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Tuesday, January 12, 2021

Former CEO Of Real Estate Private Equity Investment Firm Charged With Securities Fraud

Audrey Strauss, the Acting United States Attorney for the Southern District of New York, and William F. Sweeney Jr., the Assistant Director-in-Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), announced today the arrest of ERIC MALLEY, the founder and former chief executive officer of real estate private equity investment firm MG Capital Management L.P. on charges of securities fraud and wire fraud for his role in a scheme to fraudulently induce hundreds of individuals to invest a total of more than \$50 million in two real estate investment funds by, among other things, lying about his own prior experience and investment track record and about the nature and characteristics of those funds. MALLEY was arrested this morning in New Canaan, Connecticut, on a criminal complaint (the "Complaint") and will be presented before a magistrate judge in the Southern District of New York.

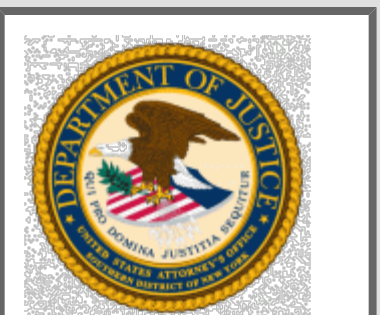
Acting Manhattan U.S. Attorney Audrey Strauss said: "Eric Malley allegedly promised his clients that they would reap the benefits of owning equity in Manhattan real estate through his time-tested, sophisticated, debt-free investment strategy. As alleged, those promises were lies. Malley lied about his prior funds' existence and performance, and he lied in promising clients that the funds were free of debt and leased to prominent corporate tenants. While his investors lost money, Malley enriched himself. We will continue to work with our law enforcement partners to protect investors from these types of deceptive practices."

FBI Assistant Director William F. Sweeney Jr. said: "As alleged, Malley, acting as CEO of an investment firm he founded, solicited investors with material misrepresentations and lies pertaining to luxury residential real estate and several investment funds. Ultimately, the investors, many of whom had entrusted Malley with all of their retirement savings, lost nearly everything. Today's action should serve as a reminder to fraudsters who seek to prey on unwitting investors that the FBI and our partners will not waver in our commitment to bring them to justice."



Click here for updates on
United States v. Ghislaine Maxwell,
20 Cr. 330 (AJN)

If you believe you were a victim of
Ghislaine Maxwell or have
information about the allegations
in the Indictment, please call
1-800-Call-FBI.



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As alleged in the Complaint unsealed today in Manhattan federal Court^[1]:

MALLEY founded MG Capital Management L.P. (“MG Capital”) in approximately January 2013, and served as its chief executive officer (“CEO”) from that time until approximately December 2019. MALLEY described MG Capital as an opportunity for investors to invest in luxury residential real estate properties through limited partnership interests, and formed two real estate investment funds, MG Capital Management Residential Fund III (“Fund III”) and MG Capital Management Residential Fund IV (“Fund IV”) (collectively, “the Funds”), in approximately February 2014 and September 2017, respectively.

In connection with marketing the Funds to investors, MALLEY touted two purportedly extremely successful prior funds he had formed, Fund I and Fund II. MALLEY also assured investors that the Funds would be and were debt-free, and that the properties held by the Funds would be and were leased primarily to corporate tenants. MALLEY’s representations about the existence and performance of Funds I and II were largely fabricated. Furthermore, the Funds were not debt-free, but instead held mortgaged properties, and the properties that made up the Funds were almost entirely leased to individual, not corporate, tenants.

Investors in the Funds, many of whom invested the entirety of their retirement savings, lost all or almost all of their investments. As to Fund III, in total, approximately 60 investors invested approximately \$23 million. Fund III incurred net operating losses of approximately \$860,000, and its investors never received either distributions or a return of their investments. MALLEY nevertheless distributed at least approximately \$278,000 to himself in his capacity as general partner. As to Fund IV, in total, approximately 275 investors invested approximately \$35 million. Fund IV incurred millions of dollars in losses, and MALLEY did not disclose those losses until approximately two years into Fund IV’s operation.

In or about mid-December 2019, MALLEY stepped down from his role as CEO of MG Capital. Between in or about February 2020 and on or about March 31, 2020 – after MALLEY had become aware that the U.S. Securities and Exchange Commission (“SEC”) was investigating him – MALLEY accessed MG Capital’s server and deleted approximately 10,000 files from the server, including broker information and closing documents detailing the closing costs associated with acquisition of properties, which were used to obtain funding from the Funds’ administrators.

* * *

MALLEY, 50, of New Canaan, Connecticut, is charged with one count of securities fraud, which carries a maximum potential sentence of 20 years in prison, and one count of wire fraud, which carries a maximum potential sentence of 20 years in prison. The maximum potential penalties are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendant will be determined by the judge.

Ms. Strauss praised the investigative work of the FBI and thanked the New York Regional Office of the U.S. Securities and Exchange Commission, which has separately filed a civil action against MALLEY and M.G. Capital Management.

This case is being handled by the Office’s Securities and Commodities Task Force.

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Assistant United States Attorney Elizabeth A. Hanft is in charge of the prosecution.

The allegations contained in the Complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

[1] As the introductory phrase signifies, the entirety of the text of the Complaint and the description of the Complaint set forth below constitute only allegations, and every fact described should be treated as an allegation.

Attachment(s):

[Download Eric Malley complaint \(21 mag 304\).pdf](#)

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Topic(s):

Securities, Commodities, & Investment
Fraud

Press Release Number:

21-004

Component(s):

USAO - New York, Southern

Updated January 12, 2021

Southern District of New York

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