

**FILED** *a*

MAR - 7 2013

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

1 JEANE HAMILTON (CSBN 157834)  
2 ALBERT B. SAMBAT (CSBN 236472)  
3 DAVID J. WARD (CSBN 239504)  
4 CHRISTINA M. WHEELER (CSBN 203395)  
5 MANISH KUMAR (CSBN 269493)  
6 MICAH L. WYATT (CSBN 267465)  
7 LIDIA MAHER (CSBN 222253)  
8 E. KATE PATCHEN (NYRN 4104634)  
9 U.S. Department of Justice  
10 Antitrust Division  
11 450 Golden Gate Avenue  
12 Box 36046, Room 10-0101  
13 San Francisco, CA 94102  
14 albert.sambat@usdoj.gov  
15 Telephone: (415) 436-6660

Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

**CR13-00144** *Mar*

15 UNITED STATES OF AMERICA

18 v.

20 PETER MCDONOUGH,

21 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)  
)  
)  
)

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

24 PETER MCDONOUGH,

25 the defendant herein, as follows:

26 BACKGROUND

27 1. At all times relevant to this Information, when California homeowners defaulted  
28 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the

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

8 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (Alameda County)

9 THE COMBINATION AND CONSPIRACY

10 2. Beginning as early as May 2009 and continuing until in or about January 2011,  
11 the defendant, PETER MCDONOUGH, and co-conspirators entered into and engaged in a  
12 combination and conspiracy to suppress and restrain competition by rigging bids to obtain  
13 selected properties offered at public auctions in Alameda County in the Northern District of  
14 California, in unreasonable restraint of interstate trade and commerce, in violation of the  
15 Sherman Act, Title 15, United States Code, Section 1.

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

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

23 a. agreeing not to compete to purchase selected properties at public auctions  
24 in Alameda County;

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

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

INFORMATION – PETER MCDONOUGH – 2



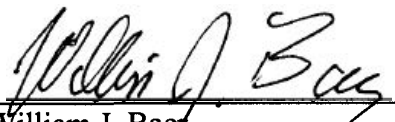



1 12. For the purpose of executing the scheme and artifice to defraud and attempting to  
2 do so, the defendant and his co-conspirators knowingly used and caused to be used the United  
3 States Postal Service and private or commercial interstate carriers. For example, trustees used  
4 the United States mail and private or commercial interstate carriers to transmit the Trustee's  
5 Deeds Upon Sale and other title documents to participants in the conspiracy. These mailings  
6 were foreseeable to the defendant in the ordinary course of business.

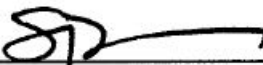
7 JURISDICTION AND VENUE


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

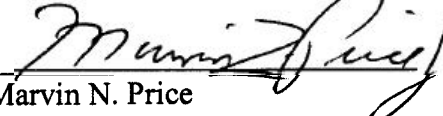
11 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.


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14 William J. Baer  
15 Assistant Attorney General

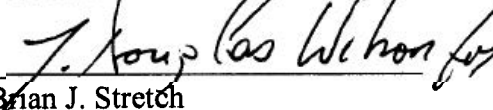
  
\_\_\_\_\_ for  
Phillip H. Warren  
Chief, San Francisco Office

16   
17 \_\_\_\_\_  
18 Scott D. Hammond  
19 Deputy Assistant Attorney General

  
\_\_\_\_\_ for  
Peter K. Huston  
Assistant Chief, San Francisco Office

20   
21 \_\_\_\_\_  
22 Marvin N. Price  
23 Director of Criminal Enforcement  
24 United States Department of Justice  
25 Antitrust Division

  
\_\_\_\_\_ for  
Albert B. Sambat  
Jeane Hamilton  
David J. Ward  
Christina M. Wheeler  
Manish Kumar  
Micah L. Wyatt  
Lidia Maher  
E. Kate Patchen  
Trial Attorneys  
U.S. Department of Justice  
Antitrust Division

26   
27 \_\_\_\_\_  
28 Brian J. Stretch  
Attorney for the United States  
Acting Under Authority Conferred  
by 28 U.S.C. § 515