

State of Minnesota County of Ramsey District Court

CCT	LIST CHARGE STATUTE ONLY	M.O.C.	GOC	CTY. ATTY. FILE NO.	CONTROLLING AGENCY	CONTROL NO.
1	609.2335, Subd. 1(1)(ii)	U1709	N		MN0620900	12155645
2	609.2335, Subd. 1(1)(ii)	U1709	N			
3	609.2335, Subd. 1(1)(ii)	U1709	N			
4	609.2335, Subd. 1(1)(ii)	U1702	N			
5	609.2335, Subd. 1(1)(ii)	U1702	N			
6	609.2335, Subd. 1(1)(ii)	U1702	N			

COURT CASE NO. \_\_\_\_\_ DATE FILED \_\_\_\_\_

**FILE COPY**

- Amended     Tab Charge Previously Filed  
 SERIOUS FELONY     SUMMONS  
 FELONY     WARRANT  
 GROSS MISDM DWI     ORDER OF DETENTION  
 GROSS MISDM

State of Minnesota

VS. PLAINTIFF,

NAME: first, middle, last Larry Dean Fiscus  
 1358 Colby Avenue  
 Saint Paul MN 55116

Date of Birth 7/29/48 SJIS COMPLAINT NUMBER RAMSEY CTY

DEFENDANT.

**COMPLAINT**

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense (s). The complainant states that the following facts establish PROBABLE CAUSE:

On August 8, 2011, paramedics were called to a home at 1358 Colby Avenue, St. Paul, Ramsey County, Minnesota, on a report of an elderly female with shoulder pain. On arrival, paramedics observed the condition of the home to be "filthy" and found a 92 year old female sleeping on plastic garbage bags which were covering urine-soaked towels that had seeped through to a stained, dirty sofa. The elderly woman was incoherent and unable to answer questions about her condition other than to say she was "in pain everywhere." She had dried feces covering her back, buttocks, and pelvis, with sores and abrasions on her shoulder as well as a decubitus ulcer (commonly known as a "pressure sore") on her lower back/coccyx. She was later identified as having the initials "C.M." Her nephew, LARRY DEAN FISCUS (DOB: 7/29/48), the Defendant herein, was present and was the only other person residing in the home. He stated that he had been living with his aunt for several years and identified himself as her caregiver. C.M. was the sole owner of the home in which they lived.

C.M. was transported to St. Joseph's Hospital where she was admitted for dehydration, a decubitus ulcer in need of treatment, malnutrition, and generally, "failure to thrive." Once she was admitted to the hospital and stabilized, a psychological evaluation was performed. It was concluded that C.M. suffered from severely advanced dementia and that she did not have the cognitive ability to make her own decisions or provide for her own care. It was further concluded that she needed 24-hour professional care, which could best be accomplished in a nursing home or memory care unit and that the care being provided to her in her home was "placing her well-being at risk." Hospital staff made a report of maltreatment to Ramsey County Adult Protection and recommended that guardianship and conservatorship proceedings be initiated.

Just prior to C.M.'s discharge from the hospital on August 11, 2011, Defendant requested that his aunt be returned to their home at 1358 Colby Avenue. Defendant was advised as to her need for 24-hour care; however, he insisted that he take her home and agreed to obtain hospice care. Defendant made arrangements for a first hospice visit from HealthEast Hospice Care Systems to

THEREFORE, Complainant requests that said Defendant, subject to bail or conditions of release be:  
 (1) arrested or that other lawful steps be taken to obtain defendant's appearance in court; or  
 (2) detained, if already in custody, pending further proceedings;  
 and that said Defendant otherwise be dealt with according to law.

COMPLAINANT'S NAME:  
 Sgt. Josh Lego

COMPLAINANT'S SIGNATURE:

Being duly authorized to prosecute the offense(s) charged, I hereby approve this Complaint.

DATE:  
 October 30, 2012

PROSECUTING ATTORNEYS SIGNATURE:  


PROSECUTING ATTORNEY:  
 NAME/TITLE:

ADDRESS/TELEPHONE:

Tara K. Patet, Asst. City Attorney, 500 City Hall, St. Paul, MN 55102  
 FORM B



Your complainant, Sgt. Josh Lego, is an investigator with the St. Paul Police Department's Elder Abuse Unit who has specialized training and experience in investigating crimes committed against elderly and vulnerable adults. He obtained (via search warrant(s)) and reviewed banking and other financial records involving C.M. and Defendant and interviewed numerous family members and acquaintances of Defendant. His investigation revealed that Defendant moved into C.M.'s Colby Avenue home approximately ten years before her death. At that time, C.M. had been a widow for many years. She and her late husband had no children and she was living alone. Defendant had recently gone through a divorce, was self employed as a painter, and had been ordered to pay child support by Dakota County Family Court. Within months of his moving in with her (January, 2001) Defendant obtained Power of Attorney (POA) over C.M.'s financial affairs using a "statutory short form power of attorney" form, which he drafted.

Sometime after 2001, Defendant started a business called "Bacalar Bay Engineering," a company located in Medford, Wisconsin, which manufactured router tables for wood working. Defendant was the CEO. Defendant held an account for this business at Mainstreet Bank in Newport, Minnesota. He rented workshop space for this business through a company called Northwest Regional Planning Commission (NWRPC). Defendant also purchased an interest in a hotel property in Bacalar, Mexico.

In 2004, C.M.'s primary physician, Dr. Donald Gehrig, observed that C.M. was starting to exhibit signs of cognitive impairment. Dr. Gehrig works primarily with geriatric patients and has expertise in treating patients with dementia. He had been C.M.'s primary physician since 1990. Dr. Gehrig's medical notes indicate that from 2004 C.M.'s dementia progressed. In 2004, her medical records indicate that she started forgetting to take prescribed medications and Dr. Gehrig told Defendant during a clinic visit that C.M. should not be left alone. This became a concern to Dr. Gehrig because Defendant admitted leaving C.M. alone while he worked at his business in Wisconsin, sometimes spending the night.

By 2007, Defendant had amassed child support arrears of \$60,801. In April of that year, Defendant moved to modify his child support obligation; his request was denied.

In that same year (2007), Defendant drafted and initiated the signing of a new Power of Attorney document, once again naming himself as C.M.'s attorney-in-fact; however this POA was considerably more detailed than the 2001 POA and gave Defendant broader legal powers, including the powers to manage, dispose, sell and convert C.M.'s real and personal property, giving Defendant the power to pay himself for "services" and engage in any transaction he deemed in good faith to be in her interests. The POA specifically precluded Defendant from co-mingling any of his funds with hers. This document was signed by C.M. on March 24, 2007. Dr. Gehrig was specifically asked during this investigation if C.M., given the progression of her dementia at this time, would have had the ability to understand the contents of this 2007 POA. It was his opinion that she would not have understood its contents, and would not have even remembered signing it afterwards.

A review of C.M.'s bank records revealed that C.M. had significant income from various sources prior to and during the years that Defendant resided with her. Specifically, C.M. received monthly social security payments, income from various life insurance annuities, and payments from her pension. Much of this income was direct-deposited into a checking account at **American Bank** in St. Paul, Ramsey County, titled "[C.M.] Investment Account" (account number ending in **-2342**). This account was opened by Defendant, held in C.M.'s name, and listed Defendant as the P.O.D. ("pay on death"). Other income paid to C.M. was direct-deposited into an account at **Highland Bank** in St. Paul.

Your complainant created a spreadsheet detailing the activity in this account for a review period of June 1, 2008, through November 30, 2011 (hereinafter "Review Period"). During the Review Period, C.M.'s income into this account was as follows:

***Deposits to American Bank "[C.M.] INVESTMENT ACCOUNT"  
June 1, 2008 to September 20, 2011***

<b>Deposit Source:</b>	<b>Type of income:</b>	<b>Total for Review Period:</b>
U.S. Treasury	social security	\$ 45,860
Highland Bank	(see explanation below)	\$ 80,000
River Source	life insurance annuity	\$ 34,144
Transamerica Life	life insurance annuity	\$ 19,292
Monumental Life	life insurance annuity	\$ 4,637
American Bank (-6577)	home equity line of credit	\$ 53,000
Minnesota Revenue Service	state income tax refunds	\$ 1,500
United States Treasury	federal income tax refunds	\$ 7,249
	<b><i>TOTAL</i></b>	<b><i>\$ 245,682</i></b>

During this same period, Defendant's total deposits into this account – from his Bacalar Bay Engineering business – totaled \$15,725.

In 2006, Defendant, acting in his capacity as C.M.'s POA, obtained a first line of credit, in the amount of \$184,500, from American Bank using C.M.'s house at 1358 Colby as collateral. On July 21, 2011, Defendant, again acting in his capacity as C.M.'s POA, obtained a second (renewed) line of credit from American Bank, again using the C.M.'s 1358 Colby address as collateral. The amount of this second line of credit was \$184,136. The loan number on this line of credit ends in -6577 (see inclusion in above chart).

Further analysis of this account during the Review Period showed that Defendant wrote checks on this account, solely for his own use and benefit, which totaled in excess of \$200,000. C.M. did not write any checks from this account or make any electronic withdrawals. Each check bears Defendant's signature as C.M.'s POA. Your complainant has broken down these expenditures in 6-month intervals as follows:

*June 1, 2008 thru November 30, 2008:*

<b>Nature of Expense</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 28,050
Defendant Business Expenses	Bacalar Bay Engineering	\$ 23,000
	NWR Planning Commission	\$ 2,470
	NU Wood	\$ 3,768
	Mainstreet Bank	\$ 2,000
Defendant's Children	[N.] Fiscus	\$ 2,830
	TOTAL	\$ 62,118

*December 1, 2008 thru May 31, 2009:*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 24,750
Defendant Business Expenses	Bacalar Bay Engineering	\$ 2,750
	NWR Planning Commission	\$ 2,500
	Mainstreet Bank	\$ 4,500
Defendant's Children	[N.] Fiscus	\$ 700
	TOTAL	\$ 35,200

*June 1, 2009 thru November 30, 2009*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 28,800
Defendant's Children	[N.] Fiscus	\$ 2,700
Defendant Business Expenses	Bacalar Bay Engineering	\$ 4,500
	NWR Planning Commission	\$ 2,430
	Mainstreet Bank	\$ 3,200
	TOTAL:	\$ 41,630



*December 1, 2009 thru May 31, 2010*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 25,225
	Larry Fiscus	\$ 1,605
Defendant's Children	Fiscus Children's Account	\$ 1,640
	[N.] Fiscus	\$ 1,100
Defendant Business Expenses	Bacalar Bay Engineering	\$ 3,650
	TOTAL:	\$ 33,220

*June 1, 2010 thru November 30, 2010*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 12,257
	Larry Fiscus	\$ 1,600
Defendant's Children	Fiscus Children's Account	\$ 4,920
	[N.] Fiscus	\$ 3,625
Defendant Business Expenses	Bacalar Bay Engineering	\$ 767
	TOTAL:	\$ 23,169

*December 1, 2010 thru May 31, 2011*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 6,905
Defendant's Children	Fiscus Children's Account	\$ 1,408
	[N.] Fiscus	\$ 1,010
	[V.] Fiscus	\$ 150
Defendant Business Expenses	Bacalar Bay Engineering	\$ 1,400
	TOTAL:	\$ 11,274

*June 1, 2011 thru September 20, 2011*

<b>Nature of Expense:</b>	<b>Payable to:</b>	<b>Amount:</b>
Cash Withdrawals	American Bank	\$ 3,500
	Larry Fiscus	\$ 1,000
	TOTAL:	\$ 4,500

The reference in the above charts to "Fiscus Children's Account" refers to an account that was opened by Defendant at American Bank on October 28, 2009. This account was held solely in the name of Defendant and was entitled "Fiscus Children's Account." Several transfers were made into that account from the account belonging to C.M.'s, analyzed above. This money was then spent by Defendant to make child support payments, direct payments to his children, or withdrawn as cash by Defendant.

Defendant also opened an account at **Highland Bank** in St. Paul, Ramsey County, on March 27, 2007, listing C.M. as the account holder. Although C.M.'s name appears on the signature sheet as the primary account holder, with Defendant as POA, C.M.'s signature does not appear on the form. When this account was opened, Defendant transferred \$14,381.00 from another account previously held by C.M. at Highland Bank. From that date forward, direct deposits were made into that account from C.M.'s pension, a regular life insurance annuity held by C.M., and interest payments. Defendant made no deposits of his own money into this account; however, he made significant withdrawals from this account totaling in excess of \$100,000 from Nov. 1, 2007 to Oct. 31, 2011. Your complainant reviewed all withdrawals/checks written on this account during that time period. Each check bears Defendant's signature. This total included \$80,000 which Defendant then deposited in the American Bank account (# - 2342) and subsequently withdrew for his own use and not for the benefit of C.M. (those expenditures are reflected on the Expenditures Chart above). In addition, Defendant made cash withdrawals directly out of the Highland Bank account totaling \$15,500.00. These cash withdrawals, combined with the money Defendant withdrew for his own benefit from American Bank, reveal that over the Review Period Defendant financial exploited in excess of \$250,000.00 from his aunt, C.M., who was a vulnerable adult during that time.

**COUNT I:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$35,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(1); §609.52, subd. 3(5)

Maximum Sentence: Imprisonment of no more than 20 years or payment of a fine of no more than \$100,000 or both.

On or about June 1, 2008 thru November 30, 2008, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT II:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$35,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(1); §609.52, subd. 3(5)

Maximum Sentence: Imprisonment of no more than 20 years or payment of a fine of no more than \$100,000 or both.

On or about December 1, 2008 thru May 31, 2009, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT III**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$35,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(1); §609.52, subd. 3(5)

Maximum Sentence: Imprisonment of no more than 20 years or payment of a fine of no more than \$100,000 or both.

On or about June 1, 2009 thru November 30, 2009, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT IV:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$5,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(2); §609.52, subd. 3(5)

Maximum Sentence: Imprisonment of no more than 20 years or payment of a fine of no more than \$20,000 or both.

On or about December 1, 2009, thru May 31, 2010, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.



**COUNT V:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$5,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(2)

Maximum Sentence: Imprisonment of no more than 10 years or payment of a fine of no more than \$20,000 or both.

On or about June 1, 2010 thru November 30, 2010, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT VI:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$5,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(2)

Maximum Sentence: Imprisonment of no more than 10 years or payment of a fine of no more than \$20,000 or both.

On or about December 1, 2010 thru May 31, 2011, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT VII:**

**Charge: Financial Exploitation of a Vulnerable Adult (over \$1,000)**

Statute: §609.2335, subds. 1(1)(ii) referencing §609.52, subd. 3(3)(a)

Maximum Sentence: Imprisonment of no more than 5 years or payment of a fine of no more than \$10,000 or both.

On or about June 1, 2011 thru September 20, 2011, in Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), in breach of a fiduciary obligation recognized elsewhere in law, intentionally used, managed, took either temporarily or permanently the real or personal property or financial resources of a vulnerable adult for the benefit of someone other than the vulnerable adult.

**COUNT VIII:**

**Charge: Neglect of a Vulnerable Adult**

Statute: §609.233, Subd. 1

Maximum Sentence: Imprisonment of not more than one year or a fine of \$3,000 or both

On or about August 1, 2011 thru August 25, 2011, in St. Paul, Ramsey County, Minnesota, LARRY DEAN FISCUS (DOB: 7/29/48), was a caregiver for a vulnerable adult and intentionally neglected or knowingly permitted conditions to exist that resulted in the vulnerable adult's abuse or neglect.

This COMPLAINT was subscribed and sworn to before the undersigned this \_\_\_\_\_ day of \_\_\_\_\_.

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**FINDING OF PROBABLE CAUSE**

From the above sworn facts and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that Probable cause exists to support, subject to bail or conditions of release where applicable, Defendant (s) arrest or other lawful steps be taken to obtain Defendant (s) appearance in Court, or Defendant (s) detention, if already in custody, pending further proceedings. The Defendant (s) is/are thereof charged with the above-stated offense.

**SUMMONS**

X THEREFORE You, THE ABOVE-NAMED DEFENDANT(S), ARE HEREBY SUMMONED to appear on the 19th day of November, 2012 at 1:20 PM before the above-named court at Law Enforcement Center

Saint Paul to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

**WARRANT**

EXECUTE IN MINNESOTA ONLY  
To the sheriff of the above-named county; or other person authorized to execute this WARRANT; I hereby order, in the name of the State of Minnesota, that the above-named Defendant (s) be apprehended and arrested without delay and brought promptly before the above-named Court (if in session, and if not, before a Judge of Judicial Officer of such Court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon thereafter as such Judge or Judicial Officer is available) to be dealt with according to law.

**ORDER OF DETENTION**

Since the above-named Defendant (s) is/are already in custody: I hereby order; subject to bail or conditions of release, that the above-named Defendant (s) continue to be detained pending further proceedings.

Bail:

Conditions of Release:

This COMPLAINT -SUMMONS/WARRANT/ORDER OF DETENTION, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this \_\_\_\_\_ day of \_\_\_\_\_

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

Sworn testimony has been given before the Judicial Officer by the following witnesses:

STATE OF MINNESOTA COUNTY of  
RAMSEY  
**State of Minnesota**  
Plaintiff,  
vs.  
Larry Dean Fiscus  
Defendant (s)

Clerk's Signature or File Stamp:  
  
**RETURN OF SERVICE**  
I hereby Certify and Return that I have served a copy of this COMPLAINT - SUMMONS/WARRANT/ORDER OF DETENTION upon the Defendant (s) herein-named.  
Signature of Authorized Service Agent: