

FILED

2014 DEC -2 A 9:25

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

1 E. KATE PATCHEN (NYRN 4104634)
2 MICAH L. WYATT (CSBN 267465)
3 MANISH KUMAR (CSBN 269493)
4 U.S. Department of Justice
5 Antitrust Division
6 450 Golden Gate Avenue
7 Box 36046, Room 10-0101
8 San Francisco, CA 94102
9 Telephone: (415) 934-5300
10 micah.wyatt@usdoj.gov

11 Attorneys for the United States

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 UNITED STATES OF AMERICA

16 v.

17 GARRY WAN,

18 Defendant.

19) Criminal No. CR14-00604
20)
21) INFORMATION
22)
23) VIOLATIONS: 15 U.S.C. § 1 –
24) Bid Rigging (Count One);
25) 18 U.S.C. § 1349 – Conspiracy to
26) Commit Mail Fraud (Count Two)
27)
28)

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

30 GARRY WAN,

31 the defendant herein, as follows:

32 BACKGROUND

33 1. At all times relevant to this Information, when California homeowners defaulted
34 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the
35 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
36 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
37 trustee was appointed to oversee the public auctions. These public auctions usually took place at

1 or near the courthouse of the county in which the properties were located. The auctioneer, acting
2 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
3 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
4 by the property, and, in some cases, the defaulting homeowner (collectively, "beneficiaries").

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

6 THE COMBINATION AND CONSPIRACY

7 2. Beginning as early as May 2008 and continuing until in or about January 2011,
8 the defendant, GARRY WAN, and co-conspirators entered into and engaged in a combination
9 and conspiracy to suppress and restrain competition by rigging bids to obtain selected properties
10 offered at public auctions in Alameda County in the Northern District of California, in
11 unreasonable restraint of interstate trade and commerce, in violation of the Sherman Act, Title
12 15, United States Code, Section 1.

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

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

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

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

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

26 //

27 //

28 //

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

4 TRADE AND COMMERCE

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

10 JURISDICTION AND VENUE

11 7. 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.

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

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

16 THE CONSPIRACY

17 8. Beginning as early as May 2008 and continuing until in or about January 2011 in
18 Alameda County in the Northern District of California, the defendant, GARRY WAN, and his
19 co-conspirators did willfully and knowingly combine, conspire, and agree with each other to
20 violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to
21 devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain money and
22 property from beneficiaries by means of materially false and fraudulent pretenses,
23 representations, and promises.

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

27 //

28 //

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.

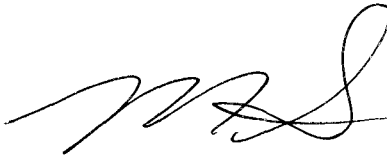
7 JURISDICTION AND VENUE

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.

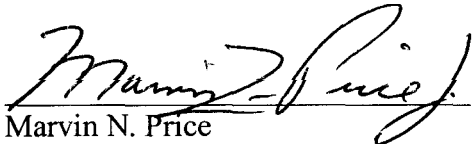
11 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

12
13
14 

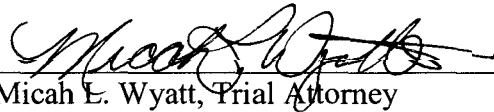
15 Brent Snyder
16 Deputy Assistant Attorney General

17
18 

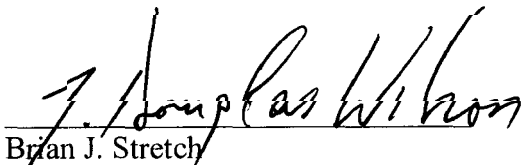
19 Marc Siegel
20 Chief, San Francisco Office

21
22 

23 Marvin N. Price
24 Director of Criminal Enforcement
25 United States Department of Justice
26 Antitrust Division

27
28 

Micah E. Wyatt, Trial Attorney
E. Kate Patchen, Assistant Chief
Manish Kumar, Trial Attorney
United States Department of Justice
Antitrust Division



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