

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) No.
))
) Violation: Title 18, United States Code,
MARCIN MALARZ and) Section 1343
ARTHUR LIN)

COUNT ONE

The SPECIAL JULY 2013 GRAND JURY charges:

1. At times material to this indictment:
 - a. Defendant MARCIN MALARZ was engaged in the real estate development business.
 - b. Defendant ARTHUR LIN was employed by LPL Financial Corporation, a registered securities broker-dealer, as a branch manager.
 - c. Malarz Equity Investments LLC was purportedly in the business of purchasing apartment buildings, converting them into condominiums, and offering the condominiums for sale. Defendant MARCIN MALARZ was the manager of MEI, and defendant ARTHUR LIN was an officer in MEI.
 - d. Defendants MALARZ and LIN raised funds, purportedly for MEI's business, by offering and selling investments in promissory notes, and by obtaining loans.

2. Beginning in or around at least November of 2005, and continuing until in or around at least April of 2010, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARCIN MALARZ and
ARTHUR LIN,

defendants herein, devised and intended to devise and participated in a scheme to defraud investors and lenders, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by concealment of material facts, which scheme is further described below.

3. It was part of the scheme that defendants MALARZ and LIN raised over \$9,000,000 for MEI's purported real estate development business by fraudulently offering and selling investments in promissory notes and obtaining loans personally guaranteed by defendant MALARZ. Defendants MALARZ and LIN made and caused to be made false representations about the risks involved in investing and lending money to MEI, the solvency and financial condition of MEI and defendant MALARZ, the expected and actual returns on investments and loans, the ways investor and lender funds would be used, and defendant MALARZ's ability to personally guarantee the investments and loans. In order to conceal and further the scheme, defendants MALARZ and LIN misappropriated and caused to be misappropriated investors' and lenders' funds, in part to make Ponzi-type payments to investors and lenders. That is, the defendants made promised payments to earlier investors and lenders with later investors' and lenders'

funds, while concealing their intent to use the funds for that purpose. In total, the defendants caused losses to investors and lenders of over \$5,500,000.

4. It was further part of the scheme that defendants MALARZ and LIN provided investors with fraudulent summary information memoranda which falsely promised that their investments and loans would be used to purchase apartment buildings, and to convert those apartment buildings into condominiums. Instead, defendants misappropriated a substantial part of invested funds to make Ponzi-type payments. Defendant MALARZ also misappropriated over approximately \$2 million for his personal use and benefit, including to pay outside business expenses, travel and living expenses, such as personal credit card and home mortgage bills, to purchase furniture and clothing, and to purchase a new Mercedes coupe car, among other things.

5. It was further part of the scheme that defendants MALARZ and LIN paid and caused to be paid to defendant LIN's wife hundreds of thousands of dollars from investor funds. These payments were often made to LIN's wife at or near the time LIN brought investments in to MEI, and the payments often approximated 10% of the funds invested. LIN and his wife used the funds they received to pay personal expenses, such as credit card and home-equity-line-of-credit obligations, among other things.

6. It was further part of the scheme that defendants MALARZ and LIN fraudulently provided investors and lenders with summary information memoranda which falsely promised that investors and lenders would be paid between 12% and 15%

annual interest, at times defendants knew that earlier promised returns had not been paid.

7. It was further part of the scheme that the summary information memoranda defendants MALARZ and LIN provided to investors falsely represented that the sale of promissory notes made to investors would be capped at between \$1 million and \$5 million dollars, at times when the defendants knew that they had raised more than \$5 million.

8. It was further part of the scheme that defendant MALARZ falsely represented in the summary information memoranda he and defendant LIN distributed to investors that he would receive no compensation for his services as manager of MEI. Instead, as defendant MALARZ knew, he personally received over \$2,000,000 in invested funds, which he converted to his personal use and benefit.

9. It was further part of the scheme that defendants MALARZ and LIN represented that MALARZ personally guaranteed MEI investors' payment of principal and interest, at times when both knew that MALARZ had already failed to pay earlier promised returns. Moreover, defendant MALARZ failed to disclose that he had been named as a defendant in multiple civil lawsuits and tax liens, some of which ultimately resulted in monetary judgments against him.

10. It was further part of the scheme that defendant MALARZ told at least one investor that his money was being used for investments in purported overseas ventures. Instead, defendant MALARZ misappropriated that investor's funds, and used them to

make Ponzi-type payments to other MEI investors.

11. It was further part of the scheme that defendant LIN recruited investors for defendant MALARZ and MEI from LIN's client pool at LPL Financial. In some cases, defendant LIN convinced his LPL Financial clients to generate money for investments into MEI by persuading them to take out home equity loans, and to liquidate their investments with LPL Financial and transfer them to MEI.

12. It was further part of the scheme that defendant LIN falsely represented to investors that investments in MEI would be safe. As defendant LIN knew, investments in MEI were not safe because defendant MALARZ had already failed to make earlier promised principal and interest payments, and had misappropriated invested funds.

13. It was further part of the scheme that defendants MALARZ and LIN misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the existence of the scheme, the purposes of the scheme, and acts done in furtherance of the scheme. In addition, defendant LIN concealed from LPL Financial and the Financial Industry Regulatory Authority his outside business activities selling investments in and for MEI.

14. As a result of the scheme, defendants MALARZ and LIN fraudulently obtained over \$9,000,000 from approximately 25 investors through the offer and sale of investments in promissory notes and through loans, and caused a loss to investors of over \$5,500,000.

15. On or about October 27, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARCIN MALARZ and
ARTHUR LIN,

defendants herein, for the purpose of executing the above-described scheme, did knowingly cause to be transmitted in interstate commerce, through the Fedwire system, from Bank of New York Mellon in Utica, New York to First American Bank in Elk Grove Village, Illinois, by means of wire communications, certain writings, signs and signals, namely, an interstate wire transfer of approximately \$95,153.40 belonging to Victim A;

In violation of Title 18, United States Code, Section 1343.

COUNT TWO

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 14 of Count One this indictment are incorporated here.

2. On or about October 27, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARCIN MALARZ and
ARTHUR LIN,

defendants herein, for the purpose of executing the above-described scheme, did knowingly cause to be transmitted in interstate commerce, through the Fedwire system, from Bank of New York Mellon in Utica, New York to First American Bank in Elk Grove Village, Illinois, by means of wire communications, certain writings, signs and signals, namely, an interstate wire transfer of approximately \$5,000 belonging to Victim A;

In violation of Title 18, United States Code, Section 1343.

COUNT THREE

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 14 of Count One this indictment are incorporated here.

2. On or about October 29, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARCIN MALARZ and
ARTHUR LIN,

defendants herein, for the purpose of executing the above-described scheme, did knowingly cause to be transmitted in interstate commerce, through the Fedwire system, from Bank of New York Mellon in Utica, New York to First American Bank in Elk Grove Village, Illinois, by means of wire communications, certain writings, signs and signals, namely, an interstate wire transfer of approximately \$40,000 belonging to Victim A;

In violation of Title 18, United States Code, Section 1343.

FORFEITURE ALLEGATION

The SPECIAL JULY 2013 GRAND JURY further charges:

1. The allegations of Counts One through Three of this indictment alleging wire fraud in violation of Title 18, United States Code, Section 1343 are incorporated here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of their violations of Title 18, United States Code, Section 1343 as alleged in the foregoing indictment,

MARCIN MALARZ and
ARTHUR LIN,

defendants herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title, and interest they may have in any property, real and personal, that constitutes and is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense, namely, a total of over \$5,500,000, which property is subject to forfeiture pursuant to Title 18, United States Code, Section, 981(a)(1)(C) and Title 28, United States Code, Section 2461(c). Such property includes, but is not limited to, the following:

As to defendant ARTHUR LIN

- (1) The real property commonly known as 1008 Palos, Palatine, Illinois, and legally described as:

LOT 3 IN BLOCK 16 IN PERCY WILSON'S FOREST VIEW HIGHLANDS, A SUBDIVISION IN THE WEST ½ OF SECTION 9, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO A PLAT THEREOF RECORDED IN COOK COUNTY ON JULY 23, 1926 AS DOCUMENT 9349772, IN COOK COUNTY, ILLINOIS.
PIN: 02-09-307-007-0000

3. If any of the forfeitable property described above, as a result of any act or omission by the defendants:

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

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), including but not limited to the following:

As to defendant ARTHUR LIN

(1) The real property commonly known as 901 North Franklin, Palatine, Illinois, and legally described as:

LOT 7 IN BLOCK ONE (1) IN FRANK E. MERRILL AND COMPANY'S PALATINE ACRES, IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.
PIN: 02-09-405-006-0000

(2) The real property commonly known as 4975 Lichfield Drive, Barrington, Illinois,

and legally described as:

LOT 33 IN BLOCK 3 IN COLONY POINTE PHASE 1, BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 23, 1977 AS DOCUMENT 23937795, IN COOK COUNTY, ILLINOIS.
PIN: 02-18-309-033-0000

(3) The 2009 Saturn Outlook vehicle bearing VIN 5GZEV23D59J209077

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY