

State of Minnesota
County of Hennepin

District Court
4th Judicial District

Prosecutor File No.
Court File No.

16A02553

State of Minnesota,

Plaintiff,

vs.

JOHN VERNON HEATH DOB: 06/08/1971

7320 Gallagher Dr
#123
Edina, MN 55435

Defendant.

COMPLAINT

Summons

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Identity Theft-Transfers/Possesses/Uses Identity of Other Person

Minnesota Statute: 609.527.2, with reference to: 609.527.3(5)

Maximum Sentence: 20 YEARS AND/OR \$100,000

Offense Level: Felony

Offense Date (on or about): 01/29/2015

Control #(ICR#): 16000309

Charge Description: That on or about January 29, 2015, through January 20, 2016, in Hennepin County, Minnesota, JOHN VERNON HEATH transferred, possessed, or used an identity that was not his own, with the intent to commit, aid, or abet an unlawful activity, and there was a total loss of more than \$35,000.

COUNT II

Charge: Theft-By Swindle

Minnesota Statute: 609.52.2(a)(4), with reference to: 609.52.3(1)

Maximum Sentence: 20 YEARS AND/OR \$100,000

Offense Level: Felony

Offense Date (on or about): 01/29/2015

Control #(ICR#): 16000309

Charge Description: That on or about January 29, 2015, through January 20, 2016, in Hennepin County, Minnesota, JOHN VERNON HEATH obtained property or services from A.S. and Jackson National Life Insurance Company by swindling them using artifice, trick, device or other means, and the property or services had a value in excess of Thirty-Five Thousand Dollars (\$35,000.00).

STATEMENT OF PROBABLE CAUSE

Your complainant is a sworn peace officer and a special agent with the Commerce Fraud Bureau of the Minnesota Department of Commerce. In February 2016, Robbinsdale Police Department requested assistance investigating a case concerning John Vernon Heath, DOB 06/08/1971, Defendant herein. The joint investigation included interviews of third-party witnesses and the review and examination of numerous documents produced by Wings Financial, Jackson National Life Insurance Company (Jackson National), Hennepin County Adult Protection Services (APS), the Department of Commerce Civil Enforcement Division, and obtained from sources pursuant to search warrants and subpoenas. Defendant also made two out-of-custody, recorded statements in which he admitted to stealing funds from A.S., a vulnerable adult victim.

A.S. is an 88-year old male who has resided with his daughter, J.S., in Robbinsdale, Hennepin County, Minnesota, since April 2015. A.S. suffered a stroke in 2013 and has multiple medical diagnoses, including Alzheimer's dementia. J.S. reports A.S. has difficulty with short-term memory and often cannot remember what he had for lunch or where he is. A.S. attends an Adult Day Program at Catholic Eldercare five days per week. Because A.S. possesses a physical or mental infirmity that impairs his ability to provide adequately for his own care without assistance, and therefore has an impaired ability to protect himself from maltreatment, A.S. is by statutory definition a vulnerable adult.

Defendant has been A.S.'s investment advisor for approximately 20 years. Defendant holds an insurance and securities producer and broker license in the State of Minnesota and is the owner and sole proprietor of JVH Wealth Management located at 3600 American Blvd W, Suite 140, Bloomington, Hennepin County, Minnesota.

Defendant abused his position of trust as A.S.'s financial advisor to unlawfully access an annuity investment A.S. held at Jackson National and funnel the funds through a Wings Financial bank account illegally created by Defendant in A.S.'s name without A.S.'s or J.S.'s knowledge. Defendant swindled A.S. and Jackson National to obtain more than \$220,000, which Defendant used to pay for various personal and business expenses, including shopping expenditures, cell phone payments, airport parking, and personal credit card payments.

The Scheme

Defendant's scheme revolved around a Jackson National annuity held by A.S. and a Wings Financial checking account created by Defendant in A.S.'s name without A.S.'s or J.S.'s knowledge.

On February 14, 2008, A.S. completed and signed an application for the Jackson National annuity. Defendant, then working for Amiot Financial Group in Bloomington, was the producer for the transaction and signed the application as such. The annuity was issued to A.S. on March 3, 2008, with an initial premium payment of \$67,926.81. In 2009 and 2014, A.S. paid additional total premium of \$110,000, bringing the premium value of the annuity to approximately \$180,000.

On January 29, 2015, a service request form was submitted to Jackson National. The form identifies A.S. as the owner of the annuity, specifies his date of birth, social security number, and contract number, and requests his information be updated to reflect a home address of 7320 Gallagher Drive #123, Minneapolis, Hennepin County, Minnesota and an email address of hereistrouble1@gmail.com. These addresses at no time belonged to A.S., but rather were those of Defendant. The change request form was mailed to Jackson National in a JVH Wealth Management envelope, postmarked Minneapolis, Hennepin County, Minnesota. In a recorded, non-custodial interview with law enforcement, Defendant stated he completed

the service request form himself without A.S.'s knowledge and changed A.S.'s contact information to Defendant's personal information in order to initiate Defendant's access to the annuity funds.

With access to the annuity funds established, Defendant next established a bank account through which he could liquidate and spend A.S.'s funds. On September 16, 2015, Defendant submitted a Wings Financial account application in A.S.'s name and opened checking account ending in -4769 (the Wings account). Defendant again provided his personal address, email address, and apartment telephone number rather than any of A.S.'s true and correct contact information. Defendant did provide A.S.'s actual date of birth, social security number, and driver's license number, which he confirmed to law enforcement he had knowledge of because of his financial advisor relationship with A.S. The account's opening deposit of \$50 was made with check number 4591 drawn on Defendant's Anchor Bank account. Defendant submitted this application and opening deposit at the Wings Financial Edina branch, located at 7300 France Avenue South, Suite 115, Edina, Hennepin County, Minnesota.

Over the next six weeks, Defendant drew down the Jackson National annuity until it was left with a \$0 balance. Defendant has admitted he made the draw down requests without A.S.'s knowledge or permission. On September 21, 2015, Defendant requested a disbursement from Jackson National in the amount of \$18,500. Jackson National issued check number 0050830330 to A.S. in the amount of \$18,500.00 and mailed it to the address on file, which was Defendant's apartment. This check was deposited into the Wings account on September 29, 2015.

Next, Defendant requested a disbursement from Jackson National in the amount of \$12,000 on October 7, 2015. This amount, less a \$20 transaction fee, was wired directly to the Wings account on October 9, 2015.

Finally, on October 29, 2015, Defendant requested a "full contract surrender" from Jackson National. \$194,172.85 was wired to the Wings account on October 30, 2015.

In sum, Defendant used A.S.'s identity without A.S.'s knowledge or consent to swindle A.S. and Jackson National. As a result of Defendant's scheme, Defendant wrongfully obtained \$224,652.85.

Defendant's Use of Funds

Between September 30, 2015, and January 20, 2016, Defendant spent \$78,744.54 from the Wings account on a variety of personal expenditures, including for example:

- ATM cash withdrawals amounting to \$30,087.00
- Payments to Defendant's Capital One credit card in the amount of \$20,111.07
- Target purchases in the sum of \$2,509.89
- Airport parking expenses totaling \$636.00

On one occasion, Defendant wrote himself a check in the amount of \$14,000; check 3001 was deposited into Defendant's Premier Bank account ending in -8638 on September 30, 2015.

Discovery of Defendant's Thefts

In January 2016, Wings Financial became alerted to possible fraud occurring on the Wings account. Wings noted the over-\$190,000 incoming wire from Jackson National, the multiple ACH transactions to the Capital One account held in Defendant's name, and the frequency of ATM and point-of-sale transactions and concluded possible elder abuse was occurring. Wings attempted to reach A.S. at the phone number provided on the account application—Defendant's number—to inquire about their suspicions. Wings

received a phone call back from a man claiming to be A.S., however, the caller ID revealed Defendant's name. The caller stated Defendant was A.S.'s grandson and he had permission to use A.S.'s bank card. The Wings employee informed the caller he needed to complete a form authorizing Defendant to use the account and that all ACH debits would be denied going forward unless they were in A.S.'s name.

On January 14, 2016, Defendant provided to Wings Financial a power of attorney form purporting to have been signed by A.S. in September 2015 and granting Defendant full powers of attorney over A.S.'s affairs. Notably, A.S. had already granted full, durable powers of attorney to his daughter, J.S., in a statutory short form power of attorney completed on August 19, 2014. Defendant was aware of this power of attorney as he notarized the document. APS interviewed A.S. during the course of this investigation, and A.S. confirmed he believed his daughter, J.S., was his power of attorney and manager of his finances; A.S. was not aware of the power of attorney Defendant presented to Wings Financial. Furthermore, the new power of attorney form purported to have been notarized by S.S. In an interview with law enforcement, however, Defendant stated he asked S.S. to notarize the document as a favor to Defendant and that S.S. did not actually witness A.S. sign the form.

Wings was not convinced they had had any actual contact with A.S. and did not believe A.S.'s account was adequately protected. Therefore, Wings froze the account and reported their concerns, prompting this investigation.

Defendant is not in custody.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Beth Kelly
Special Agent
85 7th Place East
Suite 500
St. Paul, MN 55101
Badge: 107

Electronically Signed:
03/16/2016 11:27 AM
Ramsey County, MN

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Erica Yarlagadda
300 S 6th St
Minneapolis, MN 55487
(612) 348-5550

Electronically Signed:
03/16/2016 11:06 AM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on _____, _____ at _____ AM/PM before the above-named court at 401 Fourth Avenue S, Minneapolis, MN 55415 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$35,000.00

Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: March 16, 2016.

Judicial Officer

Bev Benson
Judge

Electronically Signed: 03/16/2016 11:47 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF HENNEPIN
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

John Vernon Heath

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE
*I hereby Certify and Return that I have served a copy of this
Summons upon the Defendant herein named.*

Signature of Authorized Service Agent: