

AO 257 (Rev. 6/78)

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) Petty
 Count Two: 18 U.S.C. §1349 - Conspiracy to Commit Mail Fraud (Counts 2 and 4) 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
 OAKLAND DIVISION

DEFENDANT - U.S.

▶ CHUNG LI CHENG, a/k/a GEORGE CHENG

DISTRICT COURT NUMBER

CR14-00593

FILED
 NOV 24 2014
 CLARENCE W. WICKING
 U.S. DISTRICT COURT
 DISTRICT OF CALIFORNIA
 OAKLAND

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

Name and Office of Person Furnishing Information on this form Micah L. Wyatt, Dept. of Justice

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

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

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

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments:

FILED

C

2014 NOV 24 A 10:13

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

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11 Attorneys for the United States

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 UNITED STATES OF AMERICA

16 v.

17 CHUNG LI CHENG, a/k/a GEORGE CHENG,
18 Defendant.

19) Criminal No. **CR14-00593**
20)
21) **INFORMATION**
22)
23) VIOLATIONS: 15 U.S.C. § 1 –
24) Bid Rigging (Counts One & Three);
25) 18 U.S.C. § 1349 – Conspiracy to
26) Commit Mail Fraud (Counts Two &
27) Four); 18 U.S.C. § 981(a)(1)(C) and 28
28) U.S.C. § 2461(c) – Forfeiture
29)
30)

JST

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

32 CHUNG LI CHENG,

33 the defendant herein, as follows:

34 BACKGROUND

35 1. At all times relevant to this Information, when California homeowners defaulted
36 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the
37 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
38 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

1 or near the courthouse of the county in which the properties were located. The auctioneer, acting
2 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
3 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
4 by the property, and, in some cases, the defaulting homeowner (collectively, “beneficiaries”).

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

6 THE COMBINATION AND CONSPIRACY

7 2. Beginning as early as May 2008 and continuing until in or about January 2011,
8 the defendant, CHUNG LI CHENG, and co-conspirators entered into and engaged in a
9 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
10 selected properties offered at public auctions in Alameda County in the Northern District of
11 California, in unreasonable restraint of interstate trade and commerce, in violation of the
12 Sherman Act, Title 15, United States Code, Section 1.

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

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

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

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

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

26 5. Various entities and individuals, not made defendants in this Count, participated
27 as conspirators in the offense charged and performed acts and made statements in furtherance
28 thereof.

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, beneficiaries located in
5 states other than California received proceeds from the public auctions that were subject to the
6 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 (Alameda County)

13 THE CONSPIRACY

14 8. Beginning as early as May 2008 and continuing until in or about January 2011 in
15 Alameda County in the Northern District of California, the defendant, CHUNG LI CHENG, and
16 co-conspirators did willfully and knowingly combine, conspire, and agree with each other to
17 violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to
18 devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain money and
19 property from beneficiaries by means of materially false and fraudulent pretenses,
20 representations, and promises.

21 9. The objects of the conspiracy were to fraudulently acquire title to selected
22 properties sold at public auctions in Alameda County, to make and receive payoffs, and to divert
23 money to conspirators that would have gone to the beneficiaries.

24 10. Various entities and individuals, not made defendants in this Count, participated
25 as co-conspirators in the offense charged and performed acts and made statements in furtherance
26 thereof.

27 MEANS AND METHODS

28 11. For the purpose of forming and carrying out the charged conspiracy, the

1 defendant and co-conspirators did those things that they conspired to do, including, among other
2 things:

- 3 a. purchasing selected properties at public auctions at suppressed prices;
- 4 b. in some instances, negotiating payoffs with one or more conspirators not
5 to compete;
- 6 c. in many other instances, holding second, private auctions, at or near the
7 courthouse steps where the public auctions were held, frequently referred to as “rounds,” open
8 only to members of the conspiracy, to bid for title to the selected properties;
- 9 d. awarding the selected properties to the conspirators who submitted the
10 highest bids at the second, private auctions;
- 11 e. transferring the right to title to the selected properties into the names of the
12 conspirators who submitted the highest bids at the second, private auctions;
- 13 f. paying conspirators monies that otherwise would have gone to
14 beneficiaries, using either a predetermined formula based on the bidding at the second, private
15 auction or through direct negotiations among the conspirators;
- 16 g. taking steps to conceal the fact that monies were diverted from the
17 beneficiaries to the conspirators;
- 18 h. making and causing to be made materially false and misleading statements
19 on records of public auctions that trustees relied upon to distribute proceeds from the public
20 auction to the beneficiaries and convey title to properties sold at the public auction; and
- 21 i. causing the suppressed purchase price to be reported and paid to the
22 beneficiaries.

23 12. For the purpose of executing the scheme and artifice to defraud and attempting to
24 do so, the defendant and co-conspirators knowingly used and caused to be used the United States
25 Postal Service and private or commercial interstate carriers. For example, trustees used the
26 United States mail and private or commercial interstate carriers to transmit the Trustee’s Deeds
27 Upon Sale and other title documents to participants in the conspiracy. These mailings were
28 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.

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

THE COMBINATION AND CONSPIRACY

14. Beginning as early as August 2008 and continuing until in or about January 2011, the defendant, CHUNG LI CHENG, 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 Contra Costa 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 Contra Costa 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 Contra Costa County;

b. designating which conspirator would win the 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 Court, 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 (Contra Costa County)

16 THE CONSPIRACY

17 20. Beginning as early as August 2008 and continuing until in or about January 2011
18 in Contra Costa County in the Northern District of California, the defendant, CHUNG LI
19 CHENG, 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 Contra Costa County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

27 22. Various entities and individuals, not made defendants in this Court, participated

28 //

1 as co-conspirators in the offense charged and performed acts and made statements in furtherance
2 thereof.

3 MEANS AND METHODS

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

- 7 a. purchasing selected properties at public auctions at suppressed prices;
- 8 b. in some instances, negotiating payoffs with one or more conspirators not
9 to compete;
- 10 c. in many other instances, holding second, private auctions, at or near the
11 courthouse steps where the public auctions were held, frequently referred to as "rounds," open
12 only to members of the conspiracy, to bid for title to the selected properties;
- 13 d. awarding the selected properties to the conspirators who submitted the
14 highest bids at the second, private auctions;
- 15 e. transferring the right to title to the selected properties into the names of the
16 conspirators who submitted the highest bids at the second, private auctions;
- 17 f. paying conspirators monies that otherwise would have gone to
18 beneficiaries, using either a predetermined formula based on the bidding at the second, private
19 auction or through direct negotiations among the conspirators;
- 20 g. taking steps to conceal the fact that monies were diverted from the
21 beneficiaries to the conspirators;
- 22 h. making and causing to be made materially false and misleading statements
23 on records of public auctions that trustees relied upon to distribute proceeds from the public
24 auction to the beneficiaries and convey title to properties sold at the public auction; and
- 25 i. causing the suppressed purchase price to be reported and paid to the
26 beneficiaries.

27 24. For the purpose of executing the scheme and artifice to defraud and attempting to
28 do so, the defendant and co-conspirators knowingly used and caused to be used the United States

1 Postal Service and private or commercial interstate carriers. For example, trustees used the
2 United States mail and private or commercial interstate carriers to transmit the Trustee's Deeds
3 Upon Sale and other title documents to participants in the conspiracy. These mailings were
4 foreseeable to the defendant in the ordinary course of business.

5 JURISDICTION AND VENUE

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

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

10 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

11 26. Paragraph 1 and Paragraphs 8 through 13 and Paragraphs 20 through 25 are
12 hereby re-alleged as if fully set forth here for the purpose of alleging forfeiture pursuant to the
13 provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States
14 Code, Section 2461(c).

15 27. Upon conviction of the offenses alleged in Counts Two and Four of this
16 Information, the defendant:

17 CHUNG LI CHENG,

18 shall forfeit to the United States pursuant to Title 18, United State Code, Section 981(a)(1)(C)
19 and Title 28, United States Code, Section 2461(c), any property constituting, or derived from,
20 proceeds the defendant obtained directly or indirectly as the result of said violation, including a
21 monetary forfeiture judgment in the amount of \$209,587.

22 28. If, as a result of any act or omission of the defendant, any of said property:

- 23 a. cannot be located upon the exercise of due diligence;
24 b. has been transferred or sold to, or deposited with, a third party;
25 c. has been placed beyond the jurisdiction of the Court;
26 d. has been substantially diminished in value; or
27 e. has been commingled with other property which cannot be divided
28 without difficulty,

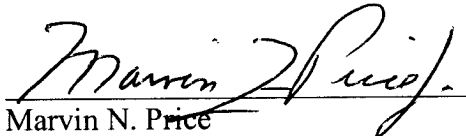
1 any and all interest that the defendant has in any other property, up to the value of the property
2 described in Paragraph 15 above, shall be forfeited to the United States pursuant to Title 21,
3 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section
4 2461(c).

5
6 

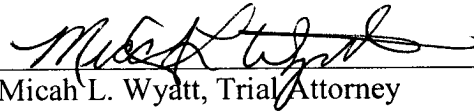
7 Brent Snyder
8 Deputy Assistant Attorney General
9 United States Department of Justice
10 Antitrust Division

11 

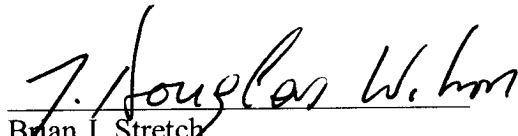
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26 Bryan J. Stretch
27 Attorney for the United States
28 Acting Under Authority Conferred
by 28 U.S.C. § 515