

MUSCOGEE (CREEK) NATIONAL COUNCIL
FACT-FINDING & INVESTIGATIONS COMMITTEE HEARING
JUNE 23, 2020, 6:30 P.M.
AUDITORIUM, MOUND BUILDING

1 MADAME CHAIR: Thank you for being here,
2 June 23rd, 2020, at 6:30. Invocation. Mr. McHenry.

3 (Prayer led by Representative McHenry).

4 MADAME CHAIR: Roll call.

5 (Whereupon, the roll was called by Legislative Clerk
6 April Lindsey.)

7 In attendance were: Mary Crawford, Joseph Hicks,
8 William Lowe, Charles McHenry, Darrell Proctor, Randall
9 Hicks, Lucian Tiger, Thomasene Osborn.

10 MADAME CHAIR: We have eight present, zero
11 absent. This constitutes a quorum.

12 Next item on the agenda is the minutes of May 26th,
13 2020. I will entertain a motion for the approval of the
14 minutes.

15 LUCIAN TIGER: I make a motion to approve
16 the minutes with any changes necessary.

17 MADAME CHAIR: Representative Tiger made
18 the motion to approve the minutes. Do I have a second?

19 JOSEPH HICKS: Second.

20 MADAME CHAIR: Joe Hicks seconded the
21 motion. Discussion? Any discussion? Roll call, please.

22 (Whereupon, the roll for the vote was called by
23 Legislative Clerk April Lindsey.)

24 (All representatives voicing approval.)

25 MADAME CHAIR: The minutes of May 26th,

1 2020, are approved. The next item on the agenda is order
2 of business.

3 WILLIAM LOWE: Madam Chair, I make a motion
4 to go into executive session.

5 MADAME CHAIR: Representative Lowe has made
6 a motion to go into executive session. Do I have a
7 second?

8 DARRELL PROCTOR: Second.

9 MADAME CHAIR: Darrell Proctor seconded the
10 motion. Discussion? Roll call, please.

11 (Whereupon, the roll for the vote was called by
12 Legislative Clerk April Lindsey.)

13 (All representatives voicing approval.)

14 MADAME CHAIR: All in favor. We have seven
15 in favor, zero against. We are in executive session at
16 6:33.

17 LEGISLATIVE CLERK: Some of you didn't pick
18 up the submission.

19 LUCIAN TIGER: Before we begin, I've got a
20 question, Madam Chair. It would be my suggestion for the
21 committee, -- if you agree, that's great. If you don't,
22 shouldn't we start out with Ms. Freiling since this
23 pertains to her property?

24 ZEKE FLETCHER: It's at the discretion of
25 the committee.

1 MADAME CHAIR: Any objection to beginning
2 with Ms. Freiling? Okay.

3 * * * * *

4 CINDY FREILING,
5 after having been duly sworn to testify the truth, the
6 whole truth, and nothing but the truth, testified as
7 follows:

8 MADAME CHAIR: Thank you. Ms. Freiling, we
9 actually received an inquiry from a citizen on some
10 questions so that was the reason for our -- for the
11 subpoenas. So committee, if you want to get started with
12 discussion.

13 WILLIAM LOWE: Good evening, Cindy. I'll
14 go ahead and break the ice and start the questions, if
15 that's okay, Madame Chair. I would ask -- one of the
16 citizen's questions is why wasn't the Nation's IT data not
17 backed up. Can you tell us. I'm understanding we do have
18 backup, correct?

19 CINDY FREILING: We do.

20 WILLIAM LOWE: Yes, ma'am.

21 CINDY FREILING: We do have backups and
22 that's the area of the compromise. And with this -- my
23 book, my outline here outlines everything. So I'm not
24 going to -- not convey everything I possibly can. But
25 this particular group which is the MAMBA Group that did

1 have a ransomware attack on this network through an RDP
2 connection.

3 Their characteristic is to go for the backups
4 immediately because your backups are obviously your bread
5 and butter. If you don't have them, you can have all the
6 servers that you've had for years, but without the data --
7 so they're a very smart group.

8 And when they attack, from what I've been told with
9 the negotiators is that's just their method is to go to
10 the bootlocker, the sector, and just start encrypting the
11 data. So we do have your production environment which has
12 your servers and backups. And then in your vCenter, you
13 also have your backups.

14 But then you have a third layer at TierPoint. And a
15 portion of the TierPoint backups were also encrypted but
16 not at all of them. So we were able to recover about 75
17 percent of the data from TierPoint.

18 +But with a copy of that magnitude with all of your
19 laserfiche for ten years and the amount of data, we were
20 copying sometimes two terabytes per 13 hours.

21 So we did have a lot of data there. So recovery
22 took a long time. So it's not that we didn't have it. We
23 still have the data. It's in the data center, but we just
24 can't get to it. It's encrypted.

25 WILLIAM LOWE: Thank you.

1 JOSEPH HICKS: Ms. Freiling, --

2 CINDY FREILING: Yes.

3 JOSEPH HICKS: -- the question I have is:
4 Was it something within the Tribe? Was it someone's
5 computer, a certain server that caused this mishap?

6 LUCIAN TIGER: There was an RDP session.
7 And in my notes in the -- I've got some pages outlined.
8 But the particular -- and I don't like to use the names
9 too often because you don't want to assume that it's that
10 individual. Because I don't know much about hacking.

11 So these -- this group which is the MAMBA Group,
12 they found that the 3389, default port, which is for RDP
13 sessions, one was open. And it seems to be the protocol
14 used to access the Lighthouse servers.

15 So a J. Baker account was compromised once it got
16 entry into the Lighthouse server. And at that point, it
17 created -- it had enough privileges to create a SOMs
18 account. And that's all documented here as well. And the
19 SOMs u+ser account has the admin privileges to navigate
20 and find, get to the -- to the sources that it was looking
21 for.

22 So it would appear that it is, everything that the
23 investigators and the negotiators at SpearTip, which is
24 the forensics team, everything that they looked at was
25 that was the point of entry with that user account being

1 compromised. Which the SOMs account had the domain admin
2 privileges to encrypt the data.

3 So it's not to say that J. Baker was the person, it
4 was just J. Baker's account was the compromised account.

5 JOSEPH HICKS: Okay. I'm just asking you
6 because I know reading through this, -- can I say names?
7 Is that fine, account names? There was a -- I noticed
8 reading through there on several different ones, there was
9 an M. Bible. That's why I'm asking.

10 CINDY FREILING: Right. And that was --

11 JOSEPH HICKS: That's why I'm asking on
12 that.

13 CINDY FREILING: Right. And that was the
14 account, the J. Baker account, or the SOMs account, it
15 navigated to a -- during RDP session, and to that
16 particular PC. And it was just the fact that the PC was
17 on for it to locate it.

18 And the reason, as I read through this also, they
19 gave us that test password back. And just this evening in
20 looking at it, is the main reason they went to that
21 particular PC. There was nothing on it to look at.

22 That's why we got the password to it because there
23 wasn't anything on it. But it was just to show us that,
24 Hey, we have your keys, we're able to encrypt your data.
25 And they did.

1 JOSEPH HICKS: Okay. So that account
2 specifically had nothing to do with it?

3 CINDY FREILING: No, it was just the name
4 of -- that is an actual name of the PC. We name our PCs
5 by this particular department and the user.

6 JOSEPH HICKS: Thank you.

7 CINDY FREILING: You're welcome.

8 MADAME CHAIR: I want to remind the
9 committee that we are in executive session, so -- and Ms.
10 Freiling, so you -- we let you know as well.

11 CINDY FREILING: Okay.

12 LUCIAN TIGER: Good evening, Ms. Freiling.
13 How are you?

14 CINDY FREILING: I'm good. How are you?

15 LUCIAN TIGER: Good. The Lighthouse
16 server, as has been mentioned in here, so I have another
17 question on this. The Lighthouse Server 1, where are the
18 other servers that are mentioned and their conclusion from
19 SpearTip?

20 CINDY FREILING: They, the servers
21 initially?

22 LUCIAN TIGER: Well, no. In the second
23 paragraph. Do you have a copy of that?

24 CINDY FREILING: I do. What page are you
25 on?

1 LUCIAN TIGER: It's the second page of the
2 conclusion.

3 CINDY FREILING: I don't think I have the
4 conclusion. I don't have that one with me. That one
5 wasn't given to me. That wasn't part of this
6 documentation because I don't think it was given until
7 last week sometime.

8 So I don't have an actual copy of that one. But if
9 I could get a copy, I could try to break it down for you.

10 LUCIAN TIGER: We'll get you a different
11 copy but this is for reference.

12 CINDY FREILING: Okay. That's fine. So
13 was it the second paragraph?

14 LUCIAN TIGER: Yes, ma'am. I understand
15 the Lighthouse Server 1. What's the DM print server?

16 CINDY FREILING: The DM print server?
17 These were -- this one is just a printer server. So it
18 just managed all of our printers across the entire
19 network. So they were being kind of generous and not
20 generous to give us back the Lighthouse server. That was
21 a big win, because you don't want to lose that of all
22 data.

23 The DM print server houses nothing but the printers.
24 The DM Child Care was their office application that they
25 used for processing payments and managing their books.

1 LUCIAN TIGER: So that one -- on that one
2 right there, what information was compromised with that?
3 What information did they obtain and were able to hold
4 that in child care?

5 CINDY FREILING: Yeah. In the forensics,
6 there was no compromising of data. There was just
7 penetration.

8 LUCIAN TIGER: Okay.

9 CINDY FREILING: And OKN helped us. That's
10 ours. That's what we use to create all of our tickets
11 across the network. The B backup, that was our biggest
12 and that was our -- the most fatal through all of this is
13 you just don't want your backup server compromised but
14 they just encrypted them.

15 So like I said, without the backups, that's where
16 our backups are stored. That's where it was -- it made it
17 a really difficult situation for us.

18 Speartip, obviously, -- you know what SpearTip is.
19 They did the forensics. And again, the penetration was
20 through the Lighthouse server, through an RDP connection.
21 I do know that based on what their findings were.

22 And the Lighthouse uses SOMs for their
23 investigation, I guess when they're on the road. Today,
24 because we shut down our RDP sessions, they can't use SOMs
25 as they used to. So it was through the RDP through their

1 SOMs application. It wasn't through SOMs but it was an
2 RDP established for SOMs' access.

3 So today, with that being shut down, the best
4 practice is to create a VPN, and then let them
5 authenticate and then log in to SOMs. What I've gathered
6 with my team is that that's a very slow process, not the
7 most secure process. I will tell you that today.

8 DARRELL PROCTOR: So at the time that this
9 happened, how long does it take to do what they were -- to
10 what happened? How long does it take, you know? It's
11 showing they infiltrated several -- I just read it. Does
12 it take several hours for them to do this, or is --

13 CINDY FREILING: Well, I don't really know,
14 Mr. Proctor. It's a lot of data. But I would say most
15 likely, it would take many hours. We have hundreds of
16 terabytes of data that was affected.

17 This is -- like I said, it took almost 13 hours to
18 recover two terabytes. So with them encrypting the data,
19 I couldn't give you a number because I didn't get that
20 from SpearTip.

21 But I have no idea how long it takes criminals to go
22 in and encrypt your entire environment. But I would say
23 since we were in production the night before, I would say
24 somewhere around four to six hours; that's how long it
25 took.

1 DARRELL PROCTOR: Yeah, because I believe
2 it was reported it happened a certain time in the morning.

3 LUCIAN TIGER: It was around -- I would
4 say, most likely, around 4:20 in the morning.

5 DARRELL PROCTOR: Okay. And did it go all
6 night?

7 CINDY FREILING: And then around 6:20 a
8 screen connector alert was -- it will start pinging if it
9 can't -- it will alert you if it can't ping those servers.
10 So that's when it was identified that the servers were
11 unreachable. So that was the engagement period; so --

12 DARRELL PROCTOR: Okay. Thank you.

13 WILLIAM LOWE: I'm guessing, Ms. Freiling,
14 you know we all have discussed we actually paid to get our
15 information back. Do you -- is it possible to tell, do
16 they still have a copy of what we purchased back?

17 CINDY FREILING: No. That's -- that's what
18 we have volunteered from day one. And with bringing in
19 the Beazley Group, the immediate -- one of the first tasks
20 was SpearTip came in and installed ShadowSpear which began
21 monitoring the activity along with our bandwidth and our
22 utilization reports.

23 And we also have Sophos. We monitor large volumes
24 of traffic. And those are indicators of malicious
25 activity. And even during the down time that our network

1 was in the remote work force, there was minimal traffic.
2 And that's what we were looking for.

3 We didn't want to see large volumes of traffic
4 because that was -- that would have been the indicator.
5 And SpearTip also identified that there was no large
6 volumes. We monitored those bandwidth reports daily.

7 LUCIAN TIGER: How come our antivirus
8 malware didn't catch this?

9 CINDY FREILING: We -- this really wasn't a
10 malware attack. It was an actual group. So had it been
11 maybe a spam email, we -- our antivirus would have caught
12 it.

13 But this was actual individuals that were just using
14 a map and scanning our ports with the J. Baker account.
15 And that's when they were able to locate that 3389. So it
16 was an actual group of people. It wasn't a -- like, it
17 wasn't a virus.

18 MADAME CHAIR: Speaker Hicks.

19 RANDALL HICKS: Thank you, Madame Chair.
20 Ms. Freiling.

21 CINDY FREILING: Yes.

22 RANDALL HICKS: We received some question
23 from a citizen. And I'm just going to kind of ask some of
24 these questions.

25 CINDY FREILING: Okay.

1 RANDALL HICKS: In the position that you
2 are -- you're in, once this occurred, we had daily access
3 with the Chief, correct?

4 CINDY FREILING: Yes.

5 RANDALL HICKS: Okay. Can you answer this
6 question: Why was there no formal announcement of the
7 data breach?

8 CINDY FREILING: It was not my announcement
9 to make. And until we had a full forensic investigation,
10 we didn't have those facts.

11 RANDALL HICKS: Okay. Can you tell us why?
12 Was there any discussion of why a formal announcement
13 shouldn't be made?

14 CINDY FREILING: No. I mean, I don't -- I
15 would agree with -- I understand the level of concern for
16 everyone including myself. I'm a citizen. And I
17 understand everyone's concern. But that announcement
18 wasn't for me to make. But it was obvious.

19 RANDALL HICKS: Okay. Of course, there was
20 -- there was a ransom paid, I guess?

21 CINDY FREILING: Yes.

22 RANDALL HICKS: The first -- the first
23 initial amount was how much?

24 CINDY FREILING: That was actually paid?

25 RANDALL HICKS: Yes.

1 CINDY FREILING: Okay. I'm going to have
2 to look. It's in your -- in the booklet. And Codeware is
3 the negotiators. So the negotiators actually handled all
4 of the transactions. And it was \$470,516.24.

5 RANDALL HICKS: That's what was paid?

6 CINDY FREILING: Yes.

7 RANDALL HICKS: That was the only ransom
8 that was paid?

9 CINDY FREILING: Yes.

10 RANDALL HICKS: Can you repeat that amount
11 again.

12 CINDY FREILING: \$470,516.24.

13 RANDALL HICKS: So with this ransom being
14 paid, how much did these other entities also charge the
15 Nation, the Beazley, the other groups that were associated
16 with this?

17 CINDY FREILING: With SpearTip, --

18 RANDALL HICKS: What was the total?

19 CINDY FREILING: Right. And that was
20 through the Tribal First Group that -- I was given the
21 contacts of the Beazley Group that formed the SpearTip
22 Codeware and the Polsinelli Group.

23 Apparently, the groups that they formed needed legal
24 representation for the work that they do. I don't know
25 much more about that. But SpearTip, I do know was

1 \$30,000.

2 Codeware, I believe, was -- honestly, I don't know
3 the exact amount. That was mainly because I didn't make
4 the payment. But the initial 440,000 I think was the
5 initial ransom amount. And then the 30,000 was what went
6 to the negotiators.

7 RANDALL HICKS: Okay. So that's where you
8 came up with \$470,514?

9 CINDY FREILING: Uh-huh.

10 RANDALL HICKS: And that was all paid by
11 insurance?

12 CINDY FREILING: Yes.

13 RANDALL HICKS: Okay. Can you go through
14 the process on that?

15 CINDY FREILING: On the insurance?

16 RANDALL HICKS: Yes.

17 CINDY FREILING: That's where I contacted
18 risk management as our -- that's our protocol for any type
19 of cyber event. And then obviously, the FBI.

20 At that time Risk Management gave us the Beazley
21 Group which was vetted through Tribal First. And at that
22 point, it was just getting the team together of the
23 forensics team, the negotiators and the attorneys.

24 And from there, the negotiations stopped, ceased
25 with me because dealing with these criminals, I could only

1 agitate them. And so a negotiator does their job. They
2 negotiate. They know how to do that. And we were just --
3 that's when they were engaged.

4 And they handled it through, I mean, just 10 days
5 ago or so. But the claims process is handled through the
6 Beazley Group, and their claims process. So they worked
7 closely with the group. So every time they needed to do
8 something, they would get the approval from the claims
9 adjuster on this particular claim.

10 RANDALL HICKS: Okay. Last question I have
11 is: Where was the money sent? And to whom was it paid
12 to?

13 CINDY FREILING: I -- I only have a copy of
14 the receipt because I didn't -- I can't authorize that
15 type of payment. And I do know that the transfer has to
16 go to the negotiator. And the negotiator handles that
17 with the MAMBA or the hacker. In this case, it was the
18 MAMBA Group.

19 RANDALL HICKS: Thank you.

20 CINDY FREILING: You're welcome.

21 MARY CRAWFORD: Are we able to avoid this
22 happening again in the future?

23 CINDY FREILING: I -- I would like to hope
24 so. This, unfortunately, has occurred 2,238 times a day
25 with companies across the world. I would like to say that

1 it would never happen to -- to us again. We also support
2 the Division of Health.

3 And that's what's -- that's just the saving grace
4 that that wasn't impacted because they are an independent
5 network outside of the tribal complex. So the measures
6 we put into place and under my recommendations, I did take
7 the time to build recommendations.

8 We're -- we're severely understaffed in IT. When
9 they leveraged the division, they moved all of that into
10 my department which was one sys admin and one network
11 admin.

12 And today I just found out the numbers were actually
13 wrong there by a hundred. So we actually support a 400
14 node network combined with two people. So number one, I
15 think internally, we have to fix some things.

16 This administration has -- I shared that with them,
17 and they have taken note that this is something that needs
18 some attention quickly. And they're working on it.

19 What -- in the interim, what they have been able to
20 do is engage a SOC team which is Alert Logic through our
21 DR side at TierPoint. And this SOC team is going to --
22 they're manned with thousands of staff that just sit and
23 monitor our networks 24/7 for those attempts that's trying
24 to get into your network.

25 So for \$80,000 for each location, we have a 24/7,

1 fully staffed SOC team now. In addition to an appliance
2 umbrella, we've also employed Sophos Intercept X,
3 and Ice, which are all three secured IDS solutions which
4 is Intrusion Detection Systems.

5 So again, to do that, we have to outsource the work
6 to get that done. So I think with more staffing, that
7 will give you time to actually review your network, do
8 your own penetration audits, outsource it, and then fix
9 them. That's where it definitely needs some attention.

10 MARY CRAWFORD: Also you said in
11 monitoring, when you see large volumes coming through, --

12 CINDY FREILING: Uh-huh.

13 MARY CRAWFORD: -- are you able to -- I
14 mean, if you suspect, are you able to stop that?

15 CINDY FREILING: Yes.

16 MARY CRAWFORD: If you see something like
17 that?

18 CINDY FREILING: Actually we can shut the
19 port down. And large volumes would be just a huge
20 indicator. So at that point with SolarWinds, we began
21 monitoring it for anything over 10 megabytes. So large
22 volumes.

23 Again, when you think about these type of groups,
24 the storage that I get appropriated funds for to store our
25 data which is many, many hundreds of terabytes of data,

1 the -- this particular group didn't -- obviously, they
2 have to spend equally as much money to store the data that
3 they take. So the risk was low there.

4 And based on this negotiator's team, and forensics,
5 this group is well-known for just what they did. And it
6 was a ransom attack. They didn't want our data; they just
7 wanted the money. And it's unfortunate.

8 LUCIAN TIGER: Thank you, Madam Chair. Ms.
9 Freiling.

10 CINDY FREILING: Yes.

11 LUCIAN TIGER: Can you provide the
12 committee with some reports about the employees'
13 information which was compromised, or which information
14 was compromised or was not compromised?

15 CINDY FREILING: Through this report here.
16 And this is the last paragraph: "This is what took so long
17 for the forensics team."

18 And the last line that says, "Through the analysis
19 of forensic images, industry created challenges and the
20 indicators of compromise behind MAMBA Ransomware, SpearTip
21 found no evidence of pooling data."

22 That's just harboring data or exfiltration. So that
23 means that nothing left the network.

24 LUCIAN TIGER: My question is: If that's
25 the case, why did social services lose all the

1 information, getting complaints from social services as
2 well as citizens saying we're having to resend all the
3 information we submitted, they had to resend it.

4 CINDY FREILING: Right.

5 LUCIAN TIGER: Was it still there? If
6 somebody has to resend it, somebody has to have it.
7 Correct?

8 CINDY FREILING: Well, those -- that was
9 part of the backups. So we didn't have access to the
10 backups. So what we had at TierPoint, though there was a
11 portion of the TierPoint data -- which is our off-site
12 storage for backups -- that there was, we had FS01 which
13 is in here also. Which FS01 is fully recoverable. FS02,
14 we weren't as successful.

15 With social services, we were able to recover from
16 either -- and I'd have to look, but it's in the book --
17 either September of 2019 or November of 2019. So in
18 reality, they did lose about five months of data if it was
19 -- five or six months of data.

20 So they -- TAZ is their sequel box that they work
21 with their vendor which I can't remember the name of it.
22 But that's an independent company that they work with. So
23 they also had some of their data. And I, honestly, I --
24 it's Eaglesun is what it is.

25 So they had their own company that manages their TAZ

1 box. But we do back up the data. But because it was
2 encrypted, we couldn't get to that data. But on our tier
3 side, TierPoint side, that's where we were able to recover
4 that through, I believe it was -- and, honestly, it was
5 either September or November. So they got a good portion
6 of their data back.

7 LUCIAN TIGER: I'm not on the IT side, so,
8 to me, if someone tells me I need to resubmit my
9 information because they don't have it. And in just
10 layman's terms, not IT, that means it's gone; right?

11 CINDY FREILING: That would, yes.

12 LUCIAN TIGER: That's why I'm confused.

13 CINDY FREILING: Well, I am, too.

14 LUCIAN TIGER: Either they have it or they
15 don't.

16 CINDY FREILING: Because they -- we -- it
17 was recovered from November or -- November or September.
18 And I can go back through here and look. But they did
19 lose several months of data. So I'm actually confused
20 with that also.

21 LUCIAN TIGER: But if you lose several
22 months of data, where did it go?

23 CINDY FREILING: It's under -- it's in the
24 encrypted store on the D Center. All of the data and
25 backups are still in the data center. They're just

1 heavily encrypted. So the TierPoint, which is our
2 off-site data store, that portion of the data, there was
3 -- NGIS; they were affected heavily.

4 So that portion of the off-site was also beginning
5 to become encrypted. And that's when, initially, the 620
6 shutdown of everything, also stopped that extraction going
7 to TierPoint. That was our backups at TierPoint.

8 So that's where we lost that data on -- and I will
9 be very honest here. Meeks Navarro was my senior systems
10 admin at that time. And I did terminate him in January.

11 And at that point, one of the reasons was I didn't
12 have one of my servers. When I build a server here, it's
13 got to get downtown. So that was some of the data that I
14 lost. And it affected GIS and social services which is
15 the TAZ box.

16 So that's unfortunate, but it didn't go anywhere, it
17 just wasn't recoverable. And again, all of the data is in
18 the data center. But it's encrypted.

19 And because we couldn't negotiate any further, and
20 to some degree, working with these type of people every
21 day, it just makes you want to work a little bit harder to
22 not have to pay them. So we -- I had to hire a contractor
23 to actually pull the data off of the DR site downtown.

24 So that's what took three weeks of recovery.
25 Otherwise, you know, if we could have obtained these keys,

1 we could have been back in full production. No one would
2 have lost anything within a day.

3 But under the circumstances, it just -- I think
4 that's why we are all here. It's just something that
5 didn't know the protocol. I've never been engaged in a
6 ransomware attack. I didn't really know the protocol.

7 And I was really -- I'll tell you I was really
8 surprised and happy to hear that Mr. Booker had purchased
9 cybersecurity insurance. That came about two hours into
10 this whole -- this whole investigation on our end.

11 So that was a saving grace for us. Because we would
12 have had nothing without the keys that we were able to
13 purchase.

14 LUCIAN TIGER: I want to kind of piggyback
15 off of Speaker Hicks' questions earlier. So when it came
16 to -- how did the ransom come about?

17 CINDY FREILING: I'm sorry?

18 LUCIAN TIGER: How did the ransom come
19 about? Who was notified?

20 CINDY FREILING: It was on the machine.
21 First, when the servers became unreachable, and trying to
22 log in to them, obviously, you know that there's a --
23 there's a problem which you hope is either power or
24 hardware. But in this case it was not.

25 And on one, I did make a copy of the screenshot that

1 it was on a machine. So that was the first indication
2 that, Hey, on Super Sun 1, enter your password. And at
3 that point, that -- that was the moment that we knew there
4 was a compromise.

5 LUCIAN TIGER: So that was on the 24th,
6 correct?

7 CINDY FREILING: Yes.

8 LUCIAN TIGER: What I see?

9 CINDY FREILING: Yes.

10 LUCIAN TIGER: So to the best of your
11 knowledge, when was the ransom paid?

12 CINDY FREILING: On 4/28.

13 LUCIAN TIGER: Does it show what time?

14 CINDY FREILING: I don't know if it -- 9:05
15 a.m.

16 LUCIAN TIGER: 9:05 a.m.?

17 CINDY FREILING: Yes. And I got a copy of
18 this from Codeware because my incident report has to be
19 very thorough. And I got this maybe two weeks ago. So I
20 obviously can't do wire transfers. But that was the first
21 copy that I had gotten, that one.

22 LUCIAN TIGER: Do you recall what the
23 dollar amount started at for the ransom?

24 CINDY FREILING: Oh, yes. It was \$1.5
25 million. Actually, I think it was a little bit more than

1 that.

2 LUCIAN TIGER: That all got brought to your
3 attention on what date?

4 CINDY FREILING: I'm sorry.

5 LUCIAN TIGER: The 24th, is that the date
6 that the dollar amount was brought to your attention?

7 CINDY FREILING: Yes. And I believe the
8 actual, the Bitcoin amount that was given to us, I think
9 it was 90 Bitcoin. And I'll have to go through here. Did
10 everyone get a copy of this? Okay.

11 Because the initial amount was much higher. And
12 that was on the Friday of the 24th. And so there was a
13 lot -- we were still trying to discover what we could
14 possibly get versus going this direction. But it was over
15 the weekend.

16 It was just kind of inevitable that we were going to
17 need some -- either someone to negotiate with us on this
18 because this is completely out of my realm. In 38 years
19 I've never had to work through anything like this in my
20 life.

21 But there -- initially, the price, I think, exceeded
22 \$1.5 million. And that's in the book. They came back
23 that Monday with the 400 which was 60 Bitcoin or 20
24 Bitcoin which was the 440,000.

25 So with the -- you know, when you're dealing with

1 these criminals -- and I've learned a lot from this event,
2 obviously, -- there was also the option or the possibility
3 of a re-extortion to get the remainder of the keys.

4 So they gave us enough which happened to be through
5 our really critical environments because I guess they
6 didn't know what HGS was, which is our housing, the keys.
7 And Lighthouse and child care and a couple of others which
8 were key. We had to have those.

9 So then we had it back in two days. And then with
10 another offer from the -- and it was a re-extortion.

11 It was -- it was unfortunate because from the
12 420,000, then they did go up to the one point -- I'm
13 sorry, I think it was three million at that point. And
14 that's when it was -- we'll just try to get the data, as
15 much data, and take a seven to eight percent data loss
16 versus working with these -- with the individuals anymore.

17 LUCIAN TIGER: How much have we spent
18 recovering everything, protecting our -- basically, our IT
19 networks? How much have we spent since this recovering,
20 retrieving? What amount was spent on that?

21 CINDY FREILING: Oh, I would say less --
22 I've got a proof of loss that I haven't filled out yet
23 with the insurance company. So I would say roughly a
24 hundred thousand dollars. And that's with a lot of
25 consulting fees to bring in four additional staff to help

1 try to rebuild this environment.

2 LUCIAN TIGER: If we wouldn't have paid the
3 \$440 how much would have been spent?

4 CINDY FREILING: I'm sorry?

5 LUCIAN TIGER: If the 440 would not have
6 been paid, how much would we have spent?

7 CINDY FREILING: I couldn't even put a
8 number on that. I have no idea. I just know that you
9 would absolutely have no -- no recovery, no data. You
10 would be building environments from the ground up.

11 So we have our BM hosts. And those are our costly
12 ones. But without our sandboxes, those are our storage
13 array boxes that hold the terabytes and terabytes of data.
14 Those are over a hundred thousand dollars apiece.

15 So the more terabytes I add to those, those
16 terabytes typically are 32. You're talking another
17 \$30,000 for each. So we can add up to 64 terabytes on a
18 box, and we had multiple.

19 LUCIAN TIGER: What was the percentage
20 again that you said we had recovered?

21 CINDY FREILING: That we have?

22 LUCIAN TIGER: Yes, ma'am.

23 CINDY FREILING: About 90 -- I'm going to
24 say about 90 percent. I'd like to say about 93 after
25 visiting with GIS today. But it's -- it's closer to about

1 90 percent.

2 So we did get our critical, some of our -- our
3 laserfiche for the last ten years. Obviously, since we
4 just moved from -- we migrated exchange from 2016 to 2020
5 last July. And we just were able to recover that, that
6 chunk of email just about seven days ago.

7 But now that we're on Office 365, and storing that
8 type of email anyway costs us money, about \$100,000 a
9 year. So going with Office 365, hopefully, not missing
10 too much email, it wasn't too big of an impact.

11 But to recover it, it would take a lot longer. But
12 we were able to pull some of it, just not all of it right
13 now. But that took almost seven weeks to even recover
14 that portion of the email, and with the help of
15 consultants.

16 So that's where I need those extra hands because we
17 can't -- we can't manage a 400 -- it's almost a 300 node
18 network at the Division of Health, and a 200 plus here.
19 So it's a lot of work. And in, you know, in some of the
20 -- in defense of some of my network team, it's a lot of
21 work.

22 This is something no one ever wants to go through.
23 And I've -- we've spent a little bit of extra money now
24 just to make sure it doesn't happen again. But with the
25 remote work force going, or as a possibility or where

1 we've been with the remote work force as in COVID funding,
2 is allowing us to recover without utilizing our own
3 budget.

4 So because it will help in the event that we have to
5 go on a remote work force. You want that additional
6 security. You want to eliminate these RDP sessions. And
7 we have already replaced them with smart connect. So
8 those sessions will never be opened again. But we have to
9 spend more money to secure an RD app instead of an RD
10 protocol.

11 LUCIAN TIGER: Thank you, Ms. Freiling.

12 MADAM CHAIR: Council Member Lowe.

13 WILLIAM LOWE: Yes. Ms. Freiling, going
14 back to the decision on paying the ransom, were you part
15 of the discussions?

16 CINDY FREILING: Yes.

17 WILLIAM LOWE: Was there an actual formal
18 decision made using a decision tree, where they follow the
19 natural process of: If we do this, then we're going to
20 experience this. But if we do this, we're about to
21 experience --

22 Was there any methodology in the decision or was it
23 a matter of we just need to pay the ransom?

24 CINDY FREILING: I think that -- I don't
25 believe there was any protocol followed at all because

1 it's just something -- I don't think anybody is ever
2 prepared for it. But I think it's taught us all, you
3 know, how we need to be prepared for it in the future.

4 But the decision is just -- it was just based on
5 getting things back into production quickly. We are a
6 service provider. Very little revenue generated for the
7 tribe. And it's my job to get back into production as
8 quickly as possible.

9 I think with Mr. Booker letting us know we had this
10 cybersecurity insurance, it was a lifesaver for us to some
11 degree. But again, had we continued to pursue, let's see
12 if we can -- you know, we have this amount of money. I
13 mean, there was a \$6 million policy. But at some point
14 where do you -- you don't know where to trust these
15 people.

16 So they could have gotten as far as that amount and
17 maybe we didn't get all of our data. So we spent the next
18 six weeks basically just recovering just as much as we
19 could as quickly as we could.

20 But just to get our -- get back into production is
21 always your main goal. So I -- I would -- that's just our
22 heartbeat. And that's just what I'm passionate about
23 is keeping the network active. And we did a little bit
24 more extra work because at some point, you don't want to
25 work with criminals. Because I -- there is no guarantee

1 of the outcome.

2 WILLIAM LOWE: In those decisions, was
3 there ever a discussion of well, if we do decide to pay
4 this, we need to go in front of Council to get their
5 approval in an emergency session?

6 CINDY FREILING: And I'm sorry, but that's
7 -- that's the protocols that I'm not aware of. This was
8 just the information that I was given. And most of the
9 communications with this group that the Beazley Group put
10 together for us was typically a teleconference. So I
11 really didn't have much say in that.

12 WILLIAM LOWE: Okay. Thank you.

13 MADAME CHAIR: Speaker Hicks.

14 RANDALL HICKS: Thank you, Madame Chair.

15 Ms. Freiling, policies, and procedures, was there
16 any policy, written policy, on should the -- we be hacked?
17 Was there any policy to follow or was it just a shot in
18 the dark, do what we've got to do?

19 CINDY FREILING: I -- I really, I have to
20 be -- that's just an area that you just don't ever think
21 about. And we think about it a lot now. And hopefully,
22 never have to handle it again. But I think that was a
23 huge weakness that we didn't have any response. We didn't
24 know how to even respond to this, something like this.

25 Contacting risk management obviously has always just

1 been the standard best practice because they are our
2 insurance. And this is an act of terrorism in the dot.gov
3 registry. So notifying the FBI and all of those protocols
4 were just kind of a normal thought process.

5 So since I lost all of my data, it's hard to go back
6 and look at my own policy today. So I'm -- I'm a victim
7 of the crime itself as my ten years of data are
8 unrecoverable as well. But we're definitely going to add
9 that protocol in the event for this -- if it ever
10 approaches.

11 RANDALL HICKS: So there was no policy but
12 there's going to be a policy?

13 CINDY FREILING: Absolutely.

14 RANDALL HICKS: My other question is
15 speaking about the software being encrypted. Just sitting
16 here thinking, if they can do it to get our information,
17 why didn't we do it to prevent them from getting our
18 information?

19 CINDY FREILING: Oh, that's a very good
20 question. I would have hoped that we -- that's been my
21 goal. I think due to staffing, we -- that takes a lot of
22 man hours to implement software with -- by all end points.

23
24 It's very hard to do with two people and that's
25 probably one of the areas that we really need to focus on.

1 I would have loved to have my data encrypted to keep
2 somebody else -- they could encrypt it all they want. I
3 would have had my own keys.

4 So that's very -- it is on the table. We just,
5 seriously, we haven't had the manpower since we inherited
6 the Division of Health to do the things we would like to
7 do to secure our network. Now the Division of Health has
8 Fire Power and ASAs and palo altos. And so we have spent
9 the last four years over there.

10 And it's unfortunate, but in January, they said we
11 have got to start taking care of this again. So there's a
12 lot of plans for it. But it's just unfortunate timing got
13 to us before we could actually implement.

14 RANDALL HICKS: Thank you. My last
15 question: I'm going to refer back to my first question.
16 The first question is: Why has there been no formal
17 announcement of the data breach. That was my first
18 question. You answered it.

19 But I want to ask you a different way. In your
20 opinion, should an announcement have been made?

21 CINDY FREILING: I personally didn't see --
22 I don't think that because you don't know all of the
23 facts, but to some degree, I think it would have been
24 better. Because personally, I probably would. And then
25 wait on the facts. Because the -- I think the rumors and

1 all of the controversy might have not been as harsh.

2 RANDALL HICKS: Okay. And the reason I ask
3 that is we were saying, Well, we had citizens calling us,
4 asking us for the information. And should it have been
5 made public, some kind of statement, maybe all of this
6 could have been avoided. Thank you. Thank you, Madam
7 Chair.

8 MADAME CHAIR: Representative Charles
9 McHenry.

10 CHARLES MCHENRY: Now that we've been
11 through this, and I don't know if you'd say that it's
12 over, but how confident are you now in the security
13 measures that we have in place?

14 CINDY FREILING: Oh, today?

15 CHARLES MCHENRY: Yes, as of right now, how
16 confident are you in what we have in place to say a month
17 from now, a year from now, two years from now, or even
18 next week as such, is it -- is it as easy or is it more
19 complicated for it to happen? Is there more obstacles
20 that they would have to go through?

21 CINDY FREILING: It's going to be more
22 complicated.

23 LUCIAN TIGER: As I said, our sessions have
24 been closed. ConnectWise is another secure method with
25 the SOMs Group or that group to access SOMs. With the

1 implementation of Alert Logic, which is the SOC Team, it's
2 going to do nothing but monitor the network 24/7.

3 So it will search on and off and if you've got a
4 problem, they can shut down the work for us. So there's a
5 lot of measures we put in quickly. And just most
6 recently, with Alert Logic. And that's going to be our
7 last there.

8 But we're still going to implement Umbrella which
9 will also monitor traffic. And Cohesity is the next big
10 one. And it's a -- it's a pretty hefty price tag -- I
11 won't deny that -- but it will wrap up your backups in the
12 event of an intrusion.

13 It's like -- it's just programmed to do that. So
14 we're looking into that. I just met with Chickasaw
15 Telecom on Monday to discuss that.

16 MADAME CHAIR: Representative Proctor.

17 DARRELL PROCTOR: Thank you. I've been
18 reading this SpearTip. It says they use the software
19 entitled Advanced Port Scanner. Basically, they're
20 scanning ports.

21 CINDY FREILING: Yes, within --

22 DARRELL PROCTOR: And it says this software
23 was used by the threat actor network. Basically, once
24 they got in, they figured out what we had.

25 CINDY FREILING: Yes.

1 DARRELL PROCTOR: Because it scanned
2 everything and gathers information.

3 CINDY FREILING: That's how they found the
4 open port.

5 DARRELL PROCTOR: And once they had done
6 that, they said -- this transpired from an externally
7 facing RDP port set on -- like a server.

8 CINDY FREILING: Right.

9 DARRELL PROCTOR: So why was this open
10 anyway or was it always open?

11 CINDY FREILING: Yes. The SOMS
12 application, the Lighthouse are out on the road on their
13 Toughbooks. And apparently, when they connect with their
14 hot spot, it allowed them to go directly to the SOMs
15 application and not through VPN account. That's not my
16 best practice.

17 But I have -- I have many discussions about that
18 with -- my staff. Because it is not a safe protocol. So
19 an established VPN. We're also working on two-factor
20 authentication which means you'll get that VPN connection
21 but you will also get it on your phone, a number that's --
22 you're also going to have to add.

23 So the security has been changed. And that protocol
24 has been changed. And it's not open any longer. But that
25 was the -- that was the main point of penetration. And it

1 was lack of a 3389 port being open to the public, public
2 facing 41 session, yes.

3 DARRELL PROCTOR: So it was pretty easy to
4 gain access to, it was just open.

5 CINDY FREILING: It wasn't entirely. You
6 really have to know what you're doing. It's not something
7 that every normal person just day to day would go and do.
8 This is a very intelligent group of people.

9 And I believe with the remote work force that all
10 companies are challenged with today, opening up all these
11 VPN connections, you don't know what the individuals have
12 at home. You don't know if they have a firewall. So
13 we're kind of putting ourselves at risk.

14 So with the two-factor authentication really
15 enforcing all the VPN connections, that's the level of
16 security that we have to have and it will prevent this
17 from going forward.

18 DARRELL PROCTOR: Is that something that
19 should have been in place before?

20 CINDY FREILING: Absolutely.

21 DARRELL PROCTOR: And is there a reason why
22 it wasn't?

23 CINDY FREILING: From what I understand,
24 it's -- SOMs is a very open application. And visiting
25 with Lighthouse, discussions with moving them to an SAS

1 app, I think they have had SOMs for maybe 20 plus years.
2 And I think it's just that familiarity.

3 So I believe it was -- it's been in place for as
4 long as they have had it. I don't agree either that the
5 fact that my staff didn't take the initiative to say
6 that's not a very secure connection. I've acknowledged
7 that with them, too. So --

8 DARRELL PROCTOR: Well, I appreciate you at
9 least recognizing that that's something that needs to be
10 done.

11 CINDY FREILING: Absolutely. It is
12 unacceptable.

13 DARRELL PROCTOR: It is, especially what
14 happened to us. And I think we need to move forward. And
15 I know you've already initiated a lot of these extra
16 precautions. But it is something that, you know,
17 inexcusable, in my opinion. Thank you.

18 MADAME CHAIR: Does anybody else have any
19 questions for Ms. Freiling?

20 JOSEPH HICKS: Madam Chair?

21 MADAME CHAIR: Representative Hicks.

22 JOSEPH HICKS: Ms. Freiling.

23 CINDY FREILING: Yes.

24 JOSEPH HICKS: All the encrypted
25 information they sent back to us, they sent everything

1 back to us, right?

2 CINDY FREILING: I'm sorry, I can't hear
3 you, Joe.

4 JOSEPH HICKS: All the encrypted
5 information, all the files and everything they took, and
6 had the keys to, did they send all that back to us; or...

7 CINDY FREILING: The encrypted data is
8 still in our data center. So it never left the premises.
9 If we had the keys to the data, we could log in and have
10 all of our data. It hasn't left the servers at all.

11 I won't even repurpose the servers because they do
12 still have the data on them. I just -- I'm very reluctant
13 to get rid of that and just reformat that data right now.
14 I'm just hopeful that -- I -- I just hate destroying the
15 only data that we have left even though it is encrypted.

16 JOSEPH HICKS: So basically, it's locked
17 up?

18 CINDY FREILING: It's just locked up. It's
19 just like you're locked out of your house.

20 JOSEPH HICKS: They can't even get back
21 into it now?

22 CINDY FREILING: No. And that's where
23 SpearTip has identified and watched it for 37 days for the
24 traffic and the volume to make sure that there was not any
25 data leaving.

1 JOSEPH HICKS: Thank you.

2 CINDY FREILING: You're welcome.

3 MADAME CHAIR: Mr. Fletcher.

4 ZEKE FLETCHER: Madam Chair, do you mind if
5 I ask a question?

6 MADAME CHAIR: No, I don't mind.

7 ZEKE FLETCHER: Ms. Freiling, hi.

8 CINDY FREILING: Hi.

9 ZEKE FLETCHER: Is there -- if you could
10 help explain something to the committee that might be
11 helpful. They could deliberate on their task. Maybe if
12 you take a step back and explain. So there's data
13 encryption, right? And that's what occurred here.

14 What is the kind of hacking that occurs when
15 somebody's Social Security is found out and they use it?
16 Can you explain the difference in what happened here and
17 those instances?

18 CINDY FREILING: Those would just be a data
19 breach. And our steps, what was confirmed, it was not a
20 data breach, or that would have been that large volume of
21 data that would have left the data -- data center.

22 And ours was a ransomware attack. And they indicate
23 it's a data breach. And that's where they take the data
24 and then sell your personal information, or try to.

25 ZEKE FLETCHER: Then the other question I

1 had, too, is just off -- well, I guess backup storage and
2 not having a data center. I guess what is the current
3 setup? And is there any discussion about ensuring that
4 backups are accessible away and aside from the data
5 center?

6 CINDY FREILING: They are. We have them at
7 TierPoint which is downtown on 1st Street. And they -- we
8 have had them backed up. The portion that was
9 unrecoverable was once the encryption started because
10 that's a real connection. What's here goes there.

11 So at that point, that's when a portion of some of
12 the data was unrecoverable also became encrypted. But
13 again, we were able to gain about 70 percent of that data.

14 ZEKE FLETCHER: I apologize. Can you say
15 that again.

16 CINDY FREILING: At the TierPoint site,
17 that is our off-site storage. We have our site downtown.
18 And that's where we were able to recover the 70 percent of
19 our data. But copying the data from the end environment
20 to and then bringing it back down here -- and some of the
21 volumes were, like, I think, one in particular was 82
22 terabytes.

23 At some point, we were copying two terabytes every
24 13 hours. So there was a portion, once the encryption
25 started here on campus, it also impacted a portion of the

1 DR site data. And that was that piece that was
2 unrecoverable.

3 ZEKE FLETCHER: Okay. Thank you.

4 CINDY FREILING: You're welcome.

5 MADAME CHAIR: Any other questions of Ms.
6 Freiling? No? Okay. Ms. Freiling, we're done. Thank
7 you.

8 * * * * *

9 GREG ANDERSON,
10 after having been duly sworn to testify the truth, the
11 whole truth, and nothing but the truth, testified as
12 follows:

13 LUCIAN TIGER: Good evening, Mr. Anderson.
14 Thank you for being here. I'll start with questioning
15 you.

16 What can you tell us about what transpired? What
17 knowledge do you have of what happened on the 24th to the
18 current date when it came to the IT being compromised, a
19 ransom being paid, so on and so forth?

20 GREG ANDERSON: I was made aware of the IT
21 intrusion on Friday afternoon the 24th. I had been -- of
22 course, I got to the office at Education and Human
23 Services and didn't think a lot about it.

24 But as the morning went on, I went up to the
25 executive office, and they didn't have it either. And I

1 was not given any information at the time.

2 After lunch, I returned to the office, and was
3 informed that there had been an IT issue. Was not given
4 all the details until later on that there had been an
5 intrusion or hacking.

6 And as the weekend went by, I didn't get any
7 information because we had no email service. So on
8 Monday, we just received more information that had
9 transpired over the weekend.

10 Not a lot was being shared at that time. Just that
11 I think, Chief Hill had been in contact with some folks.
12 Then we were told there was going to be a, I think a call
13 with the National Council.

14 And at that point, of course -- we had no email
15 service so there was no communication. And we didn't get
16 email service for maybe a week, five days, until they gave
17 us some -- a new account. But it took awhile for the
18 emails to repopulate. Might have been maybe 10 days, two
19 weeks.

20 LUCIAN TIGER: What can you tell us about
21 how the ransom came about? Were you involved in any of
22 that at all?

23 GREG ANDERSON: I knew there was some
24 ransom involved but I had no participation in making the
25 decisions, what was paid, who was paid. I had heard, like

1 you all, and then a call Monday more details about the
2 group that had done it.

3 And we had been told that any information that was
4 supposed to be shared was coming. They weren't sharing
5 much because of the confidentiality with the groups who
6 were doing the negotiation. And the attorneys who were
7 involved at that time, and who had been acquired, I
8 believe through the IT department.

9 So I knew there was one, a ransom out there. I was
10 not aware of the amount until that Monday before the call
11 to Council. And but I was not involved in determining
12 anything to pay.

13 LUCIAN TIGER: Thank you, Mr. Anderson.

14 GREG ANDERSON: You're welcome.

15 WILLIAM LOWE: Mr. Anderson, as far as
16 paying a ransom when you all were having meetings, was
17 there ever a discussion, I guess once the -- it was
18 decided to pay the ransom, did you ever hear any
19 discussion of well, maybe we should go to Council before
20 we pay this ransom?

21 GREG ANDERSON: I'm having trouble hearing
22 you.

23 WILLIAM LOWE: Yeah, when you all were --
24 when it was decided to pay the ransom, and in your
25 meetings, was it ever decided or discussed that maybe

1 Chief and whoever should come in front of Council before
2 they paid that ransom?

3 GREG ANDERSON: I believe that on Monday,
4 as information came in, there was some discussion that
5 Chief was wanting -- that the Council needs to be informed
6 but they were being cautious because of the
7 confidentiality and the -- I think they called them
8 actors, the bad actors, were monitoring social websites
9 and things like that.

10 And they said it would -- it would hurt what was
11 going on, or damage what was going on. So there was an
12 urgency not to share it. But I do know that there was
13 some -- some discussions, we have got to inform the
14 National Council.

15 WILLIAM LOWE: Thank you, sir. Thank you,
16 Madam Chair.

17 MADAME CHAIR: Any other questions for Mr.
18 Anderson?

19 RANDALL HICKS: Thank you, Madam Chair.
20 Mr. Anderson, I just want to ask a question that was given
21 to us: Why was there no formal announcement of a data
22 breach?

23 GREG ANDERSON: Why was there no formal
24 announcement?

25 RANDALL HICKS: No formal. Why -- why

1 wasn't the citizens or the Nation's employees, why weren't
2 they made aware of this situation?

3 GREG ANDERSON: The -- law firm as well as
4 the -- from what I was told, the law firm and negotiators
5 in I believe the insurance company had instructed the IT
6 and Chief -- again, we didn't want to share this
7 information because they were monitoring social media.

8 And this was a professional group who would act on
9 any information they could receive. And I believe that
10 determination not to release anything was made by the
11 attorney firm, the law firm, and the insurance, I believe.

12 I never really was -- that's all -- that's all I
13 knew about that is, obviously, you want to inform, if at
14 all possible. But the determination was made that that
15 would not be a good thing to do in this situation.

16 RANDALL HICKS: Thank you, sir.

17 GREG ANDERSON: Yes, sir.

18 MADAME CHAIR: Representative Hicks. No.

19 MADAME CHAIR: Representative Crawford.

20 MARY CRAWFORD: Mr. Anderson, since we have
21 this information from the report given to us, is this
22 going to make -- are you guys going to make this public to
23 the citizens?

24 GREG ANDERSON: I -- I believe they will.
25 But they wanted to make sure that the National Council

1 received the information first. I think that report just
2 was just received not too long ago.

3 No, they did not want to make that public until the
4 National Council had received it, reviewed it, and had
5 given permission prior to public release. At least that's
6 the way I understood it.

7 Now, I don't -- I don't know if the report in its
8 current form would be released because I believe at the
9 bottom there states something about ownership of the
10 document. It's -- it's privileged and confidential. I'm
11 not sure what -- what the exact words are.

12 MADAME CHAIR: Speaker Hicks.

13 RANDALL HICKS: Thank you, Madam Chair.
14 Mr. Anderson, Representative Crawford kind of touched on
15 this a little bit. But who actually authorized the
16 payment of the ransom?

17 GREG ANDERSON: I don't know where the
18 final decision came from. I was, like I said, I was not
19 involved in making that decision. I do know there was
20 some numbers out there. As far as making the final
21 determination about when to make a payment, it was made --
22 I was not in that decision.

23 RANDALL HICKS: Thank you, sir. My last
24 question was: You got the report, right?

25 GREG ANDERSON: Yes, sir. I received the

1 report.

2 RANDALL HICKS: Okay. What is your opinion
3 on this report?

4 GREG ANDERSON: I'm not an IT guy. And
5 it's very difficult to read about the occurrence and how
6 it happened. And I think, to me, the most important part
7 of that report is the last paragraph where it says that
8 there was no information, I believe. Is that what it
9 says, there was no information that the bad actors
10 received from the Nation.

11 RANDALL HICKS: Thank you, sir. Thank you,
12 Madam Chair.

13 GREG ANDERSON: I believe that I -- that's
14 not verbatim from the report but I think just in closing,
15 that's what they stated.

16 LUCIAN TIGER: Thank you, Madam Chair. Mr.
17 Anderson, I agree the last paragraph but what concerns me
18 is the last three words where it says: available evidence
19 analyzed.

20 And that's what conversations we've had with the
21 Executive Branch to the best of our knowledge is the
22 statements. So basically this says there's been some
23 available, evidence analyzed, and we know from earlier
24 conversation that you didn't get anything back.

25 So there is a lot -- still a lot of concern that --

1 I, too, am not IT savvy. So I don't -- I'm not IT savvy
2 so I didn't understand everything. Still through the
3 discussion, it wasn't clear to me, if you still have stuff
4 hanging out there, somebody has access to it.

5 GREG ANDERSON: That would be a concern.
6 If there's information out there, I don't know if there is
7 or not. That was between the IT department and their
8 forensics experts that I guess analyzed the information
9 that was sent to them and that were working on behalf of
10 the Nation through the law firm.

11 I don't know a lot about this type of activity. But
12 any time that you -- something like this would happen, it
13 would be a concern of what information was out there and
14 what wasn't. But I think with the evidence they were able
15 to analyze that. They could not make a determination.

16 But I could not tell you what -- what may be out
17 there. But that would be the IT department who was
18 working directly with the attorneys and/or the law firm
19 and the insurance, and the forensics expert, and the
20 negotiators.

21 LUCIAN TIGER: Thank you, Mr. Anderson.

22 MADAME CHAIR: Will there be any more
23 questions for Mr. Anderson? Mr. Fletcher, do you have any
24 questions for Mr. Anderson?

25 ZEKE FLETCHER: No, Madam Chair.

1 MADAME CHAIR: That will complete our
2 inquiry, Mr. Anderson. I appreciate you being here.
3 Thank you.

4 GREG ANDERSON: Yes, ma'am.

5 * * * * *

6 PHIL BOOKER,
7 after having been duly sworn to testify the truth, the
8 whole truth, and nothing but the truth, testified as
9 follows:

10 LUCIAN TIGER: Go ahead, Mr. Booker, how
11 are you? Thank you for being here.

12 PHIL BOOKER: Yeah.

13 LUCIAN TIGER: Would you just tell the
14 committee what you know about the attack on our Nation's
15 IT department, the cyber hacking as well as the ransom,
16 please.

17 PHIL BOOKER: Well, I was informed early
18 that morning, I guess it happened and was discovered that
19 it had gotten into before I came to work. And I came by
20 the IT office and went by and Ms. Freiling had told me
21 what had seemed to happen.

22 And she said, What do we need to do? Because I had
23 a cyber liability policy that I took out for the tribe --
24 I don't know, we've had it now in place probably the last
25 six, eight years, something like that, seven, six. I

1 don't know, I'd have to go back. It's fairly new and
2 changes yearly.

3 I said, yeah, we've got a policy and stuff. And
4 I'll give you the contact person that you need to contact
5 to get this claim started. Because at that time you
6 couldn't get in on our standard process on insurance
7 claims to do an incident/accident report no matter if it's
8 property damage, liability or whatever it is.

9 And that incident/accident report had some different
10 answers or questions on it that they're going to ask. So
11 we turn that in to the insurance company usually by email.
12 And it's on a website. And you go in there and look the
13 accident/incident report up.

14 We couldn't do that with the system being down. So
15 I told her we'd have to get a hard copy. But I'll just
16 give you the contact person, and we'll go -- we'll go the
17 old way.

18 So I gave her Mr. Floyd's, Chris Floyd's, our
19 broker's number. And I told her I would give him a call
20 and brief him on what's going on. And she got available
21 and the time to call him.

22 And she wanted to call him and call up, and he would
23 proceed to tell her what steps she needed to take, who she
24 needed to contact, so on and so forth. So I contacted
25 Chris and gave him her number. And I also gave her his

1 number before I left her office.

2 I think I kind of wrote some minutes down as far as
3 what I have, can recollect. And that was on 4/24 about
4 7:40 in the morning. Shortly after I left around eight is
5 when I called Mr. Floyd up.

6 And on the 26th, two days later, my secretary was
7 off, assistant, Sylvia was off work. So I gave her a call
8 two days earlier and said, Hey, the system is down,
9 because she had calling me, and saying, I can't get on the
10 line, can't get online.

11 We didn't know about whether the computers at home
12 we're going to work or not. We didn't know the extent of
13 it at that time. So about two days later, I got -- she
14 got down on the 26th.

15 The 30th, I stopped by Cindy's office to see if
16 there was anything that needs to be done, do I need to do
17 anything. And she said, No, not at this time; thanks for
18 getting us in touch with everybody.

19 I made contact with the different groups, the
20 underwriters that the Tribe is using under Brown & Brown,
21 which is -- I think it was Beazley is who she talked to
22 first and contacted them. And she said everything is
23 going smooth.

24 Thank you. And glad we've got this policy in place.
25 And so that was on 4/30. On 5/8, May 8th, Cindy called

1 me, was asking questions on how to -- this was ongoing
2 into it. So evidently, money had been -- amounts had been
3 said, I mean, not to me but between her and the insurance
4 carrier, how is -- how is the policy written?

5 It's an indemnification policy which means that the
6 -- the way that that would operate would be we pay it, and
7 then they reimburse us. And I told her that's how that
8 would work minus the deductible. And she asked what the
9 deductible was. I said it's 25,000.

10 I didn't know whether that had been done yet or not,
11 but she was just asking those kind of questions. So I
12 wonder -- that's the type of policy it is. And that's --
13 that's how that policy, different policies are written.

14 Some of them, they pay the Tribe first and then
15 reimburse us. And sometimes it's the other way, they go
16 straight and they would pay whoever the contractor might
17 be. In this case, whoever the ransom person would be.
18 They would pay it and then we would pay them. This --
19 this way here, we paid it, and then they reimbursed us.

20 Then I received a copy of the email which you guys
21 have from the Bill Knauss and Wiley Law, which is, I
22 guess, the law firm for Beazley, I guess is who it's for.
23 I received that from my broker.

24 And it had more -- it had the amounts and things
25 like that that were involved in it. But that was after --

1 I mean, it was already a said and done deal. It had been
2 paid at that point.

3 Other than that, I mean, I -- we weren't getting any
4 emails back and forth. So there wasn't any emails to be
5 had because the system was down. So I turned around and
6 asked the finance office.

7 We've asked them a couple of times if they could get
8 us a receipt of some sort, just something showing it's
9 paid so we could close the account out.

10 Because everything had been said and done deals,
11 paid for, everything -- or money wise, dealing with the
12 insurance company, them paying it off and all that,
13 reimbursing us, I hadn't gotten anything back yet showing
14 that it had been reimbursed.

15 And then finally I got this. And actually, Cindy
16 give it to me. And I got a copy sent -- I could have got
17 a copy from Brown and Brown, which would have been the
18 same thing.

19 And it's Codeware showing that the cyber liability
20 fee, the original fees, the credit card, exchange fees.
21 I'm sure you guys have got a copy of that.

22 That's -- that's the last I've heard of it besides
23 asking the controller's office, you know, give me
24 something in writing showing -- I'm using this right here
25 as being paid which it really don't say. It just says the

1 insurance company confirmed, reviewed, and accepted the
2 type of claim it was, and then they're going to pay off on
3 it, and they're going to reimburse the Tribe.

4 LUCIAN TIGER: My next question, Mr.
5 Booker, you said they reviewed the claim. Correct?

6 PHIL BOOKER: That's what it says in their
7 letter.

8 LUCIAN TIGER: Right. So my question is:
9 There was a chance that we might not have been eligible
10 for reimbursement, correct?

11 PHIL BOOKER: Sure.

12 LUCIAN TIGER: They have to review the
13 claim.

14 PHIL BOOKER: It's like that on any claim.

15 LUCIAN TIGER: So to the best of your
16 knowledge, if you knew anything about the ransom, when the
17 ransom was paid, there was no guarantee that we would
18 receive the full amount minus deductible back; is that
19 correct?

20 PHIL BOOKER: My understanding of the way
21 that was handled was unless we paid it -- I mean, if we
22 didn't pay anything, we weren't going to get anything
23 back.

24 LUCIAN TIGER: Sure. Sure.

25 PHIL BOOKER: Basically, you know. I

1 mean, --

2 LUCIAN TIGER: Right. I understand that
3 part of it. Once we paid it, there was no guarantee that
4 we were going to be reimbursed, I guess.

5 PHIL BOOKER: Well, we didn't -- the way
6 I'm understanding -- I don't know this for facts. I don't
7 know when it was paid.

8 LUCIAN TIGER: Yes, sir.

9 PHIL BOOKER: I don't know when the
10 transaction was wired. But you know, I couldn't -- I
11 couldn't answer that yes or no. I don't know.

12 Because me, probably like you would do, I would say
13 that I would need -- what we do on a regular claim, we get
14 a proof of loss. And that proof of loss means that we
15 will be -- you will be reimbursed.

16 And I've taken that it's been reviewed because it
17 has money amounts in it and it says -- I'll have to -- I'd
18 have to look it up in here. Let's see, it's on page 1 on
19 this email. I think you -- did you guys get a copy of all
20 that? I turned it in.

21 LUCIAN TIGER: Yes.

22 PHIL BOOKER: Okay. It's the one that says
23 -- it's got a highlighted external on there, Beazley
24 claims manager. I can't pronounce the last name. I
25 tried.

1 It says, "Thank you for providing documentation of
2 the payment made in Muscogee Creek Nation, Codeware.
3 Beazley has reviewed the invoice and is pleased to
4 recognize coverage in the amount."

5 So that right there says that they're going to pay
6 it. But I don't know when it was wired or anything like
7 that. And I don't know.

8 LUCIAN TIGER: I understand that, Mr.
9 Booker. My -- just my question was, just like any
10 insurance claim, it's up to the insurance company whether
11 they're going to pay or not as long as you meet the right
12 criteria. You have to meet certain criteria before
13 they're going to --

14 PHIL BOOKER: Sure. Sure.

15 LUCIAN TIGER: That was my question.

16 PHIL BOOKER: Yeah. Sure. And this right
17 here shows --

18 LUCIAN TIGER: Right.

19 PHIL BOOKER: -- that we met it and they
20 approved it. As far as when it was paid, I don't know.

21 LUCIAN TIGER: Right. But my question was:
22 There was no guarantee we were going to be reimbursed --

23 PHIL BOOKER: No.

24 LUCIAN TIGER: -- what we paid for that
25 deductible. It had to be reviewed.

1 PHIL BOOKER: We had to fit the criteria of
2 whatever the policy and how it's written, yes.

3 LUCIAN TIGER: Yes.

4 PHIL BOOKER: And it was my understanding
5 that ransom type, water damage, or, you know, any of those
6 kind of things, there's -- you know, a whole lot of
7 different things -- aspects of the insurance policy that's
8 going to meet that criteria. And ransom was one of them.
9 We had that type of policy.

10 I -- I reviewed the policies before we renewed every
11 year or before we pick up a new one and stuff, and try to
12 -- I do my job. I try to cover any risk that we might be
13 exposed to as a tribe.

14 LUCIAN TIGER: Thank you, Mr. Booker.

15 MADAME CHAIR: Speaker Hicks.

16 RANDALL HICKS: Thank you, Madame Chair.
17 Hi, Mr. Booker. If I understood you right, what was the
18 -- what did you make a comment on 5(a)? Is that when she
19 notified you on how your insurance works?

20 PHIL BOOKER: She -- she called asking --
21 yeah, she was calling saying, How does this -- kind of
22 does it pay it out? Do we pay out? Or do they pay out?

23 Because, you know, some of them you wait to get --
24 you wait to get the insurance check before you pay for a
25 claim, say, a vehicle getting fixed or whatever.

1 Sometimes it goes directly to the body shop or, say, a
2 roofing company, or whatever it may be.

3 Sometimes we pay it and then get reimbursed.
4 Sometimes we wait for insurance, and they will pay
5 indirectly. She was asking how that was going. So she
6 was wondering whether Beazley or Codeware, do they pay the
7 ransom, or does the Tribe pay the ransom.

8 And I told her it was an indemnification policy.
9 And that means that we pay, and then they reimburse us
10 minus the deductible.

11 RANDALL HICKS: So in your opinion, should
12 that have been asked prior to all the discussion or the
13 decision of the ransom being paid? That had been asked
14 before then?

15 PHIL BOOKER: I don't know when the ransom
16 was paid, so I don't know.

17 RANDALL HICKS: I mean, that's just been
18 some of the discussion in the beginning, though, correct?

19 PHIL BOOKER: They should -- they should
20 have -- they could have asked it ahead of time. But
21 either -- either way, it's going to come; either we're
22 going to pay it or we would get reimbursed, one or the
23 other, as long as we had that coverage.

24 RANDALL HICKS: But I guess what I'm -- I'm
25 trying to piggyback off of --

1 PHIL BOOKER: Right.

2 RANDALL HICKS: -- Mr. Tiger's question.
3 That decision to make the payment was made prior to
4 knowing if our insurance was going to cover or not,
5 correct?

6 PHIL BOOKER: Well, according to the
7 policy, it's a ransom. And it's going to get paid. I
8 don't -- like I said, I would have to know the date that
9 they paid it. I don't know. I don't know. I don't know
10 whether they paid it before the date on the -- from the --
11 I see what y'all are saying. But I don't know the date
12 that that was done.

13 RANDALL HICKS: Okay.

14 PHIL BOOKER: So I wouldn't know whether --
15 you'd think -- you'd think so. I mean, --

16 RANDALL HICKS: Okay, I'll help you out a
17 little bit. It was actually paid 4/28.

18 PHIL BOOKER: Okay. So 4/28.

19 RANDALL HICKS: And you were asked 5/8.

20 PHIL BOOKER: Well, I was asked 5/8 but I
21 don't know when this letter was -- okay, this letter here
22 I got that I found out about it, how it was done, is dated
23 -- it was sent -- so I don't know when the transaction
24 says.

25 You said the transaction was on the 28th? This

1 right here come to me on May 14th, so then 5/14. That was
2 before my office knew how the transaction took place.

3 RANDALL HICKS: Right. I guess --

4 PHIL BOOKER: I didn't even know that -- I
5 didn't even know we had paid the ransom at that -- on the
6 28th, or -- until I got that letter on the 14th, that's
7 the first I knew about it.

8 RANDALL HICKS: That's why I was asking.

9 PHIL BOOKER: Right.

10 RANDALL HICKS: Shouldn't it have been
11 discussed prior to?

12 PHIL BOOKER: They -- they asked if we had
13 coverage. They didn't ask how is it paid out, do we pay
14 it, or does the insurance company pay it, and we get
15 reimbursed.

16 RANDALL HICKS: Right. But earlier you
17 said there was criteria that had to be met for it to be
18 paid.

19 PHIL BOOKER: Yeah, ransom was one of them.
20 And it was ransom. So we knew -- we knew the policy would
21 cover ransom.

22 RANDALL HICKS: Yeah.

23 PHIL BOOKER: Yeah.

24 RANDALL HICKS: Did they -- did they ask
25 you how much it would cover?

1 PHIL BOOKER: No. They asked me the policy
2 limit. I don't have that in front of me right now. It's
3 -- 100 million, 300 million. Almost everything we have
4 limit wise is either 100 million or 300 million.

5 RANDALL HICKS: Okay. So they paid this
6 without even knowing the limit amount?

7 PHIL BOOKER: I believe we -- they talked
8 that over. IT talked that over with Chris Floyd.

9 RANDALL HICKS: Who is that?

10 MR. BOOKS: Not with me, not through my
11 office, but Chris Floyd, the broker. Then she called ad
12 they talked. He told her the limits, he told her the
13 deductibles and all of that.

14 RANDALL HICKS: Did you think you should
15 have involved? Shouldn't they have discussed that with
16 you as well?

17 PHIL BOOKER: That's -- that's not --
18 that's out of my hands. I don't know. I do what I'm told
19 as far as that goes.

20 RANDALL HICKS: Oh, I understand that.
21 But--

22 PHIL BOOKER: Yeah. They could have called
23 me and asked me, because I had a copy of the policy. They
24 could have called the AG's office because they had a copy
25 of the policy.

1 As far as I know, Chief's office usually has a copy
2 of the policy. I don't know, since a new chief came in, a
3 lot of stuff disappears. When the new chief steps in,
4 policy and procedure manuals seem to disappear.

5 We've got new emergency evacuation plans. And every
6 -- all the procedures usually have to be redone. I don't
7 know what they do with them when they leave. But I've
8 been here through five or six of them.

9 Seems like I have to go through, and make a whole
10 new, you know, setup for everything as far as policies,
11 procedures, insurance policy, anything that carries over
12 from one year to the next. So they -- they should have
13 had a copy of it. They didn't ask me for it.

14 RANDALL HICKS: I just want to say thank
15 you for investing in that policy a year ago. I don't if
16 anybody else knew about it; so --

17 PHIL BOOKER: Like I said, it's a changing
18 policy, it's a changing type of coverage. And it's
19 getting bigger, and bigger, and bigger.

20 When we first started out, there was no such thing
21 as ransom, you were just trying to pay for water damage,
22 or something like that, you know. Now we've got ransom
23 involved and cyber liability added. It's a big deal.

24 RANDALL HICKS: Okay. One last question.
25 Can you tell us why there was no formal announcement of

1 the data breach?

2 PHIL BOOKER: I was told right from the
3 git-go let's keep this between us as far as the executive
4 office. And I hadn't met with chief and anybody about it
5 at all. Never did. I wasn't involved in any meetings
6 with them until -- at all.

7 Cindy told me this is, you know, keep this between
8 me and you. But that was 7:40 the day of. It happened
9 sometime at night. And the only one that knew anything
10 else about it was Mike, the office assistant, for
11 confidentiality. We work on the claims together.

12 We've got -- we've got a (indiscernible). So Sylvia
13 Thompson in my office, me and her are the only ones that
14 knew anything about it.

15 RANDALL HICKS: Yeah. So Ms. Freiling was
16 the one that advised you to -- was the one who advised you
17 not to say anything?

18 PHIL BOOKER: Yes.

19 RANDALL HICKS: Okay. Thank you, sir.

20 PHIL BOOKER: I -- I kind of went over it
21 with Jesse, but I wouldn't -- my boss, Jesse Allen, and
22 stuff. That's what he told the Chief is that -- he didn't
23 even tell me.

24 MADAME CHAIR: Representative Lowe.

25 WILLIAM LOWE: Thank you, Madam Chair. Mr.

1 Booker, as far as cybersecurity insurance, is that an
2 industry standard or was that your initiative to purchase
3 that?

4 PHIL BOOKER: When it first started --
5 we've had it for a while -- it was something that I knew
6 we better get. And so I asked -- I believe it was Chief
7 Tiger, I believe is when we first got it. And he took it
8 upon himself to say yes, go ahead and do that.

9 And I keep trying to beef it up in what's the latest
10 and greatest type of coverage we need. Because, I mean,
11 you know, we've got a lot of -- a lot of things out there.
12 It's his standard now. I mean, it's --

13 WILLIAM LOWE: Yeah, I think, does the IT
14 manager have any discussion or say-so on what type of
15 coverage?

16 PHIL BOOKER: Every year. Every year.

17 WILLIAM LOWE: Okay, good.

18 PHIL BOOKER: The policy renews every year.
19 They send us -- and I -- and I don't have that in front of
20 me as far as the renewal date on it, because different --
21 different policies renew at different months.

22 I wish it was all the same month to get it done.
23 But I think it's in the springtime, around -- I think it's
24 a February policy, it seems like. And I'm not for sure on
25 that.

1 They give us a -- the insurance broker firm does,
2 whichever underwriter they can go out and find us the best
3 deal for coverage wise, premium amounts for, I go over
4 what I can and answer the questions because they have a
5 questionnaire. It's usually two to three pages.

6 But it's things that I can't answer. So I give it
7 to Ms. Freiling. And she fills in the blanks with what
8 type of coverage, what types of systems we have, what
9 types of, I don't know -- I don't know the terminology,
10 malware, and all the different types of blockages we have
11 to keep this from happening in place.

12 WILLIAM LOWE: Right.

13 PHIL BOOKER: So they want to know all
14 that. It's about like do you have security cameras on
15 your building. It's do you have a firewall up, whatever.
16 They know those types of answers. And she fills that out
17 and then we send it back in and secure the coverage.

18 WILLIAM LOWE: Okay. I just want to say
19 thanks for doing that.

20 PHIL BOOKER: Sure.

21 WILLIAM LOWE: Thank you, sir.

22 PHIL BOOKER: I was doing my job.

23 RANDALL LOWE: Thank you, Madam Chair.

24 MADAME CHAIR: Does anybody have any
25 questions?

1 LUCIAN TIGER: I just have one comment.
2 Mr. Booker, I do thank you very much for making sure that
3 the Nation did have the cybersecurity insurance. I
4 appreciate it.

5 PHIL BOOKER: Sure. No problem.

6 MADAME CHAIR: Mr. Fletcher, do you any
7 questions for Mr. Booker?

8 ZEKE FLETCHER: No, Madam Chair.

9 MADAME CHAIR: All right. That completes
10 it. Thank you.

11 * * * * *

12 CLAY DARNELL,
13 after having been duly sworn to testify the truth, the
14 whole truth, and nothing but the truth, testified as
15 follows:

16 MADAME CHAIR: Mr. Tiger.

17 LUCIAN TIGER: Madam Chair, thank you.
18 Good evening, Mr. Darnell. How are you?

19 CLAY DARNELL: Good.

20 LUCIAN TIGER: Thank you for being here.

21 CLAY DARNELL: You're welcome.

22 LUCIAN TIGER: Would you please tell us
23 what role you played in the IT big hack ransom, how you
24 were involved, what you knew, didn't know?

25 CLAY DARNELL: In retrospect, I think my

1 role was just to facilitate the payment of the ransom.

2 LUCIAN TIGER: When were you approached
3 about the ransom?

4 CLAY DARNELL: Can I refer to the timeline
5 I was asked to prepare so I just --

6 LUCIAN TIGER: Yes, sir, please. Thank
7 you.

8 MADAME CHAIR: Mr. Darnell, would you speak
9 into the microphone, please. Thank you.

10 CLAY DARNELL: Is that better?

11 MADAME CHAIR: Thank you.

12 CLAY DARNELL: My first, when I first
13 became aware, I knew that the system was down on Friday
14 but I didn't know why. That was April 24th. And then on
15 the 27th, I was called to a meeting where I was -- when
16 the meeting was in progress, I wasn't there at the start
17 of the meeting so I don't know everything that happened at
18 the meeting. But that's when I first learned about that.

19 LUCIAN TIGER: What was that date, Mr.
20 Darnell? I apologize.

21 CLAY DARNELL: That would have been the
22 27th. That's -- I think that's on a Monday. So I was
23 called over. The meeting was in progress. And they were
24 discussing the fact that the Nation had been hacked. And
25 there were consultants on the telephone. A lot of

1 acronyms were being used that I didn't understand. Right?

2 So and I have my -- I have my notes from that
3 meeting that I offered. I hope -- I hope that they were
4 legible because I don't recall a lot of details. I almost
5 submitted my calendar for May so you'd understand, May was
6 a real busy month.

7 So it was lots and lots of meetings. But on -- yes,
8 on the 27th I offered my notes from that meeting. And
9 mainly, what I was trying to do at that time was document
10 who the players were.

11 You know, we've got these different companies, so
12 what do they do. Who were the players? What was their
13 purpose there. And that's where I gained my basic
14 understanding of what had happened and was asked to make
15 the payment. So my understanding of the payment and how
16 that would occur.

17 LUCIAN TIGER: Would you elaborate on the
18 payment, how it was made, who was it made to, where it was
19 sent, what silo was used.

20 CLAY DARNELL: If I don't address every --
21 if I don't address every part of that question, will you
22 remind me.

23 LUCIAN TIGER: Yes, sir.

24 CLAY DARNELL: The -- my understanding was
25 that since the insurance was on an indemnity basis -- this

1 was discussed at the meeting -- that means that we would
2 indemnify. We would have to pay the ransom and we would
3 be reimbursed.

4 What we were told is -- and from memory, these folks
5 were on the line. It was already discussed that we had an
6 insurable loss. We would be reimbursed for the -- for the
7 payment. And we wouldn't pay the threat actor.

8 Does that sound familiar? That's what I remember
9 that they referred to the people that had hacked us as the
10 "threat actor."

11 So we wouldn't pay them. We would make a payment to
12 a group called Codeware. I think it's Codeware. It's
13 close to that. Right? And they -- they were the
14 negotiators. And they would use those funds to purchase
15 Bitcoin.

16 And I can't be more specific than that. I don't
17 know how that's supposed to occur. And once we made that
18 payment, once we showed evidence of the payment, furnished
19 that to Beazley, which is the insurance group, we would be
20 reimbursed.

21 They would review the documents that we submitted.
22 And they had agreed ahead of time that it was an insurable
23 loss. So I had some emails that I included also as
24 further evidence of this. And so we -- we received the
25 information from Codeware that basically we're just

1 waiting for wire instructions.

2 And we made that wire later on in the afternoon. A
3 lot of things were going on. So I thought that we'd make
4 the payment and the systems were going to be stood up
5 right then, you know, make the payment, bam, they would
6 give us the boot unlock codes, for lack of a better term.

7 So they locked all our access up, and we would make
8 the payment, and they would give us the unlock codes. We
9 didn't get the wire instructions until past the wire
10 deadline for BOK. So the wire was effective the next day.

11 And then it didn't happen exactly like we thought it
12 would. Right? The system didn't stand back up. And I
13 don't know a lot about what happened there, that being
14 more on Ms. Freiling's -- more in her -- in her area.

15 Representative Tiger, did I leave anything out?

16 LUCIAN TIGER: No. But you did state that
17 you did have confirmation prior to inquiring that our
18 claim would be paid, correct?

19 CLAY DARNELL: Yes, sir.

20 LUCIAN TIGER: That came from the insurance
21 company, correct?

22 CLAY DARNELL: Yes, sir.

23 LUCIAN TIGER: Thank you, Madam Chair.

24 Thank you, Mr. Darnell.

25 MADAME CHAIR: Speaker Hicks.

1 JOSEPH HICKS: Thank you, Madam Chair.
2 Good evening, Mr. Darnell.

3 CLAY DARNELL: Good evening.

4 JOSEPH HICKS: Mr. Darnell, on the
5 insurance, were you aware that the Nation was going to be
6 reimbursed once the ransom was paid, or was it -- did you
7 feel like the insurance was going to pay up-front instead
8 of the Nation?

9 CLAY DARNELL: The former.

10 JOSEPH HICKS: Or how was that explained to
11 you?

12 CLAY DARNELL: The former. My -- the first
13 conversation on that subject I recall, Ms. Freiling had
14 said -- she was in discussions with the insurance company.
15 And it was -- I alluded to it earlier. The coverage was
16 to indemnify us. So we had to incur the loss before we
17 would be -- before it would be reimbursed.

18 And that's an accountant's understanding of a legal
19 term. So perhaps, if that's off -- but that was my
20 understanding. So we -- we had to pay.

21 Now, after that discussion, I think I was copied on
22 some emails. I didn't always go back and look at the
23 complete email string. When I got copied, someone asked
24 me to do something, I tried to respond to that.

25 But going back and preparing, putting things

1 together, I think I've got an email from the insurance
2 company that further supports that. So it wasn't an
3 option in my mind and from the materials that I looked at,
4 for the insurance company to pay. That was just my
5 understanding.

6 JOSEPH HICKS: Can you tell us if the money
7 has been paid back by insurance?

8 CLAY DARNELL: Yes, sir. It has been paid
9 back. And if I didn't include -- Chief Hill asked me to
10 let him know when the money was received.

11 And if I didn't include that email, it would be an
12 unfortunate oversight on my part. It should be part of
13 the emails where I let him know that we've gotten the
14 money back. I apologize if I didn't include it.

15 JOSEPH HICKS: So did you think Risk
16 Management should have been notified as well it was being
17 paid back? Kind of deviating from everything, but just a
18 question.

19 CLAY DARNELL: No -- no problem. I don't
20 have -- I don't see a problem. I wasn't driving the --
21 driving the communications at that point. But if Chief
22 would have provided that information to them, yeah, I
23 don't think that would have been -- there wouldn't have
24 been anything wrong with that at all.

25 JOSEPH HICKS: So do you feel like there

1 was a lack of communication in anywhere in this?

2 CLAY DARNELL: I think communication is so
3 difficult during that time, during a time like this. You
4 know, there's a lot going on.

5 Remember, I'm going back and sitting at my desk.
6 And there's no -- there's no email. We're trying to
7 figure out how we're going to get vendors paid, and
8 employees paid with payroll checks, and when the system is
9 going to come back.

10 So I would hesitate to criticize anyone for what
11 communication occurred, or lack of communication. You
12 mentioning that fact to me tonight is the first time I had
13 even thought about it.

14 So I didn't think that I was in charge of --
15 responsible for determining who should receive that. You
16 know, what I mean? I didn't -- I mean, Chief told me to
17 do something and I responded.

18 And if I -- if I could take a minute, I might be
19 able to find the email. I know I provided everything that
20 I saved, you know, everything that -- everything that I
21 saved from my email. So it's probably in there.

22 JOSEPH HICKS: Okay. Thank you, sir. You
23 may be able to answer this question, maybe not: Can you
24 tell us why there was no formal announcement of the data
25 breach? When I say "we," I mean, Council, citizens,

1 employees.

2 CLAY DARNELL: I -- I can tell you that I
3 think ultimately there was some -- some information put
4 out. But to respond to that question right at that time,
5 like, on that first meeting on April 27th when I first
6 became aware, and were talking to the consultants, we were
7 advised to keep the information very guarded.

8 And I understood the reasons for that. That made
9 sense to me while they were talking to us. What they said
10 was: This information has to be closely guarded because
11 if it gets out, the threat actor would monitor the
12 sources. They're sophisticated in this way. And they
13 would use it against the Nation in the negotiations.

14 So would you restate that question again.

15 JOSEPH HICKS: Why were there no formal
16 announcements of a data breach?

17 CLAY DARNELL: I thought that there was an
18 announcement later on. But if you're talking about why it
19 wasn't done initially, we've had -- I don't -- I don't
20 remember which one specifically was telling us. But they
21 were specifically requesting that the information be
22 closely guarded, that it not be discussed in any way on a
23 broad basis.

24 As a matter of fact, my understanding, they weren't
25 -- they were telling us, you don't want to put this out

1 there yet. You don't want to talk about things until you
2 fully understand what's happened and the impact.

3 And I felt like they wanted the negotiations to
4 conclude. And there were just too many unknowns.

5 JOSEPH HICKS: Mr. Darnell, can you explain
6 when you say "they" --

7 CLAY DARNELL: Yeah.

8 JOSEPH HICKS: -- informed you guys not to
9 disclose any information, --

10 CLAY DARNELL: Yes. I --

11 JOSEPH HICKS: -- who are you talking
12 about?

13 CLAY DARNELL: I'm sorry. The people on
14 the telephone. And so I'm saying that the consultants,
15 the experts that the Nation had hired. And they were in
16 place, too, by that -- that Monday morning, they were in
17 place because they were on the telephone. And that was
18 the insurance consultant, the negotiator, maybe.

19 It was probably Codeware because they are the people
20 who were on the telephone that morning. They're the ones
21 that were recommending this. And to me, it made sense at
22 the time.

23 JOSEPH HICKS: I understand the ransom of
24 \$470,516 and some change was made, correct?

25 CLAY DARNELL: Yes, sir.

1 JOSEPH HICKS: Can you tell me what funding
2 source you got that money from?

3 CLAY DARNELL: That money came from the
4 treasury fund.

5 JOSEPH HICKS: And who authorized it?

6 CLAY DARNELL: I authorized it. I approved
7 the payment. So I have a form of authorization. I
8 included that authorization and a copy with my okay on the
9 documents I submitted.

10 JOSEPH HICKS: Okay. So you were just --
11 it was your decision to make this payment out of that
12 fund?

13 CLAY DARNELL: Yes. I talked with the
14 assistant controller. And we knew that it was an
15 insurable loss, and we were going to be reimbursed. And
16 that -- so the treasury funded the money to do that.
17 There would have been other ways to accomplish that
18 payment but this was the most direct.

19 JOSEPH HICKS: Thank you, sir.

20 CLAY DARNELL: You're welcome.

21 MADAME CHAIR: Madam Chair? Thank you,
22 Madam Chair.

23 LUCIAN TIGER: Mr. Darnell, who informed
24 you, if anyone informed you, that you were to have the
25 authority to make that payment, the Nation had that

1 authority to make that payment, without Council approval?

2 CLAY DARNELL: In reviewing my notes like
3 at the first meeting when I was -- I felt like as the
4 controller, I was responding to an emergency. So no one
5 really presented it like that. No one ever said without
6 Council's approval.

7 But the first part of that question was addressed.
8 And the first time, it was on May 8th at a meeting. And
9 that's when we pulled out the code and saw that I had the
10 authority to make the payment. But if I didn't disclose
11 it earlier, I made the payment from the treasury --

12 LUCIAN TIGER: Let me interrupt. What part
13 of the code stated you were able to make the payment?

14 CLAY DARNELL: It's in 37. If I had the
15 code, I could turn -- I could turn right to it.

16 LUCIAN TIGER: Mr. Fletcher?

17 ZEKE FLETCHER: I don't know if I have it.

18 CLAY DARNELL: But to be -- to be
19 transparent here, I wasn't -- on that April 27th, I didn't
20 have the code in front of me. I wasn't responding like
21 that.

22 I wasn't looking at the code and saying, I'm going
23 to make this and I'm not going to tell anyone. I wasn't
24 driving communications of the issue there.

25 Everything was supposed to be let's keep this quiet

1 for the good of the Nation so it doesn't cost us more
2 money. So for me to think I'm going to make this payment
3 and I don't need National Council approval would have
4 never crossed my mind at that point.

5 Now, at that -- at the later meeting on 5/8, I've
6 got the note here where it references yes, we opened up
7 the code and looked at it. I'll be able to put my finger
8 on it.

9 But in all -- in all truthfulness, I didn't use that
10 to justify the payment because it had been made before
11 then, right? It had been made on April 27.

12 I think I'm in the right place here. It's Title 37.
13 Is that Chapter 2, Subchapter 2, 717. It's page 155.
14 It's Section D. Section C is also relevant. Can -- can I
15 tell you what my thoughts were at the time? I mean,
16 looking back, --

17 LUCIAN TIGER: Please.

18 CLAY DARNELL: Looking back, because I
19 didn't -- I have to admit, I didn't go back and look at
20 the code and think, I better check on the code. So I made
21 a mistake there.

22 But when I was -- I felt like I was working for the
23 benefit of the Nation, you know what I mean, to -- to get
24 this paid. It was an insurable loss.

25 So I didn't feel like the Nation was going to be out

1 anything. And that was just my thought process as I
2 worked through it. I knew we had the insurance to cover
3 it.

4 LUCIAN TIGER: Thank you, Mr. Darnell. Mr.
5 Fletcher, could you comment on it, please.

6 ZEKE FLETCHER: Sure. If there's any
7 chance to be more specific about which part of that
8 paragraph you're referring to.

9 LUCIAN TIGER: Mr. Darnell, was it your
10 interpretation of Title 37 or someone else's
11 interpretation of Title 37?

12 CLAY DARNELL: I read that section because
13 I had in the information when I first came to the Nation
14 what my authorities and responsibilities were in a folder.

15 When I opened it up and looked at it, I was working
16 with Mr. Wiley. And he looked at it, too. So we both
17 looked at it.

18 LUCIAN TIGER: Okay. Thank you.

19 CLAY DARNELL: And then to respond to the
20 last question, more specifically, C and D, do you want me
21 to refer to specific parts within C and D?

22 LUCIAN TIGER: Yes, please.

23 CLAY DARNELL: Okay. I'll refer to D. And
24 I'll go to the part where it says it's -- D, it's the
25 third section D, the third sentence at the end.

1 It begins after the comma, "The controller shall
2 have the authority to order or direct a wire transfer of
3 any amounts of funds from any account or accounts of the
4 Muscogee (Creek) Nation without requirement of a second
5 signature or a prior approval of any other official of the
6 Nation."

7 LUCIAN TIGER: Thank you, Mr. Darnell. Mr.
8 Fletcher?

9 ZEKE FLETCHER: Yeah, I agree that's what
10 it says. I mean, I guess my question, if I may, Madam
11 Chair. Can I ask him a question?

12 MADAME CHAIR: Sure.

13 ZEKE FLETCHER: I mean, what, I guess, at
14 this moment in time, what would prevent you from wire
15 transferring money for anything at this very moment,
16 wiring a million dollars to somebody?

17 CLAY DARNELL: Well, any -- any
18 transaction, just like this transaction, didn't happen in
19 a vacuum. The controller may have the authority as it's
20 written to do that.

21 But even on the ransom payment, that wasn't just me,
22 right? People within finance, there's -- I authorized the
23 transaction, I approved the invoice. But I didn't
24 initiate the wire. I approved the wire. And that had to
25 have involved at least that was three people that knew

1 about it. Because we were trying to keep things quiet
2 also, right, over in finance, limiting it to the lowest
3 number of people. But that would be a minimum.

4 I understand the way that's written. But the
5 controller can never wire money just anywhere like -- like
6 that's written. I can authorize a transaction. But it
7 would be subject to review by at least one person without
8 exception every time.

9 So I could never -- I authorized that transaction.
10 But I didn't initiate it. I can't initiate a transaction.
11 What I mean by that is I can't log on to Bank of Oklahoma
12 and send money someplace.

13 So if you've got that and you think, Hey, because
14 it's written that way, that doesn't mean I can initiate a
15 transaction. The internal controls in finance will keep
16 that from happening.

17 LUCIAN TIGER: So who all, who else
18 approved the transaction besides yourself?

19 CLAY DARNELL: I would say it was initiated
20 by Marcus Vega, the accounting/finance director. And
21 then, of course, I discussed earlier the source of funds
22 used with Ms. Katherine Guthrie, the assistant controller.

23 LUCIAN TIGER: Mr. Fletcher, any further
24 comments?

25 ZEKE FLETCHER: Yeah. Let me -- I mean,

1 forgive me, Mr. Darnell. I guess again I'm not -- I'm not
2 understanding your thought process on that specific
3 section, and how they got -- it seems like a very broad
4 and general statement from that code section.

5 I guess, how -- I'm missing how you read that to
6 interpret that, you know, absent line item or absent
7 approval of a cab or a specific piece of legislation that
8 would appropriate money for a specific purpose. But that
9 section allows you to move money that hasn't otherwise
10 been approved.

11 CLAY DARNELL: Well, remember, admittedly,
12 I'm using -- I mean, I'm referring to in hindsight anyway.
13 When I initiated the transaction, I hadn't even looked at
14 it. Right?

15 So where I thought I was initiating, with the
16 Chief's approval, a transaction for the good of the
17 Nation. And that's -- so with that, does that answer that
18 question? I mean, I didn't look at that and just, you
19 know what I'm saying, I think that gives me the approval.

20 But reasonable people can look at the same thing and
21 disagree. I'm not saying that I used that to initiate the
22 transaction. The transaction had already occurred.

23 LUCIAN TIGER: Mr. Darnell, how did you
24 receive the request to pay the ransom? Who sent you the
25 request? Whose recommendation was it to pay the ransom?

1 CLAY DARNELL: Chief Hill.

2 LUCIAN TIGER: Did he ever mention to you
3 that this should have had Council approval?

4 CLAY DARNELL: I don't recall that being
5 discussed.

6 LUCIAN TIGER: Mr. Fletcher?

7 ZEKE FLETCHER: Yes, sir.

8 LUCIAN TIGER: Any comments on my question?

9 ZEKE FLETCHER: No. I don't think so.

10 LUCIAN TIGER: Thank you, Mr. Darnell.

11 MADAME CHAIR: Committee, any more
12 questions?

13 WILLIAM LOWE: Mr. Darnell, when you say
14 "key players," are you referring to some of the cabinet
15 members in that room? Or are you referring to the legal
16 team, insurance, those kinds of folks?

17 CLAY DARNELL: I guess the latter. Thanks
18 for the opportunity to clarify. We had experts. This
19 happened on a Friday.

20 By Monday morning they had a team of experts
21 recommended by the -- I felt like it was the insurance.
22 And I felt like the people in that room were acting on the
23 advice of the experts that were there to serve the Nation,
24 and me included.

25 WILLIAM LOWE: Thank you.

1 MADAME CHAIR: Representative Tiger.

2 LUCIAN TIGER: Mr. Darnell, I apologize.

3 I've got one more question. Could you elaborate on more
4 detail on how the conversation transpired between Chief
5 Hill and yourself in regards to the ransom, please?

6 CLAY DARNELL: My best recollection would
7 have been not necessarily a -- it wasn't -- it was a
8 conversation just with a group. It occurred in a group
9 setting. And --

10 LUCIAN TIGER: Mr. Darnell, who was in the
11 group, please?

12 CLAY DARNELL: I don't have any
13 documentation on it. But from memory, the cabinet
14 members. I think the cabinet members were there.

15 LUCIAN TIGER: All the cabinet members?

16 CLAY DARNELL: I apologize. As I discuss
17 it more, I might recall more specifics. Ms. Freiling was
18 there. And I'm thinking that first chief, second chief,
19 and acting chief of staff, Greg Anderson, was there. I
20 apologize, that's just -- that -- oh, Chief Hawkins, Chief
21 Hawkins, Chief of Lighthouse was there.

22 LUCIAN TIGER: I apologize for
23 interrupting. But you can continue on with what you were
24 saying.

25 CLAY DARNELL: So when, -- yeah, and when

1 we were talking, we were talking about this, the Chief was
2 just saying go back. And at that time he's telling me to
3 see where we could pay this from. And that's what I
4 recall about that. So I went back and I talked to the
5 assistant controller, described the situation.

6 LUCIAN TIGER: Thank you, Mr. Darnell.

7 MADAME CHAIR: Committee, any questions?
8 Mr. Fletcher?

9 ZEKE FLETCHER: No, Madam Chair.

10 MADAME CHAIR: Okay. We're done, Mr.
11 Darnell. Thank you.

12 CLAY DARNELL: Thank you.

13 * * * * *

14 ROGER WILEY,
15 after having been duly sworn to testify the truth, the
16 whole truth, and nothing but the truth, testified as
17 follows:

18 LUCIAN TIGER: Madam Chair. Evening, Mr.
19 Wiley, I apologize for you being out so late.

20 ROGER WILEY: That's all right.

21 LUCIAN TIGER: I know you have a long drive
22 back home. Could you please tell us from your
23 recollection about the IT being hacked, how the ransom
24 came into play, how the ransom was paid from your side,
25 please.

1 ROGER WILEY: Well, I found out about it
2 secondhand, of course. My understanding is I don't know a
3 lot of the facts of how it happened. My understanding is
4 -- and I'm not very technologically oriented -- but my
5 understanding is that an employee was doing some shopping
6 and left, I think they called it a port, a port is left
7 open.

8 And then so the hackers were able to get inside of
9 the Nation's system that way by someone who was going to
10 websites they shouldn't have been going to while they were
11 working on tribal time. That's my understanding of what
12 happened.

13 LUCIAN TIGER: Can you tell us in regards
14 to the ransom being paid how it was paid, how it was
15 initiated, where the employee came from?

16 ROGER WILEY: How it was paid was out of
17 the treasury account by the controller. I first
18 understood that, -- well, it was my understanding that the
19 insurance company was going to pay that ransom. That's
20 what I was told by Ms. Freiling. And so I didn't give it
21 a second thought.

22 And then I found out after the fact that the
23 controller had actually issued payment and then the
24 insurance company was to reimburse that payment. Now, I
25 expected it would be handled like any account if your

1 house burns down.

2 The insurance company doesn't normally make you pay
3 for your house, and then they reimburse you. They
4 normally make the payment up front.

5 But I suppose because of the rush in the timing, the
6 negotiation was ongoing, and I think there was a fear that
7 the hackers were going, from what we were told by the
8 negotiators who deal with these hackers, that the way they
9 do it is to get the hackers down as low as they can on a
10 ransom price. And then you're supposed to move on and pay
11 it.

12 Otherwise, they will, you know, raise the price
13 again. And that's my understanding of what happened. And
14 how that payment was initiated was that they got them down
15 to 450,000. It was recommended by the negotiators that
16 that ransom be paid if the Nation was interested in
17 getting that information released or unlocked.

18 And the decision was made that it was important
19 enough to unlock that information. So the decision was
20 made to pay the ransom through the controller's office.

21 LUCIAN TIGER: Mr. Wiley, if you would have
22 known beforehand that the Nation was going to have to pay
23 the full amount and wait to be reimbursed, would you have
24 advised Chief Hill to still make that payment?

25 ROGER WILEY: If they had had to pay the

1 full amount?

2 LUCIAN TIGER: If you were aware that they
3 were paying the full amount and waiting to be reimbursed.

4 ROGER WILEY: One and a half million
5 dollars?

6 LUCIAN TIGER: No, sir, the 475,440, --

7 ROGER WILEY: Okay. Yeah.

8 LUCIAN TIGER: -- I believe.

9 ROGER WILEY: Yeah.

10 LUCIAN TIGER: But you stated earlier that
11 you were going to pay it --

12 ROGER WILEY: Yeah.

13 LUCIAN TIGER: -- and we would just be out
14 the deductible, correct?

15 ROGER WILEY: Right.

16 LUCIAN TIGER: So if you would have known
17 that we were going to have to pay in full and wait to be
18 reimbursed the 440,000, would you have approved Chief Hill
19 then?

20 ROGER WILEY: Well, I didn't approve the
21 payment. The payment was paid before I even knew it was
22 paid. I found out about it after the fact. I found out
23 about it a couple of days later that it had been paid, and
24 we were waiting reimbursement by the insurance company.

25 So at that point it became a matter of did the

1 controller have the authority to make the payment. So I
2 -- I did not authorize the payment. I was not in a
3 position to authorize the payment because I was not around
4 when the payment was made.

5 The decision was -- I was there when they made the
6 decision to pay it. But I was under the understanding
7 that the insurance company was going to make it.

8 But to answer your question, I didn't really
9 authorize any payment from the controller's office. After
10 they paid it, I looked into the law, and found laws for
11 the controller's authority to make that type of a payment.
12 So I do believe the controller had the authority to make
13 that payment.

14 LUCIAN TIGER: That's in Title 37, correct?

15 ROGER WILEY: Yeah. I've got the exact
16 site.

17 LUCIAN TIGER: Yes, if you -- we were
18 looking at that as well. Could you look at that.

19 ROGER WILEY: Sure, yeah.

20 LUCIAN TIGER: Well, paragraph A does not
21 coincide with paragraphs -- what is it, C and D? D.

22 ROGER WILEY: Yeah, D is the one where I
23 felt the controller did have the authority to make the
24 payment. Subparagraph D Title 37 Section 2717(D) as in
25 dog.

1 LUCIAN TIGER: Mr. Fletcher, would you
2 comment on that as well.

3 ZEKE FLETCHER: Certainly. I guess I know
4 -- I don't think I've had the opportunity to talk to you
5 directly about my thoughts on that section. You know, I
6 guess plucking a sentence out from subsection D, I mean,
7 the way this section reads, you know, altogether, I guess
8 I'm still having trouble understanding and making that
9 link between being able to direct wire transfers, or
10 distributions, and payments and otherwise for items that
11 have not been appropriated by the National Council.

12 And I guess I would look specifically at subsection
13 A and the last sentence about "purchasing goods or
14 services must be made in accordance with approved budget
15 appropriation by the National Council."

16 ROGER WILEY: Well, this is not a budget
17 item. There's no "ransom" budget line item. This was
18 from the -- one of the treasury accounts, from what I
19 understand, a general fund. That money had to be budgeted
20 by the National Council at one time or it would not have
21 been in that account.

22 So I do believe it was budgeted at one time by some
23 National Council, if not this one, then a previous
24 Council, for that money to have been in that line item to
25 begin with to be available for the treasurer to tap into

1 it. So I don't think A applies. I think D is the
2 controlling statute in this particular situation.

3 LUCIAN TIGER: So with that being stated,
4 Mr. Wiley, would you agree that the controller at this
5 time, if the Principal Chief said, I need to wire \$5
6 million to the same entity that requested the ransom, he
7 would have the authority to do that --

8 ROGER WILEY: Well, --

9 LUCIAN TIGER: -- as long as the money is
10 in treasury and it's covered. So therefore, --

11 ROGER WILEY: No, I don't believe that.
12 No, I don't.

13 LUCIAN TIGER: So with that being said,
14 what would the difference be?

15 ROGER WILEY: Well, you would have to prove
16 that he was properly administering and protecting the
17 funds of the Nation. In this case, he was protecting just
18 over a million dollars because the original ransom was a
19 million and a half dollars negotiated down to about 450,
20 475 with the deductible, I guess. And so he was actually
21 protecting over a million dollars of the funds of the
22 Nation.

23 So in that instance, I believe he had the authority
24 under subsection D to make that payment as long as the
25 Chief or someone, I think the National Council could

1 approve it, but definitely, the Chief under this law.

2 But I don't think that means he can -- he can write
3 \$5 million checks whenever he wants to. There has to be a
4 situation where he is protecting the funds of the Muscogee
5 Nation like he was in this case.

6 LUCIAN TIGER: Mr. Fletcher, anything to
7 add?

8 ZEKE FLETCHER: No, sir.

9 LUCIAN TIGER: Thank you, Mr. Wiley.

10 ROGER WILEY: Okay.

11 MADAME CHAIR: Committee, does anybody have
12 any questions for Mr. Wiley? Mr. Fletcher, do you have
13 anything you want to add?

14 ZEKE FLETCHER: No, Madam Chair.

15 MADAME CHAIR: Okay.

16 LUCIAN TIGER: Thank you, Madam Chair. Mr.
17 Wiley, obviously, there's difference of opinion. That's
18 why -- everybody has their opinion. There's always
19 differences of opinion.

20 ROGER WILEY: That's true. I mean, the
21 only way to decide is to take it to court. And that would
22 be a waste of energy and time. And it's moot at this
23 point. Because you all know that the money has been
24 reimbursed.

25 LUCIAN TIGER: In your opinion, how should

1 the law be changed so this never happens again?

2 ROGER WILEY: Well, that's assuming I
3 believe the law needs to be changed. And I'm not so sure
4 it does. If this were a situation where the process was
5 abused, then maybe we could discuss changing the law. And
6 that's up to the Council.

7 If it feels like this process was abused and the law
8 needs to be changed, then you've got the power to do that.
9 But I don't think it was abused in this situation. I --
10 it's not up to me to make those changes.

11 And I certainly don't recommend it be changed
12 because of this certain circumstance. I think that if
13 it's -- you know, if Council wants to change it, it, of
14 course, has the right to do that.

15 LUCIAN TIGER: So with that being said,
16 were you opposed or do you think that we should have been
17 notified before the ransom was paid?

18 ROGER WILEY: Well, I didn't have a choice
19 in the matter, first of all.

20 LUCIAN TIGER: Okay.

21 ROGER WILEY: No one said should we contact
22 the Council. And I didn't have a chance to say yes or no.
23 I understand why they weren't contacted, why you weren't
24 contacted because the FBI was saying you have to act fast
25 on this.

1 The negotiators were saying, you know, you can't let
2 people know. The FBI was saying the same thing. And I
3 think the concern was if too many people knew, there would
4 be a leak. And that we were told in the meeting that I
5 sat in on that if the information got outside and these
6 hackers, this MAMBA Group, knew about it, that, you know,
7 the negotiations would be in a lot of trouble at that
8 point either through the amount of ransom or, you know,
9 possibly, you know, it was possible we could have paid the
10 ransom and not had those accounts or whatever you call it,
11 the emails unlocked.

12 So there were a lot of risks in this. And a lot of
13 this had to be done quickly and as confidentially as
14 possible. I understood that the Chief did involve the
15 Council within a couple of days.

16 But I don't really remember that, to tell you the
17 truth. I thought there was a meeting with some of the
18 Council members a few days later where he informed them of
19 what had happened. But as far as originally notifying the
20 Council the day it happened, I think that was the
21 consideration at the time that it had to be done quickly
22 and there just wasn't time.

23 LUCIAN TIGER: Thinking more about this
24 conversation as we speak, Mr. Wiley, the fund -- correct
25 me if I'm wrong -- that's the money that we appropriate to

1 different departments for different items in the budget.
2 It's not spent -- there's no legislative table until it's
3 funded, that money goes back into it, correct?

4 ROGER WILEY: Yes, as far as I understand.

5 LUCIAN TIGER: See, that's where I'm kind
6 of lost, because now that money was returned back to the
7 treasury -- yes, it was appropriated by law at one time,
8 but now it's back to the treasury. So therefore, how is
9 it tied to that specific piece of legislation?

10 ROGER WILEY: Which specific type?

11 LUCIAN TIGER: Any type. I'm saying the
12 money goes back to the treasury because we always say, you
13 know, if it's not fully expended, just return it back to
14 the treasury.

15 ROGER WILEY: Right. Right.

16 LUCIAN TIGER: So your interpretation, from
17 what I'm understanding, that's still a live piece of
18 legislation even though that money came back to the
19 treasury in with all other types of money that had been
20 returned to the treasury.

21 ROGER WILEY: What's a live piece of
22 legislation? What legislation?

23 LUCIAN TIGER: I'm just -- I'm just --
24 hypothetically, because for money to come back to the
25 treasury, it's money that hasn't been expended from the

1 budget.

2 ROGER WILEY: Okay.

3 LUCIAN TIGER: So on and so forth as we
4 pass legislation, --

5 ROGER WILEY: So are you asking is that
6 money still available to be spent?

7 LUCIAN TIGER: No, no. I'm saying I know
8 it's available to be spent, but you stated it was some
9 type of legislation, legislatively it was passed at some
10 -- some time.

11 ROGER WILEY: Oh, at some point, --

12 LUCIAN TIGER: Yes.

13 ROGER WILEY: -- it must have been. Yeah.

14 LUCIAN TIGER: Right. So I'm --

15 ROGER WILEY: For it to be there. Yeah.

16 LUCIAN TIGER: Right. So what I'm saying
17 is you're saying that when that money comes back to the
18 treasury, it should still be tied to that piece of
19 legislation since Council passed it, correct?

20 ROGER WILEY: I'm not following you on the
21 "piece of legislation."

22 LUCIAN TIGER: Well, I'm --

23 ROGER WILEY: I assume any money that goes
24 in to the treasury account goes there with each annual
25 budget. The budget legislation is what puts money in the

1 treasury account, I suppose.

2 LUCIAN TIGER: Right. But I'm just trying
3 to understand, you said the controller had the authority
4 because it was -- it had to be passed at some point in
5 time by the Council --

6 ROGER WILEY: Oh, okay.

7 LUCIAN TIGER: -- even though it's back in
8 the treasury.

9 ROGER WILEY: Uh-huh, yeah.

10 LUCIAN TIGER: Mr. Fletcher, what are your
11 comments on that now?

12 ZEKE FLETCHER: Well, if I -- I think I
13 understand what you're asking me. Basically, you've got a
14 piece of legislation, and \$500,000 is appropriated.
15 \$400,000 of it is spent. So \$100,000 goes back into the
16 treasury money. And then at that point, it should still
17 be tied to the initial legislation that was 500,000 and
18 not expended for any other purpose?

19 LUCIAN TIGER: Yes. That's what I'm trying
20 to understand though the statement was made that at one
21 point in time, the treasury, the money that's in the
22 treasury fund was legislatively approved at one time or
23 another, correct, Mr. Wiley?

24 ROGER WILEY: That's my assumption, yeah.
25 It couldn't have been there any other way. The Council

1 has to appropriate money.

2 LUCIAN TIGER: Thank you, Mr. Fletcher.

3 Thank you, Mr. Wiley.

4 MADAME CHAIR: Committee, any other
5 questions from Mr. Wiley? Okay.

6 ZEKE FLETCHER: I'm sorry.

7 MADAME CHAIR: Go ahead.

8 ZEKE FLETCHER: Mr. Wiley, I guess, you
9 know, one thing I've been thinking about is the -- your
10 statements about how it was in the interest of the Nation
11 to protect the information so that the hackers wouldn't
12 use it against the Nation.

13 ROGER WILEY: Right.

14 ZEKE FLETCHER: But the payment was made on
15 April 28th, is that correct? So after that point, I mean,
16 certainly, the discussion at the meeting with
17 Representative Jones making a public comment about the
18 ransom was well after that date.

19 I guess my question is: Was it the advice of the
20 attorneys representing the Nation from the insurance
21 company to not disclose the information even after the
22 ransom was paid?

23 ROGER WILEY: No, I don't think that was
24 their advice, no.

25 ZEKE FLETCHER: Okay. Thank you.

1 ROGER WILEY: Their advice was to keep it
2 quiet during the actual ransom negotiation process. And
3 you know, until we found out what -- what had happened
4 exactly.

5 ZEKE FLETCHER: Okay. Understood. Thank
6 you.

7 MADAME CHAIR: That concludes this hearing,
8 Mr. Wiley. Appreciate it.

9 ROGER WILEY: Thank you, very much.
10 (Whereupon, the proceedings were adjourned;
11 continued to June 25, 2020.)

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