseled, commanded, induced, and procured the combination and
24 conspiracy charged in this Count and willfully caused others to
25 perform acts and make statements in furtherance of the charged
26 combination and conspiracy.

27 **MEANS AND METHODS OF THE DEFENDANTS**

28 10. For the purpose of forming and carrying out the
charged combination and conspiracy, the defendants and

1 coconspirators utilized various means and methods, including,
2 among other things:

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

5 b. designating which conspirator would bid for the
6 selected properties at the public auctions;

7 c. refraining from bidding for the selected
8 properties at the public auctions; and

9 d. making payoffs to and receiving payoffs from one
10 another in return for refraining from bidding at the public
11 auctions.

12 **TRADE AND COMMERCE**

13 11. During the period covered by this Indictment, the
14 business activities of the defendants and coconspirators that
15 are the subject of this Indictment were within the flow of, and
16 substantially affected, interstate trade and commerce. For
17 example, beneficiaries located in states other than California
18 received proceeds from the public auctions that were subject to
19 the bid-rigging conspiracy.

20 **JURISDICTION AND VENUE**

21 12. The combination and conspiracy charged in this Count
22 were formed in and carried out, in part, within the Eastern
23 District of California, within the five years preceding the
24 return of this Indictment.
25

26 All in violation of Title 15, United States Code, Section
27 1, and Title 18, United States Code, Section 2.
28

1 COUNT TWO: [18 U.S.C. § 1349 - Conspiracy to Commit Mail Fraud]

2 The Grand Jury further charges:

3 ANDREW B. KATAKIS,
4 DONALD M. PARKER,
5 ANTHONY B. JOACHIM, and
6 W. THEODORE LONGLEY,

7 defendants herein, as follows:

8 1. Paragraphs one through six of Count One of the
9 Indictment are realleged and incorporated herein, as if fully
10 set forth.

11 **THE CONSPIRACY TO DEFRAUD**

12 2. Beginning at least as early as in or about September
13 2008, and continuing until as late as in or about October 2009,
14 the defendants, ANDREW B. KATAKIS, DONALD M. PARKER, ANTHONY B.
15 JOACHIM, W. THEODORE LONGLEY, and others known and unknown to
16 the Grand Jury did willfully and knowingly combine, conspire,
17 and agree with each other to violate Title 18, United States
18 Code, Section 1341, namely, to knowingly devise and intend to
19 devise and participate in a material scheme and artifice to
20 defraud beneficiaries and to obtain from beneficiaries money and
21 property by means of materially false and fraudulent pretenses,
22 representations, and promises.

23 3. The objects of the conspiracy were to fraudulently
24 acquire title to selected properties sold at public auctions in
25 San Joaquin County at a lower price and to divert money to
26 defendants and coconspirators that should have gone to the
27 beneficiaries.

28 4. The defendant W. THEODORE LONGLEY aided, abetted,
counseled, commanded, induced, and procured the conspiracy

1 charged in this Count and willfully caused others to perform
2 acts and make statements in furtherance of the charged
3 conspiracy.

4 **MEANS AND METHODS OF THE DEFENDANTS**

5 5. For the purpose of forming and carrying out the
6 charged conspiracy, the defendants and coconspirators utilized
7 various means and methods, including, among other things:

8 a. agreeing to divert funds from the beneficiaries
9 to the conspirators;

10 b. arranging for a designated conspirator to
11 purchase selected properties at public auctions at lower,
12 noncompetitive prices;

13 c. making payoffs to and receiving payoffs from one
14 another using monies that would have gone to beneficiaries;

15 d. in some instances, holding private auctions,
16 frequently referred to as "rounds" or "round robins," open only
17 to members of the conspiracy, to bid for selected properties
18 that the designated conspirators purchased at the public
19 auctions;

20 e. distributing, based on an agreed-upon formula,
21 the difference between the highest bids submitted at the public
22 auctions and the highest bids submitted at the round robins as
23 payoffs to the conspirators participating in the rounds;

24 f. allowing the conspirators who submitted the
25 highest bids at the round robins to acquire title to the
26 selected properties; and

27 g. taking steps to conceal the fact that monies were
28 diverted from the beneficiaries to the conspirators, including

1 making and causing to be made false and misleading statements on
 2 records of public auctions that trustees relied upon to
 3 distribute proceeds from the public auction to the beneficiaries
 4 and convey title to properties sold at the public auction.

5 6. For the purpose of executing the scheme and artifice
 6 to defraud and attempting to do so, the defendants and
 7 coconspirators knowingly used and caused to be used the United
 8 States Postal Service and private or commercial interstate
 9 carriers. For example, Trustee's Deeds Upon Sale and related
 10 documents were sent to conspirators through the United States
 11 mail and private or commercial interstate carriers. Properties
 12 that were included in the scheme, and for which such mailings
 were made, included:

PROPERTY ADDRESS	SALE DATE	MAILING
2564 Keyser Dr., Stockton, CA	7/24/09	Trustee's Deed Upon Sale mailed to PARKER
1434 Mariposa Way, Lodi, CA	7/30/09	Trustee's Deed Upon Sale mailed to agent and entity controlled by KATAKIS
3022 Stefano Dr., Stockton, CA	8/25/09	Trustee's Deed Upon Sale mailed to PARKER
4315 Legacy Ct., Stockton, CA	8/25/09	Trustee's Deed Upon Sale mailed to JOACHIM
2126 Bartram Run Way, Stockton, CA	9/16/09	Trustee's Deed Upon Sale mailed to agent and entity controlled by KATAKIS

25 All in violation of Title 18, United States Code, Sections
 26 1349 and 2.

27
 28

1 COUNT THREE: [18 U.S.C. § 1519 - Destruction, Alteration, or
2 Falsification of Records in a Federal
3 Investigation]

4 The Grand Jury further charges:

5 ANDREW B. KATAKIS

6 defendant herein, as follows:

7 1. Paragraphs one through six and ten of Count One and
8 paragraph five of Count Two of the Indictment are realleged and
9 incorporated herein, as if fully set forth.

10 2. In 2009, the United States Department of Justice began
11 investigating bid rigging and fraud conspiracies at public
12 auctions in San Joaquin County.

13 3. In connection with this investigation, on or about
14 August 27, 2010, a federal grand jury in the Eastern District of
15 California issued a subpoena to Oak Valley Community Bank
16 ("Bank") in Oakdale, California. The subpoena required the Bank
17 to produce to the grand jury records related to KATAKIS and
18 KATAKIS dba California Equity Management Group, Inc.

19 4. On or about September 1, 2010, the Bank sent KATAKIS a
20 letter informing him that the Bank had been served with a U.S.
21 Department of Justice Grand Jury Subpoena ordering the Bank to
22 disclose certain information about him. The letter included a
23 copy of the subpoena.

24 5. In or about September 2010, in the Eastern District of
25 California, defendant ANDREW KATAKIS knowingly altered,
26 destroyed, concealed, and covered up electronic records and
27 documents related to the conspiracies with the intent to impede,
28 obstruct, and influence an investigation within the jurisdiction
of the United States Department of Justice and the Federal
Bureau of Investigation. Specifically, defendant KATAKIS

1 deleted and caused others to delete electronic records and
2 documents. KATAKIS also installed and used and caused others to
3 install and use a software program that overwrote deleted
4 electronic records and documents so that they could not be
5 viewed or recovered.


6 All in violation of Title 18, United States Code, Section
7 1519.


8 Dated:


A TRUE BILL.

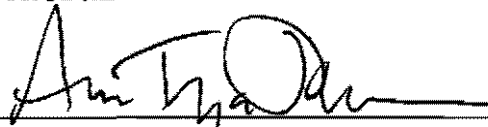
9
10 /s/ Signature on file w/AUSA

11 FOREPERSON

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