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Approved: *AT*
ANDREW THOMAS
Assistant United States Attorney

Before: THE HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
v.	:	Violations of
	:	18 U.S.C. §§ 1512, 1621
JON E. MONTROLL,	:	
a/k/a "Ukyo,"	:	COUNTY OF OFFENSE:
	:	NEW YORK
Defendant.	:	
	:	
-----	:	X

SOUTHERN DISTRICT OF NEW YORK, ss.:

DAYNA R. KENDALL, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE
(Perjury)

1. On or about November 14, 2013, in the Southern District of New York and elsewhere, JON E. MONTROLL, a/k/a "Ukyo," the defendant, having taken an oath before a competent officer and person, in a case in which a law of the United States authorized an oath to be administered, that he would testify, declare, depose, and certify truly, willfully and contrary to such oath, stated and subscribed to material matters which he did not believe to be true, to wit, MONTROLL, during sworn testimony to the Securities and Exchange Commission ("SEC"), gave the following false underlined testimony:

Q: Is there a way to identify the erroneous transactions?

a. A: When they went to withdraw, the system stopped them because the amount was obviously causing issues with the system.

* * *

Q: When did this problem or series of errors occur and when was it corrected?

b. A: It was corrected immediately, whenever the system started having the problems, and I caught on to what was happening I'd say within a few hours.

(Title 18, United States Code, Section 1621.)

COUNT TWO
(Perjury)

2. On or about October 6, 2015, in the Southern District of New York and elsewhere, JON E. MONTROLL, a/k/a "Ukyo," the defendant, having taken an oath before a competent officer and person, in a case in which a law of the United States authorized an oath to be administered, that he would testify, declare, depose, and certify truly, willfully and contrary to such oath, stated and subscribed to material matters which he did not believe to be true, to wit, MONTROLL, during sworn testimony to the SEC, gave the following false underlined testimony:

Q: When did you find out about the incident?

a. A: I believe it was roughly the day after testimony or a couple of days after.

* * *

Q: Did that incident that you discovered in July 2013 present any risk to BitFunder or WeExchange?

A: Not to my knowledge at that time.

Q: Why not?

b. A: Because it did not appear to me that those Bitcoins had been sent out.

* * *

Q: Did anything happen as a result of those transactions?

c. A: At the time, I looked at the system, and I did not believe that any Bitcoins had actually left

the system. My understanding was everything was still okay and that they had a different road block on the WeExchange side that was stopping it from working.

* * *

Q: I'd like to show you what's been marked as Exhibit 18, which is a copy of an online chat between a user with Ukyo and [screen name of Person-1 (defined below)] for July 30, 2013.

d. A: This is the wrong date. There's no way. . .

Q: Do you believe the date on the chat is inaccurate?

e. A: That's the only thing I can think of because that can't be right. I know I talked to [Person-1] about the hacking I want to say that weekend afterwards because we were - I was trying to see if he had any interest in buying WeExchange.

Q: What weekend did you discuss it?

f. A: I want to say it was right after the testimony, that following weekend.

* * *

Q: Were you aware that coins were stolen in July 2013?

g. A: That they were actually taken out of the account, out of the wallet, no.

Q: No. So when did you first become aware that the coins were stolen?

h. A: November. It was within a day of the testimony.

* * *

Q: How could this be anyone other than you?

A: I don't know.

Montroll's Counsel: Are you saying it is somebody other than you?

- h. A: At this point, I'm going to have to say that.

(Title 18, United States Code, Section 1621.)

COUNT THREE

(Obstruction of Justice)

3. Between in or about November 2013 and October 2015, in the Southern District of New York and elsewhere, JON E. MONTROLL, a/k/a "Ukyo," the defendant, willfully, knowingly, and corruptly would and did obstruct, influence, and impede an official proceeding, to wit, a proceeding before the SEC, and attempted to do so, by, among other things, (a) providing false sworn testimony to the SEC regarding substantial losses to users of MONTROLL's bitcoin investment and currency exchange services, as well as the timing of his discovery of these losses, and (b) producing a false record to the SEC to support his misrepresentations about the bitcoin balance available to customers.

(Title 18, United States Code, Section 1512(c).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

4. I have been a Special Agent with the FBI since 2014. I am currently assigned to a squad responsible for investigating securities fraud and related offenses, such as insider trading, market manipulation, mail fraud, wire fraud, and bank fraud. Prior to beginning my current assignment, I worked on complex counterterrorism investigations involving the collection of digital evidence.

5. The information contained in this Complaint is based upon my personal knowledge, as well as information obtained during this investigation, directly or indirectly, from other sources, including, but not limited to: (a) business records; (b) correspondence and electronic communications, including internet relay chat logs; (c) bitcoin transaction data and bitcoin blockchain analysis tools; (d) publicly available documents, including weblog posts and archived internet sites; and (e) conversations with, and reports prepared by, other FBI agents. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not

include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions and statements of and conversations with others are reported herein, they are reported in substance and in part. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Relevant Entities

6. At all times relevant to this Complaint, WeExchange Australia, Pty. Ltd. ("WeExchange") was an Australian corporate entity operated by JON E. MONTROLL, a/k/a "Ukyo," the defendant. WeExchange functioned as a bitcoin depository and currency exchange service, accessible through the Internet. WeExchange users around the world, including in the United States, could deposit and withdraw bitcoins, U.S. dollars, and Australian dollars.

7. At all times relevant to this Complaint, BitFunder.com ("Bitfunder") was an online platform operated by JON E. MONTROLL, a/k/a "Ukyo," the defendant, that purported to facilitate the purchase and trading of virtual shares of business entities that listed their virtual shares on the BitFunder platform. MONTROLL launched BitFunder in or about December 2012, and operated it through the website "www.bitfunder.com."

8. On BitFunder's website, JON E. MONTROLL, a/k/a "Ukyo," the defendant, advertised BitFunder's potential to reward savvy traders:

Buy low! Sell High! Put your market analysis to the test! Do you have what it takes to make it big? Easily track your bids, and know your position!

MONTROLL also advertised investors' ability to earn investment returns on otherwise dormant bitcoin capital:

Make your coins work for you! It's easy! All you have to do is buy a dividend paying asset share! Dividend payouts are automatically credited to your account and can be withdrawn at ANY time.

As reflected in these statements and others, MONTROLL marketed BitFunder to, and ultimately attracted, businesses associated

with cryptocurrencies such as bitcoin.

9. The BitFunder platform depended on WeExchange. Users of Bitfunder were required to create a WeExchange account to facilitate BitFunder transactions, which occurred exclusively in bitcoins. Moreover, bitcoins representing investments or returns on BitFunder would be held in the WeExchange depository account (the "WeExchange Wallet" or "Wallet"). Based on a review of the WeExchange Wallet transaction log, which registered bitcoin transactions to and from the WeExchange Wallet, it appears that the WeExchange Wallet held all users' bitcoins in one common account with all other BitFunder and WeExchange users.

Bitcoins are Stolen from BitFunder

10. Based on a review of the WeExchange Wallet transaction log, an analysis of BitFunder and WeExchange withdrawal activity performed by another FBI agent, and the statements of JON E. MONTROLL, a/k/a "Ukyo," the defendant, during sworn investigative testimony, I have learned that between on or about July 28, 2013 and August 27, 2013, one or more individuals (the "Hackers") exploited a weakness in the BitFunder programming code to cause BitFunder to credit the Hackers with profits they did not, in fact, earn (the "Exploit"). As a result, the Hackers were able to wrongfully withdraw from WeExchange approximately 6,000 bitcoins, with the majority of those coins being wrongfully withdrawn between July 28, 2013 and July 31, 2013. Because the WeExchange Wallet did not contain any bitcoins actually earned by the Hackers, the bitcoins the Hackers received were bitcoins owned by other users of the Bitfunder and WeExchange systems. As a result of the Exploit, BitFunder and WeExchange lacked the bitcoins necessary to cover what MONTROLL owed to users.

11. Based on publicly available bitcoin price charts, I have learned that one bitcoin traded for \$94.13 on July 26, 2013 and for \$11,601.30 on February 19, 2018. Accordingly, as measured in today's values, the Exploit resulted in approximately \$69.6 million in losses.

The SEC Investigation and the Defendant's Production of Documents and Sworn Testimony

12. By at least in or about September 2013, the SEC, through personnel in its New York Regional Office, had initiated an investigation relating to among other things, the use of BitFunder as an unregistered securities exchange, the Exploit,

and the issuance of an investment product by JON E. MONTROLL, a/k/a "Ukyo," the defendant, he branded as "Ukyo.loan." As part of this investigation, on or about September 17, 2013, the SEC served a subpoena on MONTROLL for documents and sworn testimony.

13. On or about October 14, 2013, in response to that subpoena, JON E. MONTROLL, a/k/a "Ukyo," the defendant, produced to the SEC in Manhattan, New York, a screenshot purportedly documenting, among other things, the total number of bitcoins available to BitFunder users in the WeExchange Wallet as of October 13, 2013 (the "Balance Statement"). The Balance Statement reflected "6,679.78 BTC"¹ on hand as of that date. In discussing the Balance Statement in subsequent sworn testimony, MONTROLL explained that this figure represented "the collective pool of funds held for users on BitFunder. The collective pool of BTC held for users on BitFunder—users who transfer bitcoins to BitFunder, this is the total amount that's being held by BitFunder of those users."

14. On or about November 14, 2013, at the SEC's Manhattan, New York offices, SEC staff questioned JON E. MONTROLL, a/k/a "Ukyo," the defendant, under oath. Based on a review of that testimony, which was transcribed, I have learned, among other things, the following:

a. MONTROLL testified about WeExchange and BitFunder, and acknowledged his role in maintaining the operations of each entity.

b. MONTROLL also acknowledged that a user had managed to manipulate the BitFunder platform through "a bug in the system" to generate the illusion of trading profits associated with that user. MONTROLL, however, denied that the user had succeeded in completing the Exploit. Specifically, MONTROLL provided the following sworn answers:

i. "When they went to withdraw, the system stopped them because the amount was obviously causing issues with the system."

ii. MONTROLL later added that the issue "was corrected immediately, whenever the system started having the problems, and I caught on to what was happening I'd say within a few hours."

¹ I understand "BTC" to refer to bitcoins.

15. In the aftermath of the sworn testimony by JON E. MONTROLL, a/k/a "Ukoyo," the defendant, the SEC made repeated requests for underlying data regarding the WeExchange Wallet. On or about November 19, 2013, the law firm that had been representing MONTROLL sent a letter to the SEC informing the SEC that it was no longer representing MONTROLL or BitFunder. Based on communications with representatives from the SEC, I understand that after MONTROLL's sworn testimony of November 14, 2013, and no later than on or about November 26, 2013, MONTROLL informed the SEC that bitcoin had in fact been stolen from WeExchange during the Exploit.

16. On or about October 6, 2015, at the SEC's Fort Worth, Texas offices, and with SEC personnel participating by videoconference from Manhattan, New York, SEC staff questioned JON E. MONTROLL, a/k/a "Ukoyo," the defendant, under oath. Based on a review of that testimony, which was transcribed, I have learned, among other things, the following:

a. Unlike during his November 2013 investigative testimony, MONTROLL admitted that the Hackers had, in fact, stolen bitcoin from WeExchange during the Exploit.

b. With respect to MONTROLL's detection of the Exploit, MONTROLL testified, in part, that he discovered the Hackers had succeeded in stealing bitcoin "roughly a day after [the November 2013] testimony or a couple of days after."

c. When questioned about his earlier testimony that he had discovered the attempted Exploit in July 2013 but contemporaneously concluded that it had been unsuccessful, MONTROLL explained that "it did not appear to me that those Bitcoins had been sent out." And, when pressed further, MONTROLL added: "At the time, I looked at the system, and I did not believe that any Bitcoins had actually left the system. My understanding was everything was still okay and that they had a different road block on the WeExchange side that was stopping it from working."

MONTROLL's Sworn Testimony Was False

17. A review of communications involving JON E. MONTROLL, a/k/a "Ukoyo," the defendant, close in time to the Exploit indicates that, contrary to his sworn testimony, MONTROLL was aware in July 2013 that the Exploit had been successful and that between three- and five-thousand bitcoins had been successfully stolen. Specifically, I have reviewed the log of a July 30, 2013

online chat involving an individual using the username "Ukyo" and the principal ("Person-1") of a different then-existing bitcoin exchange (the "Bitcoin Exchange").² The log of that chat, which was maintained by the Bitcoin Exchange and produced by Person-1 on behalf of the Bitcoin Exchange to the SEC on or about December 13, 2013, includes the following:

UKYO: heya.. as I understand it, you have some nifty tools to take a look at some address?
:P

* * *

Person-1: look in what way?

UKYO: a. if they are yours, b. if you can tell where they went etc.

UKYO: Stolen coins

Person-1: I'll have to be at the office

UKYO: kk, if you could help it would be appreciated

UKYO: I might end up biting the bullet on this one

UKYO: 3~5k btc

UKYO: long story, not necessarily my fault. But it would look bad for me if I dont

Person-1: that's a lot

UKYO: yeah

UKYO: thats why I am asking for help

UKYO: I have about 10k btc in investments

UKYO: so if I can recover that

² Based on public news reports, I understand that in or about 2014, the Bitcoin Exchange declared bankruptcy and that in or about 2015 law enforcement officials in Tokyo, Japan arrested Person-1 in connection with charges of embezzlement, data manipulation, and breach of trust relating to his operation of the Bitcoin Exchange.

UKYO: and not sell my investments

UKYO: it would help a lot

During this chat, "Ukyo" also provided specific blockchain addresses. Based on another FBI agent's review of the WeExchange Wallet transaction log, I know these addresses corresponded to certain of the Hackers' transactions during the Exploit.

18. Based on a review of correspondence between JON E. MONTROLL, a/k/a "Ukyo," the defendant, and the Bitcoin Exchange, records maintained by the Bitcoin Exchange regarding MONTROLL's accounts, chat logs between MONTROLL and another person, public postings on bitcoin forums, and MONTROLL's investigative testimony to the SEC, I have learned that MONTROLL used the online identity "Ukyo" in a variety of contexts, including in connection with his work on BitFunder and WeExchange, in correspondence, and on bitcoin forums. MONTROLL's use of the "Ukyo" handle, including in chats with Person-1, is evidenced by, among other things, the following:

a. When asked by the SEC staff on October 6, 2015 if he was "Ukyo" in the chat log produced by Person-1 on behalf of the Bitcoin Exchange, MONTROLL replied "Yes." MONTROLL also conceded that he had periodically communicated with Person-1 by internet relay chat since 2011. As detailed below, however, MONTROLL subsequently (i) disputed the date of the July 31, 2013 chat, (ii) denied any memory of it, and (iii) hypothesized that someone else used his username to communicate with Person-1 on July 30, 2013.

b. In an internet relay chat with another individual, MONTROLL identified himself as "Ukyo from WeExchange and Bitfunder."

c. On public internet forums, MONTROLL signed certain posts as "Jon Montroll/Ukyo."

d. MONTROLL also offered a tradeable investment product called a "Ukyo.loan" on BitFunder.

19. From a review of the October 6, 2015 investigative testimony of JON E. MONTROLL, a/k/a "Ukyo," the defendant, I know that when confronted with the July 30, 2013 chat MONTROLL, in substance and in part, denied that the chat had occurred on July 30, 2013, denied any recognition of the chat, and insisted he did not learn of the losses until November 2013. On these topics, he provided the following specific answers under oath:

a. Q: I'd like to show you what's been marked as Exhibit 18, which is a copy of an online chat between a user with Ukyo and [Person-1's screenname] for July 30, 2013.

A: This is the wrong date. There's no way.

Q: Do you believe the date on the chat is inaccurate?

A: That's the only thing I can think of because that can't be right. I know I talked to [Person-1] about the hacking I want to say that weekend afterwards because we were - I was trying to see if he had any interest in buying WeExchange.

Q: What weekend did you discuss it?

A: I want to say it was right after the [November 2013] testimony, that following weekend.

b. Q: What are you talking about in this IRC chat?

A: I don't recognize-I don't remember ever even having a conversation about it.

c. Q: How could this be anyone other than you?

A: I don't know.

MONTROLL's Counsel: Are you saying it is somebody other than you?

A: At this point, I'm going to have to say that.

20. During the October 2015 investigative testimony, the SEC staff also questioned JON E. MONTROLL, a/k/a "Ukyo," the defendant, about the Balance Statement MONTROLL had previously produced in 2013 while at time maintaining that no bitcoin had been stolen during the Exploit. From a review of the investigative testimony, I know that, in substance and in part, MONTROLL admitted that before producing the Balance Sheet to the SEC, he had manually increased the BitFunder account balance on WeExchange to "put that amount back that was supposed to be

there" while denying that he knew at that time any bitcoins had been stolen.

21. Based on an analysis of the running WeExchange Wallet balance during the days leading up to the exploit, I know that the losses in the WeExchange Wallet would be significant to a person tracking the Wallet's balance: after more than a week of balances in excess of 4,000 bitcoin, the WeExchange Wallet balance fell to approximately 908 bitcoins on July 29, 2013, approximately 155 bitcoins on July 30, 2013, and approximately 40 bitcoins on July 31, 2013. Also, based on a review of the deposits into the WeExchange Wallet, I know that, after depositing little to no bitcoins into the WeExchange Wallet for weeks, on July 31, 2013, the day after communicating with Person-1, JON E. MONTROLL, a/k/a "Ukyo," the defendant, deposited hundreds of bitcoins into the Wallet. Further, based on a review of the WeExchange Wallet transaction log, I have learned that this deposit amounted to MONTROLL's largest deposit into WeExchange since BitFunder's launch.

22. An analysis of the running WeExchange Wallet balance during the days leading up to the Exploit indicates that (a) the Balance Statement produced by JON E. MONTROLL, a/k/a "Ukyo," the defendant to the SEC on October 14, 2013 was false and fraudulent, and (b) the sworn testimony of MONTROLL on November 14, 2013 regarding the Balance Statement as set forth above in Paragraph 12 was false. Specifically, a review of the WeExchange Wallet transaction log, the WeExchange Wallet's highest balance on October 13, 2013 was approximately 1,212.62 bitcoins. This amount was thousands less than the amount in the Balance Statement as of October 13, 2013 MONTROLL provided the SEC staff prior to the November 14, 2013 investigative testimony.

23. Based on the foregoing, I believe that JON E. MONTROLL, a/k/a "Ukyo," the defendant, (a) discovered the Exploit had succeeded on or about July 30, 2013, as reflected in the precipitous decline in the value of the WeExchange Wallet, (b) contacted Person-1 for assistance in retrieving the wrongfully withdrawn bitcoins, (c) prepared the false Balance Statement to conceal the losses in the WeExchange Wallet and provided the false Balance Statement to the SEC, (d) provided false sworn testimony to the SEC staff when asked about the Exploit in November 2013, and (e) provided further false sworn testimony concerning the date of his discovery when asked about the Exploit again in October 2015.

WHEREFORE, I respectfully request that an arrest warrant be issued for JON E. MONTROLL, a/k/a "Ukyo," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

Dayna R. Kendall

Special Agent Dayna R. Kendall
Federal Bureau of Investigation

Sworn to before me this
20th day of February, 2018

James L. Cott

HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK