

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

UNITED STATES OF AMERICA)	
)	Criminal No.
v.)	
)	Filed:
OTTO GOGOLIN,)	
)	Violations:
Defendant.)	15 U.S.C. § 1
)	18 U.S.C. § 1349

CRIMINAL INFORMATION

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

1. OTTO GOGOLIN is hereby made a defendant on the charges stated below.

BACKGROUND

2. When Georgia homeowners default on their mortgages, the mortgage holder, some of whom are financial institutions, can institute foreclosure proceedings through a non-judicial public real estate foreclosure auction (“public auction”). These public auctions typically take place at the county courthouse. At the auction, an auctioneer sells the property to the bidder offering the highest purchase price. Proceeds from the sale are then used to pay off the mortgage and other debt attached to the property. Any remaining proceeds are paid to the homeowner.

DEFENDANT AND CO-CONSPIRATORS

3. During the period covered by this Information, the defendant bought real estate at public auctions in the Northern District of Georgia to rehabilitate, sell, or rent the foreclosure properties for an economic benefit.

4. Various entities and individuals, not made defendants in this Information, participated as co-conspirators in the offenses charged herein and performed acts and made statements in furtherance thereof.

COUNT ONE - BID-RIGGING CONSPIRACY

(15 U.S.C. § 1)

5. Each and every allegation contained in Paragraphs 1-4 of this Information is hereby realleged as if fully set forth in this Count.

DESCRIPTION OF THE OFFENSE

6. Beginning at least as early as July 2008, and continuing thereafter until at least December 2011, the exact dates being unknown to the United States, the defendant OTTO GOGOLIN 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 Forsyth County in the Northern District of Georgia (“rigged foreclosure properties”), in unreasonable restraint of interstate trade

and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

7. 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 rigged foreclosure properties at non-competitive prices.

MEANS AND METHODS OF THE CONSPIRACY

8. 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 against each other to purchase rigged foreclosure properties;
- b. designating which co-conspirator would bid on the rigged foreclosure properties and which co-conspirators would refrain from bidding; and
- c. refraining from or stopping bidding for rigged foreclosure properties.

TRADE AND COMMERCE

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

JURISDICTION AND VENUE

10. The combination and conspiracy charged in this Count was carried out, in part, in the Northern District of Georgia and within the five years preceding the filing of this Information.

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

COUNT TWO - CONSPIRACY TO COMMIT BANK FRAUD

(18 U.S.C. § 1349)

The United States further charges:

11. Each and every allegation contained in Paragraphs 1-4 of this Information is hereby realleged as if fully set forth in this Count.

DESCRIPTION OF THE OFFENSE

12. Beginning at least as early as July 2008, and continuing thereafter until at least December 2011, the exact dates being unknown to the United States, in Forsyth County in the Northern District of Georgia and elsewhere, the defendant OTTO GOGOLIN and co-conspirators did willfully and knowingly combine, conspire, and agree with each other to violate Title 18, United States Code, Section 1344, namely, to knowingly execute and attempt to execute a scheme and artifice (i) to defraud financial institutions, as defined by Title 18, United States Code, Sections 20 and 27, as to material matters, and (ii) to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institutions, by means of materially false or fraudulent pretenses, representations, and promises.

13. The objects of the conspiracy were, among other things, to fraudulently acquire title to rigged foreclosure properties at artificially suppressed prices; to make payoffs to and receive payoffs from co-conspirators; and to divert money away from financial institutions, homeowners, or others with a legal interest in rigged foreclosure properties.

MEANS AND METHODS OF THE CONSPIRACY

14. 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. Purchased selected properties at the public foreclosure auctions at artificially suppressed prices;
- b. Negotiated payoffs with one or more co-conspirators in exchange for the agreements not to compete at public auctions;
- c. Held secret side-auctions, or “deals,” to determine the payoff amounts and to determine which co-conspirator would be awarded a specific property;
- d. Made and received payoffs to co-conspirators, which diverted money that otherwise would have gone to the foreclosing financial institutions, other lienholders, and homeowners;
- e. Concealed from agents or other representatives of a foreclosing financial institution, among other things, the above agreements and actions;

- f. Caused artificially suppressed purchase prices to be reported and paid to financial institutions and others with a legal interest in the rigged foreclosure properties; and
- g. Caused to be made materially false and misleading representations to agents and representatives of the foreclosing financial institutions that, among other things, the price paid for a property at the public foreclosure auction was: 1) the result of a fair and competitive bidding process and 2) the best and highest bid.

OVERT ACTS


15. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant and co-conspirators committed overt acts in the Northern District of Georgia and elsewhere, including, but not limited to, those acts stated in Paragraph 14 of this Count.

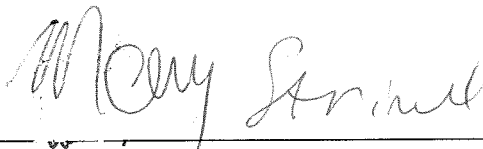
JURISDICTION AND VENUE

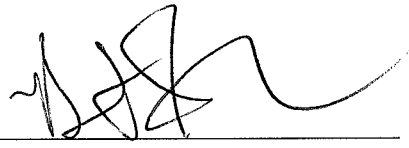
16. The combination, conspiracy, and agreement charged in this Count was formed, in part, and carried out, in part, in the Northern District of Georgia, within the ten years preceding the filing of this Information.


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

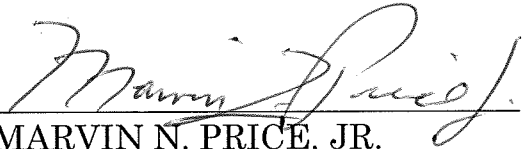
Date:


WILLIAM J. BAER
Assistant Attorney General



MARY STRIMEL
Chief, Washington Criminal II
Section
Antitrust Division


BRENT SNYDER
Deputy Assistant Attorney General
for Criminal Enforcement


COLLIN F. DELANEY
Illinois Bar No. 6296201
collin.delaney@usdoj.gov
MATTHEW C. STEGMAN
Dist. of Columbia Bar No.1015677
SUSAN A. MUSSER
Missouri Bar No. 63116


MARVIN N. PRICE, JR.
Director of Criminal Enforcement
United States Department of Justice
Antitrust Division

Attorneys
U.S. Department of Justice
Antitrust Division
450 5th Street, N.W.
Washington D.C. 20530
Tel: (202) 598-8305
Fax: (202) 514-6525


JOHN A. HORN
United States Attorney
Northern District of Georgia