

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>CRIMINAL NO. 1:14-00067-WS</b>
	)	
<b>CHAD E. FOSTER,</b>	)	
	)	
<b>Defendant.</b>	)	

**FACTUAL RESUME**

The defendant, Chad E. Foster, admits the allegations contained in the Indictment, and admits that had this case gone to trial, the United States would have presented evidence sufficient to prove the following elements and facts.

**ELEMENTS OF THE OFFENSE**

The defendant understands that in order to prove a Conspiracy to Commit Mail Fraud Affecting a Financial Institution, in violation of Title 18, United States Code, Section 1349, as charged in the Indictment, the United States must prove:

- First: Two or more persons, in some way or manner, agreed to try to accomplish a common and unlawful plan to commit mail fraud;
- Second: the defendant knew the unlawful purpose of the plan and willfully joined in it; and
- Third: the conspiracy affected a financial institution.

The defendant understands that the elements of the underlying offense of mail fraud affecting a financial institution, Title 18, United States Code, Section 1341, are as follows:

- First: The defendant knowingly devised or participated in a scheme to defraud someone, or obtain money or property, using false and fraudulent pretenses, representations, or promises;
- Second: the false and fraudulent pretenses, representations, or promises were about a material fact;
- Third: the defendant intended to defraud someone;
- Fourth: the scheme affected a financial institution; and
- Fifth: the defendant used the United States Postal Service by mailing or by causing to be mailed, or a private or commercial interstate carrier by depositing or causing to be deposited with the carrier, something meant to help carry out the scheme to defraud.

#### **OFFENSE CONDUCT**

The defendant admits in open court and under oath that the following statement is true and correct and constitutes evidence in this case. This statement of facts is provided solely to assist the Court in determining whether a factual basis exists for the defendant's plea of guilty. The statement of facts does not contain each and every fact known to the defendant and to the United States concerning the defendant's involvement in the charges set forth in the plea agreement.

When Alabama homeowners default on their mortgages, the lender or loan servicer can institute foreclosure proceedings through a non-judicial public foreclosure auction (“public auction”). These public auctions typically take place at the county courthouse. At the public auction, an auctioneer places the opening bid. Bidders are expected to bid against each other in increasing amounts. The auctioneer sells the property to the bidder offering the highest purchase price. Proceeds from the sale are then used to pay off the mortgage (generally held by a financial institution) and other debt attached to the property. Any remaining proceeds are paid to the homeowner.

For the purposes of this Factual Resume, the “relevant period” is that period beginning at least as early as February 2005, and continuing until at least January 2007. During the relevant period, the defendant was engaged in the business of buying real estate at foreclosure auctions in the Southern District of Alabama and rehabilitating, renting or selling the foreclosure properties for a profit. At times, the defendant engaged in this business as a sole proprietor and at other times the defendant worked with a business partner, Co-Conspirator 1, and an affiliated company.

Certain co-conspirators devised a scheme to defraud financial institutions and others. The defendant, seeking to buy foreclosed properties, later joined the conspiracy and, during the relevant time period, conspired to and participated in a

scheme to defraud financial institutions, homeowners, and others with a legal interest in rigged foreclosure properties, and to obtain money and property by materially false and fraudulent pretenses, representations or promises. The conspirators executed the scheme to defraud by, among other things: 1) agreeing not to bid against one another at the public auctions; 2) purchasing auctioned real estate at a lower price than would have been possible during a competitive auction process; 3) making payoffs to co-conspirators to obtain title to selected real estate at fraudulently suppressed prices; 4) receiving payoffs in exchange for not bidding to allow title to selected real estate to be obtained at fraudulently suppressed prices; 5) causing fraudulently suppressed purchase prices to be reported and paid to financial institutions and others with a legal interest in select properties; and 6) making and causing to be made materially false and fraudulent pretenses, representations, or promises, to financial institutions, trustees, auctioneers, and others involved in the auction and sale of the foreclosed properties. During the relevant period, the defendant and his co-conspirators affected at least two financial institutions by causing them to be paid artificially suppressed auction prices, resulting in a monetary loss to each of the financial institutions.

The defendant and others, for the purpose of executing or attempting to execute the scheme to defraud described above, knowingly used and caused to be used the United States Postal Service or private or commercial interstate carriers.

For example, in February 2005, the defendant and at least seven co-conspirators rigged the public auction for a property located in Semmes, Alabama. One of the co-conspirators was the highest bidder at the public auction. Soon after the public auction, the co-conspirators conducted a secret, second auction which resulted in the defendant and Co-Conspirator 1 getting title to the rigged foreclosure property. The co-conspirators who participated in the secret, second auction received payoffs totaling more than \$7,000.00. At the direction of a co-conspirator, the trustee for the mortgage holder mailed the foreclosure deed to the defendant and Co-Conspirator 1, by United States Mail or private or commercial interstate carrier. Mailings such as these were knowingly caused by the defendant and his co-conspirators and were foreseeable to the defendant and his co-conspirators in the ordinary course of business.


Although the defendant did not legally withdraw from the conspiracy, his last known participation in the scheme to defraud is in 2007.

AGREED TO AND SIGNED.

Respectfully submitted,

KENYEN R. BROWN  
UNITED STATES ATTORNEY

Date: 30 Oct 2014



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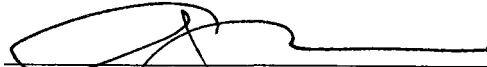
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Date: 10/30/14

  
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CHAD E. FOSTER  
Defendant

Date: 10/30/14

  
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