

AO 91 (Rev. 11/11) Criminal Complaint

AUSA John D. Mitchell (312) 353-5159

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**FILED**AUG 20 2019 

UNITED STATES OF AMERICA

v.

MARCUS E. BOGGS

CASE NUMBER:  
UNDER SEALTHOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT**19CR 659****CRIMINAL COMPLAINT MAGISTRATE JUDGE COLE**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

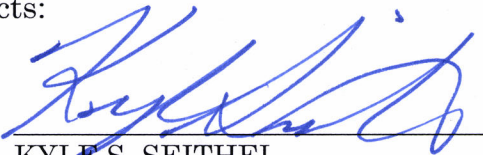
From on or about April 2009 to on or about November 2018, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, the defendant violated:

*Code Section*Title 18, United States Code, Section  
1343*Offense Description*

Defendant engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and concealment of material facts, and for the purpose of executing such scheme, caused to be transmitted by means of wire communication in interstate commerce, certain writings, signs, and signals, in violation of Title 18, United States Code, Section 1343

This criminal complaint is based upon these facts:


X Continued on the attached sheet.



KYLE S. SEITHEL

Special Agent, Federal Bureau of Investigation  
(FBI)

Sworn to before me and signed in my presence.

Date: August 20, 2019  
Judge's signatureCity and state: Chicago, Illinois

JEFFREY COLE, U.S. Magistrate Judge

Printed name and Title

NORTHERN DISTRICT OF ILLINOIS     )  
   )  
EASTERN DIVISION                             )

**AFFIDAVIT**

I, Kyle S. Seithel, first being duly sworn under oath, hereby depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and I am assigned to its Chicago Division. I have been employed by the FBI as a Special Agent since January 2019, during which time I have participated in financial fraud investigations involving embezzlement and wire fraud. I am currently assigned to an FBI squad dedicated to the investigation of financial securities, wire and mail fraud offenses, as well as related financial crimes.

2. This affidavit is submitted in support of the attached criminal complaint charging MARCUS E. BOGGS with wire fraud, in violation of Title 18, United States Code, Section 1343. Because this affidavit is made for the limited purpose of establishing probable cause with regard to the attached criminal complaint, it does not set forth each and every fact that I have learned during this investigation.

3. The information contained in this affidavit is based on my personal knowledge, my training and experience, and the training and experience of other law enforcement officers with whom I have consulted. The information in this affidavit is also based upon interviews, including FBI interviews with several of BOGGS' clients and with representatives from Bank A and Investment Adviser A, where BOGGS was employed as a financial adviser during the scheme. In addition, the information in this affidavit is based on my review of certain bank records, brokerage

account records, credit card records, and other business records gathered during the FBI's investigation.

### **FACTS ESTABLISHING PROBABLE CAUSE**

4. In summary, the FBI has obtained evidence showing that between in or about April 2009 and November 2018, MARCUS E. BOGGS, while working as a financial adviser at the Chicago office of Investment Adviser A, stole millions of dollars of client funds to pay his personal expenses. In his capacity as a financial adviser employed by Investment Adviser A—one of the largest wealth management and investment advisers in the world—BOGGS had control over funds in client investment accounts and advised clients regarding investment strategies, managed clients' investment portfolios, and directed the use of client funds to buy and sell securities for the clients' benefit. But during the scheme, BOGGS—without either his clients' or Investment Adviser A's knowledge or consent—stole millions of dollars of client funds and used the stolen funds for mortgage payments, lavish international travel, and other personal expenditures.

### **BACKGROUND**

5. Investment Adviser A employs thousands of individual financial advisers who collectively manage more than \$1 trillion in assets for the benefit of Investment Adviser A's clients. Investment Adviser A is a subsidiary of one of the world's largest banks, Bank A. Investment Adviser A, which has its headquarters in New York, has offices throughout the United States, including in Chicago.



6. Based on interviews with representatives of Bank A and Investment Adviser A, as well as records gathered during the FBI's investigation, at all relevant times financial advisers employed by Investment Adviser A were responsible for recommending investments and directing funds in client accounts to purchase and sell securities for the benefit of Investment Adviser A's clients. Specifically, according to the Investment Advisory Program Client Agreements provided by Bank A and Investment Adviser A and other records I have reviewed, financial advisers at Investment Adviser A provided services to clients that included recommending investment advisory programs, investment products, and securities that were suitable to each client's investment objectives, risk tolerance, and financial situation and needs.

7. According to Investment Adviser A and Bank A, Investment Adviser A compensates financial advisers for the services they provide to Investment Adviser A's clients based on a combination of salary, the total value of the clients' assets under management, and other factors that included:

- a. Commissions and other transaction-based compensation;
- b. Investment advisory program asset-based fees and other fees;
- c. The sale of certain banking products and services offered by Investment Adviser A affiliates; and
- d. Incentive compensation related to the investment advisory and brokerage activities attributable to the accounts he or she serviced.



8. Based on records gathered during the investigation and witness interviews, the FBI has learned that from October 2005 through December 10, 2018, BOGGS was employed as a financial adviser in Investment Adviser A's Chicago office. As was the case for all financial advisers employed at Investment Adviser A, as part of his employment, BOGGS signed agreements acknowledging that at all times during his employment he owed Investment Adviser A and its clients a duty of loyalty and a duty to act in good faith. As part of his duties as a financial adviser at Investment Adviser A, BOGGS counseled clients regarding financial and investment strategies and directed the purchase and sale of securities using client funds.

9. According to Bank A and Investment Adviser A, financial advisers received compensation directly from Investment Adviser A, and financial advisers were restricted to using client funds for executing clients' investment directives. Specifically, financial advisers at Investment Adviser A, including BOGGS, were expressly prohibited from making withdrawals from client accounts as a form of compensation or from entering into agreements with clients that would permit financial advisers to withdraw funds from client accounts.

#### **BOGGS' FRAUD SCHEME UNCOVERED IN NOVEMBER 2018**

10. In or about November 2018, Investment Adviser A and Bank A initiated a new internal control program designed to identify whether any financial advisers were engaging in unauthorized misappropriation of client funds. At that time, Bank A and Investment Adviser A identified numerous suspicious transactions involving BOGGS' clients' accounts. For example, Investment Adviser A and Bank A identified

numerous transfers from BOGGS' clients' accounts to credit card accounts held in BOGGS' name.

11. As part of its investigation of these suspicious transfers involving BOGGS' clients' accounts, investigators from Investment Adviser A and Bank A contacted BOGGS' clients to determine whether those payments were authorized by the clients and made for the clients' benefit. Based on interviews with clients and analysis of records, investigators from Investment Adviser A and Bank A determined that several of BOGGS' clients—including clients identified below as Victim A, Victim B, Victim C and Victim D—had unauthorized transfers from their investment accounts at Investment Adviser A totaling more than \$2 million.

12. In December 2018, investigators from Bank A and Investment Adviser A attempted to interview BOGGS. During that interview, BOGGS refused to answer any questions, and his employment was terminated on or about December 10, 2018.

#### **Victim A**

13. In June 2019, the FBI interviewed Victim A, a resident of Crown Point, Indiana. According to Victim A and records gathered during the investigation, Victim A was wrongfully convicted and imprisoned for the 1991 rape, kidnapping, and murder of a 14-year-old girl. In or about 2014, after serving a term of imprisonment and being exonerated based on DNA evidence, Victim A was awarded a wrongful conviction settlement in the amount of approximately \$5 million.

14. After receiving the wrongful conviction settlement, Victim A was introduced to BOGGS and entered into an agreement under which BOGGS would

serve as his financial adviser and manage Victim A's wrongful conviction settlement in accounts held at Investment Adviser A. According to Victim A, he understood that BOGGS would manage his funds to ensure Victim A had enough funds to sustain him for the rest of his life.

15. According to Victim A, BOGGS met with Victim A periodically to discuss the status and performance of his investments and to provide financial recommendations to him. During those meetings, BOGGS assured Victim A that his accounts were performing well. BOGGS also occasionally socialized with Victim A and Victim A's spouse. Victim A described BOGGS as being very charming.

16. According to Victim A, in or about May 2018 BOGGS contacted Victim A and stated that the balance of his investment accounts had been depleted and his accounts were being closed. BOGGS claimed that Victim A had spent all of the other funds in his accounts. While Victim A knew he had spent a substantial amount of the funds, he did not believe he spent his entire \$5 million settlement. However, because Victim A trusted BOGGS, Victim A believed BOGGS' representations. According to Victim A, during the period of May to November 2018, Victim A "hit rock bottom" due to the loss of the wrongful conviction settlement funds he had previously held in accounts at Investment Adviser A.

17. During the interview, Victim A provided information about the numerous transfers from his investment accounts to American Express credit card accounts. Victim A stated that prior to November 2018, when representatives from Bank A and Investment Adviser A notified him that they were investigating whether



BOGGS had misappropriated funds from his investment accounts, he had not closely reviewed his account statements or the underlying trading, deposit, or withdrawal activity in those statements. Victim A added that he did not know how to review those statements, as he was not very familiar with investing. During the interview, Victim A stated that he never gave BOGGS approval to withdraw funds from his accounts for BOGGS' benefit. Specifically, Victim A stated that he never made (or directed BOGGS to make) approximately \$815,000 in payments to American Express credit card accounts for BOGGS or anyone else. In addition, Victim A stated—and American Express confirmed—that Victim A did not have an American Express credit card during the time that BOGGS served as his financial adviser. According to Victim A, if he had known that BOGGS had used Victim A's investment account funds to pay his personal expenses, he would have immediately ended his relationship with BOGGS.

#### **Victim B**

18. In June 2019, the FBI interviewed Victim B, a resident of Chicago, Illinois. According to Victim B, she met BOGGS through work colleagues in or about 2007. BOGGS told Victim B he could maximize Victim B's investment opportunities by serving as her financial adviser. As a result, in or about April 2007, Victim B entered into an agreement with Investment Adviser A under which BOGGS would serve as her financial adviser. Victim B understood that BOGGS would manage her retirement and other funds to ensure her financial stability in her retirement years.

19. According to Victim B, during the course of her relationship with BOGGS, BOGGS met with Victim B periodically to discuss the performance of her investment accounts and her future financial goals. BOGGS served as Victim B's financial adviser for over 10 years. Over time, Victim B also became close friends with BOGGS, and they frequently socialized together.

20. In or about November 2018, Bank A contacted Victim B to inform her that BOGGS was suspected of making unauthorized transfers from Victim B's Investment Adviser A accounts. Prior to being contacted by Bank A, Victim B placed a great deal of trust in BOGGS and, therefore, did not closely review the underlying trading, deposit, or withdrawal activity in her account statements.

21. During the interview, Victim B provided information about the numerous transfers from her investment accounts for mortgage payments and to American Express credit card accounts. Victim B stated that she never gave BOGGS approval to withdraw funds from her accounts for BOGGS' benefit. Specifically, Victim B stated that she never authorized BOGGS or anyone else to transfer approximately \$512,000 for payment of American Express credit cards or for any type of mortgage. Victim B stated that she had an American Express credit card, but she never paid the card using funds from her investment accounts at Investment Adviser A. Victim B also stated that she did not have a mortgage during the time period BOGGS served as her financial adviser, and she stated that any mortgage-related payments from her investment accounts were unauthorized. Victim B stated that if she had known that BOGGS was making unauthorized transfers of funds from her

investment accounts, she would have ended her relationship with BOGGS and immediately reported the unauthorized transfers to Investment Adviser A.

### **Victim C**

22. In June 2019, the FBI interviewed Victim C, a resident of Chicago, Illinois. Victim C explained that Victim B introduced Victim C to BOGGS, and in or about April 2015, Victim C entered into an agreement with Investment Adviser A, pursuant to which BOGGS would serve as her financial adviser. According to Victim C, she and BOGGS agreed that BOGGS would help her to grow her investments, plan for her retirement, and recommend suitable investments to her. During the course of her relationship with BOGGS, BOGGS met with Victim C periodically to discuss the status of her investment accounts.

23. In or about November 2018, Bank A contacted Victim C to inform her that BOGGS was suspected of making unauthorized transfers from Victim C's investment accounts at Investment Adviser A. Prior to being contacted by Bank A, Victim C trusted BOGGS and believed he was looking out for her best interests. As a result, Victim C did not closely review the underlying trading, deposit, or withdrawal activity in her account statements.

24. During the interview, Victim C provided information about the numerous transfers totaling approximately \$629,000 from her investment accounts at Investment Adviser A to American Express credit card accounts. Victim C stated she had an American Express credit card, and she may have used funds in an account at Investment Adviser A to pay her American Express credit card account on a couple



of occasions. However, Victim C stated that she never knew about or approved any payments from her accounts at Investment Adviser A to American Express credit card accounts held in the name of BOGGS or anyone else. Victim C stated that if she had known that BOGGS was withdrawing funds from her accounts, she would have immediately ended her relationship with BOGGS and reported that activity to Investment Adviser A.

#### **Victim D**

25. In June 2019, the FBI interviewed Victim D, a resident of Washington, DC. According to Victim D, he sold his house in or about 2007 and had funds available from that sale. Victim D stated that his daughter attended college with BOGGS and recommended that Victim D retain BOGGS as a financial adviser to invest the proceeds from the sale of his home. As a result, in or about 2007, Victim D entered into an agreement with Investment Adviser A under which BOGGS would serve as his financial adviser. Victim D understood that BOGGS would manage his funds like a retirement account and invest those funds in safe investments to generate income.

26. According to Victim D, BOGGS met with Victim D periodically to discuss the status of his accounts and answer any questions Victim D had. At some point, Victim D noticed the value of his accounts were decreasing. Victim D questioned BOGGS about that decrease, and BOGGS represented it was due to, among other reasons, fluctuations in the stock market. BOGGS assured Victim D that the value of his investment accounts would increase, but it never did.

27. Victim D stated that in or about November 2018, Bank A contacted Victim D to inform him that BOGGS was suspected of making unauthorized transfers from Victim D's investment accounts at Investment Adviser A. Prior to being contacted by Bank A, Victim D did not closely review the underlying trading, deposit, or withdrawal activity in his account statements.

28. During the interview, Victim D provided information about the numerous transfers from his investment accounts to American Express credit card accounts. Victim D stated that he never knew about or authorized BOGGS to make approximately \$127,000 in payments to American Express or Citibank credit cards held in the name of BOGGS or anyone else. While Victim D did have American Express and Citibank credit cards of his own, he stated that he did not pay those credit cards from his accounts at Investment Adviser A. If Victim D had known that BOGGS was making unauthorized withdrawals from his investment accounts, he would have immediately reported the activity to Investment Adviser A.

#### **SUMMARY OF FINANCIAL ANALYSIS**

29. As part of the FBI's investigation, Bank A and Investment Adviser A have produced records relating to the investment accounts of Victims A, B, C, and D. I have also obtained records from American Express, Citibank, and PHH Mortgage Service Center for various credit card and mortgage accounts held by BOGGS, BOGGS' relative, Individual A, and other third parties. All of the brokerage, credit card, and mortgage accounts outlined above have been analyzed by an FBI Forensic Accountant, and I have examined the results of that analysis.

30. As explained below, I have determined, based on my training, experience, and knowledge of the investigation, including my review of records and interviews with witnesses, that during the period April 2009 to November 2018, BOGGS caused approximately 289 unauthorized transfers totaling approximately \$2.1 million from Victim A's, B's, C's and D's accounts at Investment Adviser A.

#### **Unauthorized Transfers to American Express**

31. Based on records obtained from Bank A and American Express, the previously discussed payments made from Victim A's, B's, C's and D's Investment Adviser A accounts to American Express were traced directly to American Express credit card accounts held in the name of BOGGS and/or BOGGS' relative, Individual A, and used to pay for BOGGS' and/or Individual A's personal expenses.<sup>1</sup> American Express records show that BOGGS spent the funds transferred from Victim A's, Victim B's, Victim C's, and Victim D's accounts on a variety of travel, entertainment, and other personal expenses, including, hotels, restaurants, airfare, and theater expenses. In total, during the period September 2009 to November 2018, BOGGS made approximately 244 payments totaling approximately \$1.93 million from Victim A's, B's, C's and D's accounts at Investment Adviser A to BOGGS' and/or Individual

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<sup>1</sup> According to American Express records, Individual A's American Express account application was submitted by mail in November 2015. Individual A's application used BOGGS' home address, phone number, and email address. In addition, BOGGS was listed as an "Additional Card Member" on that application. Furthermore, a significant portion of the expenses incurred using Individual A's American Express account were incurred in Chicago, where BOGGS resided, not in Georgia, where Individual A resided. The FBI has determined that BOGGS, not Individual A, incurred many of the transactions, including airfare and foreign transaction fees in BOGGS' name.



A's personal American Express credit card accounts. Below is a summary of the approximate amounts that were transferred from the investment accounts of Victims A, B, C, and D to American Express accounts held in the names of BOGGS and/or Individual A:

<b>Victim</b>	<b>Amount of Payments</b>	<b># of transactions</b>
Victim A	\$815,000	131
Victim B	\$404,000	38
Victim C	\$629,000	55
Victim D	\$81,000	20
<b>Total</b>	<b>\$1,929,000</b>	<b>244</b>

### **Unauthorized Transfers to Citibank**

32. According to records obtained from Bank A and Citibank, the previously discussed payments made from Victim D's Investment Adviser A accounts to Citibank were traced directly to a Citibank credit card account held in the name of BOGGS and used to pay for BOGGS' personal expenses. Citibank records show that BOGGS spent the funds transferred from Victim D's accounts on a variety of travel, entertainment, and other personal expenses including, hotels, restaurants, airfare, medical, and adult entertainment expenses. In total, during the period September 2009 to March 2012, BOGGS made approximately 26 payments totaling approximately \$46,000 from Victim D's accounts at Investment Adviser A to BOGGS' personal Citibank credit card account.

### **Unauthorized Transfers to Mortgage Service Center**

33. The records gathered during the investigation also reflect that BOGGS made a series of mortgage payments from Victim B's accounts at Investment Adviser A. As previously noted, according to Victim B, Victim B never had a mortgage of any kind during the time period BOGGS served as her financial adviser. In addition, Victim B stated that she never made, and never directed BOGGS to make, any type of mortgage payments from her accounts at Investment Adviser A.

34. In total, during the period April 2009 to October 2011, BOGGS made approximately 19 payments totaling approximately \$108,000 from Victim B's accounts at Investment Adviser A to Mortgage Service Center accounts, all of which were made without Victim B's knowledge or consent.

### **USE OF INTERSTATE WIRES**

35. Based on my review of records gathered during the investigation, on or about October 5, 2017, a wire transfer, via an ACH payment, was made in the amount of \$32,171.44, from Victim A's Investment Adviser A account ending in 1-23188 to an American Express account ending in 2-83009 that was held in BOGGS' name.

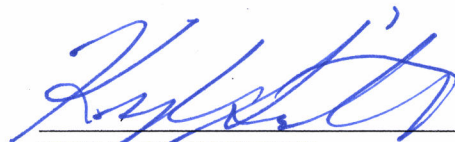
36. Based upon information I obtained from Bank A and American Express, I know that ACH payments from Investment Adviser A accounts are first received by Bank A's automated clearing house system in Texas or Virginia and subsequently processed by its systems located in Virginia, while American Express ACH payments are initially processed in Phoenix, Arizona.

37. For the reasons explained above, and based on my training, experience,

and knowledge of the investigation, the October 5, 2017 ACH payment in the amount of \$32,171.44 from Victim A's Investment Adviser A account ending in 1-23188 to American Express account ending in 2-83009 and held in BOGGS' name, was an interstate wire, and BOGGS caused the wire transfer for the purpose of executing scheme to defraud described above.

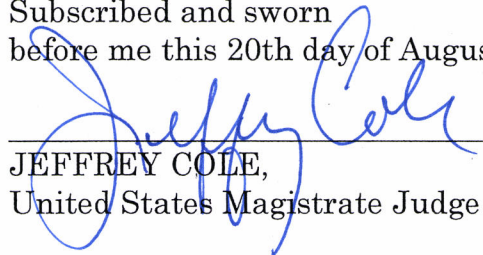
### CONCLUSION

38. Based upon the information set forth above, I respectfully submit that there is probable cause to believe that, beginning in or about April 2009 and continuing through in or about November 2018, BOGGS engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and concealment of material facts and, for the purpose of executing such scheme, caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, and signals, specifically, on or about October 5, 2017, BOGGS caused an unauthorized ACH payment of approximately \$32,171.44 from Victim A's Investment Adviser A account to BOGGS' personal American Express account, in violation of Title 18, United States Code, Section 1343.



KYLE S. SEITHEL  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn  
before me this 20th day of August, 2019



JEFFREY COLE,  
United States Magistrate Judge