

FILED IN OPEN COURT

MAR 27 2014

CHARLES R. DIARD, JR.
CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)

v.)

CHAD E. FOSTER)

Defendant.)

CRIMINAL NO. 14-00067-WS

VIOLATION: 18 U.S.C. § 1349

14R00125

INDICTMENT

The Grand Jury charges:

1. CHAD E. FOSTER is hereby made a defendant on the charge stated below.

BACKGROUND

2. During the period covered by this Indictment, when Alabama homeowners defaulted on their mortgages, the mortgage holders, many of whom were financial institutions, could institute foreclosure proceedings through a non-judicial public real estate foreclosure auction ("public auction"). These public auctions typically took place at the county courthouse. At the auction, an auctioneer sold the property to the bidder offering the highest purchase price. Proceeds from the sale were then used to pay off the mortgage, which generally

23

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was held by a financial institution, and other debt attached to the property. Any remaining proceeds were paid to the homeowner.

3. During the period covered by this Indictment, certain real estate speculators agreed to suppress and restrain competition by rigging bids to obtain selected properties offered at public auctions in the Southern District of Alabama (“selected properties”).

4. During the period covered by this Indictment, the defendant, a resident of Theodore, Alabama, was engaged in the business of buying real estate at public auctions in the Southern District of Alabama and rehabilitating, selling, or renting the foreclosure properties for an economic benefit.

5. Various entities and individuals, not made defendants in this Indictment, participated as co-conspirators in the offense charged in Count One below and performed acts and made statements in furtherance thereof.

CONSPIRACY TO COMMIT MAIL FRAUD

AFFECTING A FINANCIAL INSTITUTION

(18 U.S.C. § 1349)

6. Each and every allegation contained in Paragraphs 2-5 of this Indictment is hereby realleged as if fully set forth in this Indictment.

DESCRIPTION OF THE OFFENSE

7. Beginning at least as early as February 2005, and continuing thereafter until at least January 2007, the exact dates being unknown to the Grand Jury, in the Southern District of Alabama and elsewhere, defendant CHAD E. FOSTER, and others known and unknown to the Grand Jury, did willfully and knowingly combine, conspire, and agree with each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to devise and participate in a scheme and artifice to defraud financial institutions, homeowners, and others with a legal interest in selected properties, and to obtain money and property from financial institutions, homeowners, and others with a legal interest in selected properties by means of materially false and fraudulent pretenses, representations, or promises.

8. The objects of the conspiracy were, among other things, to fraudulently acquire title to selected 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 selected properties.

9. Several financial institutions, as defined by Title 18, United States Code, Section 20, were affected by the conspiracy in that such financial institutions suffered actual monetary losses.

MEANS AND METHODS OF THE CONSPIRACY

10. 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. purchasing selected properties at public auctions at artificially suppressed prices;
- b. negotiating payoffs with one or more co-conspirators in exchange for the agreements not to compete at public auctions;
- c. conducting secret, second auctions, open only to members of the conspiracy, to bid for title to selected properties;
- d. awarding selected properties to co-conspirators who submitted the highest bids at the secret, second auctions;
- e. in some cases, transferring title to selected properties into the names of the co-conspirators who submitted the highest bids at the secret, second auctions;

f. distributing payoffs to co-conspirators that otherwise would have gone to financial institutions, homeowners, and others with a legal interest in the selected properties, in an amount based on a predetermined formula agreed upon by the members of the conspiracy or through direct negotiations between co-conspirators;

g. making and causing to be made materially false and misleading pretenses or representations to trustees and others involved in the auction and sale of the selected properties; and

h. causing artificially suppressed purchase prices to be reported and paid to financial institutions and others with a legal interest in selected properties.

11. For the purpose of executing the scheme or artifice to defraud or attempting to do so, the defendant and co-conspirators knowingly used and caused to be used the United States Postal Service and any private or commercial interstate carrier, in violation of Title 18, United States Code, Section 1349. For example, the defendant and co-conspirators did, among other things, cause foreclosure deeds and other documents granting title to selected properties to be sent or delivered by the United States Postal Service or private or commercial interstate carriers. Mailings such as these were knowingly caused by the defendant

and his co-conspirators and were foreseeable to the defendant and his co-conspirators in the ordinary course of business.

OVERT ACTS

12. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant and co-conspirators committed overt acts in the Southern District of Alabama and elsewhere, including, but not limited to, those acts stated in Paragraphs 10 and 11 of this Count.


JURISDICTION AND VENUE

13. The combination, conspiracy, and agreement charged in this Count was formed, in part, and carried out, in part, in the Southern District of Alabama, within the ten years preceding the return of this Indictment.


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

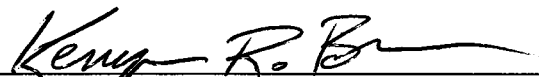
Dated: March 2014

A TRUE BILL



WILLIAM J. BAER
Assistant Attorney General
Antitrust Division

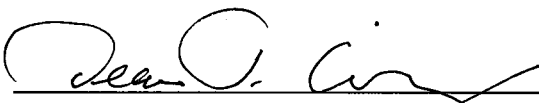

BRENT SNYDER
Deputy Assistant Attorney General
Antitrust Division


MARVIN N. PRICE, JR.
Director of Criminal Enforcement
Antitrust Division


KENYON R. BROWN
United States Attorney
Southern District of Alabama

FOREPERSON ✓


NEZIDA S. DAVIS
Senior Counsel for
Criminal Enforcement
Georgia Bar No. 642083


DEANA L. TIMBERLAKE-WILEY
Member of Maryland Bar
Deana.Timberlake-Wiley@usdoj.gov

Trial Attorney
Antitrust Division
U.S. Department of Justice
75 Spring Street, S.W., Suite 1176
Atlanta, GA 30303
Tel: (404) 331-7116
Fax: (404) 331-7110