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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

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

CR11-00722 CW

17 UNITED STATES OF AMERICA

18 v.

19 TIMOTHY POWERS,

20 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)
)
)
)

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

22 TIMOTHY POWERS,

23 the defendant herein, as follows:

24 BACKGROUND

25 1. When California homeowners default on their mortgages, the lender or loan
26 servicer can institute foreclosure proceedings through a non-judicial public foreclosure auction.
27 These public auctions typically take place at or near the county courthouse. At the auction an
28 auctioneer sells the property to the bidder offering the highest purchase price. Proceeds from the

1 sale are then used to pay off the mortgage and other debt attached to the property. Proceeds
2 remaining from the sale are then paid to the homeowner.

3 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging

4 THE COMBINATION AND CONSPIRACY

5 2. Beginning as early as May 2009 and continuing until in or about December 2010,
6 the defendant TIMOTHY POWERS and co-conspirators entered into and engaged in a
7 combination and conspiracy to suppress and restrain competition by rigging bids to obtain title to
8 selected real estate offered at Contra Costa County public real estate foreclosure auctions in the
9 Northern District of California, in unreasonable restraint of interstate trade and commerce, in
10 violation of the Sherman Act, Title 15, United States Code, Section 1.

11 3. The charged combination and conspiracy consisted of a continuing agreement,
12 understanding, and concert of action among the defendant and co-conspirators to suppress
13 competition by agreeing to refrain from or stop bidding against each other to obtain title to
14 selected real estate offered at Contra Costa County public real estate foreclosure auctions at non-
15 competitive prices.

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

19 a. agreeing, during meetings, conversations, and communications, not to
20 compete for title to selected real estate offered at Contra Costa County public real estate
21 foreclosure auctions;

22 b. designating which conspirator would win the selected real estate at the
23 public real estate foreclosure auctions for the group of conspirators; and

24 c. refraining from or stopping bidding for the selected real estate at the
25 public real estate foreclosure auctions.

26 5. Various entities and individuals, not made defendants in this Information,
27 participated as co-conspirators in the offenses charged in this Information and performed acts
28 and made statements in furtherance of them.

INFORMATION – TIMOTHY POWERS – 2

1 TRADE AND COMMERCE

2 6. During the period covered by this Information, the business activities of the
3 defendant and co-conspirators that are the subject of this Information were within the flow of,
4 and substantially affected, interstate trade and commerce. For example, mortgage holders
5 located in states other than California received proceeds from the public real estate foreclosure
6 auctions that were subject to the bid-rigging conspiracy.

7 JURISDICTION AND VENUE

8 7. The combination and conspiracy charged in this Information was carried out, in
9 part, in the Northern District of California, within the five years preceding the filing of this
10 Information.

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

12 COUNT TWO: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud

13 THE CONSPIRACY

14 8. Beginning as early as May 2009 and continuing until in or about December 2010
15 in Contra Costa County in the Northern District of California, the defendant TIMOTHY
16 POWERS and co-conspirators did willfully and knowingly combine, conspire, and agree with
17 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
18 and intend to devise and participate in a scheme or artifice to defraud financial institutions,
19 homeowners, and others, and to obtain money and property by means of materially false and
20 fraudulent pretenses, representations, and promises.

21 9. The objects of the conspiracy were to make payoffs to obtain title to selected real
22 estate at fraudulently suppressed prices, to receive payoffs, and to divert money to
23 co-conspirators and away from the mortgage holders and others with a legal interest in select
24 properties sold at public real estate foreclosure auctions in Contra Costa County, California
25 (“mortgage holders”).

26 MEANS AND METHODS

27 The principal means and methods used to accomplish the conspiracy were as
28 follows:

1 10. For the purpose of forming and carrying out the charged combination and
2 conspiracy, the defendant and co-conspirators did those things that they combined and conspired
3 to do, including, among other things:

4 a. purchasing selected real estate at fraudulently suppressed prices;

5 b. in some instances, negotiating payoffs with one or more co-conspirators
6 not to compete;

7 c. in many other instances, holding second, private auctions, at or near the
8 courthouse steps where the public auctions were held, open only to members of the conspiracy,
9 to bid for title to the selected real estate;

10 d. awarding the selected real estate to the conspirators who submitted the
11 highest bids at the second, private auctions;

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

14 f. paying co-conspirators monies that otherwise would have gone to
15 mortgage holders, using either a predetermined formula based on the bidding at the second,
16 private auction or through direct negotiations among the co-conspirators;

17 g. taking steps to conceal both the fact that payoffs were made and the
18 amounts of the payoffs;

19 h. making and causing to be made false and misleading statements on
20 records of public auctions regarding the total purchase price of the selected real estate sold at
21 public foreclosure auctions; and

22 i. causing the fraudulently suppressed purchase price to be reported and paid
23 to the mortgage holders.

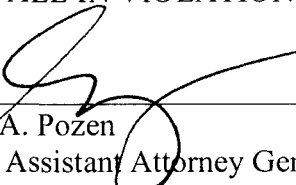
24 11. For the purpose of executing the scheme or artifice to defraud and attempting to
25 do so, the defendant and co-conspirators knowingly used and caused to be used the United States
26 Postal Service or private or commercial interstate carriers. For example, trustees used the United
27 States mail and Federal Express to transmit the Trustee's Deeds Upon Sale and other title
28

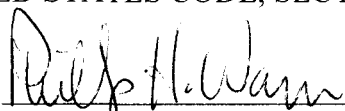
1 documents to participants in the conspiracy. These mailings were foreseeable to the defendant in
2 the ordinary course of business.


3 JURISDICTION AND VENUE

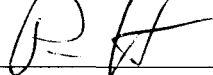
4 12. The combination, conspiracy, and agreement to violate Title 18, United States
5 Code, Section 1341 charged in this Information was carried out, in part, in the Northern District
6 of California, within the five years preceding the filing of this Information.


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

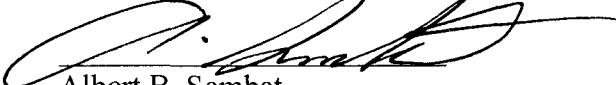
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