

FILED IN OPEN COURT
U.S.D.C. Atlanta
FEB 03 2016

James X. Witten, Clerk
By: *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ORIGINAL

UNITED STATES OF AMERICA

v.

CLIFFORD WAYNE HILL

DEFENDANT.

Criminal Indictment

No. **1 16 - CR - 051**

THE GRAND JURY CHARGES THAT:

At all times relevant to this INDICTMENT, unless otherwise stated:

Background

1. Defendant CLIFFORD HILL was a bidder at and purchased real estate at public foreclosure auctions in Gwinnett County, Georgia, which is in the Northern District of Georgia.

2. Defendant CLIFFORD HILL conducted business through a company he owned, Salesforce, Inc. in Gwinnett County, Georgia.

3. The United States experienced a financial crisis and recession. During this time, many homeowners defaulted on their home loans, resulting in the

commencement of foreclosure proceedings. To foreclose on a home, the foreclosing financial institution would typically hire a law firm to handle the foreclosure sale. The purpose of the foreclosure sale was to get the maximum amount of money from the sale to pay off the outstanding loan balance held by the foreclosing financial institution, while still protecting the interests of other lienholders and the homeowner. In Gwinnett County, these homes were sold at non-judicial public foreclosure auctions generally held on the first Tuesday of each month at or near the county courthouse.

4. During a legitimate, competitive, public foreclosure auction, participants interested in the property would compete against each other. If the bidding exceeded a minimum bid amount set by the foreclosing financial institution, the highest bidder would win title to the property. The foreclosing law firm would then disburse foreclosure auction proceeds to the foreclosing financial institution. If the proceeds exceeded the outstanding balance of the loan plus any foreclosure costs and fees, the foreclosing law firm would then disburse the remaining proceeds to any other lienholders. Once all property-related debts were satisfied, any remaining proceeds would be distributed to the homeowner. The foreclosing law firm would then prepare and distribute the documents necessary to transfer ownership of the home to the winning bidder.

Count One
15 U.S.C. § 1
(Bid Rigging)

Combination and Conspiracy

5. The Grand Jury incorporates and re-alleges Paragraphs 1 through 4 above as if fully set forth herein.

6. Beginning at least as early as December 2007 and continuing until at least March 2012, the exact dates being unknown to the Grand Jury, in the Northern District of Georgia and elsewhere, defendant CLIFFORD HILL, and others known and unknown to the Grand Jury, knowingly entered into and engaged in a combination and conspiracy to suppress and restrain competition by rigging bids for selected properties offered at public auctions in Gwinnett County, Georgia. The combination and conspiracy was an unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

7. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators to suppress competition by agreeing to refrain from bidding against each other to purchase selected properties at public foreclosure auctions in Gwinnett County.

Means and Methods

8. For the purpose of forming and carrying out the charged combination and conspiracy, Defendant and co-conspirators:
- a. Agreed not to compete, or to stop competing, against each other on the purchase of selected properties at public foreclosure auctions;
 - b. Designated which conspirator would bid for selected properties at the public foreclosure auctions;
 - c. Refrained from and stopped bidding for selected properties at public foreclosure auctions; and
 - d. Purchased selected properties at public foreclosure auctions at prices they artificially suppressed.

Trade and Commerce

9. The public auctions and the business activities of the defendant and co-conspirators that are the subject of this Count were within the continuous and uninterrupted flow of, and substantially affected, interstate trade and commerce.

For example:

- a. A substantial number of the foreclosing financial institutions were located outside the state of Georgia;
- b. Out-of-state foreclosing financial institutions sent instructions regarding the foreclosures to the law firms located in Georgia;

- c. 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 beneficiaries located in other states; and
- d. A large number of the foreclosing financial institutions operated in interstate commerce and were federally insured, federally chartered, and/or subject to federal regulation.

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

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Count Two through Eight
18 U.S.C. § 1344
(Bank Fraud)

The Scheme

10. The Grand Jury incorporates and re-alleges Paragraphs 1 through 4 above as if fully set forth herein.

11. Beginning at least as early as December 2007 and continuing until at least March 2012, the exact dates being unknown to the Grand Jury, in the Northern District of Georgia and elsewhere, defendant CLIFFORD HILL, and others known and unknown to the Grand Jury, did knowingly execute and attempt to execute a scheme and artifice (i) to defraud financial institutions, as defined by Title 18, United States Code, Sections 20 and 27, as to material matters, and (ii) to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institutions, by means of materially false or fraudulent pretenses, representations, and promises.

12. The defrauded financial institutions were one or more of the following: 1) the lender; 2) the holder of the security deed or mortgage; 3) the trustee for those invested in a security backed by loans that included the foreclosed loan; and 4) the financial institution servicing loans on behalf of: a) the lender, b) a holder of the security deed or mortgage, or c) the trustee for those invested in a security backed

by loans including the foreclosed loan. Many of these defrauded financial institutions were those defined in Title 18, United States Code, Sections 20 and 27.

13. The object of the defendant's scheme was to obtain title to properties owned by, or under the custody or control of, such financial institutions at artificially and illegally suppressed prices and to divert money to co-schemers that would have gone to financial institutions, homeowners, and others with a legal interest in the property.

Manner and Means of the Scheme

14. For the purpose of forming and carrying out the charged scheme, the defendant and co-schemers:

- a. Purchased selected properties at the public foreclosure auctions at artificially and illegally suppressed prices;
- b. Negotiated payoffs with one or more schemers in exchange for agreements not to compete at public auctions;
- c. Held secret side-auctions, or "deals," to determine the payoff amounts and to determine which schemer would be awarded a specific property;
- d. Made and received payoffs to and from each other which diverted money that otherwise would have gone to the foreclosing financial institutions, other lienholders, and homeowners;

- e. Concealed from agents or other representatives of a foreclosing financial institution, among other things, the above agreements and actions;
- f. Caused artificially suppressed purchase prices to be reported and paid to financial institutions and others with a legal interest in the rigged foreclosure properties; and
- g. Caused to be made materially false and misleading pretenses and representations to agents and representatives of the foreclosing financial institutions that, among other things, the price paid for a property at the public foreclosure auction was: 1) the result of a fair and competitive bidding process and 2) the best and highest bid.

Execution of the Scheme

15. On or about the auction dates shown below, through the approximate dates of deed filings shown below, in the Northern District of Georgia, the defendant, and others known and unknown to the grand jury, executed and attempted to execute the scheme described above to defraud the financial institutions listed below, by causing the financial institutions to deed the property listed below to defendants and co-schemers at artificially suppressed prices, based on the above described scheme:

COUNTS	PROPERTY ADDRESSES	FINANCIAL INSTITUTIONS	DATES OF AUCTION THROUGH FILING OF DEED
2	1880 Holman Road, Hoschton, GA	Bank of America, N.A.	12/04/2007- 01/02/2008
3	3840 Riversong Drive, Suwanee, GA	LaSalle Bank, N.A.	04/01/2008- 05/27/2008
4	2229 Cambridge Glen Court, Dacula, GA	Citigroup Inc. and CitiMortgage, Inc.	10/06/2009- 11/17/2009
5	Lot 3 Moore Road, Suwanee, GA	RBC Bank (USA)	12/01/2009- 02/11/2010
6	5089 Weatherstone Drive, Buford, GA	JP Morgan Chase Bank, NA	05/04/2010- 06/08/2010
7	3895 Crescent Walk Lane, Suwanee, GA	Bank of America, N.A., and BAC Home Loan Servicing, LP	10/04/2011- 11/07/2011
8	2919 Camplay Drive, Suwanee, GA	JP Morgan Chase Bank, NA	01/03/2012- 02/16/2012

18. Each of the financial institutions listed above meet the definition as set forth in Title 18, United States Code, Sections 20 and 27.

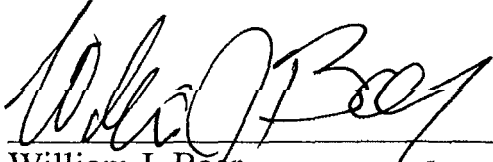
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE,
SECTIONS 1344(1) AND 1344(2).

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A TRUE BILL



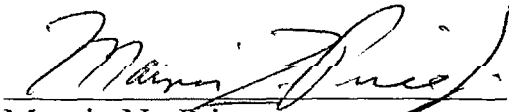
FOREPERSON



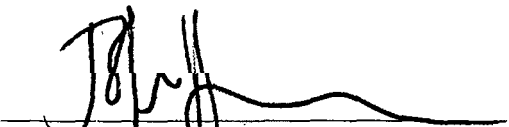
William J. Baer
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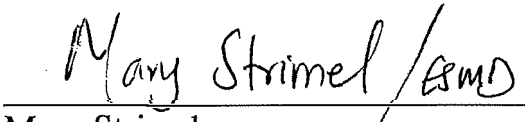
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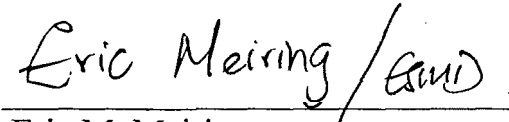
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