

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

Count One: 15 U.S.C. §1 - Bid Rigging (Counts 1 and 3)
 Count Two: 18 U.S.C. §1349 - Conspiracy to Commit Mail Fraud (Counts 2 and 4)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Maximum Terms for Counts 1 and 3: (1) 10 years prison; (2) fine of \$1 million; (3) 3 years supervised release; (4) \$200 special assessment; and (5) Restitution. Maximum Terms for Counts 2 and 4: (1) 30 years prison; (2) fine of \$1 million; (3) 5 years supervised release; (4) \$200 special assessment; and (5) Restitution

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

Gilbert Chung

DISTRICT COURT NUMBER

CR 13 069
DEFENDANT**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

1) ☒ If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction

☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

FILED
2013 FEB -5 A 9 41
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SI

CR 13 069

UNITED STATES OF AMERICA

v.

GILBERT CHUNG,

Defendant.

) Original No. 13 069
)
) **INFORMATION**
)
) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Counts One & Three);
) 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud (Counts Two &
) Four)
)
)
)

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

GILBERT CHUNG,

the defendant herein, as follows:

BACKGROUND

1. At all times relevant to this Information, when California homeowners defaulted on their mortgages, mortgage holders could institute foreclosure proceedings and sell the

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 (San Francisco County)

9 THE COMBINATION AND CONSPIRACY

10 2. Beginning as early as February 2010 and continuing until in or about September
11 2010, the defendant GILBERT CHUNG 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 San Francisco 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 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 San Francisco County at non-competitive prices.

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

23 a. agreeing not to compete to purchase selected properties at public auctions
24 in San Francisco 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.

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 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 (San Francisco County)

16 THE CONSPIRACY

17 8. Beginning as early as February 2010 and continuing until in or about September
18 2010 in San Francisco County in the Northern District of California, the defendant GILBERT
19 CHUNG and co-conspirators did willfully and knowingly combine, conspire, and agree with
20 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
21 and intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to
22 obtain money and property from beneficiaries by means of materially false and fraudulent
23 pretenses, representations, and promises.

24 9. The objects of the conspiracy were to fraudulently acquire title to selected
25 properties sold at public auctions in San Francisco County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

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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 co-conspirators did those things that they conspired to do, including, among other
7 things:

- 8 a. negotiating payoffs with one or more conspirators not to compete;
9 b. in some instances, falsely participating in foreclosure auctions to create
10 the appearance that they were bidding competitively when, in fact, they were not;
11 c. purchasing the selected properties at public auctions at suppressed prices;
12 d. paying conspirators monies that otherwise would have gone to the
13 beneficiaries;
14 e. taking steps to conceal the fact that monies were diverted from the
15 beneficiaries to the conspirators;
16 f. making and causing to be made materially false and misleading statements
17 on records of public auctions that trustees relied upon to distribute proceeds from the public
18 auction to the beneficiaries and convey title to properties sold at the public auction; and
19 g. causing the suppressed purchase price to be reported and paid to the
20 beneficiaries.

21 12. For the purpose of executing the scheme and artifice to defraud and attempting to
22 do so, the defendant and co-conspirators knowingly used and caused to be used the United States
23 Postal Service and private or commercial interstate carriers. For example, trustees used the
24 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds
25 Upon Sale and other title documents to participants in the conspiracy. These mailings were
26 foreseeable to the defendant in the ordinary course of business.

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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.

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

THE COMBINATION AND CONSPIRACY

14. Beginning as early as January 2010 and continuing until in or about December 2010, the defendant GILBERT CHUNG and co-conspirators 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 Mateo County in the Northern District of California, in unreasonable restraint of interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

15. 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 or stop bidding against each other to purchase selected properties at public auctions in San Mateo County at non-competitive prices.

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

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

b. designating which conspirator would win selected properties at the public auctions for the group of conspirators; and

c. refraining from or stopping bidding for the selected properties at the public auctions.

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1 17. 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 18. During the period covered by this Information, the business activities of the
6 defendant and 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 19. 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 FOUR: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (San Mateo County)

16 THE CONSPIRACY

17 20. Beginning as early as January 2010 and continuing until in or about December
18 2010 in San Mateo County in the Northern District of California, the defendant GILBERT
19 CHUNG and co-conspirators did willfully and knowingly combine, conspire, and agree with
20 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
21 and intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to
22 obtain money and property from beneficiaries by means of materially false and fraudulent
23 pretenses, representations, and promises.

24 21. The objects of the conspiracy were to fraudulently acquire title to selected
25 properties sold at public auctions in San Mateo County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

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1 22. 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 23. For the purpose of forming and carrying out the charged conspiracy, the
6 defendant and co-conspirators did those things that they conspired to do, including, among other
7 things:

- 8 a. negotiating payoffs with one or more conspirators not to compete;
9 b. purchasing selected properties at public auctions at suppressed prices;
10 c. paying conspirators monies that otherwise would have gone to the
11 beneficiaries;
12 d. taking steps to conceal the fact that monies were diverted from the
13 beneficiaries to the conspirators;
14 e. making and causing to be made materially false and misleading statements
15 on records of the public auctions that trustees relied upon to distribute proceeds from the public
16 auctions to the beneficiaries and convey title to properties sold at the public auctions; and
17 f. causing suppressed purchase prices to be reported and paid to the
18 beneficiaries.

19 24. For the purpose of executing the scheme and artifice to defraud and attempting to
20 do so, the defendant and co-conspirators knowingly used and caused to be used the United States
21 Postal Service and private or commercial interstate carriers. For example, trustees used the
22 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds
23 Upon Sale and other title documents to participants in the conspiracy. These mailings were
24 foreseeable to the defendant in the ordinary course of business.

25 //

26 //

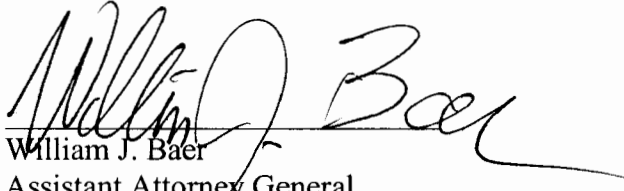
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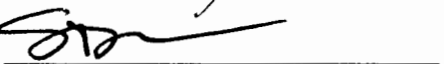
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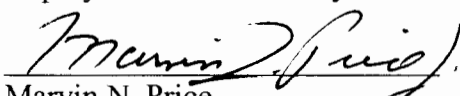
JURISDICTION AND VENUE

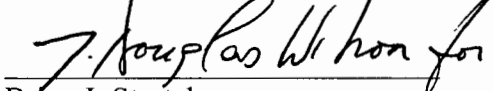
25. The combination, conspiracy, and agreement to violate Title 18, United States Code, Section 1341 charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

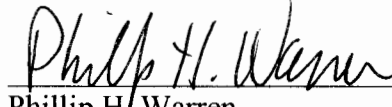
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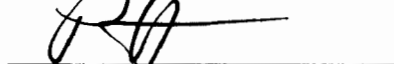

William J. Baer
Assistant Attorney General

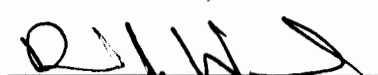

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Antitrust Division

PENALTY SHEET

Individual: Gilbert Chung

15 U.S.C. § 1 – Bid Rigging (Counts 1 and 3)

Maximum Penalties:

1. A term of imprisonment of 10 years
2. A fine of \$1 million, or two times the gross gain or loss, whichever is greater
3. A period of supervised release of not more than 3 years
4. \$100 special assessment per count (\$200)
5. Restitution

18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Counts 2 and 4)

Maximum Penalties:

1. A term of imprisonment of 30 years
2. A fine of \$1 million
3. A period of supervised release of not more than 5 years
4. \$100 special assessment per count (\$200)
5. Restitution

United States District Court
Northern District of California

FILED

2013 FEB -5 A 9:41

CRIMINAL COVER SHEET

CR 13

069

SI

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case. Please place this form on top of the Defendant Information Form.

Case Name:

USA v. Gilbert Chung

Case Number:

Total Number of Defendants:

1



2-7

8 or more

Is This Case Under Seal?

Yes

No



Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes

No



Venue (Per Crim. L.R. 18-1):

SF



OAK

SJ

Is this a death-penalty-eligible RICO Act gang case?

Yes

No



Assigned AUSA (Lead Attorney):

David Ward

Comments:

Date Submitted:

February ____, 2013