WILLIAM J. BAER
Assistant Attorney General
ANNA TRYON PLETCHER
TAI S. MILDER
MAY LEE HEYE
KELSEY C. LINNETT
Trial Attorneys
U.S. Department of Justice
Antitrust Division
450 Golden Gate Avenue, Room 10-0101
San Francisco, California 94102-3478
Telephone: (415) 436-6660

FILED
MAY 8 2013
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. ANDREW B. KATAKIS, DONALD M. PARKER, ANTHONY B. JOACHIM, and W. THEODORE LONGLEY, Defendants.	No. 2:11-CR-0511-WBS VIOLATIONS: 15 U.S.C. § 1 - Bid Rigging; 18 U.S.C. § 1349 - Conspiracy to Commit Mail Fraud; 18 U.S.C. § 1519 - Destruction, Alteration, or Falsification of Records in a Federal Investigation.

SUPERSEDING INDICTMENT

COUNT ONE: [15 U.S.C. § 1 - Bid Rigging]

The Grand Jury charges:

ANDREW B. KATAKIS,
DONALD M. PARKER,
ANTHONY B. JOACHIM, and
W. THEODORE LONGLEY,

defendants herein, as follows:

BACKGROUND

1. At all times relevant to this Indictment, when California homeowners defaulted on their mortgages, mortgage holders could institute foreclosure proceedings and sell the properties through nonjudicial 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 county 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 and other holders of debt secured by the property (collectively, "beneficiaries").

2. At all times relevant to this Indictment, defendant ANDREW B. KATAKIS, a resident of Danville, California, through agents and entities that he controlled, including California Equity Management Group Inc. ("CEMG") and Lenders Financial Group LLC, purchased real estate at public auctions in San Joaquin County.

3. At all times relevant to this Indictment, defendant DONALD M. PARKER, a resident of Valley Springs, California, purchased real estate at public auctions in San Joaquin County.

4. At all times relevant to this Indictment, defendant ANTHONY B. JOACHIM, a resident of Stockton, California, purchased real estate at public auctions in San Joaquin County.

5. At all times relevant to this Indictment, defendant W. THEODORE LONGLEY, a resident of Roseville, California, was an auctioneer or "crier" who conducted public real estate auctions in San Joaquin County.

6. Various corporations and individuals, not defendants in this Indictment, participated as coconspirators in the offense charged herein and performed acts and made statements in furtherance of them.

THE COMBINATION AND CONSPIRACY

7. Beginning at least as early as in or about September 2008, and continuing until as late as in or about October 2009, the defendants, ANDREW B. KATAKIS, DONALD M. PARKER, ANTHONY B. JOACHIM, W. THEODORE LONGLEY, 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 selected properties offered at public auctions in San Joaquin County in the Eastern District of California, in unreasonable restraint of interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

8. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and coconspirators to suppress competition by agreeing to refrain from bidding against each other to purchase selected properties at public auctions in San Joaquin County.

9. The defendant W. THEODORE LONGLEY aided, abetted, counseled, commanded, induced, and procured the combination and conspiracy charged in this Count and willfully caused others to perform acts and make statements in furtherance of the charged combination and conspiracy.

MEANS AND METHODS OF THE DEFENDANTS

10. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and

coconspirators utilized various means and methods, including, among other things:

a. agreeing not to compete to purchase selected properties at public auctions in San Joaquin County;

b. designating which conspirator would bid for the selected properties at the public auctions;

c. refraining from bidding for the selected properties at the public auctions; and

d. making payoffs to and receiving payoffs from one another in return for refraining from bidding at the public auctions.

TRADE AND COMMERCE

11. During the period covered by this Indictment, the business activities of the defendants and coconspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce. For example, beneficiaries located in states other than California received proceeds from the public auctions that were subject to the bid-rigging conspiracy.

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Count were formed in and carried out, in part, within the Eastern District of California, within the five years preceding the return of this Indictment.

All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code, Section 2.

COUNT TWO: [18 U.S.C. § 1349 - Conspiracy to Commit Mail Fraud]

The Grand Jury further charges:

ANDREW B. KATAKIS,
DONALD M. PARKER,
ANTHONY B. JOACHIM, and
W. THEODORE LONGLEY,

defendants herein, as follows:

1. Paragraphs one through six of Count One of the Indictment are realleged and incorporated herein, as if fully set forth.

THE CONSPIRACY TO DEFRAUD

2. Beginning at least as early as in or about September 2008, and continuing until as late as in or about October 2009, the defendants, ANDREW B. KATAKIS, DONALD M. PARKER, ANTHONY B. JOACHIM, W. THEODORE LONGLEY, 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 material scheme and artifice to defraud beneficiaries and to obtain from beneficiaries money and property by means of materially false and fraudulent pretenses, representations, and promises.

3. The objects of the conspiracy were to fraudulently acquire title to selected properties sold at public auctions in San Joaquin County at a lower price and to divert money to defendants and coconspirators that should have gone to the beneficiaries.

4. The defendant W. THEODORE LONGLEY aided, abetted, counseled, commanded, induced, and procured the conspiracy

charged in this Count and willfully caused others to perform acts and make statements in furtherance of the charged conspiracy.

MEANS AND METHODS OF THE DEFENDANTS

5. For the purpose of forming and carrying out the charged conspiracy, the defendants and coconspirators utilized various means and methods, including, among other things:

a. agreeing to divert funds from the beneficiaries to the conspirators;

b. arranging for a designated conspirator to purchase selected properties at public auctions at lower, noncompetitive prices;

c. making payoffs to and receiving payoffs from one another using monies that would have gone to beneficiaries;

d. in some instances, holding private auctions, frequently referred to as "rounds" or "round robins," open only to members of the conspiracy, to bid for selected properties that the designated conspirators purchased at the public auctions;

e. distributing, based on an agreed-upon formula, the difference between the highest bids submitted at the public auctions and the highest bids submitted at the round robins as payoffs to the conspirators participating in the rounds;

f. allowing the conspirators who submitted the highest bids at the round robins to acquire title to the selected properties; and

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

making and causing to be made 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.

6. For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and coconspirators knowingly used and caused to be used the United States Postal Service and private or commercial interstate carriers. For example, Trustee's Deeds Upon Sale and related documents were sent to conspirators through the United States mail and private or commercial interstate carriers. Properties that were included in the scheme, and for which such mailings were made, included:

PROPERTY ADDRESS	SALE DATE	MAILING
2564 Keyser Dr., Stockton, CA	7/24/09	Trustee's Deed Upon Sale mailed to PARKER
1434 Mariposa Way, Lodi, CA	7/30/09	Trustee's Deed Upon Sale mailed to agent and entity controlled by KATAKIS
3022 Stefano Dr., Stockton, CA	8/25/09	Trustee's Deed Upon Sale mailed to PARKER
4315 Legacy Ct., Stockton, CA	8/25/09	Trustee's Deed Upon Sale mailed to JOACHIM
2126 Bartram Run Way, Stockton, CA	9/16/09	Trustee's Deed Upon Sale mailed to agent and entity controlled by KATAKIS

All in violation of Title 18, United States Code, Sections 1349 and 2.

COUNT THREE: [18 U.S.C. § 1519 - Destruction, Alteration, or Falsification of Records in a Federal Investigation]

The Grand Jury further charges:

ANDREW B. KATAKIS

defendant herein, as follows:

1. Paragraphs one through six and ten of Count One and paragraph five of Count Two of the Indictment are realleged and incorporated herein, as if fully set forth.

2. In 2009, the United States Department of Justice began investigating bid rigging and fraud conspiracies at public auctions in San Joaquin County.

3. In connection with this investigation, on or about August 27, 2010, a federal grand jury in the Eastern District of California issued a subpoena to Oak Valley Community Bank ("Bank") in Oakdale, California. The subpoena required the Bank to produce to the grand jury records related to KATAKIS and KATAKIS dba California Equity Management Group, Inc.

4. On or about September 1, 2010, the Bank sent KATAKIS a letter informing him that the Bank had been served with a U.S. Department of Justice Grand Jury Subpoena ordering the Bank to disclose certain information about him. The letter included a copy of the subpoena.

5. In or about September 2010, in the Eastern District of California, defendant ANDREW KATAKIS knowingly altered, destroyed, concealed, and covered up electronic records and documents related to the conspiracies with the intent to impede, obstruct, and influence an investigation within the jurisdiction of the United States Department of Justice and the Federal Bureau of Investigation. Specifically, defendant KATAKIS

deleted and caused others to delete electronic records and documents. KATAKIS also installed and used and caused others to install and use a software program that overwrote deleted electronic records and documents so that they could not be viewed or recovered.

All in violation of Title 18, United States Code, Section 1519.

Dated:

A TRUE BILL.

/s/ Signature on file w/AUSA

FOREPERSON

BENJAMIN B. WAGNER
United States Attorney
Eastern Dist. of California

WILLIAM J. BAER
Assistant Attorney General

SCOTT D. HAMMOND
Deputy Assistant Attorney General

ANNA TRYON PLETCHER
TAI S. MILDER
MAY LEE HEYE
KELSEY C. LINNETT
Trial Attorneys
U.S. Department of Justice
Antitrust Division

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

Andrew B. Katakis, Donald M. Parker,
Anthony B. Joachim, and W. Theodore Longley

INDICTMENT

VIOLATION(S): 15 U.S.C. § 1 - Bid Rigging; 18 U.S.C. § 1349 - Conspiracy to Commit Mail Fraud; and Destruction, Alteration, or Falsification of Records in a Federal Investigation

A true bill,

/s/ Signature on file w/AUSA

Foreman.

Filed in open court this 8 *day*

of May *, A.D. 20* 13

Clerk.

Bail, $ NO PROCESS NECESSARY - ALL defendants

GPO 863 525

DEFENDANT: **ANDREW B. KATAKIS**
DONALD M. PARKER
ANTHONY B. JOACHIM
W. THEODORE LONGLEY

COUNT ONE:

VIOLATION: 15 U.S.C. § 1 - Bid Rigging

PENALTY: Not more than 10 years imprisonment,
Fine equal to the greatest of:
(1) $1,000,000;
(2) Two times the conspirators' gross pecuniary gain;
(3) Two times the gross pecuniary loss caused to victims of the conspiracy,
3 years supervised release.

COUNT TWO:

VIOLATION: 18 U.S.C. § 1349 - Conspiracy to Commit Mail Fraud

PENALTY: Not more than 30 years imprisonment,
$1,000,000 fine,
5 years supervised release.

DEFENDANT: **ANDREW B. KATAKIS**

COUNT THREE:

VIOLATION: 18 U.S.C. § 1519 - Destruction, Alteration, or Falsification of Records in a Federal Investigation

PENALTY: Not more than 20 years imprisonment,
$250,000 fine,
3 years supervised release.

PENALTY ASSESSMENT: $100 assessment for each count