UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA

v.

NAZIEMUL SAFI,

Defendant.

- - - - - - - - - - - - - - - -X

INFORMATION

Cr. No. 99-CR-496
(T. 15, U.S.C., § 1; and
T. 18, U.S.C., § 3551 et seq.)

Filed: June 11, 1999

THE UNITED STATES CHARGES:

## INTRODUCTION

At all times relevant to this Information, unless otherwise indicated:

### The Defendant

1. The defendant NAZIEMUL SAFI resided in Brooklyn, New York. The defendant NAZIEMUL SAFI was a real estate speculator doing business in Brooklyn, New York.

### Foreclosure Proceedings

2. In Kings County, New York, foreclosure proceedings were initiated by the mortgage holder (generally a bank) suing the property owner for defaulting on the mortgage loan and seeking to foreclose on the property that secured the loan. When a judgment was rendered for a mortgage holder, the amount generally included, among other things, the remaining balance on the loan secured by the mortgage, interest, and penalties.

3. Once a mortgage holder obtained a judgment, the judge presiding over the foreclosure proceeding would appoint a Referee to conduct a sale of the property by public

auction. The Referee was responsible for providing the notice required by New York state law that there would be a foreclosure auction on the date and time specified in the notice. The Referee then held the public foreclosure auction. The foreclosure auctions were usually held at the Kings County Courthouse, located on Adams Street in Brooklyn, New York.

4. The bidding at a public foreclosure auction typically opened at the mortgage holder's "upset price." The upset price was sometimes the amount of the judgment obtained by the mortgage holder against the property owner, but was often less, depending on market conditions or the condition of the property. The Referee sought the highest price possible at the public foreclosure auction by soliciting open and competitive bidding from potential purchasers and selecting the highest bid as the price at which to sell the property.

5. Immediately after the auction, the highest bidder paid a 10% deposit to the Referee by cashier's or certified check. The Referee and the highest bidder then completed the "Terms of Sale." The Terms of Sale included, among other things, the property's address, the date of the auction, the name of the highest bidder, the amount of the winning bid, and the amount of the deposit paid. The highest bidder needed the Terms of Sale to complete the settlement of the property transaction (also called "closing"), which usually occurred within 30 days of the auction. Once the closing was completed, the highest bidder took title to the property.

6. At the closing on a property purchased at a public foreclosure auction, the Referee was responsible for obtaining the balance due on the property from the successful bidder or his assignee. The Referee was also then responsible for distributing the proceeds to the mortgage holder in total or partial satisfaction of the judgment. Any money paid for the property

above the amount owed to the mortgage holder represented a "surplus," which the Referee would then deposit with the Kings County Clerk. Other lienholders and the foreclosed property owner could then make a claim on that surplus money.

The Conspiracy's Effect on Interstate Commerce

7. The defendant NAZIEMUL SAFI and his co-conspirators regularly bought residential properties at foreclosure auctions held at the Kings County Courthouse.

8. Many mortgage holders involved in the foreclosure auctions in Kings County were either out-of-state lenders or New York lenders with out-of-state mortgage processing operations. Consequently, in connection with many properties purchased at public foreclosure auctions by the defendant or his co-conspirators pursuant to the conspiracy charged below, money and documents moved across state lines as part of those transactions. Those business activities were within the flow of, and substantially affected, interstate trade and commerce.

SHERMAN ACT CONSPIRACY

9. Paragraphs one through eight are realleged and incorporated by reference as though fully set forth herein.

10. In or about and between December 1990 and November 1996, both dates being approximate and inclusive, the defendant NAZIEMUL SAFI and others entered into and engaged in a combination and conspiracy that illegally restrained interstate trade and commerce in violation of Section 1 of the Sherman Act. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial term of which was to suppress competition by refraining from full

competitive bidding at certain public foreclosure auctions held in Kings County, in the Eastern District of New York.

11. It was part of the conspiracy that the defendant NAZIEMUL SAFI and his co-conspirators agreed not to bid against each other at public foreclosure auctions at the Kings County Courthouse. As a result, the conspirators purchased auctioned property at prices lower than would have resulted from a fully competitive auction, thereby depriving mortgage holders, lienholders, and property owners of the full value of the auctioned property.

12. It was further part of the conspiracy that after the public foreclosure auction, the defendant NAZIEMUL SAFI and his co-conspirators would hold a second, private auction, open only to the conspirators and generally conducted by written bid, in which the conspirators would bid to acquire the foreclosed property at a price higher than the price paid by the conspirators' designated bidder at the public foreclosure auction.

13. It was further part of the conspiracy that the defendant NAZIEMUL SAFI and his co-conspirators would award the property to the conspirator with the highest bid at the private auction. The conspirators would then divide among themselves the difference between the prices paid at the public foreclosure auction and the private auction.

14. It was further part of the conspiracy that following the private auction, the conspirator who was the highest bidder at the public foreclosure auction would assign his right to purchase the property to the conspirator who was the highest bidder at the private auction.

15. It was further part of the conspiracy that the conspirator who submitted the highest bid during the private auction could thereafter: (1) proceed to close on the property with the Referee at the price set during the rigged, public

auction, or (2) sell his right to close on the property at the price set during the rigged auction to a third party.

(Title 15, United States Code, Section 1; Title 18 United States Code, Section 3551 et seq.)

_____"/s/"_____
ZACHARY W. CARTER
United States Attorney

_____"/s/"_____
JOEL I. KLEIN
Assistant Attorney General

_____"/s/"_____
RALPH T. GIORDANO
Chief, New York Office

U.S. Department of Justice
Antitrust Division