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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 OAKLAND DIVISION

CR14-00512

) Criminal No.

15 UNITED STATES OF AMERICA

) INFORMATION

16 v.

) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Count One);
) 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud (Count Two)

17 GERNOT SEBASTIAN ZEPERNICK, a/k/a
18 SEBASTIAN ZEPERNICK, a/k/a HENRY
19 ZEPERNICK,

Defendant.

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

21 GERNOT SEBASTIAN ZEPERNICK,
22 the defendant herein, as follows:

23 BACKGROUND

24 1. At all times relevant to this Information, when California homeowners defaulted
25 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the
26 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
27 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
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INFORMATION – GERNOT SEBASTIAN ZEPERNICK – 1

FILED

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

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

6 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (Contra Costa County)

7 THE COMBINATION AND CONSPIRACY

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

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

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

21 a. agreeing not to compete to purchase selected properties at public auctions
22 in Contra Costa County;

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

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

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INFORMATION – GERNOT SEBASTIAN ZEPERNICK – 2

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 (Contra Costa County)

16 THE CONSPIRACY

17 8. Beginning as early as November 2008 and continuing until in or about January
18 2011 in Contra Costa County in the Northern District of California, the defendant, GERNOT
19 SEBASTIAN ZEPERNICK, and his co-conspirators did willfully and knowingly combine,
20 conspire, and agree with each other to violate Title 18, United States Code, Section 1341,
21 namely, to knowingly devise and intend to devise and participate in a scheme and artifice to
22 defraud beneficiaries, and to obtain money and property from beneficiaries by means of
23 materially false and fraudulent pretenses, 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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INFORMATION – GERNOT SEBASTIAN ZEPERNICK – 3

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

MEANS AND METHODS

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

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

b. in some instances, negotiating payoffs with one or more conspirators not 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;

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

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

f. paying conspirators monies that otherwise would have gone to beneficiaries, using either a predetermined formula based on the bidding at the second, private 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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12. For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendant and his co-conspirators knowingly used and caused to be used the United States Postal Service and private or commercial interstate carriers. For example, trustees used the United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds Upon Sale and other title documents to participants in the conspiracy. These mailings 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.

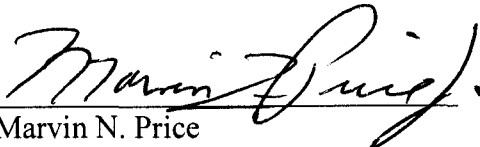
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.



Brent Snyder
Deputy Assistant Attorney General



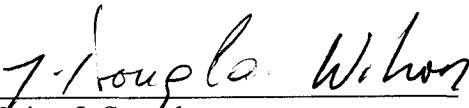
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by 28 U.S.C. § 515