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NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

CR11-00429 *CW*

UNITED STATES OF AMERICA

v.

THOMAS LEGAULT,

Defendant.

) Criminal No.

)

) INFORMATION

)

) VIOLATIONS: 15 U.S.C. § 1 –

) Bid Rigging (Count One);

) 18 U.S.C. § 1349 – Conspiracy to

) Commit Mail Fraud (Count Two)

)

)

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

THOMAS LEGAULT,

the defendant herein, as follows:

BACKGROUND

1. When California homeowners default on their mortgages, the lender or loan servicer can institute foreclosure proceedings through a non-judicial public foreclosure auction. These public auctions typically take place at or near the county courthouse. At the auction an auctioneer sells the property to the bidder offering the highest purchase price. Proceeds from the sale are then used to pay off the mortgage and other debt attached to the property. Proceeds

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1 remaining from the sale are then paid to the homeowner.

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

3 THE COMBINATION AND CONSPIRACY

4 2. Beginning as early as January 2010 and continuing until in or about January 2011,
5 the defendant THOMAS LEGAULT and co-conspirators entered into and engaged in a
6 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
7 selected real estate offered at Contra Costa County, California public real estate foreclosure
8 auctions in the Northern District of California, in unreasonable restraint of interstate trade and
9 commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

10 3. The charged combination and conspiracy consisted of a continuing agreement,
11 understanding, and concert of action among the defendant and co-conspirators, the substantial
12 terms of which were:

13 a. to suppress competition by agreeing to refrain from full competitive
14 bidding against each other to obtain selected real estate offered at Contra Costa County,
15 California public real estate foreclosure auctions;

16 b. to make payoffs to one another in return for suppressing competition for
17 selected real estate offered at public real estate foreclosure auctions; and

18 c. to obtain title to selected real estate sold at non-competitive, rigged 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, during meetings, conversations, and communications, to rig bids
23 to obtain selected real estate offered at Contra Costa County, California public real estate
24 foreclosure auctions;

25 b. designating, in various ways, which conspirator would win the selected
26 real estate at the public real estate foreclosure auctions for the group of conspirators;

27 c. bidding at non-competitive amounts or refraining from bidding for the
28 selected real estate at the public real estate foreclosure auctions;

1 d. in some instances, engaging in direct negotiations with one or more
2 co-conspirators to pay one another not to compete for selected real estate at the public real estate
3 foreclosure auctions;

4 e. in many other instances, holding secret private auctions, at or near the
5 courthouse steps where the public auctions were held, open only to members of the conspiracy,
6 to rebid for the selected real estate obtained at the public real estate foreclosure auctions;

7 f. awarding selected real estate to the conspirators who submitted the highest
8 bids at the private auctions; and

9 g. distributing the proceeds of the private auctions, including cash payoffs,
10 based upon a predetermined formula agreed upon by the members of the conspiracy.

11 5. Various entities and individuals, not made defendants in this Information,
12 participated as co-conspirators in the offenses charged in this Information and performed acts
13 and made statements in furtherance of them.

14 TRADE AND COMMERCE

15 6. During the period covered by this Information, the business activities of the
16 defendant and co-conspirators that are the subject of this Information were within the flow of,
17 and substantially affected, interstate trade and commerce. For example, mortgage holders
18 located in states other than California received proceeds from the public real estate foreclosure
19 auctions that were subject to the bid-rigging conspiracy.

20 JURISDICTION AND VENUE

21 7. The combination and conspiracy charged in this Information was carried out, in
22 part, in the Northern District of California, within the five years preceding the filing of this
23 Information.

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

25 COUNT TWO: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud

26 THE CONSPIRACY

27 8. Beginning as early as January 2010 and continuing until in or about January 2011
28 in Contra Costa County in the Northern District of California, the defendant THOMAS

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1 LEGAULT and co-conspirators did willfully and knowingly combine, conspire, and agree with
2 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
3 and intend to devise a material scheme or artifice to defraud financial institutions and others and
4 to obtain money and property by materially false and fraudulent pretenses and, for the purpose of
5 executing or attempting to execute such scheme or artifice, to knowingly use and cause to be
6 used the United States Postal Service or any private or commercial interstate carrier, in violation
7 of Title 18, United States Code, Section 1349.

8 9. It was an object of the conspiracy that the defendant and his co-conspirators
9 suppress competition by acquiring title to selected real estate at prices lower than would have
10 resulted from fully competitive auctions, carried out by making payoffs to co-conspirators
11 through direct negotiations or by holding second, private auctions and dividing the profits of the
12 scheme (the difference between the public auction prices and the prices paid at the private
13 auctions) among themselves. In other words, the defendant and co-conspirators manipulated the
14 sales price of selected real estate, causing false, artificially low sales prices to be reported and
15 paid to victims of the scheme. It was a further object of the conspiracy that the defendant and
16 co-conspirators obtain title to the fraudulently acquired real estate, including recorded proof of
17 title, in order to permit later sale of the fraudulently acquired real estate and receive additional
18 profits from those sales.

19 MEANS AND METHODS

20 The principal means and methods used to accomplish the conspiracy were as follows:

21 10. Each and every allegation contained in Paragraphs 4 and 5 of Count One of this
22 Information is here realleged as if fully set forth in this Count.

23 11. For the purpose of executing the scheme or artifice to defraud, the defendant and
24 co-conspirators did knowingly cause Trustee's Deeds Upon Sale for the fraudulently obtained
25 real estate to be sent or delivered by the United States Postal Service or a private or commercial
26 interstate carrier. These mailings were foreseeable to the defendant in the ordinary course of
27 business.

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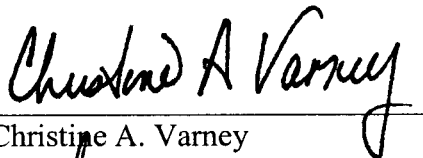
OVERT ACTS

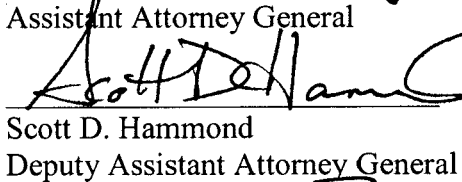
12. In addition to causing the use of the United States Postal Service or a private or commercial interstate carrier in furtherance of the conspiracy and to effect the illegal objects thereof, the defendant and co-conspirators, in the manner described in Count One, Paragraph 4, and for the purpose of carrying out the charged conspiracy, on multiple occasions paid out and received substantial sums in payoffs in exchange for their agreement not to compete at the Contra Costa County, California public real estate foreclosure auctions in the Northern District of California.

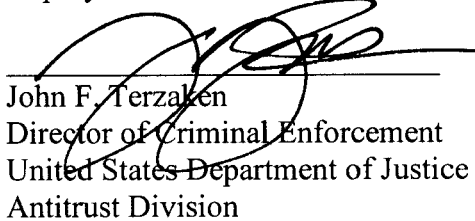
JURISDICTION AND VENUE

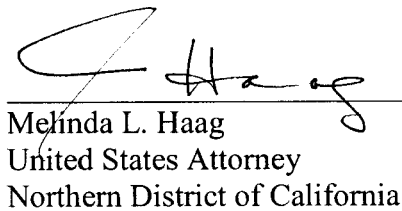
13. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

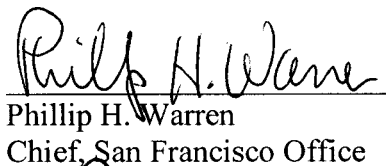
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

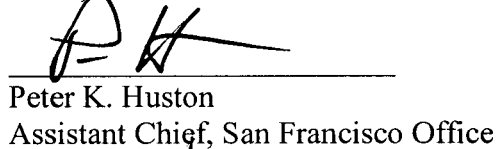

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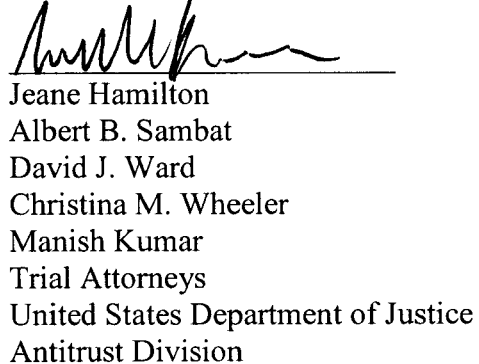

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