•	Case3:13-cr-00804-SI Documer	
1 2 3 4 5 6 7 8	DAVID J. WARD (CSBN 239504) CHRISTINA M. WHEELER (CSBN 203395) LIDIA MAHER (CSBN 222253) ANDREW J. NICHOLSON-MEADE (CSBN 284 JEANE HAMILTON (CSBN 157834) U.S. Department of Justice Antitrust Division 450 Golden Gate Avenue Box 36046, Room 10-0101 San Francisco, CA 94102 david.ward@usdoj.gov Telephone: (415) 436-6660	070)
9	Attorneys for the United States	
10	UNITED STATES DISTRICT COURT	
11	NORTHERN DISTRICT OF CALIFORNIA	
12 13	SAN FRANCISC	) Chiminal No. 804
13	UNITED STATES OF AMERICA	
15	UNITED STATES OF AMERICA	) INFORMATION (
16	v.	<ul> <li>) VIOLATIONS: 15 U.S.C. § 1 –</li> <li>) Bid Rigging (Counts One &amp; Three);</li> <li>) 18 U.S.C. § 1349 – Conspiracy to</li> </ul>
17		) Commit Mail Fraud (Counts Two & ) Four)
18	MICHAEL NAVONE,	)
19 20	Defendant.	_)
20	The United States of America, acting through its attorneys, charges:	
22	MICHAEL NAVONE,	
23	the defendant herein, as follows:	
24	BACKGROUND	
25	1. At all times relevant to this Information, when California homeowners defaulted	
26	on their mortgages, mortgage holders could institute foreclosure proceedings and sell the	
27	properties through non-judicial public real estate foreclosure auctions ("public auctions"). These	
28	public auctions were governed by California Civil Code, Section 2924, et seq. Typically, a	
	INFORMATION – MICHAEL NAVONE – 1	
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trustee was appointed to oversee the public auctions. These public auctions usually took place at
 or near the courthouse of the county in which the properties were located. The auctioneer, acting
 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
 by the property, and, in some cases, the defaulting homeowner (collectively, "beneficiaries").
 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (San Mateo County)

### THE COMBINATION AND CONSPIRACY

8 2. Beginning as early as February 2009 and continuing until in or about January
9 2011, defendant MICHAEL NAVONE and co-conspirators entered into and engaged in a
10 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
11 selected properties offered at public auctions in San Mateo County in the Northern District of
12 California, in unreasonable restraint of interstate trade and commerce, in violation of the
13 Sherman Act, Title 15, United States Code, Section 1.

The charged combination and conspiracy consisted of a continuing agreement,
understanding, and concert of action among the defendant 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.

4. For the purpose of forming and carrying out the charged combination and
conspiracy, the defendant 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
in San Mateo County;

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

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

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5. 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

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

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# JURISDICTION AND VENUE

7. The combination and conspiracy 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 15, UNITED STATES CODE, SECTION 1. <u>COUNT TWO</u>: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (San Mateo County)

# THE CONSPIRACY

8. Beginning as early as February 2009 and continuing until in or about January 2011 in San Mateo County in the Northern District of California, defendant MICHAEL NAVONE and co-conspirators did willfully and knowingly combine, conspire, and agree with each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to 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.

9. The objects of the conspiracy were to fraudulently acquire title to selected properties sold at public auctions in San Mateo County, to make and receive payoffs, and to divert money to conspirators that would have gone to the beneficiaries.

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Various entities and individuals, not made defendants in this Count, participated 10. 1 as co-conspirators in the offense charged and performed acts and made statements in furtherance 2 3 thereof.

#### MEANS AND METHODS

For the purpose of forming and carrying out the charged conspiracy, the 11. defendant and co-conspirators did those things that they conspired to do, including, among other things: 7

negotiating payoffs with one or more conspirators not to compete;

in some instances, falsely participating in foreclosure auctions to create b. 9 the appearance that they were bidding competitively when, in fact, they were not; 10

> purchasing the selected properties at public auctions at suppressed prices; c.

paying conspirators monies that otherwise would have gone to the d.

beneficiaries; 13

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taking steps to conceal the fact that monies were diverted from the 14 e. beneficiaries to the conspirators; 15

making and causing to be made materially false and misleading statements f. 16 on records of public auctions that trustees relied upon to distribute proceeds from the public 17 auction to the beneficiaries and convey title to properties sold at the public auction; and 18

causing the suppressed purchase price to be reported and paid to the 19 g. beneficiaries. 20

For the purpose of executing the scheme and artifice to defraud and attempting to 12. 21 do so, the defendant and co-conspirators knowingly used and caused to be used the United States 22 Postal Service and private or commercial interstate carriers. For example, trustees used the 23 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds 24 Upon Sale and other title documents to participants in the conspiracy. These mailings were 25 foreseeable to the defendant in the ordinary course of business. 26

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#### 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.

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

# THE COMBINATION AND CONSPIRACY

14. Beginning as early as October 2009 and continuing until in or about January 2011, defendant MICHAEL NAVONE and co-conspirators entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids to obtain 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 the Sherman Act, Title 15, United States Code, Section 1.

15. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant 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 Francisco County at non-competitive prices.

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

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

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

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

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17. 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

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

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# JURISDICTION AND VENUE

11 19. The combination and conspiracy charged in this Information was carried out, in
12 part, in the Northern District of California, within the five years preceding the filing of this
13 Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1. <u>COUNT FOUR</u>: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (San Francisco County) THE CONSPIRACY

20. Beginning as early as October 2009 and continuing until in or about January 2011, in San Francisco County in the Northern District of California, defendant MICHAEL NAVONE and co-conspirators did willfully and knowingly combine, conspire, and agree with each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to 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.

21. The objects of the conspiracy were to fraudulently acquire title to selected properties sold at public auctions in San Francisco County, to make and receive payoffs, and to divert money to conspirators that would have gone to the beneficiaries.

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Various entities and individuals, not made defendants in this Count, participated 22. 1 as co-conspirators in the offense charged and performed acts and made statements in furtherance 2 3 thereof.

#### MEANS AND METHODS

For the purpose of forming and carrying out the charged conspiracy, the 23. defendant and co-conspirators did those things that they conspired to do, including, among other 6 7 things:

negotiating payoffs with one or more conspirators not to compete;

in some instances, falsely participating in foreclosure auctions to create b. 9 the appearance that they were bidding competitively when, in fact, they were not; 10

purchasing selected properties at public auctions at suppressed prices;

paying conspirators monies that otherwise would have gone to the d.

beneficiaries; 13

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taking steps to conceal the fact that monies were diverted from the e. 14 beneficiaries to the conspirators; 15

making and causing to be made materially false and misleading statements f. 16 on records of public auctions that trustees relied upon to distribute proceeds from the public 17 auctions to the beneficiaries and convey title to properties sold at the public auctions; and 18

causing suppressed purchase prices to be reported and paid to the 19 g. beneficiaries. 20

For the purpose of executing the scheme and artifice to defraud and attempting to 24. 21 do so, the defendant and co-conspirators knowingly used and caused to be used the United States 22 Postal Service and private or commercial interstate carriers. For example, trustees used the 23 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds 24 Upon Sale and other title documents to participants in the conspiracy. These mailings were 25 foreseeable to the defendant in the ordinary course of business. 26

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## JURISDICTION AND VENUE

25. 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.

6 7 8 Villiam J. Baer Assistant Attorney General 9 10Marvin Price 11 Acting Deputy Assistant Attorney General United States Department of Justice 12 Antitrust Division 13 vola 14 Brian J. Stretch Attorney for the United States 15 Acting Under Authority Conferred by 28 U.S.C. § 515 16 17 18 19 20 21 22 23 24 25 26 27 28 **INFORMATION – MICHAEL NAVONE – 8** 

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