

1 E. KATE PATCHEN (NYRN 4104634)
2 DAVID J. WARD (CSBN 239504)
3 ALBERT B. SAMBAT (CSBN 236472)
4 MANISH KUMAR (CSBN 269493)
5 U.S. Department of Justice
6 Antitrust Division
7 450 Golden Gate Avenue
8 Box 36046, Room 10-0101
9 San Francisco, CA 94102
10 Telephone: (415) 934-5300
11 kate.patchen@usdoj.gov

12 Attorneys for the United States

FILED

NOV 19 2014

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

JST

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 OAKLAND DIVISION

CR 14 581

16 UNITED STATES OF AMERICA)

No.

17 v.)

18 JOHN SHIELLS, and
19 MIGUEL DE SANZ,

20 Defendants.)

) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Counts One, Four &
) Seven); 18 U.S.C. § 1341 – Mail Fraud
) (Counts Two, Three, Five, Six, Eight,
) Nine, & Ten); 18 U.S.C. § 981(a)(1)(C),
) 28 U.S.C. § 2461(c) – Forfeiture

21
22 INDICTMENT

23 The Grand Jury charges that:

24 BACKGROUND

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

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

6 2. During the period covered by this Indictment, defendant JOHN SHIELLS was a
7 bidder at and purchased real estate at public auctions in Alameda, Contra Costa, and San
8 Francisco counties, California.

9 3. During the period covered by this Indictment, defendant MIGUEL DE SANZ was
10 a bidder at and purchased real estate at public auctions in Alameda, Contra Costa, and San
11 Francisco counties, California.

12 **COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (Alameda County)**

13 4. The following individuals are hereby indicted and made defendants on the charge
14 contained in Count One below:

15 a. JOHN SHIELLS; and

16 b. MIGUEL DE SANZ.

17 **THE COMBINATION AND CONSPIRACY**

18 5. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein
19 as if fully set forth in this Count.

20 6. Beginning as early as June 2007 and continuing until in or about January 2011,
21 the exact dates being unknown to the Grand Jury, the defendants, JOHN SHIELLS and MIGUEL
22 DE SANZ, and others known and unknown to the Grand Jury, entered into and engaged in a
23 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
24 hundreds of selected properties offered at public auctions in Alameda County in the Northern
25 District of California, in unreasonable restraint of interstate trade and commerce, in violation of
26 Section 1 of the Sherman Act, Title 15, United States Code.

27 7. The charged combination and conspiracy consisted of a continuing agreement,
28 understanding, and concert of action among the defendants and co-conspirators to suppress

1 competition by refraining from and stopping bidding against each other to purchase hundreds of
2 selected properties at public auctions in Alameda County at non-competitive prices.

3 MEANS AND METHODS

4 8. For the purpose of forming and carrying out the charged combination and
5 conspiracy, the defendants and co-conspirators did those things that they combined and
6 conspired to do, including, among other things:

- 7 a. agreeing not to compete to purchase selected properties at public auctions;
8 b. designating which conspirators would win selected properties at public
9 auctions;
10 c. refraining from and stopping bidding for selected properties at public
11 auctions;
12 d. purchasing selected properties at public auctions at artificially suppressed
13 prices;
14 e. negotiating, making, and receiving payoffs for agreeing not to compete
15 with co-conspirators; and
16 f. holding second, private auctions, known as "rounds," to determine the
17 payoff amounts and the conspirators who would be awarded the selected
18 properties.

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

22 TRADE AND COMMERCE

23 10. The public auctions and the business activities of the defendants and co-
24 conspirators that are the subject of this Count were within the continuous and uninterrupted flow
25 of, and substantially affected, interstate trade and commerce. For example, during the period
26 covered by this Count:

27 //

28 //

- a. substantial proceeds from the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted from locations in one state to certain beneficiaries located in other states;
- b. instructions regarding the terms of sale of properties that would be purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted and communicated by certain beneficiaries located in one state to trustees located in other states;
- c. paperwork related to the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy was sent by trustees located in one state to certain beneficiaries located in other states, notifying them of the sale of properties in which the beneficiaries held an interest; and
- d. beneficiaries included companies that operated in interstate commerce.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Count was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

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

COUNTS TWO AND THREE: Mail Fraud 18 U.S.C. § 1341 (Alameda County)

The Grand Jury further charges that:

SCHEME TO DEFRAUD

12. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein as if fully set forth in these Counts.

13. Beginning as early as June 2007 and continuing until in or about January 2011, the exact dates being unknown to the Grand Jury, in Alameda County in the Northern District of California, the defendants, JOHN SHIELLS and MIGUEL DE SANZ, and others known and unknown to the Grand Jury, did knowingly and with intent to defraud, devise and participate in a scheme and artifice to defraud beneficiaries and to obtain money and property from beneficiaries by means of materially false and fraudulent pretenses, representations, and promises, and, for

//

1 purposes of executing such scheme, did use and knowingly cause to be used the United States
2 mail and private or commercial interstate carriers.

3 14. The purpose of the scheme was to fraudulently acquire title to hundreds of
4 selected properties sold at public auctions in Alameda County and to divert money to co-
5 schemers that would have gone to beneficiaries.

6 MEANS AND METHODS OF THE SCHEME TO DEFRAUD

7 15. For the purpose of forming and carrying out the charged scheme to defraud, the
8 defendants and co-schemers did those things that they schemed to do, including, among other
9 things:

- 10 a. holding second, private auctions, known as "rounds," to determine payoff
11 amounts and the schemers who would be awarded the selected properties;
12 b. making and causing to be made materially false and misleading statements
13 that trustees relied upon to distribute proceeds to beneficiaries and to
14 convey title to selected properties;
15 c. paying co-schemers monies that otherwise would have gone to
16 beneficiaries;
17 d. concealing rounds and payoffs from trustees and beneficiaries; and
18 e. causing the suppressed purchase prices to be reported and paid to
19 beneficiaries.

20 USE OF THE MAILS

21 16. In order to execute the scheme and artifice to defraud, the defendants and co-
22 schemers knowingly used and caused to be used the United States Postal Service and private or
23 commercial interstate carriers.

24 17. On or about the dates and with respect to the individual defendants specified as to
25 each count set forth below, the defendants and co-schemers did knowingly cause to be delivered
26 by United States mail and private or commercial carriers, including the United States Postal
27 Service, United Parcel Service, and FedEx, the items identified in each Count below:

28 //

Count	Defendants	Approx. Date	To	From	Description
2	JOHN SHIELLS, MIGUEL DE SANZ	5/17/2010	3075 Prospect Park, Ste. 100, Rancho Cordova, California	Lender Processing Services, Inc.	Purchase Money and Auction Paperwork for 499 Estudillo Avenue, #104, San Leandro, California
3	JOHN SHIELLS, MIGUEL DE SANZ	6/2/2010	22538 Mission Blvd., Hayward, California	California Reconveyance Company	Trustee's Deed Upon Sale for 1007 41 st Street, #323, Emeryville, California

JURISDICTION AND VENUE

18. The scheme and artifice to defraud charged in these Counts was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

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

19. The following individuals are hereby indicted and made defendants on the charge contained in Count Four below:

- a. JOHN SHIELLS; and
- b. MIGUEL DE SANZ.

THE COMBINATION AND CONSPIRACY

20. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein as if fully set forth in this Count.

21. Beginning as early as July 2008 and continuing until in or about January 2011, the exact dates being unknown to the Grand Jury, the defendants, JOHN SHIELLS and MIGUEL DE SANZ, and others known and unknown to the Grand Jury, entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids to obtain hundreds of 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 Section 1 of the Sherman Act, Title 15, United States Code.

1 22. The charged combination and conspiracy consisted of a continuing agreement,
2 understanding, and concert of action among the defendants and co-conspirators to suppress
3 competition by refraining from and stopping bidding against each other to purchase hundreds of
4 selected properties at public auctions in Contra Costa County at non-competitive prices.

5 MEANS AND METHODS

6 23. For the purpose of forming and carrying out the charged combination and
7 conspiracy, the defendants and co-conspirators did those things that they combined and
8 conspired to do, including, among other things:

- 9 a. agreeing not to compete to purchase selected properties at public auctions;
10 b. designating which conspirators would win selected properties at public
11 auctions;
12 c. refraining from and stopping bidding for selected properties at public
13 auctions;
14 d. purchasing selected properties at public auctions at artificially suppressed
15 prices;
16 e. negotiating, making, and receiving payoffs for agreeing not to compete
17 with co-conspirators; and
18 f. holding second, private auctions, known as "rounds," to determine the
19 payoff amounts and the conspirators who would be awarded the selected
20 properties.

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

24 TRADE AND COMMERCE

25 25. The public auctions and the business activities of the defendants and co-
26 conspirators that are the subject of this Count were within the continuous and uninterrupted flow
27 of, and substantially affected, interstate trade and commerce. For example, during the period
28 covered by this Count:

- a. substantial proceeds from the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted from locations in one state to certain beneficiaries located in other states;
- b. instructions regarding the terms of sale of properties that would be purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted and communicated by certain beneficiaries located in one state to trustees located in other states;
- c. paperwork related to the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy was sent by trustees located in one state to certain beneficiaries located in other states, notifying them of the sale of properties in which the beneficiaries held an interest; and
- d. beneficiaries included companies that operated in interstate commerce.

JURISDICTION AND VENUE

26. The combination and conspiracy charged in this Count was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

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

COUNTS FIVE AND SIX: 18 U.S.C. § 1341 Mail Fraud (Contra Costa County)

The Grand Jury further charges that:

SCHEME TO DEFRAUD

27. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein as if fully set forth in these Counts.

28. Beginning as early as July 2008 and continuing until in or about January 2011, the exact dates being unknown to the Grand Jury, in Contra Costa County in the Northern District of California, the defendants, JOHN SHIELLS and MIGUEL DE SANZ, and others known and unknown to the Grand Jury, did knowingly and with intent to defraud, devise and participate in a scheme and artifice to defraud beneficiaries and to obtain money and property from beneficiaries by means of materially false and fraudulent pretenses, representations, and promises, and, for

//

1 purposes of executing such scheme, did use and knowingly cause to be used the United States
2 mail and private or commercial interstate carriers.

3 29. The purpose of the scheme was to fraudulently acquire title to hundreds of
4 selected properties sold at public auctions in Contra Costa County and to divert money to co-
5 schemers that would have gone to beneficiaries.

6 MEANS AND METHODS OF THE SCHEME TO DEFRAUD

7 30. For the purpose of forming and carrying out the charged scheme to defraud, the
8 defendants and co-schemers did those things that they schemed to do, including, among other
9 things:

- 10 a. holding second, private auctions, known as "rounds," to determine payoff
11 amounts and the schemers who would be awarded the selected properties;
- 12 b. making and causing to be made materially false and misleading statements
13 that trustees relied upon to distribute proceeds to beneficiaries and to
14 convey title to selected properties;
- 15 c. paying co-schemers monies that otherwise would have gone to
16 beneficiaries;
- 17 d. concealing rounds and payoffs from trustees and beneficiaries; and
- 18 e. causing the suppressed purchase prices to be reported and paid to
19 beneficiaries.

20 USE OF THE MAILS

21 31. In order to execute the scheme and artifice to defraud, the defendants and co-
22 schemers knowingly used and caused to be used the United States Postal Service and private or
23 commercial interstate carriers.

24 32. On or about the dates and with respect to the individual defendants specified as to
25 each count set forth below, the defendants and co-schemers did knowingly cause to be delivered
26 by United States mail and private or commercial carriers, including the United States Postal
27 Service, United Parcel Service, and FedEx, the items identified in each Count below:

28 //

Count	Defendants	Approx. Date	To	From	Description
5	JOHN SHIELLS, MIGUEL DE SANZ	11/30/2009	22538 Mission Blvd., Hayward, California	NDEX West, L.L.C.	Trustee's Deed Upon Sale for 121 Poplar Court, Hercules, California
6	JOHN SHIELLS, MIGUEL DE SANZ	12/22/2009	22538 Mission Blvd., Hayward, California	California Reconveyance Company	Trustee's Deed Upon Sale for 2472 Millstream Lane, San Ramon, California

JURISDICTION AND VENUE

33. The scheme and artifice to defraud charged in these Counts was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

COUNT SEVEN: 15 U.S.C. § 1 – Bid Rigging (San Francisco County)

The Grand Jury further charges that:

34. The following individuals are hereby indicted and made defendants on the charges stated in Count Seven below:

- a. JOHN SHIELLS; and
- b. MIGUEL DE SANZ.

THE COMBINATION AND CONSPIRACY

35. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein as if fully set forth in this Count.

36. Beginning as early as November 2008 and continuing until in or about January 2011, the exact dates being unknown to the Grand Jury, the defendants, JOHN SHIELLS and MIGUEL DE SANZ, and others known and unknown to the Grand Jury, entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids to obtain dozens of selected properties offered at public auctions in San Francisco County in the

1 Northern District of California, in unreasonable restraint of interstate trade and commerce, in
2 violation of Section 1 of the Sherman Act, Title 15, United States Code.

3 37. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among the defendants and co-conspirators to suppress
5 competition by refraining from and stopping bidding against each other to purchase dozens of
6 selected properties at public auctions in San Francisco County at non-competitive prices.

7 MEANS AND METHODS

8 38. For the purpose of forming and carrying out the charged combination and
9 conspiracy, the defendants and co-conspirators did those things that they combined and
10 conspired to do, including, among other things:

- 11 a. agreeing not to compete or to stop competing to purchase selected
12 properties at public auctions in returns for payoffs;
13 b. designating which conspirators would win selected properties at public
14 auctions;
15 c. refraining from or stopping bidding for selected properties at public
16 auctions; and,
17 d. purchasing selected properties at public auctions at artificially suppressed
18 prices.

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

22 TRADE AND COMMERCE

23 40. The public auctions and the business activities of the defendants and co-
24 conspirators that are the subject of this Count were within the continuous and uninterrupted flow
25 of, and substantially affected, interstate trade and commerce. For example, during the period
26 covered by this Count:

27 //

28 //

- a. substantial proceeds from the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted from locations in one state to certain beneficiaries located in other states;
- b. instructions regarding the terms of sale of properties that would be purchased by the conspirators pursuant to the bid-rigging conspiracy were transmitted and communicated by certain beneficiaries located in one state to trustees located in other states;
- c. paperwork related to the sale of properties purchased by the conspirators pursuant to the bid-rigging conspiracy was sent by trustees located in one state to certain beneficiaries located in other states, notifying them of the sale of properties in which the beneficiaries held an interest; and
- d. beneficiaries included companies that operated in interstate commerce.

JURISDICTION AND VENUE

41. The combination and conspiracy charged in this Count was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

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

COUNTS EIGHT THROUGH TEN: 18 U.S.C. § 1341 – Mail Fraud (San Francisco County)

The Grand Jury further charges that:

SCHEME TO DEFRAUD

42. Paragraphs 1 through 3 of this Indictment are re-alleged and incorporated herein as if fully set forth in these Counts.

43. Beginning as early as November 2008 and continuing until on or about January 11, 2011, the exact dates being unknown to the Grand Jury, in San Francisco County in the Northern District of California, the defendants, JOHN SHIELLS and MIGUEL DE SANZ, and others known and unknown to the Grand Jury, did knowingly and with intent to defraud, devise and participate in a scheme and artifice to defraud beneficiaries and to obtain money and property from beneficiaries by means of materially false and fraudulent pretenses,

1 representations, and promises, and for purposes of executing such scheme, did use and
2 knowingly cause to be used the United States mail and private or commercial interstate carriers.

3 44. The purpose of the scheme was to fraudulently acquire title to dozens of selected
4 properties sold at public auctions in San Francisco County and to divert money to co-schemers
5 that would have gone to beneficiaries.

6 MEANS AND METHODS OF THE SCHEME TO DEFRAUD

7 45. For the purpose of forming and carrying out the charged scheme to defraud, the
8 defendants and co-schemers did those things that they schemed to do, including, among other
9 things:

- 10 a. paying co-schemers monies that otherwise would have gone to
11 beneficiaries;
12 b. taking steps to conceal the fact that monies were diverted from
13 beneficiaries to co-schemers;
14 c. making and causing to be made materially false and misleading statements
15 that trustees relied upon to distribute proceeds to beneficiaries and to
16 convey title to selected properties; and
17 d. causing the suppressed purchase prices to be reported and paid to
18 beneficiaries.

19 USE OF THE MAILS

20 46. In order to execute the scheme and artifice to defraud, the defendants and co-
21 schemers knowingly used and caused to be used the United States Postal Service and private or
22 commercial interstate carriers.

23 47. On or about the dates and with respect to the individual defendants specified as to
24 each count set forth below, the defendants and co-schemers did knowingly cause to be delivered
25 by United States mail and private or commercial carriers, including the United States Postal
26 Service, United Parcel Service, and FedEx, the items identified in each Count below:

27 //

28 //

Count	Defendants	Approx. Date	To	From	Description
8	JOHN SHIELLS, MIGUEL DE SANZ	1/15/2010	22538 Mission Blvd., Hayward, California	California Reconveyance Company	Trustee's Deed Upon Sale for 609 Excelsior Avenue, San Francisco, California
9	JOHN SHIELLS, MIGUEL DE SANZ	2/25/2010	2300 Bridgeway, Sausalito, California	T.D. Service Company	Trustee's Deed Upon Sale for 842 Peru Street, San Francisco, California
10	JOHN SHIELLS, MIGUEL DE SANZ	5/19/2010	22538 Mission Blvd., Hayward, California	Regional Trustee Services Corp.	Trustee's Deed Upon Sale for 80 Collingwood Street, #302, San Francisco, California

JURISDICTION AND VENUE

48. The scheme and artifice to defraud charged in these Counts was carried out, in part, in the Northern District of California, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1341.

FORFEITURE ALLEGATION: 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)

49. Paragraphs 1 through 3, paragraphs 12 through 18, paragraphs 27 through 33, and paragraphs 42 through 48 are hereby re-alleged as if fully set forth herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

50. Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), upon conviction of the offenses alleged in Counts Two, Three, Five, Six, Eight, Nine, and Ten of this Indictment, each defendant so convicted shall be jointly and severally liable to forfeit to the United States any property constituting, or derived from, proceeds obtained directly or indirectly from the scheme and artifice to defraud alleged in said Counts.

//

1 51. If, as a result of any act or omission of the defendants, any of said property:

- 2 a. cannot be located upon the exercise of due diligence;
3 b. has been transferred or sold to, or deposited with, a third party;
4 c. has been placed beyond the jurisdiction of the Court;
5 d. has been substantially diminished in value; or
6 e. has been commingled with other property that cannot be divided
7 without difficulty,

8 any and all interest that the defendants have in any other property, up to the value of the property
9 described in Paragraph 50, above, shall be forfeited to the United States pursuant to Title 21,
10 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section
11 2461(c).

12
13 Dated: 11-19-2014

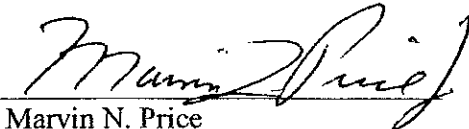
A TRUE BILL.

14
15 

16 Brent Snyder
17 Deputy Assistant Attorney General



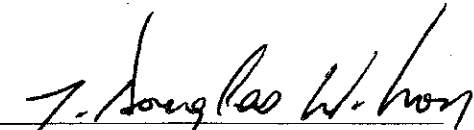
FOREPERSON

18
19 

20 Marvin N. Price
21 Director of Criminal Enforcement
22 United States Department of Justice
Antitrust Division



Marc Siegel
Chief, San Francisco Office

23
24 

25 Brian J. Stretch
26 Attorney for the United States
27 Northern District of California
28 Acting Under Authority Conferred
by 28 U.S.C. § 515



E. Kate Patchen, Assistant Chief
David J. Ward, Trial Attorney
Albert B. Sambat, Trial Attorney
Manish Kumar, Trial Attorney
United States Department of Justice
Antitrust Division |