

STATE OF MICHIGAN 41B JUDICIAL DISTRICT 16TH JUDICIAL CIRCUIT	COMPLAINT FELONY	DISTRICT: CIRCUIT: MSP# 010-0000169-19
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District Court ORI: MI500045J
22380 Starks Drive, Clinton Township, MI 48036
586-469-9300

Circuit Court ORI: MI500015J
40 N. Main, Mount Clemens, MI 48043
586-469-5208

AG ORI:
MI820025A

THE PEOPLE OF THE STATE OF MICHIGAN

v

ERIC JOSEPH SMITH 96-20900248-01
BENJAMIN FIELD LISTON 96-20900248-02
DEREK EDWARD MILLER 96-20900248-03
WILLIAM DENNIS WEBER 96-20900248-04

DOB:
09/29/1966
10/22/1961
10/25/1983
06/30/1981

Victim or complainant: STATE OF MICHIGAN	Complaining Witness D/SGT. CHRIS CORRIVEAU D/SGT. SCOTT SINGLETON	Date: On or about 01/01/2012-03/23/2020
City/Twp./Village MOUNT CLEMENS	County in Michigan MACOMB	
Charge(s) See Below		Maximum Penalty See Below

STATE OF MICHIGAN, COUNTY OF MACOMB

Based on information and belief, the complaining witness says that on the date range above and in the City of Mt. Clemens, County of Macomb, the defendant(s), contrary to law,

Macomb County Prosecutor Eric Smith has been a member of the Macomb County Prosecutor's Office since 1993. In January 2005, Prosecutor Smith took office as the Macomb County Prosecutor. He has continuously held this public office since that time. The Office of County Prosecutor is a constitutional position in Michigan, Const 1963, art 7, § 4, and Prosecutor Smith is considered the chief law enforcement officer in Macomb County. See MCL 49.153. Prosecutor Smith supervises Prosecuting Attorneys whose function it is to represent the People of the State of Michigan in criminal matters before State Circuit and District Courts located in Macomb County.

In 2016, the CPA firm of Plante Moran conducted a county-wide financial audit of Macomb County's 2016 financial records. In mid-2017, Plante Moran issued its report and noted a "material weakness" in the audit, based on an unknown Macomb County Prosecutor's Office (MCPO) managed bank account that did not appear in the County's ledger. Considerable efforts were made to locate the account. These efforts, including requests to the Macomb County Prosecutor's Office, proved unsuccessful. In the 2017 audit, Plante Moran again noted a "material weakness" based on what appeared to be a Macomb County Prosecutor's Office account that was not present in the County ledger.

Under the State Uniform Budget and Account Act and Macomb County Ordinances, all County money is to be administered by the County Treasurer. The investigation by the Michigan State Police (MSP) later revealed that Prosecutor Smith, directly and through others that he supervised, refused to cooperate with County Officials and affirmatively blocked access to the secreted account(s). Smith also refused to return control of the secreted account(s) to the Macomb County Treasurer.

MSP's investigation established that Prosecutor Smith had control over four (4) separate accounts that received funds belonging to Macomb County. The four accounts were funded by money from seizures, citizen payments for drug and alcohol related offenses, and through payments to the Prosecutor's Office Diversion Program. Unlike other County accounts, which were assigned a Macomb County EIN, or an identification number associated with the County, the four accounts controlled by Prosecutor Smith all ended up with non-County EINs.

The Macomb County Board of Commissioners hired the CPA firm of Yeo & Yeo to perform an audit of the spending from the four accounts. MSP's investigation revealed that two of the accounts had been opened by the Macomb County Prosecutor's Office using non-county EINs. During the time the County was looking into these accounts, the other two accounts that had EINs associated with the County, were switched to new non-County EINs so that all four accounts had non-county EINs, making it more difficult for County officials to locate the accounts.

Despite requests by Macomb County Treasurer Lawrence Rocca, and staff from the Macomb County Prosecutor's Office, Prosecutor Smith continued to retain control over these four accounts and spend from them without the County's required checks and balances. On or about November 16, 2018, Treasurer Rocca met with Prosecutor Smith and others concerning the accounts, and Rocca requested that the funds from these accounts be placed in accounts bearing County EINs and that all four accounts and all records from their accounts be turned over to the County Treasurer's Office. Prosecutor Smith refused to comply unless he was given a guarantee that he would retain his ability to spend these County funds without County oversight.

On or about November 30, 2018, Treasurer Lawrence Rocca made a final demand to Prosecutor Smith for the identity and of the four accounts and demanded signature authority over the secreted accounts. Rocca made it clear that if Prosecutor Smith did not immediately comply, he "would resolve the matter another way." Prosecutor Smith did not comply with this request but instead delivered four checks totaling \$233,764.36 to the County Finance Director, along with a letter from Chemical Bank stating that the accounts had been closed. No account statements were ever produced by Prosecutor Smith.

MSP's investigation revealed that Prosecutor Smith and other persons in the Macomb County Prosecutor's Office utilized the four secreted accounts for Prosecutor Smith's personal benefit and the benefit of others chosen by him, including being used to procure gifts. These gifts garnered good will, a valued commodity for an elected official. These expenditures were not authorized by Michigan forfeiture statutes or law.

COUNT 1 DEFENDANT(S) (01): CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: the defendant and the Macomb County Prosecutor's Office (MCPO) and/or its employees and/or appointees; additionally or alternatively, persons associated in fact including defendant, Ben Liston, Derrick Miller, William Weber, Lori Adellia, and/or other persons in or associated with the MCPO, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

- a) On or about 1/1/2018 to 12/31/2018, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- b) On or about 1/1/2017 to 12/31/2017, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- c) On or about 1/1/2016 to 12/31/2016, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].

- d) On or about 1/1/2015 to 12/31/2015, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services,, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- e) On or about 1/1/2014 to 12/31/2014, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- f) On or about 1/1/2013 to 12/31/2013, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- g) On or about 1/1/2012 to 12/31/2012, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].

Defendant did commit, attempt to commit, conspire to commit, or conspire to commit the above offenses for financial gain, which had the same or a substantially similar purpose, or result, or participant(s), or victim(s), or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

COUNT 2 DEFENDANT(S) (01): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, not tendering control of bank accounts to proper county official(s), secreting, attempting to secret, and/or conspiring to secret bank accounts, and embezzling, attempting to embezzle, and/or conspiring to embezzle public monies; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 3 DEFENDANT(S) (01): TAMPERING WITH EVIDENCE

did knowingly and intentionally remove, alter, conceal, destroy, or otherwise tamper with evidence to be offered in an official proceeding; contrary to MCL 750.483a(6)(a). [750.483A6A]

FELONY: 4 Years and/or \$5,000.00

COUNT 4 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 5 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 6 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 7 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 8 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 9 DEFENDANT(S) (01): ACCESSORY AFTER THE FACT TO A FELONY

did commit an indictable offense at common law, to-wit: was an accessory after the fact to a felony in that he/she did, after the commission of a felony, to-wit: MCL 750.175, Embezzlement by a Public Official of \$50 or more, feloniously conceal, harbor, maintain, protect, aid, or assist the offender, Benjamin Liston, with the knowledge that the offender had committed the felony and with the intent to aid the offender in avoiding or escaping detection, arrest, trial, and punishment; contrary to MCL 750.505. [750.505-B].

FELONY: 5 Years and/or \$10,000.00

COUNT 10 DEFENDANT(S) (01): CONSPIRACY TO COMMIT FORGERY

did unlawfully conspire, combine, confederate and agree together with William Weber to commit the following listed offense, to-wit: did falsely make, alter, forge or counterfeit an accountable receipt by Weber Security Group, Inc., Number 021166, for money or other property, with intent to injure or defraud, MCL 750.248; contrary to MCL 750.157a: [PACC 750.248 [C]

FELONY: 14 years and \$10,000.00 additional fine.

COUNT 11 DEFENDANT(S) (02): CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: the defendant and the Macomb County Prosecutor's Office (MCPO) and/or its employees and/or appointees; additionally or alternatively, persons associated in fact including defendant, Eric Smith, Derrick Miller, Lori Adellia, and/or other persons in or associated with the MCPO, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

- (a) On or about 1/1/2016 to 12/31/2016, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175 [750.175]
- (b) On or about 1/1/2017 to 12/31/2017, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175 [750.175]

Defendant(s) did commit, attempt to commit, conspire to commit, or conspire to commit the above offenses for financial gain, which had the same or a substantially similar purpose, or result, or participant, or victim, or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

COUNT 12 DEFENDANT(S) (02): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, misusing, embezzling, attempting to embezzle, and/or conspiring to embezzle public monies.; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 13 DEFENDANT(S) (02): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 14 DEFENDANT(S) (02): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 15 DEFENDANT(S) (03): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, hiding or secreting bank account(s), attempting to secret, and/or conspiring to secret bank account(s), with public monies.; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 16 DEFENDANT(S) (03): CONSPIRACY- LEGAL ACT/ILLEGAL MANNER

did unlawfully conspire, combine, confederate and agree together with Eric Smith and other persons, to change the EIN of certain bank accounts to new EINs, a legal act, in order to secret, or refuse to provide accounting, oversight, or transfer custody of county monies, in violation of law, including MCL 750.485; contrary to MCL 750.157a. [750.157A]

FELONY: 5 Years and/or \$10,000.00

COUNT 17 DEFENDANT(S) (04): FORGERY

did falsely make, alter, forge or counterfeit an accountable receipt for goods, money, or other property, with intent to injure or defraud, to-wit: Weber Security Group, Inc. Invoice number 037382, dated 4/3/2017, in the amount of \$27,899; contrary to MCL 750.248. [750.248]

FELONY: 14 Years

COUNT 18 DEFENDANT(S) (04): LARCENY BY CONVERSION - \$20,000.00 OR MORE

Defendant did, being a person to whom money in the form of bank checks had been delivered, embezzled, secreted with intent to embezzle, or fraudulently convert to his own use that property, which belonged to The County of Macomb, the value of the property was \$20,000.00 or more; contrary to MCL 750.362. [750.3622A]

FELONY: 10 Years and/or \$15,000.00, or 3 times the value of the property stolen, whichever is greater (see MCL 750.356(2)(a)). To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 567 U.S. ____; No. 11-94 (2012).

COUNT 19 DEFENDANT(S) (04): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did aid, assist, or abet Eric Smith in committing an act/acts of Embezzlement by a Public Official, \$50 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

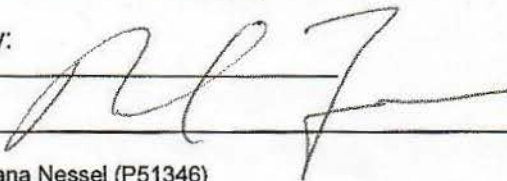
COUNT 20 DEFENDANT(S) (04): STOLEN PROPERTY - RECEIVING AND CONCEALING - \$20,000.00 OR MORE

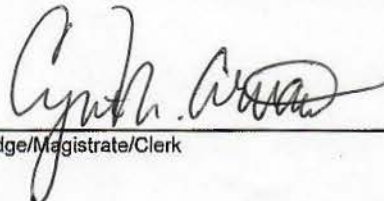
Defendant did buy, receive, possess, conceal, or aid in the concealment of money from bank checks totaling \$27,899 , stolen, embezzled, or converted property, knowing or having reason to know or reason to believe that the property was stolen, embezzled, or converted, and the value of the property was \$20,000.00 or more; contrary to MCL 750.535(2)(a). [750.5352A]

FELONY: 10 Years and/or \$15,000.00 or 3 times the value of the property, whichever is greater. Court may order reimbursement to state or local government for expenses incurred in relation to the incident including but not limited to expenses for emergency response and prosecution. (MCL 769.1f).

Court shall order law enforcement to collect a DNA identification profiling sample before sentencing or disposition, if not taken at arrest.

The complaining witness asks that defendant(s) be apprehended and dealt with according to law.

Warrant authorized on Date: <u>March 24, 2020</u>
by: 
Dana Nessel (P51346) Attorney General, State of Michigan
Michael G. Frezza (P46949) Robert M. Hayes (P69006) Assistant Attorneys General Michigan Department of Attorney General Criminal Trials and Appeals Division Cadillac Place, 3030 W. Grand Blvd., Suite 10-200 Detroit, MI 48202 Phone: (313) 456-0180

<u>DISC Opal Cat #211</u>	
Complaining witness signature	
Subscribed and sworn to before me on <u>3/24/2020</u>	
Date	
	P53690
Judge/Magistrate/Clerk	Bar no.

STATE OF MICHIGAN 41B JUDICIAL DISTRICT 16TH JUDICIAL CIRCUIT	WARRANT FELONY	DISTRICT: CIRCUIT: MSP# 010-0000169-19
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District Court ORI: MI500045J 22380 STARKS DRIVE CLINTON TOWNSHIP, MI 48036 586-469-9300	Circuit Court ORI: MI500015J 40 N. Main, Mount Clemens, MI 48043 586-469-5208	AG ORI: MI820025A
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v	DOB:
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Race:	Sex: M	Victim or complainant: STATE OF MICHIGAN	Complaining Witness D/SGT. CHRIS CORRIVEAU D/SGT. SCOTT SINGLETON	Date: On or about 01/01/2012-03/23/2020
City/Twp./Village MOUNT CLEMENS		County in Michigan MACOMB		
Charge(s) See Below				Maximum Penalty See Below

STATE OF MICHIGAN, COUNTY OF MACOMB

To any peace officer or court officer authorized to make arrest: Based on Information and belief, the complaining witness has filed a sworn complaint in this court stating:

Macomb County Prosecutor Eric Smith has been a member of the Macomb County Prosecutor's Office since 1993. In January 2005, Prosecutor Smith took office as the Macomb County Prosecutor. He has continuously held this public office since that time. The Office of County Prosecutor is a constitutional position in Michigan, Const 1963, art 7, § 4, and Prosecutor Smith is considered the chief law enforcement officer in Macomb County. See MCL 49.153. Prosecutor Smith supervises Prosecuting Attorneys whose function it is to represent the People of the State of Michigan in criminal matters before State Circuit and District Courts located in Macomb County.

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MSP's investigation established that Prosecutor Smith had control over four (4) separate accounts that received funds belonging to Macomb County. The four accounts were funded by money from seizures, citizen payments for drug and alcohol related offenses, and through payments to the Prosecutor's Office Diversion Program. Unlike other County accounts, which were assigned a Macomb County EIN, or an identification number associated with the County, the four accounts controlled by Prosecutor Smith all ended up with non-County EINs.

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being a person employed by or associated with an enterprise, to wit: the defendant and the Macomb County Prosecutor's Office (MCPO) and/or its employees and/or appointees; additionally or alternatively, persons associated in fact including defendant, Ben Liston, Derrick Miller, William Weber, Lori Adellia, and/or other persons in or associated with the MCPO, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

- a) On or about 1/1/2018 to 12/31/2018, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- b) On or about 1/1/2017 to 12/31/2017, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- c) On or about 1/1/2016 to 12/31/2016, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services,, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].

- d) On or about 1/1/2015 to 12/31/2015, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- e) On or about 1/1/2014 to 12/31/2014, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- f) On or about 1/1/2013 to 12/31/2013, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].
- g) On or about 1/1/2012 to 12/31/2012, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175. [750.175].

Defendant did commit, attempt to commit, conspire to commit, or conspire to commit the above offenses for financial gain, which had the same or a substantially similar purpose, or result, or participant(s), or victim(s), or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

COUNT 2 DEFENDANT(S) (01): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, not tendering control of bank accounts to proper county official(s), secreting, attempting to secret, and/or conspiring to secret bank accounts, and embezzling, attempting to embezzle, and/or conspiring to embezzle public monies; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 3 DEFENDANT(S) (01): TAMPERING WITH EVIDENCE

did knowingly and intentionally remove, alter, conceal, destroy, or otherwise tamper with evidence to be offered in an official proceeding; contrary to MCL 750.483a(6)(a). [750.483A6A]

FELONY: 4 Years and/or \$5,000.00

COUNT 4 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 5 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 6 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 7 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 8 DEFENDANT(S) (01): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: on one or more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 9 DEFENDANT(S) (01): ACCESSORY AFTER THE FACT TO A FELONY

did commit an indictable offense at common law, to-wit: was an accessory after the fact to a felony in that he/she did, after the commission of a felony, to-wit: MCL 750.175, Embezzlement by a Public Official of \$50 or more, feloniously conceal, harbor, maintain, protect, aid, or assist the offender, Benjamin Liston, with the knowledge that the offender had committed the felony and with the intent to aid the offender in avoiding or escaping detection, arrest, trial, and punishment; contrary to MCL 750.505. [750.505-B].

FELONY: 5 Years and/or \$10,000.00

COUNT 10 DEFENDANT(S) (01): CONSPIRACY TO COMMIT FORGERY

did unlawfully conspire, combine, confederate and agree together with William Weber to commit the following listed offense, to-wit: did falsely make, alter, forge or counterfeit an accountable receipt by Weber Security Group, Inc., Number 021166, for money or other property, with intent to injure or defraud, MCL 750.248; contrary to MCL 750.157a: [PACC 750.248 [C]

FELONY: 14 years and \$10,000.00 additional fine.

COUNT 11 DEFENDANT(S) (02): CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: the defendant and the Macomb County Prosecutor's Office (MCPO) and/or its employees and/or appointees; additionally or alternatively, persons associated in fact including defendant, Eric Smith, Derrick Miller, Lori Adellia, and/or other persons in or associated with the MCPO, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

- (a) On or about 1/1/2016 to 12/31/2016, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one ore more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175 [750.175]
- (b) On or about 1/1/2017 to 12/31/2017, in the City of Mt. Clemens, County of Macomb, defendant, being a person holding public office in this state, did knowingly and unlawfully appropriate to his own use, or to the use of any other person, money or property received by him in his official capacity or employment, to-wit: on one ore more occasions, money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL 750.175 [750.175]

Defendant did commit, attempt to commit, conspire to commit, or conspire to commit the above offenses for financial gain, which had the same or a substantially similar purpose, or result, or participant, or victim, or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

COUNT 12 DEFENDANT(S) (02): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, misusing, embezzling, attempting to embezzle, and/or conspiring to embezzle public monies.; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 13 DEFENDANT(S) (02): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 14 DEFENDANT(S) (02): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did, being a person holding public office in this state, knowingly and unlawfully appropriate to his/her own use, or to the use of any other person, money or property received by him/her in his/her official capacity or employment, to-wit: money, personal property, or goods and services, of the value of \$50.00 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 15 DEFENDANT(S) (03): COMMON LAW OFFENSES

did commit an indictable offense at common law, to wit: Misconduct of a Public Official, including but not limited to, hiding or secreting bank account(s), attempting to secret, and/or conspiring to secret bank account(s), with public monies.; contrary to MCL 750.505. [750.505-C]

FELONY: 5 Years and/or \$10,000.00

COUNT 16 DEFENDANT(S) (03): CONSPIRACY- LEGAL ACT/ILLEGAL MANNER

did unlawfully conspire, combine, confederate and agree together with with Eric Smith and other persons, to change the EIN of certain bank accounts to new EINs, a legal act, in order to secret, or refuse to provide accounting, oversight, or transfer custody of county monies, in violation of law, including MCL 750.485; contrary to MCL 750.157a. [750.157A]

FELONY: 5 Years and/or \$10,000.00

COUNT 17 DEFENDANT(S) (04): FORGERY

did falsely make, alter, forge or counterfeit an accountable receipt for goods, money, or other property, with intent to injure or defraud, to-wit: Weber Security Group, Inc. Invoice number 037382, dated 4/3/2017, in the amount of \$27,899; contrary to MCL 750.248. [750.248]

FELONY: 14 Years

COUNT 18 DEFENDANT(S) (04): LARCENY BY CONVERSION - \$20,000.00 OR MORE

did, being a person to whom money in the form of bank checks had been delivered, embezzled, secreted with intent to embezzle, or fraudulently convert to his own use that property, which belonged to The County of Macomb, the value of the property was \$20,000.00 or more; contrary to MCL 750.362. [750.3622A]

FELONY: 10 Years and/or \$15,000.00, or 3 times the value of the property stolen, whichever is greater (see MCL 750.356(2)(a)). To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 567 U.S. ____; No. 11-94 (2012).

COUNT 19 DEFENDANT(S) (04): EMBEZZLEMENT - PUBLIC OFFICIAL OVER \$50.00

did aid, assist, or abet Eric Smith in committing an act/acts of Embezzlement by a Public Official, \$50 or more; contrary to MCL. 750.175. [750.175]

FELONY: 10 Years or \$5,000.00

COUNT 20 DEFENDANT(S) (04): STOLEN PROPERTY - RECEIVING AND CONCEALING - \$20,000.00 OR MORE

did buy, receive, possess, conceal, or aid in the concealment of money from bank checks totaling \$27,899 , stolen, embezzled, or converted property, knowing or having reason to know or reason to believe that the property was stolen, embezzled, or converted, and the value of the property was \$20,000.00 or more; contrary to MCL 750.535(2)(a). [750.5352A]

FELONY: 10 Years and/or \$15,000.00 or 3 times the value of the property, whichever is greater. Court may order reimbursement to state or local government for expenses incurred in relation to the incident including but not limited to expenses for emergency response and prosecution. (MCL 769.1f).

Court shall order law enforcement to collect a DNA identification profiling sample before sentencing or disposition, if not taken at arrest.

Upon examination of the complaining witness, I find that the offense(s) charged has/have been committed and that there is probable cause to believe that defendant committed the offense(s). THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I order you to arrest and bring defendant before the 41B District Court immediately.

The defendant may be released before arraignment if \$_____ is posted as interim bail


by _____
Date

3/24/2020

Date

(SEAL)

Judge/Magistrate

 P53690

Bar no.

RETURN

As ordered in this warrant, the defendant was arrested on _____ at _____
Date Time
at _____
Place of arrest

Date

Peace officer

PROSECUTION TO BE HANDLED BY:

Dana M. Nessel (P51346)
Attorney General
Michigan Department of Attorney General

Michael G. Frezza (P46949)
Robert M. Hayes (P69006)
Assistant Attorneys General
Michigan Department of Attorney General
Criminal Trials and Appeals Division
Cadillac Place, 3030 W. Grand Blvd., Suite 10-200
Detroit, MI 48202
(313) 456-0180

STATE OF MICHIGAN
41B JUDICIAL DISTRICT
16TH JUDICIAL CIRCUIT

**ADULT
BINDER**

DISTRICT:
CIRCUIT:
MSP# 010-0000169-19

District Court ORI: MI500045J
22380 STARKS DRIVE CLINTON TOWNSHIP, MI 48036
586-469-9300

Circuit Court ORI: MI500015J
40 N. Main, Mount Clemens, MI 48043
586-469-5208

AG ORI: MI820025A

THE PEOPLE OF THE STATE OF MICHIGAN

v

ERIC JOSEPH SMITH 96-20900248-01
BENJAMIN FIELD LISTON 96-20900248-02
DEREK EDWARD MILLER 96-20900248-03
WILLIAM DENNIS WEBER 96-20900248-04

DOB:
9/29/1966
10/22/1961
10/25/1983
6/30/1981

Victim or complainant:
STATE OF MICHIGAN

Complaining Witness
D/SGT. CHRIS CORRIVEAU
D/SGT. SCOTT SINGLETON

Date: On or about
01/01/2012-03/23/2020

City/Twp./Village
MOUNT CLEMENS

County in Michigan
MACOMB

Charge(s)
See Below

Maximum Penalty
See Below

Date: _____

District Judge: _____

Reporter/Recorder

Cert. no.

Bar no.

Represented by counsel

Bar no.

EXAMINATION WAIVER

1. I, the defendant, understand:

- I have a right to employ an attorney.
- I may request a court appointed attorney if I am financially unable to employ one.
- I have a right to a preliminary examination where it must be shown that a crime was committed and probable cause exists to charge me with the crime.

2. I voluntarily waive my right to a preliminary examination and understand that I will be bound over to circuit court on the charges in the complaint and warrant (or as amended).

Defendant attorney

Bar no.

Defendant

ADULT BIND OVER

☐ 3. Examination has been waived.

☐ 4. Examination was held and it was found that probable cause exists to believe both that an offense not cognizable by the district court has been committed and that the defendant committed the offense.

☐ 5. The defendant is bound over to circuit court to appear on _____ at _____ m.
Date Time

☐ on the charge(s) in the complaint.

☐ on the amended charge(s) of _____

MCL/PACC Code _____

6. Bond is set in the amount of \$_____. Type of bond: _____ ☐ Posted

Date

Judge

Bar no.