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1 2 3 4 5 6 7 8 9 10	ALBERT B. SAMBAT (CSBN 236472) DAVID J. WARD (CSBN 239504) CHRISTINA M. WHEELER (CSBN 203395) MANISH KUMAR (CSBN 269493) MICAH L. WYATT (CSBN 267465) LIDIA MAHER (CSBN 222253) E. KATE PATCHEN (NYRN 4104634) U.S. Department of Justice Antitrust Division 450 Golden Gate Avenue Box 36046, Room 10-0101 San Francisco, CA 94102 micah.wyatt@usdoj.gov Telephone: (415) 436-6660	-	
(11	Attorneys for the United States		
12	UNITED STATES DISTRICT COURT		
13	NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION		
14) Criminal NCR13-00415		
15	UNITED STATES OF AMERICA) –	JSV
16) INFORMATION	
17	V.) VIOLATIONS: 15 U.S.C. § 1 –) Bid Rigging (Count One);	
18) 18 U.S.C. § 1349 – Conspiracy to) Commit Mail Fraud (Count Two)	
19	JOSEPH VESCE,		
20 21	Defendant.)	
21)	
22	The United States of America, acting through its attorneys, charges:		
24	JOSEPH VESCE,		
25	the defendant herein, as follows:		
26	BACKGROUND		
27	1. At all times relevant to this Information, when California homeowners defaulted		
28	on their mortgages, mortgage holders could institute foreclosure proceedings and sell the		
	INFORMATION – JOSEPH VESCE– 1		

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properties through non-judicial public real estate foreclosure auctions ("public auctions"). These
public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
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 (Contra Costa County)

THE COMBINATION AND CONSPIRACY

2. Beginning as early as May 2009 and continuing until in or about January 2011, the defendant, JOSEPH VESCE, 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 Contra Costa 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.

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

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and his 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 Contra Costa County;

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

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

INFORMATION – JOSEPH VESCE– 2

1	5. Various entities and individuals, not made defendants in this Count, participated		
2	as 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 (Contra Costa County)		
16	THE CONSPIRACY		
17	8. Beginning as early as May 2009 and continuing until in or about January 2011 in		
18	Contra Costa County in the Northern District of California, the defendant, JOSEPH VESCE, and		
19	his 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 Contra Costa County, to make and receive payoffs, and to		
26	divert money to conspirators that would have gone to the beneficiaries.		
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28	//		
	INFORMATION – JOSEPH VESCE– 3		

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

MEANS AND METHODS

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

a. purchasing selected properties at public auctions at suppressed prices;

9 b. in some instances, negotiating payoffs with one or more conspirators not
10 to compete;

c. in many other instances, holding second, private auctions at or near the
courthouse steps where the public auctions were held, frequently referred to as "rounds," open
only to members of the conspiracy, to bid for title to the selected properties;

14 d. awarding the selected properties to the conspirators who submitted the
15 highest bids at the second, private auctions;

16 e. transferring the right to title to the selected properties into the names of the
17 conspirators who submitted the highest bids at the second, private auctions;

18 f. paying conspirators monies that otherwise would have gone to
19 beneficiaries, using either a predetermined formula based on the bidding at the second, private
20 auction or through direct negotiations among the conspirators;

g. taking steps to conceal the fact that monies were diverted from the
beneficiaries to the conspirators;

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

i. causing the suppressed purchase price to be reported and paid to the
beneficiaries.

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INFORMATION – JOSEPH VESCE– 4

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.

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.

12 13 14 William J. Baer Assistant Attorney General 15 16 Scott D. Hammond 17 Deputy Assistant Attorney General 18 D 19 Marvin N. Price Director of Criminal Enforcement 20 United States Department of Justice Antitrust Division 21 Semplas Wiho 22 Brian J. Stretch 23 Attorney for the United States Acting Under Authority Conferred 24 by 28 U.S.C. § 515 25 26 27 28 **INFORMATION – JOSEPH VESCE– 5**

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MP.

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