

ALB:BTK  
F. #2018R02208

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

DAVID BUTLER,

Defendant.

- - - - - X

THE GRAND JURY CHARGES:

INDICTMENT

Cr. No. **CR 18 680**  
(T. 18, U.S.C., §§ 981(a)(1)(C), 1349 and  
3551 et seq.; T. 21, U.S.C., § 853(p); T. 28,  
U.S.C., § 2461(c))

BIANCO, J.

BROWN, J.

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendant and the Binary Options Companies

1. The defendant DAVID BUTLER was a resident of Costa Rica. In or about and between January 2011 and October 2016, both dates being approximate and inclusive, BUTLER, together with others, operated various companies, including SpotFN, LLC, BinaryFN and Janus Options, which sold a type of investment known as binary options (collectively, the "Binary Options Companies").

2. To sell binary options, the Binary Options Companies promised to pay customers a predetermined profit based upon particular outcomes in the markets for securities, currencies and other investments. For example, the Binary Options Companies



would offer to pay customers a predetermined profit if a particular security or currency was valued at a particular price on a particular day at a particular time.

3. In operating the Binary Options Companies, the defendant DAVID BUTLER, together with others, sold binary options to customers, processed credit card transactions and supervised other employees of the Binary Options Companies from the home of Co-conspirator #1, an individual whose identity is known to the Grand Jury, in Glen Cove, New York, and from company offices located in New York, New York, Costa Rica and Kosovo.

## II. The Fraudulent Binary Options Scheme

4. In or about and between January 2011 and October 2016, both dates being approximate and inclusive, the defendant DAVID BUTLER, together with others, misappropriated approximately \$5.8 million from investors who had invested in binary options with the Binary Options Companies (the "Investors"). BUTLER and other employees of the Binary Options Companies used these monies for their personal benefit and for the benefit of the Binary Options Companies without the Investors' approval.

5. In furtherance of the scheme to defraud, the defendant DAVID BUTLER, together with others, engaged in telephone and email communications from the offices of the Binary Options Companies in New York, New York, Costa Rica and Kosovo, with the Investors, some of whom were located in other states, including New Jersey and California. During these communications, BUTLER, together with others, told the

Investors, in substance, that the predetermined profits that the Binary Options Companies had promised them in connection with the Investors' purchases of binary options would be based upon the actual prices of securities, currencies and other investments at particular points in time. In truth and in fact, however, as BUTLER then and there well knew and believed, the Binary Options Companies used computer software that allowed the Binary Options Companies to manipulate data associated with the Investors' binary options so that the probability of Investors earning a profit would favor the Binary Options Companies. At no time did BUTLER or any other employee of the Binary Options Companies inform the Investors that the binary options that they had purchased from the Binary Options Companies could be manipulated to the Investors' disadvantage.

6. In furtherance of the scheme to defraud, the defendant DAVID BUTLER, together with others, sent emails to and received emails from the Investors, some of whom were located in New Jersey and California, at the Binary Options Companies offices in New York, New York, Costa Rica and Kosovo, processed credit card charges from the Investors in those locations and received wire transfers from the Investors, some of whom maintained bank accounts in New Jersey and California, in a bank account that Co-conspirator #1 maintained in the name of Natmark, Inc. at Bank of America in Brooklyn, New York.

#### CONSPIRACY TO COMMIT WIRE FRAUD

7. The allegations contained in paragraphs one through six are realleged and incorporated as if fully set forth in this paragraph.

8. In or about and between January 2011 and October 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant DAVID BUTLER, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud the Investors, and to obtain money and property from them, by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

#### CRIMINAL FORFEITURE ALLEGATION

9. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged herein, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense.

10. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;


- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL.

FOREPERSON

  
RICHARD P. DONOGHUE  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

No. \_\_\_\_\_

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

DAVID BUTLER,

Defendant.

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**INDICTMENT**

(T. 18, U.S.C., §§ 981(a)(1)(C), 1349 and 3551 *et seq.*; T. 21, U.S.C., § 853(p); T. 28,  
U.S.C., § 2461(c))

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*A true bill.*



\_\_\_\_\_  
*Foreperson*

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*Filed in open court this* \_\_\_\_\_ *day,*

*of* \_\_\_\_\_ *A.D. 20* \_\_\_\_\_

\_\_\_\_\_  
*Clerk*

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*Bail, \$* \_\_\_\_\_

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*Bradley T. King, Assistant U.S. Attorney (631) 715-7900*