

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 located at
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEFENDANT - U.S.

SU CHU CHOU CHENG, a/k/a TERRY CHENG

DISTRICT COURT NUMBER

CR14-00594

FILED
NOV 24 2014
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
FR

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 re prosecution 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)

DEFENDANT

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

If Summons, complete following:
 Arraignment Initial Appearance

Defendant Address:

Bail Amount: _____

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

Date/Time: _____ Before Judge: _____

Comments:

PENALTY SHEET

Individual: Su Chu Chou Cheng, a/k/a Terry Cheng

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

FILED

A

NOV 24 2014

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

YGP

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

CR14-00594

15 UNITED STATES OF AMERICA

) Criminal No.

)

) **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)

)

)

)

16 v.

17 SU CHU CHOU CHENG, a/k/a TERRY

18 CHENG,

19 Defendant.

20
21 The United States of America, acting through its attorneys, charges:

22 SU CHU CHOU CHENG,

23 the defendant herein, as follows:

24 BACKGROUND

25 1. At all times relevant to this Information, when California homeowners defaulted
26 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the
27 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
28 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a

1 trustee was appointed to oversee the public auctions. These public auctions usually took place at
2 or near the courthouse of the county in which the properties were located. The auctioneer, acting
3 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
4 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
5 by the property, and, in some cases, the defaulting homeowner (collectively, "beneficiaries").

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

7 THE COMBINATION AND CONSPIRACY

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

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

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

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

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

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

27 //

28 //

1 5. 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 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 (Alameda County)

16 THE CONSPIRACY

17 8. Beginning as early as May 2008 and continuing until in or about January 2011 in
18 Alameda County in the Northern District of California, the defendant, SU CHU CHOU CHENG,
19 and co-conspirators did willfully and knowingly combine, conspire, and agree with each other to
20 violate Title 18, United States Code, Section 1341, namely, to knowingly devise and intend to
21 devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain money and
22 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.

27 10. 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 11. 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 12. 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 13. 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 COUNT THREE: 15 U.S.C. § 1 – Bid Rigging (Contra Costa County)

11 THE COMBINATION AND CONSPIRACY

12 14. Beginning as early as August 2008 and continuing until in or about January 2011,
13 the defendant, SU CHU CHOU CHENG, and co-conspirators entered into and engaged in a
14 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
15 selected properties offered at public auctions in Contra Costa County in the Northern District of
16 California, in unreasonable restraint of interstate trade and commerce, in violation of the
17 Sherman Act, Title 15, United States Code, Section 1.

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

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

25 a. agreeing not to compete to purchase selected properties at public auctions
26 in Contra Costa County;

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

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

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

6 TRADE AND COMMERCE

7 18. During the period covered by this Information, the business activities of the
8 defendant and co-conspirators that are the subject of this Information were within the flow of,
9 and substantially affected, interstate trade and commerce. For example, beneficiaries located in
10 states other than California received proceeds from the public auctions that were subject to the
11 bid-rigging conspiracy.

12 JURISDICTION AND VENUE

13 19. The combination and conspiracy charged in this Information was carried out, in
14 part, in the Northern District of California, within the five years preceding the filing of this
15 Information.

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

17 COUNT FOUR: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Contra Costa County)

18 THE CONSPIRACY

19 20. Beginning as early as August 2008 and continuing until in or about January 2011
20 in Contra Costa County in the Northern District of California, the defendant, SU CHU CHOU
21 CHENG, and co-conspirators did willfully and knowingly combine, conspire, and agree with
22 each other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise
23 and intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to
24 obtain money and property from beneficiaries by means of materially false and fraudulent
25 pretenses, representations, and promises.

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

24. For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendant and 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

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.

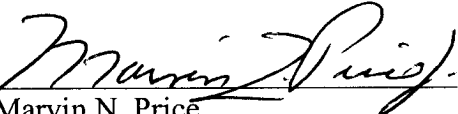
ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.



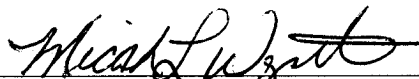
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United States Department of Justice
Antitrust Division



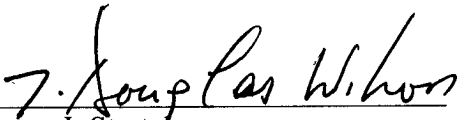
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Acting Under Authority Conferred
by 28 U.S.C. § 515