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EASTERN DISTRICT OF CALIFORNIA
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1 BENJAMIN B. WAGNER
United States Attorney
2 RUSSELL L. CARLBERG
Assistant U.S. Attorney
3 501 "I" Street, Suite 10-100
Sacramento, California 95814
4 Telephone: (916) 554-2700

5 ANNA TRYON PLETCHER
TAI S. MILDER
6 RICHARD B. COHEN
Trial Attorneys
7 U.S. Department of Justice
Antitrust Division
8 450 Golden Gate Avenue, Room 10-0101
9 San Francisco, CA 94102
Telephone: (415) 436-6660

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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 211 - CR - 0492 MCE

15 UNITED STATES OF AMERICA,) No.
)
16 Plaintiff,) VIOLATIONS: 15 U.S.C. § 1 - Bid
) Rigging (Count One), 18 U.S.C.
17 v.) § 1349 - Conspiracy to Commit
) Mail Fraud (Count Two)
18 KENNETH A. SWANGER,)
)
19 Defendant.)
20)

21 I N F O R M A T I O N

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

23 The United States Attorney charges:

24 KENNETH A. SWANGER,

25 defendant herein, as follows:

26
27 1. Beginning in or about June 2009 and continuing until in or
28 about October 2009, the defendant KENNETH A. SWANGER and co-

1 conspirators entered into and engaged in a combination and
2 conspiracy to suppress and restrain competition by rigging bids to
3 obtain selected real estate offered at San Joaquin County,
4 California public real estate auctions in the Eastern District of
5 California, in unreasonable restraint of interstate trade and
6 commerce, in violation of the Sherman Act, Title 15, United States
7 Code, Section 1.
8

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

12 a. to suppress competition by agreeing to refrain from
13 full competitive bidding against each other to obtain selected real
14 estate offered at San Joaquin County, California public real estate
15 auctions;
16

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

20 c. to obtain title to real estate sold at
21 noncompetitive, rigged prices.
22

23 3. For the purpose of forming and carrying out the charged
24 combination and conspiracy, the defendant and co-conspirators did
25 those things that they combined and conspired to do, including,
26 among other things:

27 a. agreeing, during meetings, conversations, and
28 communications, to rig bids to obtain selected real estate offered

1 at San Joaquin County, California public real estate auctions;

2 b. designating, in various ways, which conspirator would
3 bid for the selected real estate at the public real estate auctions
4 for the group of conspirators;

5 c. bidding at noncompetitive amounts or refraining from
6 bidding for the selected real estate at the public real estate
7 auctions;

8 d. in many instances, holding private auctions, open
9 only to members of the conspiracy, to rebid for the selected real
10 estate obtained at the public real estate auctions;

11 e. awarding properties to the conspirators who submitted
12 the highest bids at the private auctions; and

13 f. distributing the proceeds of the private auctions as
14 payoffs, based upon a predetermined formula agreed upon by the
15 members of the conspiracy.
16

17 4. Various corporations and individuals, not made defendants
18 in this Information, participated as co-conspirators in the offense
19 charged in this Information and performed acts and made statements
20 in furtherance of it.
21

22 5. During the period covered by this Information, the business
23 activities of the defendant and co-conspirators that are the subject
24 of this Information were within the flow of, and substantially
25 affected, interstate trade and commerce. For example, mortgage
26 holders located in states other than California held mortgages,
27 appointed trustees, and received proceeds from the public auctions
28

1 that were subject to the bid-rigging agreement.

2 All in violation of Title 15, United States Code, Section 1.

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

4 The United States Attorney charges:

5 KENNETH A. SWANGER,

6 defendant herein, as follows:

7 I. THE CONSPIRACY

8
9 1. Beginning in or about June 2009 and continuing until in or
10 about October 2009, in the Eastern District of California and
11 elsewhere, the defendant KENNETH A. SWANGER and co-conspirators did
12 willfully and knowingly combine, conspire, confederate, and agree
13 with each other to violate Title 18, United States Code, Section
14 1341, namely, to knowingly devise and intend to devise a material
15 scheme or artifice to defraud financial institutions and others and
16 to obtain money and property by materially false and fraudulent
17 pretenses and, for the purpose of executing or attempting to execute
18 such scheme or artifice, to knowingly use and cause to be used the
19 United States Postal Service or any private or commercial interstate
20 carrier, in violation of Title 18, United States Code, Section 1349.

21
22 2. It was an object of the conspiracy that the defendant and
23 his co-conspirators suppress competition, thereby acquiring title to
24 property at a lower price than would have resulted from a fully
25 competitive auction, and by holding a second, private auction and
26 dividing the profits of the scheme (the difference between the
27 public and private auction prices) among themselves. In other
28

1 words, the participants manipulated the sales price of properties,
2 causing false, artificially low sales prices to be reported and paid
3 to victims of the scheme. It was a further object of the conspiracy
4 that the participants obtain title to the fraudulently acquired
5 properties, including recorded proof of title, in order to permit
6 later sale of the fraudulently acquired properties and receive
7 additional profits from those sales.
8

9 II. WAYS AND MEANS

10 The principal ways and means used to accomplish the conspiracy
11 were as follows:

12 3. Each and every allegation contained in Paragraph 3 of
13 Count One of this Information is here realleged as if fully set
14 forth in this Count.

15 4. For the purposes of executing the scheme or artifice to
16 defraud, the defendant and his co-conspirators did knowingly cause
17 the Office of the Assessor/Recorder/County Clerk for the County of
18 San Joaquin to send certain documents by the United States Postal
19 Service or a private or commercial interstate carrier to the
20 defendant's and co-conspirators' addresses in order to secure
21 recorded proof of title to the fraudulently obtained properties.
22

23 III. OVERT ACTS

24 5. In addition to causing the use of the United States Postal
25 Service or a private or commercial interstate carrier in furtherance
26 of the conspiracy and to effect the illegal objects thereof, the
27 defendant and co-conspirators, in the manner described in Count Two,
28

1 Paragraphs 3 and 4 above, and for the purpose of carrying out the
2 charged conspiracy, on multiple occasions paid out and received
3 substantial sums in payoffs in exchange for their agreement not to
4 compete at the public auctions in the Eastern District of
5 California.
6

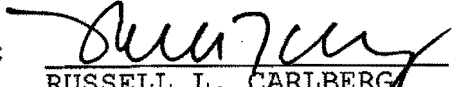
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8 All in violation of Title 18, United States Code, Section 1349.

9 Dated:

Respectfully Submitted,

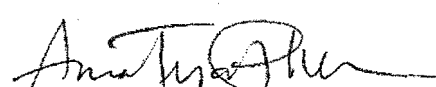
Benjamin B. Wagner
United States Attorney

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11
12
13 By:


RUSSELL L. CARLBERG
Assistant U.S. Attorney

14
15
16 Sharis A. Pozen
Acting Assistant Attorney
17 General

18
19 By:


ANNA TRYON FLETCHER
20 TAI S. MILDER
21 RICHARD B. COHEN
22 Trial Attorneys
U.S. Department of Justice
23 Antitrust Division
24
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