

EXHIBIT 45

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)
BREAKING CODE SILENCE, a)
California 501(c)(3))
nonprofit,)
)
Plaintiff,)
)
vs.) Case No.:
) 2:22-cv-002052-SB-MAA
KATHERINE MCNAMARA, an)
individual; JEREMY WHITELEY,)
an individual; and DOES 1)
through 50, inclusive,)
)
Defendants.)
_____)

Certified Copy

(PORTIONS OF THIS TRANSCRIPT ARE DEEMED CONFIDENTIAL)

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF PERSON MOST QUALIFIED
FOR BREAKING CODE SILENCE, VANESSA HUGHES, PH.D.

Date and Time: Tuesday, March 21, 2023
9:08 a.m. - 2:00 p.m.

Location: Remotely
(Via Videoconference)

Reporter: Stephanie P. Borthwick CSR
Certificate No. 12088

Job No. 26441

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)	
BREAKING CODE SILENCE, a)	
California 501(c)(3))	
nonprofit,)	
)	
Plaintiff,)	
)	
vs.)	Case No.:
)	2:22-cv-002052-SB-MAA
KATHERINE MCNAMARA, an)	
individual; JEREMY WHITELEY,)	
an individual; and DOES 1)	
through 50, inclusive,)	
)	
Defendants.)	
)	

Deposition of VANESSA HUGHES, Ph.D., taken before Stephanie P. Borthwick, CSR, a Certified Shorthand Reporter for the State of California, with principal office in the County of Riverside, commencing on Tuesday, March 21, 2023, 9:08 a.m. with all parties present via videoconference.

09:16:21 1 A. I'm not technologically savvy enough to
2 negotiate this on a computer system that's not my
3 own.

4 Q. You're not able to open the PDF?

09:16:41 5 THE VIDEOGRAPHER: If you just click back
6 on the chat on the exhibit there, you'll be able to
7 open it wherever you downloaded it to, Doctor.

8 THE WITNESS: Okay, I have it open.

9 BY MR. TATE:

09:16:53 10 Q. Great.

11 Have you seen this document before?

12 A. I don't recall whether or not I have seen
13 this document.

14 Q. Do you understand that you've been
09:17:16 15 designated by BCS to be one of its persons most
16 knowledgeable?

17 A. Yes.

18 Q. Can you turn to page 18 of this document.

19 A. Okay. I'm on 18.

09:17:41 20 Q. Do you see the section where it says
21 "Requests for Production" on line 16?

22 A. Yes.

23 Q. I'll represent to you this section asked
24 BCS to produce documents at today's deposition. Are
09:18:05 25 you producing any additional documents today?

10:54:17 1 third column, first sentence says, "McNamara used
2 Plaintiff's electronic materials stored in the BCS
3 Google Drive in connection with establishing
4 Unsilenced."

10:54:28 5 A. Yes.

6 Q. Do you believe that Whiteley accessed BCS's
7 electronic materials stored in the BCS Google Drive?

8 A. I am unsure. We are still investigating
9 though.

10:54:38 10 Q. Okay. When you filed the complaint against
11 Jeremy Whiteley, did you have any evidence that he
12 did that?

13 A. I'm unsure.

14 Q. The next sentence says, "McNamara used
10:54:53 15 Whiteley's previous administrative credentials for
16 the BCS Google account to request that the BCS
17 website be deindexed multiple times during
18 March 8th, 2022, through March 9, 2022."

19 Once again it's alleging that McNamara did
10:55:07 20 it. Does BCS believe that Jeremy was responsible
21 for the deindexing?

22 A. That is my understanding.

23 Q. Why does BCS think that Jeremy had anything
24 to do with that?

10:55:26 25 A. Because the email address -- it's my

10:55:28 1 understanding that the email address that was used
2 to gain access belonged to Jeremy Whiteley.

3 Q. Why did BCS then say that McNamara used
4 Whiteley's administrative credentials?

10:55:43 5 A. It's my understanding that there were two
6 necessary components and McNamara had access to one
7 and Jeremy was able to access the other.

8 Q. Did you do an investigation into this
9 issue?

10:56:14 10 A. There was an investigation, yes.

11 Q. Who did the investigation?

12 A. I believe Jesse Jenson was one of the
13 primary individuals that investigated this matter.

14 Q. Anyone else?

10:56:30 15 A. I'm unsure.

16 Q. Did Jesse prepare a report?

17 A. I believe so.

18 Q. Can you describe that report for me?

19 MR. LUEDDEKE: Objection. Vague. Calls
10:56:45 20 for a narrative.

21 THE WITNESS: I believe he sent the
22 findings that he had over to our attorney.

23 MR. TATE: I'm sending you Exhibit No. 9.

24 (Exhibit 9 was identified.)

25 ///

11:06:55 1 11:06 a.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: We are on the record at
4 12:12 p.m.

12:12:16 5 BY MR. TATE:

6 Q. Ms. Hughes, can you see my screen, you
7 should be looking at Appendix A to Exhibit 8?

8 A. I can see your screen. The text is rather
9 small. Would you be able to zoom in if I needed?

12:12:38 10 Q. Sure can.

11 All right. I apologize. I misunderstood.
12 I thought that we were only going for two hours, so
13 I'm going to go back and recover some of the topics
14 that we covered lightly and go into a little more
15 detail.

12:12:57 16 I'm highlighting a sentence on Exhibit 8
17 that says, "The BCS website WordPress account showed
18 a malicious TXT record on the DNS entry that had
19 been controlled by McNamara."

12:13:10 20 Did BCS do an investigation into this
21 issue?

22 A. I believe so, yes.

23 Q. What did the investigation entail?

24 A. I'm unsure of the details of the
12:13:21 25 investigation.

12:13:22 1 Q. Who was a part of the investigation?

2 A. Say again.

3 Q. Who was a part of the investigation?

4 A. Our attorneys, I believe Jesse. I'm unsure
12:13:37 5 who else was a part.

6 Q. Did the investigation cost BCS any money?

7 A. I am unsure.

8 Q. Okay. What was the malicious TXT record?

9 A. As I stated, I am not knowledgeable on the
12:13:58 10 technological elements.

11 Q. Did you, yourself, did any research into
12 this issue?

13 A. I did my best to understand what a TXT
14 record and a DNS is and I remain minimally equipped
12:14:17 15 to answer the technological questions about this.

16 Q. Did you see the TXT record yourself?

17 A. I do not recall.

18 Q. Do you know if that TXT record is still
19 there?

12:14:33 20 A. I don't know.

21 Q. Okay. Does BCS know when the TXT record
22 was created?

23 A. Again, the details of the technological
24 elements are outside of my scope. I don't know.

12:14:52 25 Q. Is it possible that the TXT record was

12:14:56 1 created during a time that my clients still worked
2 for BCS?

3 MR. LUEDDEKE: Objection. Calls for
4 speculation.

12:15:04 5 THE WITNESS: I have no idea.

6 BY MR. TATE:

7 Q. Did BCS look into when the TXT record was
8 created?

9 A. I don't know.

12:15:17 10 Q. Did BCS's research indicate that Whiteley
11 was somehow responsible for the TXT record?

12 A. I don't know.

13 Q. I'm now highlighting the second part of
14 this row. It states, "Whiteley had been given
12:15:40 15 administrative privileges through
16 Jeremy@medtexter.com email account. Each time
17 Plaintiff tried to remove Whiteley from maintaining
18 administrative privileges to the website, McNamara
19 through the email address iristheangel@gmail.com
12:16:00 20 reinstated Whiteley with administrative privileges."

21 Did BCS conduct an investigation into this
22 issue?

23 A. I believe so.

24 Q. What did the investigation entail?

12:16:11 25 A. I am unsure.

12:16:12 1 Q. Who was a part of the investigation?

2 A. I believe our attorneys and Jesse.

3 Q. Did the investigation cost BCS any money?

4 A. I do not know.

12:16:24 5 Q. Did your investigation conclude that
6 Whiteley was responsible for this issue?

7 A. I'm unsure.

8 Q. Did you personally make any investigation
9 into this issue?

12:16:43 10 A. No. Not -- no.

11 Q. I forgot to ask the question: With regard
12 to the TXT record, how much time did you spend
13 investigating that issue yourself?

14 A. I just stated I did not.

12:17:00 15 Q. Okay. You did not participate in the
16 investigation of the malicious TXT record or the
17 administrative privileges?

18 A. No.

19 Q. I'm going to go on to the next row here,
12:17:21 20 highlighting, the sentence says, "McNamara used
21 Plaintiff's electronic materials stored in the BCS
22 Google Drive in connection with establishing
23 Unsilenced"?

24 A. Correct.

12:17:32 25 Q. Did BCS do an investigation into this

12:20:34 1 Q. Right, but you're appearing here today as
2 the person most knowledgeable for BCS, so I'm
3 entitled to know what BCS knows.

4 So does BCS know whether or not McNamara
12:20:45 5 accessed the Google Drive after she left BCS?

6 A. I don't have the answer to that question.

7 Q. Why not?

8 A. I don't know.

9 Q. Did this investigation cost BCS any money?

12:21:11 10 A. I'm unsure.

11 Q. Did it pay anybody to do this
12 investigation?

13 A. I don't know.

14 Q. Did this investigation reveal that Whiteley
12:21:24 15 accessed the Google Drive?

16 A. I don't know. Whiteley

17 Q. Go on to the next sentence, which I'll
18 highlight. It says, "McNamara used Whiteley's
19 previous administrative credentials for the BCS
12:21:43 20 Google account to request that the BCS website be
21 deindexed multiple times during March 8, 2022,
22 through March 9, 2022."

23 Did BCS do an investigation into this
24 issue?

12:21:57 25 A. I believe so, yes.

12:21:59 1 Q. What did the investigation entail?
2 A. I'm unsure of the specifics.
3 Q. Were you a part of that investigation?
4 A. Loosely, yes.
12:22:08 5 Q. What was your involvement?
6 A. Answering questions that our attorneys had
7 about the matter.
8 Q. Which attorneys?
9 A. I believe at that time it was -- I believe
12:22:33 10 it was the DLA Piper attorneys.
11 Q. When did you retain your DLA Piper
12 attorneys?
13 A. I'm unsure of the specific date. I would
14 estimate that it was shortly after the initial
12:23:08 15 downloading of our drive and other social media
16 accounts in hopes that there would be an amicable
17 way of moving through and forward.
18 Q. Did BCS's research suggest that Whiteley
19 was responsible for the deindexing of the website?
12:23:39 20 A. Please repeat the question.
21 Q. So I've highlighted this sentence here
22 which references the deindexing of the BCS website.
23 A. Yes.
24 Q. Is it BCS's belief that Whiteley was
12:23:52 25 somehow responsible for this?

12:23:54 1 A. Yes.

2 Q. Why?

3 A. Because the coordinated efforts, from my
4 understanding, relied on Jeremy Whiteley's
12:24:05 5 administrative credentials and another component of
6 which I am unsure of the specifics technologically
7 speaking that Katherine McNamara had access to and
8 the two of them collaborated and that resulted in
9 the deindexing of our website.

12:24:26 10 Q. You mentioned a collaboration. Are you
11 aware of any facts suggesting that they did, in
12 fact, collaborate?

13 A. Yes.

14 Q. What?

12:24:36 15 A. The continued reinstating of Jeremy's
16 credentials by Katie after BCS revoked the
17 credentials over the span of a couple of days.

18 Q. Anything else?

19 A. I'm unsure.

12:24:55 20 Q. Did the investigation into this deindexing
21 issue cost BCS any money?

22 A. I'm unsure.

23 Q. How many total hours did BCS spend
24 investigating this issue?

12:25:06 25 A. I do not know.

12:31:39 1 in projects, having people reach out to work with,
2 offers for funding.

3 At the time this happened it was shortly
4 after we were in Washington, D.C., with a lot of
12:31:59 5 press coverage. The social media press value from
6 one of our collaborators estimated that the media
7 attention alone was about 75 million alone of
8 advertising.

9 So I would guess a minimum of probably 7-
12:32:20 10 to \$10,000 in donations, if not significantly
11 higher.

12 Q. Are you aware of any specific person who
13 would have donated but for this Twitter issue?

14 A. I would have no way of knowing what
12:32:42 15 somebody would or would not do. I do know that the
16 overall impact of all of the hackings and all of the
17 residual events that took place did take -- did have
18 an impact on the donors that we were associated
19 with.

12:32:59 20 Q. Has anyone -- has any individual donor told
21 you they would have donated but for these alleged
22 hacking incidents?

23 A. They have not used those words.

24 Q. Have they used other words to that effect?

12:33:14 25 A. Yes.

12:33:15 1 Q. Who?

2 A. When the initial event occurred we were --
3 Did you speak? I'm so sorry, I thought you
4 spoke.

12:33:37 5 When the initial event took place we were
6 told by a partner we were working with, [REDACTED]
7 [REDACTED] that much of the fundings that we had been
8 promised by various individuals would no longer be
9 coming to Breaking Code Silence, that it would be
10 following the legislation and the legislation was
11 some of the documentation that was downloaded and
12 taken by other individuals related to this.

12:33:57 13 Q. So help me understand. Ms. [REDACTED] told
14 you there was funding that you would no longer
15 receive?

16 A. Correct.

17 Q. Why were you no longer going to receive
18 that funding?

19 A. I don't know why. I only know what she
12:34:30 20 told me.

21 Q. Okay. And you believe that somehow is
22 related to these alleged hacking events how?

23 A. Because taking their copy that was the
24 federal legislative bill that we had in place, that
12:34:51 25 is something that was appropriated and taken and we

12:34:54 1 were told by [REDACTED] that some of the
2 donations that were coming to Breaking Code Silence
3 were no longer going to be coming to Breaking Code
4 Silence, but were instead going to be following the
12:35:08 5 legislation and we have not seen the donations that
6 were previously offered to the organization.

7 Q. And did Ms. [REDACTED] tell you that these
8 fundings would not be coming because of unauthorized
9 access to one of BCS's computers?

12:35:25 10 A. As I mentioned, that is not the language
11 that she used.

12 Q. Did Ms. [REDACTED] even mention any of the
13 alleged hacking incidents?

14 A. I do not recall.

12:35:49 15 Q. The next sentence says, "Thereafter" -- I'm
16 sorry. I'm going back to the previous sentence.

17 BCS's investigation, did it reveal that
18 Whiteley was involved with the changing of the
19 Twitter handle?

12:36:03 20 A. I am unsure.

21 Q. Does BCS believe that Whiteley was involved
22 in this issue?

23 A. I am unsure.

24 Q. The next sentence says, "Thereafter,
12:36:29 25 McNamara secured a new Twitter account under the

01:39:29 1 A. I'm not sure.

2 Q. Does BCS believe that Jeremy accessed the
3 YouTube account after his resignation?

4 A. I don't believe so.

01:39:36 5 Q. I think I forgot to ask with regards to the
6 BCS Facebook group established by [REDACTED], does
7 BCS believe that Jeremy Whiteley was involved with
8 that issue at all?

9 A. I don't know.

01:40:00 10 Q. Okay. Last one, BCS's TikTok account.
11 BCS's allegation states, "On multiple occasions,
12 including specifically on January 9, 2022, and
13 January 28, 2022, BCS requested that McNamara return
14 her administrative credentials for BCS's TikTok
01:40:19 15 account. McNamara continued to refuse to provide
16 the credentials for the TikTok account."

17 Did BCS do an investigation into this
18 issue?

19 A. Yes.

01:40:28 20 Q. What did the investigation result show?

21 A. That Katherine McNamara did not sign over
22 her administrative credentials to Breaking Code
23 Silence when she left.

24 Q. Did the investigation cost BCS any money?

01:40:46 25 A. I am unsure.

01:40:48 1 Q. Did you pay anybody to do this
2 investigation?

3 A. I am unsure.

4 Q. Did BCS suffer any harm as a result of this
01:40:56 5 TikTok issue?

6 A. Yes.

7 Q. How?

8 A. Breaking Code Silence's mission is to work
9 with survivors of an incredibly abusive industry and
01:41:11 10 this industry today has thousands of children who
11 are likely being abused in these facilities.

12 And when youth are out on pass with parents
13 or have a moment where they're able to access
14 anything, the different social media platforms tend
01:41:34 15 to draw a different demographic and TikTok tends to
16 draw a younger demographic.

17 Often kids have been able to reach out to
18 Breaking Code Silence through TikTok in some way,
19 shape or form and on multiple occasions children
01:41:53 20 reaching out to Breaking Code Silence has allowed us
21 to conduct an investigation to be able to alert
22 authorities to be able to identify who that child is
23 based on the account they reached out to us in to be
24 able to have a welfare check sent out to help these
01:42:12 25 kids.

01:23:48 1 Let me give you a better question.
2 A. Can I -- can I take a minute before we move
3 on so I can adjust the air?
4 Q. Yeah, sure.
01:23:58 5 A. Thank you.
6 Thanks.
7 Q. Not a problem.
8 I guess I'm just trying to understand
9 what's being alleged here.
01:25:00 10 Whiteley's personal Facebook account was
11 linked with BCS's Facebook financial administration
12 account; correct?
13 A. From my understanding, yes.
14 Q. Okay. And then after Jeremy resigned does
01:25:25 15 BCS believe that Jeremy went on to the Facebook
16 financial administration account?
17 A. I don't believe so.
18 Q. What is the alleged unauthorized access?
19 What computer was accessed without authorization?
01:25:51 20 A. Sure.
21 So when Jeremy was with Breaking Code
22 Silence his role was that of operations and at that
23 time he set up the -- and this is to my
24 understanding of how this technology, you know,
01:26:11 25 cyber world works -- that he set up the account that

01:26:17 1 allowed us to receive donations through Facebook.

2 When he left he relinquished much of the
3 control of accounts that he had. That was something
4 that Katherine was spearheading to ensure she was
01:26:40 5 able to get the account access to accounts that he
6 was relinquishing.

7 It's my understanding that he did not
8 relinquish the financial administrator account log
9 in.

01:26:57 10 At this point we are unable to access a
11 portion of that portion because Jeremy remains the
12 administrative credential and when we were
13 interacting with Facebook to try to have them revoke
14 his administrative controls and reinstate somebody
01:27:21 15 associated with the organization, they indicated it
16 needed to be Jeremy filling in or removing his own
17 permissions.

18 Conversations and the requests from BCS
19 proved to be ineffective in Jeremy removing himself
01:27:43 20 from the administrator role. The result of that is
21 all of the donations that have ever come in to
22 Breaking Code Silence through Facebook, all of that
23 funding, all those donations, have never been
24 transferred to the Breaking Code Silence bank
01:27:58 25 account.

01:27:59 1 We have no clue how much that is or what
2 happened to those donations because we can't access
3 that portion of the account.

4 Q. So it sounds like you're complaining that
01:28:09 5 Jeremy has allegedly refused to give you his
6 administrative credentials; correct?

7 A. I'm not sure I would characterize what I'm
8 saying as complaining about that. I think I'm
9 answering a question about the access that he has
01:28:25 10 that's unauthorized.

11 He's not authorized to remain as the
12 administrative operator of that account after
13 leaving.

14 Q. Are you aware of any facts suggesting that
01:28:34 15 Jeremy has accessed a computer related to this issue
16 without authorization?

17 A. Jeremy was emailed by Facebook to his
18 account about this issue, so he read an email that
19 was for Breaking Code Silence business
01:28:52 20 administrator.

21 Q. Anything else?

22 A. I am unsure.

23 Q. Did BCS incur any costs in the
24 investigation of this issue?

01:29:07 25 A. Not that I'm aware of.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

OF

CERTIFIED SHORTHAND REPORTER

I, Stephanie P. Borthwick, Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing deposition was taken before me at the time and place therein set forth, at which time the witness was duly sworn by me;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and thereafter transcribed, said transcript being a true copy of my shorthand notes thereof, and a true record of the testimony given by the witness.

Pursuant to Federal Rule 30(e), transcript review was requested.

In witness whereof, I have subscribed my name this date: March 30th, 2023.



Stephanie P. Borthwick, CSR No. 12088