

FILED

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

16 UNITED STATES OF AMERICA

18 v.

20 PETER MCDONOUGH,

21 Defendant.

) Criminal No.

) INFORMATION

) VIOLATIONS: 15 U.S.C. § 1 –

) Bid Rigging (Count One);

) 18 U.S.C. § 1349 – Conspiracy to

) Commit Mail Fraud (Count Two)

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

24 PETER MCDONOUGH,

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 – PETER MCDONOUGH – 1

CR13-00144

1 properties through non-judicial public real estate foreclosure auctions ("public auctions"). These
2 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
3 trustee was appointed to oversee the public auctions. These public auctions usually took place at
4 or near the courthouse of the county in which the properties were located. The auctioneer, acting
5 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
6 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
7 by the property, and, in some cases, the defaulting homeowner (collectively, "beneficiaries").

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

9 THE COMBINATION AND CONSPIRACY

10 2. Beginning as early as May 2009 and continuing until in or about January 2011,
11 the defendant, PETER MCDONOUGH, and co-conspirators entered into and engaged in a
12 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
13 selected properties offered at public auctions in Alameda County in the Northern District of
14 California, in unreasonable restraint of interstate trade and commerce, in violation of the
15 Sherman Act, Title 15, United States Code, Section 1.

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

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

23 a. agreeing not to compete to purchase selected properties at public auctions
24 in Alameda County;

25 b. designating which conspirator would win the selected properties at the
26 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 – PETER MCDONOUGH – 2

1 5. Various entities and individuals, not made defendants in this Count, participated
2 as 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 (Alameda County)

16 THE CONSPIRACY

17 8. Beginning as early as May 2009 and continuing until in or about January 2011 in
18 Alameda County in the Northern District of California, the defendant, PETER MCDONOUGH,
19 and his co-conspirators did willfully and knowingly combine, conspire, and agree with each
20 other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise and
21 intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain
22 money and 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 Alameda County, to make and receive payoffs, and to divert
26 money to conspirators that would have gone to the beneficiaries.

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INFORMATION – PETER MCDONOUGH – 3

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.

4 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:

- 8 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;
- 11 c. in many other instances, holding second, private auctions at or near the
12 courthouse steps where the public auctions were held, frequently referred to as "rounds," open
13 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;
- 21 g. taking steps to conceal the fact that monies were diverted from the
22 beneficiaries to the conspirators;
- 23 h. making and causing to be made materially false and misleading statements
24 on records of public auctions that trustees relied upon to distribute proceeds from the public
25 auction to the beneficiaries and convey title to properties sold at the public auction; and
- 26 i. causing the suppressed purchase price to be reported and paid to the
27 beneficiaries.

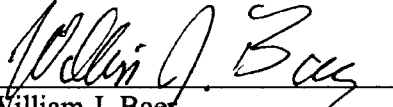
28 //

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.

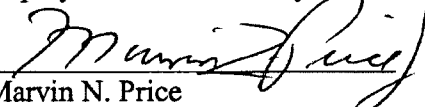
JURISDICTION AND VENUE

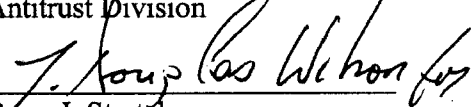
13. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

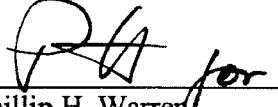
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.


William J. Baer
Assistant Attorney General

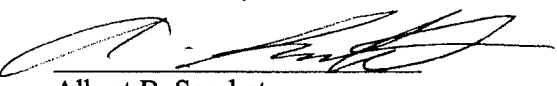

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