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3:03-CR-02463 USA V. MALONEY

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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

July 2002 Grand Jury '03 CR 2463 IEG

UNITED STATES OF AMERICA,
Plaintiff,
v.
HENRY TIMOTHY MALONEY,
Defendant.

Criminal Case No. _____
INDICTMENT
Title 18, U.S.C., Sec. 1341 -
Mail Fraud

The grand jury charges:

MAIL FRAUD

Counts 1-5

INTRODUCTORY ALLEGATIONS

1. At all times relevant and pertinent to this Indictment, defendant HENRY TIMOTHY MALONEY was purportedly in the business of soliciting investments from members of the public to participate in equipment lease back agreements and in an investment fund. Under a lease back agreement, an investor buys equipment for or from an existing business that needs to raise capital, and then leases the equipment back to the existing business at a profit.

2. At all times relevant and pertinent to this Indictment, defendant HENRY TIMOTHY MALONEY did business under various fictitious business names, including Coast Capital Inc., G & T Enterprises, Leaseco, Sealcrest Homes, Priveleges, and International Capital.

PMC:XXX:San Diego
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(TWDL)

1 3. At all times relevant and pertinent to this Indictment, defendant HENRY TIMOTHY
2 MALONEY had financial accounts at various institutions, including Bank of America, Union Bank and
3 Merrill Lynch.

4 4. At all times relevant and pertinent to this Indictment, George Von Bozzay (also
5 identified as "Von Bozzay"), was an individual residing in Northern California who invested a total of
6 \$609,000.00 at defendant HENRY TIMOTHY MALONEY's invitation and solicitation.

7 THE SCHEME TO DEFRAUD

8 5. Between July 2001, and continuing through March 2002, in the Southern District of
9 California and elsewhere, defendant HENRY TIMOTHY MALONEY did devise and intend to devise
10 a scheme and artifice to defraud Von Bozzay, and to obtain money by means of false, fraudulent and
11 material pretenses, representations and promises.

12 6. It was part of the general scheme to defraud Von Bozzay, for defendant
13 HENRY TIMOTHY MALONEY to falsely hold himself out as a wealthy heir to a 40 million dollar
14 clothing company in Italy, and pretended to own a real estate development company.

15 7. It was further part of the scheme to defraud that defendant HENRY TIMOTHY
16 MALONEY created companies, real and fictitious, to serve as the businesses which received
17 Von Bozzay's money, and also served as the entities named in false business agreements used to entice
18 Von Bozzay to part with large sums of money.

19 METHODS AND MEANS

20 8. On or about August 2001, defendant HENRY TIMOTHY MALONEY enticed
21 Von Bozzay into an initial fraudulent investment of \$140,000.00. Defendant HENRY TIMOTHY
22 MALONEY created a company called "LEASECO," and used this company name in a contract which
23 purported to be a lease back agreement with a company called CLEAR IMAGE GRAPHICS ("CIG").
24 Defendant HENRY TIMOTHY MALONEY presented this lease agreement to Von Bozzay as a
25 profitable investment that would yield a 23% annual return, when in fact, defendant HENRY TIMOTHY
26 MALONEY had no such agreement with CIG.

27 9. Von Bozzay, unaware that defendant HENRY TIMOTHY MALONEY did not in fact
28 have such an agreement with CIG, signed a partnership agreement with defendant HENRY TIMOTHY

1 MALONEY and gave \$140,000.00 to defendant HENRY TIMOTHY MALONEY as his share of the
2 investment on or about August 16, 2001. Specifically, defendant HENRY TIMOTHY MALONEY
3 indicated that they were to buy equipment worth \$210,000.00, which would be leased back to CIG.
4 Further, defendant HENRY TIMOTHY MALONEY falsely claimed that he had already invested
5 \$70,000.00, and had Von Bozzay put in the remaining \$140,000.00 to reach the \$210,000.00 fabricated
6 figure.

7 10. Defendant HENRY TIMOTHY MALONEY never invested any of the \$140,000.00 with
8 CIG, yet he sent Von Bozzay periodic interest payments from this purported investment. The interest
9 payments were sent by Airborne Express and spanned a time period of September 2001 through March
10 2002. This time period also includes interest payments for later fraudulent investments, noted below.

11 11. On or about October 2001, defendant HENRY TIMOTHY MALONEY presented another
12 fraudulent lease back agreement and investment opportunity to Von Bozzay which he claimed would
13 net an approximate 23.85% rate of return. Under this scheme, defendant HENRY TIMOTHY
14 MALONEY purported to be a 25% participant, Von Bozzay would be a 25% participant, and the other
15 50% participation would be equally shared by two fabricated investors. The capital contribution of each
16 equal participant was listed as \$225,000.00, for a total of investment of \$900,000.00. The lease back
17 agreement was purported to be with All Optical Networks, Inc. ("AON").

18 12. As part of the fraud, defendant HENRY TIMOTHY MALONEY forged the signatures
19 of AON employees and officers in the agreement.

20 13. Von Bozzay, believing the lease back agreement with AON to be genuine, entered into
21 a second fraudulent partnership agreement with defendant HENRY TIMOTHY MALONEY and gave
22 \$225,000.00 to defendant HENRY TIMOTHY MALONEY on or about October 16, 2001.

23 14. Defendant HENRY TIMOTHY MALONEY continued to send various sums of money
24 to Von Bozzay during this period and falsely indicated that they were interest payments from the lease
25 back agreement investments. The interest checks were sent to Von Bozzay by Airborne Express.

26 15. On or about January 2002, HENRY TIMOTHY MALONEY continued his scheme to
27 defraud Von Bozzay out of significant sums of money and presented Von Bozzay with an opportunity
28 to contribute money into an investment fund called the Global Capital Fund ("GCF").

1 16. Defendant HENRY TIMOTHY MALONEY indicated to Von Bozzay that his portion
 2 of the investment would be \$400,000.00. In an effort to obtain more money out of Von Bozzay,
 3 defendant HENRY TIMOTHY MALONEY told Von Bozzay that he would sell the earlier CIG lease,
 4 when in fact, the CIG lease never existed, to assist Von Bozzay in obtaining the necessary funds.

5 17. Further, defendant HENRY TIMOTHY MALONEY falsely represented to Von Bozzay
 6 that GCF had invested in medical and high technology companies in Asia and the United States and that
 7 GCF had institutional investors such as Merrill Lynch and Morgan Stanley.

8 18. It was further part of the scheme that defendant HENRY TIMOTHY MALONEY
 9 received a \$244,000.00 check from Von Bozzay on or about January 15, 2002 for investment into GCF.
 10 In return for the investment, defendant HENRY TIMOTHY MALONEY issued Von Bozzay a
 11 fraudulent stock certificate for 5,000 shares of a company created by defendant HENRY TIMOTHY
 12 MALONEY for the purpose of defrauding Von Bozzay.

13 EXECUTION OF THE SCHEME

14 19. On or about the dates set forth below, in the Southern District of California and
 15 elsewhere, defendant HENRY TIMOTHY MALONEY, for the purpose of executing the aforesaid
 16 scheme and artifice to defraud and to obtain money by means of material false and fraudulent pretenses,
 17 representations and promises, with the intent to defraud, knowingly did cause the following matters and
 18 things, as described below, to be delivered by private and commercial interstate carrier, that is Airborne
 19 Express, and by the United States Postal Service, according to the directions thereon, from defendant
 20 HENRY TIMOTHY MALONEY in San Diego County, California, to Von Bozzay in San Francisco,
 21 California.

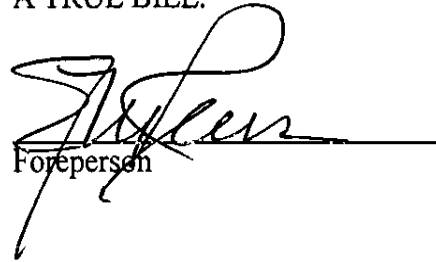
22	<u>COUNT</u>	<u>DATE OF MAILING</u>	<u>ITEM MAILED</u>
23	1	November 8, 2001	A \$3,933.00 check payable to Von Bozzay
24	2	December 12, 2001	A \$9,753.75 check payable to Von Bozzay
25	3	January 18, 2002	Letter and documents on the GCF investment to Von Bozzay
26	4	February 11, 2002	Two checks in the amount of \$50,000.00 and \$7,177.50 payable to Von Bozzay
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28	5	March 13, 2002	A \$5,273.45 check payable to Von Bozzay

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All in violation of Title 18, United States Code, Section 1341.

DATED: September 3, 2003.

A TRUE BILL:


Foreperson

CAROL C. LAM
United States Attorney


PENNIE M. CARLOS
Assistant United States Attorney