AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America v. PATRICIA S. MILLER	)	Case No. 14mj 7090 JCB

Defendant(s)

CRIMINAL COMPLAINT

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

On or about the date(s) of August 6, 2010 in the county of Middlesex in the _____ District of Massachusetts, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. ss. 1343, 1349, 2	Wire Fraud

This criminal complaint is based on these facts:

See Affidavit of Special Agent William P. Manning

☑ Continued on the attached sheet.

Complainant's signature

WILLIAM P. MANNING, SPECIAL AGENT

Printed name and title

Sworn to before me and signed in my presence.

Date: May 29, 2014

Judge's signature

City and state: Boston, Massachusetts

HON. JENNIFER C. BOAL, U.S. MAG. JUDGE

Printed name and title

EXHIBIT A

AFFIDAVIT OF WILLIAM P. MANNING

I, William P. Manning, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent for the Federal Bureau of Investigation ("FBI") currently assigned to the Boston, Massachusetts Field Office, and I have been so employed since September 2011. I am currently assigned to the Economic Crimes Squad, where my primary duties are to investigate fraud and other white collar crimes. Before working at the FBI, I worked for a public accounting firm in its litigation and valuation department. I am also a Certified Public Accountant and a Certified Fraud Examiner.

2. As a federal agent, I am authorized to investigate violations of the laws of the United States and to execute warrants issued under the authority of the United States. Through my experience, I have conducted investigations and am familiar with various criminal statutes. I have investigated multiple federal criminal acts pertaining to financial crimes.

3. I am familiar with the provisions of Title 18 of the United States Code, Sections 1343 (wire fraud) and 1349 (attempt and conspiracy for federal fraud offenses).

4. I make this affidavit in support of a criminal complaint charging PATRICIA S. MILLER with wire fraud in violation of 18 U.S.C. §§1343, 1349, and 2.

5. The facts in this affidavit come from my personal observations and review of records, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is probable cause for the issuance of a criminal complaint and does not set forth all of my knowledge about this matter.

BACKGROUND

6. MILLER has been a registered representative and/or securities agent for at least the past eighteen years and has acted as an investment adviser. From in or about March 1996 until in or about July 2010, she worked with Janney Montgomery Scott ("Janney"), a Pennsylvania company. From July 2010, through the present time, MILLER has been associated with Investors Capital Corporation ("ICC"), which is located in Lynnfield, Massachusetts.

7. MILLER is 67 years old and currently lives at [redacted] South Park, Pennsylvania, [redacted] She holds Series 7 and 63 securities licenses. A Series 7 license is a requirement to become a registered representative of a broker-dealer in the United States. A Series 63 license qualifies candidates as securities agents within a state. These licenses are administered by the Financial Industry Regulatory Authority ("FINRA").

MILLER'S FRAUD

8. Based on the evidence of which I am aware, I have probable cause to believe that, for approximately the past twelve years, MILLER used her position as a trusted financial and investment adviser, as well as her association with Janney and ICC, to obtain money from clients for purported investments that MILLER never made on their behalf. Specifically, MILLER promised investors high returns if they put their money into "investment clubs" called KS Investments and Buckharbor. MILLER represented, among other things, that funds put into these "investment clubs" would be placed in fixed-income notes and other investments. Instead of investing the money as promised, MILLER misappropriated client funds for her own personal use.

9. On or about May 19 and 20, 2014, MILLER was interviewed at her office in Pennsylvania by two representatives of her current employer, ICC. The meetings were prompted by a complaint ICC received from one of MILLER's clients. According to an Associate Vice President of Legal and Compliance at ICC ("ICC Representative 1"), he and another ICC representative were dispatched to Pennsylvania on May 19, 2014 to investigate the client complaint. Following their arrival at MILLER's office, which is located at 501 Valley Brook Road, Suite 207, McMurray, Pennsylvania, 15317, the ICC representatives went to the dumpster adjacent to the building. In the dumpster, they found two white garbage bags that contained, among other things, documents relating to MILLER's business – including what appear to be fake investment account statements.

10. After retrieving these bags and dropping them off in their car, the ICC representatives entered the office complex located at 501 Valley Brook Road, proceeded to MILLER's office suite, and met with her. MILLER's office consisted of two rooms – one containing her desk and another storage room. During the meeting, MILLER told the ICC representatives that MILLER had recently lied in a conversation with the ICC home office in Lynnfield, Massachusetts. MILLER further explained that MILLER had borrowed funds from several clients, but had paid all of the money back except for funds taken from one client.

11. In addition to speaking with MILLER on May 19, 2014, the ICC representatives looked through paper files in the two rooms in MILLER's office suite, had MILLER log into her desktop computer, and reviewed files and e-mails on MILLER's desktop computer. At the request of the ICC representatives, MILLER also printed out certain bank statements that MILLER accessed on her computer.

12. While reviewing files on the desktop computer, ICC representatives found documents that purported to be blank ICC account statements. When MILLER was asked about these purported statements, she explained that the documents were made by an individual who was associated with a technical school. MILLER further explained that she hired this individual to create these documents. E-mails obtained by the ICC representatives from a review of MILLER's Gmail account, pmiller1608@gmail.com, include an e-mail exchange that shows MILLER directing another individual to create what appears to be a template for an ICC account statement.

13. ICC representatives also uncovered Microsoft Word documents concerning something called KS Investments – an alleged investment vehicle that MILLER used to defraud clients. In addition, ICC representatives discovered fake Huntington National Bank paper statements that had been created by literally cutting and pasting paper together. These fraudulent statements were found in a credenza in the room in MILLER's office suite with the desk and purported to show a personal account in the name of MILLER and her husband with a balance of $2 million.

14. After an initial review of the material in the office, the ICC representatives identified paper documents and computers relevant to their inquiry and took the materials with them back to their hotel. That night, the ICC representatives reviewed certain of these files.

15. The next day, May 20, 2014, the ICC representatives returned to speak with MILLER. According to ICC Representative 1, he confronted MILLER about lying to him and the other ICC representative during their discussion the prior day. MILLER then provided a list of clients whom she had defrauded and amounts the clients had invested with her. MILLER

went on to state that while she worked at Janney, she created KS Investments as a purported investment partnership. According to MILLER, Janney did not want MILLER to submit individual checks to Janney on behalf of KS Investments; rather, they wanted one check representing the aggregate of funds invested in KS Investments. MILLER also explained that, as a result, she sent some money to Janney and kept the rest of the money in a bank account in the name of KS Investments. MILLER then stated that she misappropriated the client funds in the bank account in the name of KS Investments and put the money to personal use.

16. While at MILLER's office during the two-day examination, at least one ICC representative observed K-1 statements relating to KS Investments on MILLER's desk and on her computer. When asked about the K-1 statements, MILLER explained that she never submitted the K-1 statements to the Internal Revenue Service.

17. At some point on May 20, 2014, the ICC home office in Massachusetts faxed a prepared statement for MILLER to sign. MILLER read this statement, requested a change to correct a misspelling of "KS Investments", and signed the document. The statement said, among other things, that MILLER "induced individuals to invest, promising high returns, when in fact, the money was never invested." In addition, the statement goes on to represent that MILLER "misappropriated those monies for [her] own ends and did so deliberately and with the manifest intent to defraud."

18. Before leaving MILLER's office on May 20, 2014, the ICC representatives took additional documents that were deemed relevant to their inquiry. The government is currently in possession of materials taken from MILLER's office by representatives of ICC. These materials include, but are not limited to, documents referenced above, documents relating to an entity

called Buckharbor that appears to be an investment club run by MILLER and similar to KS Investments, MILLER's desktop computer tower, a Dell laptop, and a Toshiba laptop.

Interview with Investor A

19. On or about May 22, 2014, the government interviewed an individual who invested with MILLER ("Investor A"). Investor A is a hairdresser, and MILLER was one of Investor A's clients beginning some time in the 1990s. In or about 1998, Investor A gave MILLER funds to be invested for Investor A's retirement. Following Investor A's initial investment with MILLER, Investor A made subsequent investments, the last of which was made four to five months ago. Investor A trusted MILLER, does not know much about investing, and, as a result, relied on MILLER's expertise in making investment decisions for Investor A. Investor A informed MILLER that Investor A could not afford to lose the principal Investor A invested with MILLER.

20. At the time of Investor A's initial investment, MILLER was working with Janney. During the time MILLER was with Janney, Investor A received quarterly statements regarding Investor A's investments by mail. Investor A was aware at some point that MILLER left Janney and joined ICC. After MILLER became associated with ICC, Investor A stopped receiving regular investment statements. In fact, Investor A had to repeatedly request statements from MILLER in order to obtain them.

21. At some point, MILLER proposed that Investor A invest money in something called KS Investment Partnership, and had Investor A sign a related agreement at MILLER's office. Investor A does not recall MILLER ever explaining the nature of KS Investment Partnership to Investor A, but Investor A understood that a money market account with a balance

of over $30,000 was held by KS Investment Partnership on Investor A's behalf. Investor A also understood at this time that Investor A had other investments held by ICC.

22. Recently, Investor A and Investor A's spouse had conversations with MILLER regarding withdrawing invested funds so that they could put money towards the purchase of a new home. They discussed various options with MILLER regarding the withdrawal of Investor A's investments – investments Investor A believed were worth hundreds of thousands of dollars based on information provided to Investor A by MILLER. Specifically, Investor A and Investor A's spouse wanted to withdraw enough money to pay for the home in full, but MILLER advised them not to do so. Instead, MILLER suggested taking $800 per month from the investments to put towards the home.

23. During this time, Investor A asked MILLER for at least one statement regarding Investor A's investment holdings because Investor A needed the documentation for a mortgage application to obtain financing. In response to this request, MILLER e-mailed at least one statement to Investor A. The statement appears to be a fake document created by MILLER on the template MILLER had the individual associated with the technical school create for her.

24. Investor A informed the government during the interview that Investor A communicated with MILLER by text message, e-mail, and telephone. Investor A's last communication with MILLER by text message occurred on or about May 21, 2014.

25. Investor A went to MILLER's office for a pre-arranged meeting regarding Investor A's investments on or about May 21, 2014. When Investor A arrived, however, MILLER had been taken to the hospital by ambulance after an apparent suicide attempt that occurred the day after MILLER's meeting with the ICC representatives.

26. Investor A recently contacted ICC and was told that Investor A had only approximately $300 held with ICC.

27. Investor A provided documents that she received from MILLER to the government. These documents include a record that purports to be an ICC investment account statement on the template referenced above, a statement that purports to be from First National Bank listing KS Investments for Investor A, and an unsigned Investment Partnership Agreement for KS Investment Partnership.

Law Enforcement's Attempt to Interview MILLER

28. Or about May 21, 2014, two FBI agents went to MILLER's residence, which is located at [redacted] South Park, Pennsylvania, [redacted] in an attempt to locate and interview MILLER. MILLER's husband, George Miller, opened the door, informed the agents that MILLER was at her office, and invited the agents into the home to discuss the nature of their visit. MILLER's husband called MILLER and advised her of the presence of the agents and the agents' interest in speaking with MILLER. The agents could only hear the husband's side of the conversation; however, it was clear by the husband's reaction and subsequent statements he made on the phone that MILLER told her husband the real nature of the agents' interest in speaking with her. The husband made statements to MILLER to the effect of, "You did what?", "I don't understand why you would have done that.", "Why would you have done this with everything we have", and "I'm shocked." The agents clearly believed MILLER was disclosing to her husband, for the first time, that she had committed some type of criminal activity relating to her business.

29. Towards the end of the husband's conversation with MILLER, the husband asked MILLER to inform him of her office address and phone number. The husband relayed to the agents what MILLER said, that her office address was at 501 Valley Brook Road, Suite 207, Peters Township, Pennsylvania and her phone numbers were (724) 260-5136 and (724) 493-2551. The husband told MILLER that the agents would be leaving the residence and making their way to the office to speak with MILLER.

30. After the conversation ended, the husband again made the statement that he was "shocked." The husband paraphrased his conversation with MILLER, explaining that MILLER told him she had been taking money from her clients for years and that it sounded like she was embezzling from her clients. The agents thanked the husband, explained they were just interested in speaking with MILLER, and told the husband that they were going to proceed to MILLER's office next to speak with MILLER.

31. The FBI agents arrived at MILLER's office, located at 501 Valley Brook Road, Suite 207, McMurray, Pennsylvania at approximately 10:42 am on May 21, 2014. MILLER's office suite is located on the second floor of a commercial office building. The agents observed a number sign on the outside of the office door that read "207". There was no other sign on the wall indicating the name of the business; however, the agents did observe some of the dry-wall missing from above the suite number 207 which appeared as if an additional sign had been recently removed. The office door had a glass window which was covered with some type of decorative film made to appear as if the window was a floral patterned stained glass window.

32. Suite 207 is one of many offices that line both sides of a hallway on the second floor of the building. All these businesses are accessible from the hallway via their own entry

doorways. The agents knocked on the door of Suite 207 and, after not receiving a response, opened the unlocked office door. The agents observed an elderly female, later identified as MILLER, slumped over her desk. The elderly female did not respond to verbally calling her name.

33. When they approached MILLER, the agents observed a pink lined notepad with handwriting situated underneath MILLER's right arm. On the notepad it was observed that MILLER had started to draft what appeared to be a note to her husband and two sons. The note was incomplete. On the note was written:

"Dear George Andy & Tim

I have deceived all of you the past 12 years. I took money from clients in an attempt to make you [inkblot]"

It appears that MILLER had stopped writing her note at this point. The agents surmised that MILLER became incapacitated due to whatever substance she ingested.

Interview with Investor B

34. On or about May 27, 2014, the government interviewed another individual who invested with MILLER ("Investor B"). Investor B met MILLER in first grade while they were attending school together, and began investing with MILLER years ago when she was at Janney. Investor B gave MILLER approximately between $200,000 and $300,000 to invest on Investor B's behalf. Investor B believed that Investor B had investments in notes through investment clubs run by MILLER. Investor B recalled that one of these investment clubs was called KS Investments, and another was named Buckharbor. Over the years, Investor B provided MILLER checks for investments in person and by mailing the checks to her office. Investor B received distributions from MILLER relating to his purported investments in a total amount of

approximately $60,000 to $80,000. Investor B trusted MILLER based on their long-standing relationship.

35. On or about May 27, 2014, the government interviewed Investor B's son-in-law. In 2010, Investor B asked Investor B's son-in-law, who worked with institutional investors, to look at Investor B's investments with MILLER, and give Investor B his opinion on them. Investor B's son-in-law recalled reviewing an investment statement, and believed he was informed that Investor B's investments with MILLER were in fixed-income private placements. Investor B's son-in-law did not know or recognize the investments MILLER made on Investor B's behalf.

36. The government is in possession of e-mail communications between MILLER and Investor B's son-in-law in this regard. Specifically, an e-mail communication dated July 25, 2010, notes that Investor B's son-in-law had a discussion with MILLER concerning Investor B's investments on the preceding day. Investor B's son-in-law informed the government in the above-referenced interview that MILLER could not explain Investor B's investments in a way that satisfied Investor B's son-in-law. As a result, Investor B's son-in-law requested documentation relating to the investments.

37. In the same e-mail communication dated July 25, 2010, Investor B's son-in-law asked MILLER to mail him information regarding "KS Investment, Buckharbor and KeepSmart[.]" On or about August 6, 2010, MILLER responded to Investor B's son-in-law by e-mail from her pmiller@investorscapital.com e-mail account. MILLER stated as follows:

> "Just wanted you to know that I haven't forgotten you. I just moved into my new offices on Monday and have been unpacking all week. I have not yet found the old prospectuses which I used at the time I looked at the various bonds and now I am wondering if I sent

> the boxes off to storage with a ton of other old paper. If I can't find them within the next two or three days, I will have to ask the bank to send me a copy (hopefully they can get their hands on this more easily than I have been able to). At any rate, I will get something to you as soon as I get my hands on it. Pat Miller."

Investor B's son-in-law does not recall ever receiving the prospectuses promised by MILLER.

38. On or about May 27, 2014, the government interviewed a representative from mindSHIFT Technologies, Inc. — the company that ICC uses to process all e-mails sent from and received by e-mail addresses ending in "@investorscapital.com[,]" including e-mails sent from and received by "pmiller@investorscapital.com[.]" The representative informed the government that the servers used to process all e-mails sent from or received by e-mail addresses ending in "@investorscapital.com" have been located at a data center in Somerville, Massachusetts from 2007 to the present.

CONCLUSION

39. Based on the foregoing, I have probable cause to believe that PATRICIA S. MILLER, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted, by means of wire communication in interstate commerce, signs, signals, pictures, and sounds, and attempted to do so, to wit, an e-mail communication dated August 6, 2010, from the e-mail account of pmiller@investorscapital.com to an e-mail account of Investor B's son-in-law, which traveled between Massachusetts and another commonwealth or state, and related to purported investments MILLER made on behalf of Investor B, in violation of Title 18, United States Code, Sections 1343, 1349, and 2.

I hereby certify that the foregoing is true and correct. Executed this 29 day of May, 2014.

WILLIAM P. MANNING
SPECIAL AGENT, FBI

SUBSCRIBED and SWORN to before me
this 29 day of May, 2014.

THE HONORABLE JENNIFER C. BOAL
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JS 45 (5/97) - (Revised U.S.D.C. MA 3/25/2011)

Criminal Case Cover Sheet **U.S. District Court - District of Massachusetts**

Place of Offense: **Category No.** II **Investigating Agency** FBI

City Somerville **Related Case Information:**

County Middlesex

Superseding Ind./ Inf. N/A Case No. N/A
Same Defendant N/A New Defendant N/A
Magistrate Judge Case Number N/A
Search Warrant Case Number N/A
R 20/R 40 from District of N/A

Defendant Information:

Defendant Name PATRICIA S. MILLER Juvenile: ☐ Yes ☑ No

Is this person an attorney and/or a member of any state/federal bar: ☐ Yes ☑ No

Alias Name

Address (City & State) South Park, Pennsylvania

Birth date (Yr only): 1946 SSN (last4#): 6555 Sex F Race: WHITE Nationality: U.S. Citizen

Defense Counsel if known: Address

Bar Number

U.S. Attorney Information:

AUSA Ryan M. DiSantis Bar Number if applicable 654513

Interpreter: ☐ Yes ☑ No List language and/or dialect:

Victims: ☑ Yes ☐ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☑ No

Matter to be SEALED: ☑ Yes ☐ No

☑ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date

☐ Already in Federal Custody as of in .
☐ Already in State Custody at ☐ Serving Sentence ☐ Awaiting Trial
☐ On Pretrial Release: Ordered by: on

Charging Document: ☑ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty ☐ Misdemeanor ☑ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☑ **I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.**

Date: 5/29/14 Signature of AUSA:

District Court Case Number (To be filled in by deputy clerk): N/A

Name of Defendant PATRICIA S. MILLER

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	18 U.S.C. ss. 1343, 1349, 2	Wire Fraud	1
Set 2			
Set 3			
Set 4			
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			

ADDITIONAL INFORMATION: