

Judge ‘Troubled’ By Ukraine Hacker-Trader Turncoat’s Lies

By Jack Newsham

Law360, New York (June 18, 2018, 10:34 PM EDT) -- A Brooklyn federal judge warned prosecutors Monday to scrutinize a cooperating witness in their case against two men who allegedly traded on draft corporate press releases that were pinched by Ukrainian hackers after the cooperator admitted on the stand to deceiving the government.

Defense lawyers confronted Igor Dubovoy — a central player in the alleged conspiracy — on Thursday with forged bank statements that he confessed to hiding from the government. Prosecutors said this weekend that he confirmed his deception in a follow-up FBI interview, but the defense urged the judge to tell jurors to completely disregard his testimony.

U.S. District Judge Raymond Dearie didn’t go that far, saying he didn’t think it was legally supported, but he told prosecutors that his mind was not made up. After the jury had gone home for the day, he said he was “trouble[d]” by Dubovoy’s lies and a related fraud case against him in a Latvian court, saying the risk that the dishonesty could blow a hole in an otherwise solid case “bothers me more than anything else.”

“I want to know you’ve done your homework on this thing and you’ve shared it with counsel,” the judge said. “I don’t want loose ends when it comes to credibility.”

The weekend’s letters focused on the propriety of completely striking Dubovoy’s testimony, but defense lawyer Rachel Brill told Judge Dearie the defense wanted a “strong curative instruction.” Assistant U.S. Attorney Richard Tucker didn’t see it as a big deal, however, saying Dubovoy “admitted to the conduct that defense counsel elicited” on the stand.

It remains to be seen how or whether Dubovoy’s dishonesty will shake up the case against former fund manager Vitaly Korchevsky and Vladislav Khalupsky — who allegedly traded on hacked info passed to them by Dubovoy, who in turn got it from a man with hacker connections — that jurors will see. The defense had originally said Dubovoy’s father, Arkadiy Dubovoy, was also revealed to have lied and should be blocked from testifying, and Judge Dearie noted that their testimony was “clearly” important.

Testimony to the jury on Monday was limited to a parade of forensic examiners and computer security experts who spoke about the finer points of hackers who allegedly breached the servers of the press release distribution services MarketWired and PR Newswire.

Samad Shahrani, an FBI agent whom jurors first saw last week, read chat transcripts that were recovered

from computers seized in Ukraine as part of an operation that involved the U.S. Secret Service. The defendants were never mentioned, but prosecutors have sought to draw a line from them to users with screen names like “VioBro” and “Jackpot_271” who talked about what kind of money could be made by hacking financial press releases from various distribution services.

A cybersecurity executive from MarketWired told jurors about the company’s process of editing and disseminating press releases, and explained that it continued to be a target for would-be hackers even after it beefed up its defenses.

James Gimbi, a U.S. Senate aide who once worked at cyber consulting firm Mandiant and investigated hacking of MarketWired, walked jurors through log file excerpts that he said showed hackers testing the company’s defenses. He said his team found that some 120,000 press releases had been compromised.

Bret Padres, who investigated PR Newswire’s breaches while at Stroz Friedberg and was later hired by the government in connection with the case after he became CEO of the Crypsis Group, took the stand to provide further expert testimony. He said his team installed a “sniffer” on PR Newswire’s systems and found that its login page had been tampered with to send user credentials to a computer in Ukraine.

Earlier in the day, during a break, a juror nervously told the judge that he had offhandedly referred to Dubovoy last week as a “key” witness in the presence of other jurors. Judge Dearie cautioned him and later gave an extended version of his warning not to discuss the case to the full jury, but neither side’s lawyers suggested his remark would lead to a mistrial.

Korchevsky and Khalupsky are among at least nine people facing criminal charges in Brooklyn and New Jersey over the alleged hacking-and-trading scheme. Prosecutors say they conspired to break into the servers of press release distribution services — MarketWired, PR Newswire and Business Wire — to steal unreleased announcements and make trades based on the information.

According to a parallel civil suit filed by the U.S. Securities and Exchange Commission against 32 defendants, a far bigger scheme was at work, with the hackers funneling stolen data to traders in Russia, Ukraine, Malta, Cyprus and France, as well as in Georgia, New York and Pennsylvania, in order to obtain \$100 million in illicit funds.

The government is represented by Assistant U.S. Attorneys Richard M. Tucker, Julia Nestor and David Gopstein of the U.S. Attorney’s Office for the Eastern District of New York.

Khalupsky is represented by LaKeytria W. Felder and Mildred M. Whalen of the Federal Defenders of New York.

Korchevsky is represented by Steven Brill and James Healy of Sullivan & Brill LLP and by Rachel Brill.

The case is U.S. v. Korchevsky et al., case number 1:15-cr-00381, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Stewart Bishop and Pete Brush. Editing by Breda Lund.