EXHIBIT 46

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BREAKING CODE SILENCE, a California 501(c)(3) nonprofit,

Plaintiff,

VS.

KATHERINE MCNAMARA, an individual; JEREMY WHITELEY, an individual; and DOES 1 THROUGH 50, inclusive,

Defendants.

Case No. 2:22-cv-002052 SB-MAA

Certified Copy

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF BOBBY COOK

Date and Time: Friday, March 31, 2023
9:01 a.m. - 12:46 p.m.

Location: Remotely
(Via Videoconference)

Reported By: Therese K. Claussen, RMR, CRR
CSR No. 6552

Job No. 26328A

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APPEARANCES:

FOR PLAINTIFF: DLA PIPER, LLP
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Also Present: Daniel Bermudez, Videographer

Katherine McNamara
Jeremy Whiteley

and really want to make this as comfortable as possible for you.

9:06 Does that make sense?

9:06 A. It does.

9:06 Q. Okay. Is there any reason why you wouldn't be able to give us your best testimony here today?

9:06 A. Not to my knowledge.

9:06 Q. All right.

9:06 Why don't we start at really fine level.

9:06 Why don't you tell us what your involvement with BCS was?

9:06 A. I was originally brought in, I would say, May of 2021 to be the scheduling coordinator for Breaking Code Silence and in December of 2021 I was asked to come on to help restructure the organization.

9:06 Then in January I was promoted -- I was promoted to chief communications officer and then very shortly afterwards my title changed to COO of Breaking Code Silence.

9:07 Q. When did you become the COO?

9:07 A. I would say roughly end of January-February of -- or, sorry, end of January-February beginning of 2022.

9:07 Q. What did you do as the COO?

9:07 A. I handled all onboarding, interviewing. I was in the background doing scheduling events, I was

directing also advocacy and legislation at that time, so working with all the different cases that were coming in and reaching out to legislators on relevant bills and laws that we were looking at.

9:07 I was in the background in discussions of how to obtain accounts that we no longer had access to at that time or that I was told we no longer had access to.

9:08 So, not really operating as COO but more of just overall hands in kind of a little bit of everything that dealt with specific divisions onboarding training and then everything else was kind of left to other people in the organization.

9:08 Q. Got you.

9:08 Were you paid for your work at BCS?

9:08 A. I was not.

9:08 Q. You mentioned obtaining accounts.

9:08 Can you elaborate a little bit what you meant by that?

9:08 A. When I joined Breaking Code Silence, I was aware that there were accounts that we no longer had access to, such as a PayPal account, a Stripe account, Facebook, Twitter, Instagram, TikTok. And I was involved primarily in the beginning trying to obtain access to PayPal and Stripe. The rest of the accounts were left up to other people.

9:08 Q. Did you develop an understanding why BCS

10:20 1 A. I did not feel like I was being harassed.
10:20 2 Q. Did you feel you were ambushed by either
3 Katie or Jeremy in that conversation?
10:20 4 A. With the way that things had been spun
5 originally, I did. But after I started looking back over
6 the months, I realized I was not ambushed.
10:20 7 Q. All right. You mentioned that you had a
8 conversation with Miss Hughes after your conversation with
9 Katie and Jeremy.
10:20 10 What was discussed in that conversation?
10:20 11 A. That was a conversation with Miss Magill. I
12 had relayed the events of what had happened that day and
13 then she told me that she and Vanessa had just both been
14 served and then she relayed to me that there was paperwork
15 served to her in relation to the attorney general filings at
16 that time.
10:20 17 Q. At some point did anyone at BCS try to
18 convince you to personally sue Katie or Jeremy?
10:20 19 A. Yes.
10:20 20 MR. BROWN: Objection, vague and -- I'm sorry, go
21 ahead.
10:21 22 THE WITNESS: Yes, I was in September of 2022.
10:21 23 Q. (BY MR. TATE) Who tried to convince you to
24 sue my clients?
10:21 25 A. So, I was -- at that point it was Vanessa

Hughes and based off of information that Jenny Magill had been relaying to us involving we were doing a demonstration in Utah and meeting with legislators and that day or that evening after the demonstrations, Miss Magill had called me and said, "Hey, our database had been hacked and your story was stolen -- your personal story was stolen from out of our database and it was published on Unsilenced's website with two different watermarks and that the only files that had been gone through were files from the program that I had went to."

10:22 At that point, in further conversations with both Miss Hughes and Miss Magill, I was being told that I should file against them and in those filings I was told that -- or in the process of them asking it to be filed, most conversations I had with Miss Hughes, there was at least one conversation of, "Have you found a lawyer yet? Have you found a lawyer yet?"

10:22 And she even called me one day regarding another lawsuit that they were involved in and had said, "If you were able to find a lawyer, would you take the personal funds that you went against Miss McNamara and pay off," I think she asked me to reserve like $40,000 of whatever potential settlement there might be, to pay off funds for another lawsuit from a settlement.

10:22 Q. Let me break that down.

10:23 1 Was a request made that you sue my clients
2 and then split the winning with BCS?
10:23 3 MR. BROWN: Objection, misstates testimony,
4 argumentative.
10:23 5 THE WITNESS: The way it started off is I needed to
6 sue her for copyright, interpersonal, her IP infringement,
7 emotional distress.
10:23 8 Then a couple weeks after as I had been
9 researching whether or not this was a valid thing and I had
10 talked to one lawyer who told me it was not valid and that
11 he had no experience in this realm, that I should talk to
12 the lawyers at BCS, which I never did.
10:23 13 It was during that time period when all this
14 was happening that Miss Hughes had called me and asked me
15 to, depending on what the settlement was, to reserve $40,000
16 to pay off Chelsea Filer and Jenna Bulis in another lawsuit
17 that BCS -- that they were handling at the time for
18 settlement, so that we could walk away from that and obtain
19 ownership of a website domain that would potentially further
20 Miss Magill and Mrs. Hughes' case in this situation.
10:24 21 Q. (BY MR. TATE) Got you.
10:24 22 I want to go back to the White House event.
10:24 23 Are you aware of BCS filing an insurance
24 claim against -- regarding that incident?
10:24 25 MR. BROWN: Objection, calls for speculation.

10:24 1 THE WITNESS: I am not aware of that.
10:24 2 Q. (BY MR. TATE) Okay. We talked about various
3 conversations about suing my clients.
10:24 4 When was the first time that you heard anyone
5 at BCS talk about suing my clients for any reason?
10:24 6 MR. BROWN: Objection. Again, I think this is an
7 area where we could potentially very easily get into
8 attorney-client privilege and I think the question that Adam
9 is asking is excluding anything that either an attorney told
10 you or that was gleaned from an attorney.
10:24 11 Q. (BY MR. TATE) Go ahead.
10:25 12 A. My -- my understanding was that the talks of
13 this had been started roughly February of 2022, beginning of
14 March of 2022 and in a conversation with Miss Magill, it was
15 relayed to me that there was an open investigation into or
16 by the F.B.I. into Miss McNamara, I want to say.
10:25 17 Q. So let me break that down a little bit.
10:25 18 You were aware that there were discussions to
19 sue my clients before the alleged the de-indexing of the
20 website; correct?
10:25 21 MR. BROWN: Objection, argumentative, speculative,
22 misstates testimony and also lacks personal knowledge.
10:25 23 THE WITNESS: I had been told that because of from
24 Miss Magill and Miss Hughes, that because of the actions
25 taken, that they were going to file against them, yes.

10:25 1 Q. (BY MR. TATE) That was before March when the
2 D.C. incident happened; correct?
10:26 3 MR. BROWN: Objection, vague. Also misstates
4 testimony, that's not what Bobby said.
10:26 5 THE WITNESS: From my recollection, it was the
6 beginning -- end of February, beginning of March when those
7 conversations started.
10:26 8 Q. (BY MR. TATE) Did anyone tell you that BCS
9 wanted to go after Katie's insurance policy?
10:26 10 A. Yes.
10:26 11 Q. Who told you that?
10:26 12 A. I want to say that was Miss Magill in that
13 situation. It was relayed to me and I think Miss Hughes had
14 relayed this as well at one point, but that there was -- I
15 would say there was a $5 million umbrella policy that was
16 covering everything for Miss McNamara.
10:26 17 Q. Do you know -- if you know, do you know why
18 they had the impression that Miss McNamara had a $5 million
19 umbrella policy?
10:27 20 MR. BROWN: Objection, calls for speculation.
10:27 21 To the extent that you know.
10:27 22 THE WITNESS: I do not know.
10:27 23 Q. (BY MR. TATE) Was it your impression that
24 BCS wanted to trigger that policy and get a pay day?
10:27 25 MR. BROWN: Objection, argumentative, calls for

speculation. And also vague. What does pay day mean?

10:27 THE WITNESS: It was my impression that they were going after the insurance policy.

10:27 Q. (BY MR. TATE) At some point did you learn that BCS was in discussions with Chelsea Papciak and Jenna Bulis to sue McNamara and recover attorney's fees?

10:27 MR. BROWN: Objection, argumentative. Assumes facts.

10:27 THE WITNESS: I was not aware of that.

10:27 Q. (BY MR. TATE) You're not aware of any agreement between Vanessa Hughes and the Papciak defendants that they would sue Katie and use the funds recovered in that lawsuit to pay the Papciak defendants?

10:28 MR. BROWN: Objection, argumentative, assumes facts, lacks foundation, lacks personal knowledge.

10:28 THE WITNESS: I was not aware of that aspect.

10:28 Q. (BY MR. TATE) Have you ever seen a board of director resolution to authorize BCS to file the instant lawsuit?

10:28 MR. BROWN: Objection, vague.

10:28 THE WITNESS: I have not.

10:28 MR. BROWN: Assumes --

10:28 Q. (BY MR. TATE) Do you know who is even on the board when the decision to file the lawsuit was made?

10:28 MR. BROWN: Objection, argumentative. Assumes

I need to clarify because I'm starting to kind of -- I'm a little confused right now.

11:00 I do know that during -- if this was in reference to de-indexing then my previous statement might be wrong. Because if this relates to all that, I was told at one point that they were in the background trying to gain access to the website using -- it was relayed to me I think there was one screen shot sent to me relaying that they were -- there was a White House email address used.

11:00 Q. Okay. So let me break that down a little bit.

11:01 Somebody sent you a screen shot relating to the de-indexing. Did I understand that correctly?

11:01 A. Yes. We were all preparing for a launch of a movie that Breaking Code Silence was attached to.

11:01 Noelle Beauregard was doing something on the website, I'm not sure what she was doing. She had to Google something and she found out we had been de-indexed and I think for two days after that if anyone logged in, she or Jesse Jensen would jump in and removed them. And then there was the one record sent over in a screen shot stating that there was a White House email address used during that time period.

11:01 Q. Focusing on that -- well, on that time period where the alleged de-indexing occurred, did you yourself

ever go on Google and try to search for Breaking Code Silence during that time?

11:01 A. During we were de-indexed, I did try to search for Breaking Code Silence, yes.

11:02 Q. And what happened when you put "Breaking Code Silence" in?

11:02 A. A couple other websites occurred and we were 4th or 5th down on the list, I think.

11:02 Q. So, you type in "Breaking Code Silence" and then Breaking Code Silence email did appear, it was just 4th or 5th down the lists?

11:02 A. Yes. It was just further down the list than it normally would be.

11:02 Q. What is your understanding of the indexing?

11:02 MR. BROWN: Objection, calls if speculation, lacks personal knowledge.

11:02 THE WITNESS: My understanding from what I was told about de-indexing it just removed us from the top spot whenever it was searched.

11:02 Q. Was BCS paying to be in that top spot?

11:02 A. We were --

11:02 MR. BROWN: Objection, calls for speculation, lacks personal knowledge.

11:02 THE WITNESS: We were using and there was conversations a couple days before the de-indexing or what I

1 was told was the de-indexing about using Google ad words to
2 make sure we would be the top search result going into the
3 film release.
11:03 4 Q. One second.
11:03 5 So, BCS's complaint alleges in part that due
6 to the de-indexing, that "no one could find BCS's website on
7 the largest search engine.
11:03 8 MR. BROWN: Objection, calls for speculation.
11:03 9 THE WITNESS: No. I was able to find our website
10 and we also received volunteer applications.
11:03 11 Q. (BY MR. TATE) I want to get this really
12 clear. During the time that the website was supposedly de-
13 indexed, you searched Google and you saw the website three
14 or four spots down; correct?
11:04 15 MR. BROWN: Objection, vague and ambiguous as to
16 time. Exactly what dates are we talking about?
11:04 17 THE WITNESS: Yes, I was able to find Breaking Code
18 Silence's website and, as I said, we had actually received
19 volunteer applications.
11:04 20 Q. (BY MR. TATE) Did you have a conversation
21 with anyone at BCS saying "Our website is right there. It's
22 not been de-indexed"?
11:04 23 A. No, because my understanding was that the
24 de-indexing would have -- that we were de-indexed because it
25 wasn't the first search result.

substantiate that Miss McNamara was taking mail out of the UPS box?

11:45 MR. BROWN: Objection, vague and ambiguous. Argumentative.

11:45 THE WITNESS: No. The only things that I had seen was that we were reached out to by a Jewish Foundation in San Diego, I think, stating that they had mailed us a check that we had never received or never deposited and they needed a current address to mail that to. And then I think that I -- the attorney general noticed that I saw a line that was sent to the mail box just because that was what was registered. Those are the only two pieces that I had ever seen that we didn't receive.

11:45 Q. Who told you that it was Miss McNamara going in and taking mail out of the UPS box?

11:45 A. Both Miss Hughes and Miss Magill.

11:45 Q. Did they tell you why they thought that?

11:45 A. That she was the only one with the key and that she was accessing it and refusing to send anything over. And that they had constantly been calling and trying to figure out how to get the name changed over because it was Breaking Code Silence's mail box.

11:46 Q. And when you suggested to just open a new mail box, what response did you get?

11:46 A. The generic, you know, "Well, this is the

part -- this is part of the lawsuit and, you know, there is staff here and we have to protect ourselves, so there is nothing we can do at the moment."

11:46 Q. We talked a lot about these alleged cyber hacking incidents, if you want to call them that.

11:46 I understand that your wife wasn't involved in the investigation of at least some of these incidents; correct.

11:46 A. My knowledge was just the indexing incident was the only one she had knowledge of.

11:46 Q. Okay. Are you aware, in your capacity as the former COO of BCS, paying anyone any money to do any investigation into alleged cyber hacking?

11:47 MR. BROWN: Objection, vague and ambiguous.

11:47 THE WITNESS: No.

11:47 Q. (BY MR. TATE) To your knowledge, were the persons who did these investigations, were they all unpaid volunteers?

11:47 A. Yes. To my knowledge every single person at Breaking Code Silence was a unpaid volunteer.

11:47 Q. And then --

11:47 A. Sorry, let me rephrase that. The only ones I knew that were not unpaid were, I want to say, Dr. Hughes and Dr. Kolbe, because I knew there was some sort of stipulation they would get paid out of grant somehow.

11:47 1 Q. But those grants were to do research;
2 correct?
11:47 3 A. Correct.
11:47 4 Q. Are you aware of BCS paying Dr. Hughes monies
5 to do investigation into the cyber hacking?
11:47 6 A. I was not aware. I'm not aware of that, no.
11:48 7 Q. Did BCS ever hire a cyber security expert to
8 do an investigation?
11:48 9 MR. BROWN: Objection, vague and ambiguous. When?
10 What is an expert in this context?
11:48 11 THE WITNESS: My only knowledge was the only expert
12 that they had brought on to investigate anything would have
13 been Mr. Jensen.
11:48 14 Q. (BY MR. TATE) Are you aware of BCS
15 purchasing any additional security software as a result of
16 these alleged hacking incidents?
11:48 17 A. Not security software due to the alleged
18 hacking incident.
11:48 19 There was conversation, let's see here, there
20 was conversation that lead to Noelle Beauregard and myself
21 buying a domain called BCSunited.org and securing that to
22 the organization in case anything happened with the website
23 we were to immediately move the port over to new domain, we
24 had that as a backup.
11:48 25 Q. How much did that cost?

11:50 1 Did Mr. Jensen express who was responsible
2 for the tracking virus?
11:50 3 A. Yes. He said that was Christina Lester's
4 program with Lead Forensics that had been put into our
5 system.
11:50 6 Q. Okay. To your knowledge, no one has alleged
7 that my clients are somehow responsible for that tracking
8 virus?
11:50 9 A. No, there was never talk of them being
10 responsible with for that.
11:50 11 Q. And am I understanding correctly, at least to
12 your knowledge, BCS never paid anybody to do an
13 investigation into the website hacking incident?
11:51 14 MR. BROWN: Objection, assumes facts, lacks
15 foundation and also misstates testimony.
11:51 16 THE WITNESS: Not to my knowledge.
11:51 17 Q. (BY MR. TATE) Are you aware of BCS losing
18 any money as a result of these alleged cyber hacking
19 incidents?
11:51 20 MR. BROWN: Objection, vague and ambiguous.
11:51 21 THE WITNESS: No. The only conversation of loss of
22 money was that due to the split and anything that was going
23 on around that time, was that we were -- we lost basically a
24 $70 million endorsement value of Paris Hilton support, that
25 was the only money that was talked of being lost.

11:51 1 And Miss Hughes and Miss Magill would
2 reference how much money they had invested into the
3 organization in the past. They had personally donated or
4 put toward the organization and it was in the value, I think
5 collectively between the two of them, over $100,000 that
6 they say they had invested.
11:52 7 Q. (BY MR. TATE) So let me break this down.
11:52 8 The $75 million with the Carters/Hiltons, BCS
9 believes they no longer have relationship with the Hiltons
10 or Carters?
11:52 11 MR. BROWN: Objection, misstates testimony.
11:52 12 THE WITNESS: That was my knowledge, yes.
11:52 13 Q. (BY MR. TATE) And did they ever explain to
14 you how the loss of that relationship was somehow tied to
15 these hacking incidents?
11:52 16 A. Not to the hacking incidents but due to -- it
17 was all relayed to me this was all due to the organizational
18 split that was partly headed up by Rebecca Mellinger,
19 Caroline Cole and Jeremy and Katie.
11:52 20 Q. So, you were told that BCS lost that
21 relationship due to the split; correct?
11:53 22 A. Yes. I had constantly asked Miss Hughes to
23 reach out to -- to Carter himself and I was told that that
24 was her role and that she would handle all that and that
25 they had a working foundational relationship, she would

handle all that.

11:53 Miss Magill and I had had conversations, we were never given access to be able to email or have communications with him. And, once again, it was all that Paris Hilton left Breaking Code Silence due to the alleged split and going over Unsilenced due to the split that was lead by these four people.

11:53 Q. Did anyone at BCS ever discuss the idea that BCS lost donations due to these alleged cyber hacking incidents?

11:53 A. I was not aware of any donation conversations because, to my knowledge, without having access to the Facebook PayPal account, the Stripe account and never having access to the bank account whatsoever, even after requesting it numerous times, I don't know what donations were coming in and weren't, so that was not a conversation I was a part of.

11:54 Q. If I, for instance, were to ask you did donations drop during the time the website was supposedly de-indexed, would you have any knowledge about that?

11:54 A. I would have no knowledge. I was knowledgeable about we received a donation from someone and they asked us to register so that -- with Disney so we could be part of the Disney Match donation. I knew about the foundation and the Jewish Foundation in San Diego and a

12:46 1 R E P O R T E R ' S
12:46 2 C E R T I F I C A T E
12:46 3
12:46 4 I, Therese K. Claussen, CSR No. 6552, Certified
12:46 5 Shorthand Reporter, certify:
12:46 6 That the foregoing proceedings were taken before me
7 at the time and place therein set forth, at which time the
8 witness was put under oath by me;
12:46 9 That the testimony of the witness, the questions
10 propounded, and all objections and statements made at the
11 time of the examination were recorded stenographically by me
12 at the time and were thereafter transcribed;
12:46 13 That the foregoing is a true and correct transcript
14 of my shorthand notes so taken.
12:46 15 I further certify that I am not a relative or
16 employee of any attorney of the parties, nor financially
17 interested in the action.
12:46 18 I declare under penalty of perjury under the laws of
19 California that the foregoing is true and correct.
12:46 20 Dated this 5th day of April, 2023.
12:46 21
12:46 23 Therese K. Claussen
Therese K. Claussen
12:46 24 Certified Shorthand Reporter
California CSR#6552
12:46 25