

Surviving Catastrophic Events

Jocelyn Knoll, Dorsey & Whitney
Creighton Magid, Dorsey & Whitney
Bob McNaney, PadillaCRT



[Energy Industry Group Webinar](#)

A Power Industry Update: Surviving Catastrophic Events

Meet the Panel



Jocelyn Knoll
Partner
Dorsey & Whitney LLP
Minneapolis, MN
(612) 492-6622
knoll.jocelyn@dorsey.com



Chip Magid
Partner
Dorsey & Whitney LLP
Washington, DC
(202) 442-3555
magid.chip@dorsey.com



Bob McNaney
Vice President, Crisis & Critical Issues
PadillaCRT
Minneapolis, MN
(612) 455-1732
bob.mcnaney@padillacrt.com



 **DORSEY**
always ahead

 **padilla**cr

SURVIVING CATASTROPHIC EVENTS



 **DORSEY**
always ahead

 **padilla**cr

SURVIVING CATASTROPHIC EVENTS



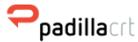
SURVIVING CATASTROPHIC EVENTS

Public Utility Compromised

A public utility was recently compromised when a sophisticated threat actor gained unauthorized access to its control system network. After notification of the incident, ICS-CERT validated that the software used to administer the control system assets was accessible via Internet facing hosts. The systems were configured with a remote access capability, utilizing a simple password mechanism; however, the authentication method was susceptible to compromise via standard brute forcing techniques.

ICS-CERT provided analytical assistance, including host-based forensic analysis and a comprehensive review of available network logs. It was determined that the systems were likely exposed to numerous security threats and previous intrusion activity was also identified. ICS-CERT conducted an onsite cybersecurity assessment in response to

ICS-CERT MONITOR



SURVIVING CATASTROPHIC EVENTS



 **DORSEY**
always ahead

 **padilla**crt

SURVIVING CATASTROPHIC EVENTS



 **DORSEY**
always ahead

 **padilla**crt

SURVIVING CATASTROPHIC EVENTS

Impacts of Catastrophic Events

- Economic Impacts
- Reputational Impacts
- Regulatory Impacts
- Legal Impacts
- Human Impacts



SURVIVING CATASTROPHIC EVENTS



SURVIVING CATASTROPHIC EVENTS

What It's Like to Operate in the Midst of Crisis

- The Crucible of Time
- Inability to Get to the Heart of the Problem
- The Initial Information Turns Out to Be Wrong
- The Clamor for Answers
- The Need to Find An Immediate Solution
- The Ill-Prepared or Tone Deaf Spokesman
- Everything That Can Go Wrong . . .
- We're From the Government and We're Here to Help
- I'm a Process Server And . . .



SURVIVING CATASTROPHIC EVENTS

1 STEVE W. BERMAN (*pro hac vice to be filed*)
 2 THOMAS E. LOESER (SBN 202724)
 3 HAGENS BERMAN SOBOL SHAPIRO LLP
 4 1918 Eighth Avenue, Suite 3300
 5 Seattle, Washington 98101
 6 Telephone: (206) 623-7292
 7 Facsimile: (206) 623-0594
 8 steve@hbslaw.com

9 PETER B. FREDMAN
 10 LAW OFFICE OF PETER FREDMAN
 11 125 University Ave, Suite 102
 12 Berkeley, CA 94710
 13 Telephone: (510) 868-2626
 14 Facsimile: (510) 868-2627
 15 peter@peterfredmanlaw.com

16 *Attorneys for Plaintiff David Fiol and the*
 17 *proposed class*

18 *[Additional counsel listed on signature page.]*

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN FRANCISCO DIVISION

22 DAVID FIOI, on behalf of himself and all
 23 others similarly situated,

24 Plaintiffs,

v.

25 VOLKSWAGEN GROUP OF AMERICA,
 26 INC., a New Jersey Corporation,

27 Defendant.

Case No.

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

“Success depends upon previous preparation, and without such preparation there is sure to be failure.”

- Confucius



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

- **Identifying Potential Problems in Advance Can Prevent a Catastrophic Event From Occurring**
- **Identifying Potential Problems in Advance Helps With a Prompt and Accurate Response**



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

- **Conduct an Audit of Operations/Processes/Records**
 - Failure Modes Effects Analysis (or Similar)
 - Third-Party Vulnerability Audits
 - Identify All Pertinent Records and Make Sure They Are Comprehensive and Accessible
 - Identify All People Who Will Need To Be Involved In Responding to a Potential Problem
 - Identify Mitigation Strategies
- **Evaluate Insurance Coverage and Recovery Expertise**
- **Review Document Retention Practices**



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

- **Developing a Crisis Response Team**
 - Company Representatives
 - Legal
 - Communications
 - HR
 - Risk Management
 - Regulatory Compliance
 - Outside Experts
 - Insurance
 - Victim Services



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

- **Developing a Crisis Response Plan**
 - Clear, Simple Protocols
 - Critical Contacts for Each Operational Function
 - Document Custodians
 - Regulatory Reporting Requirements
 - Key Customer/Stakeholder Contacts
 - First Responders
 - Media and Thought Leaders
 - Other Key Interested Parties
 - Outside Experts
 - Insurance
 - Crisis Team Contacts



SURVIVING CATASTROPHIC EVENTS

Preparing for a Catastrophic Event

- **Developing a Crisis Response Plan (Cont'd)**
 - Prepare Regulatory Notifications
 - Draft Litigation Holds
 - Delineate Clear Lines of Responsibility
 - Identify Meeting Location/Arrange Communications Links
 - Assign Responsibility for Updating Plan
 - UPDATE, UPDATE, UPDATE
 - Familiarize Organization with Crisis Responsibilities



SURVIVING CATASTROPHIC EVENTS

Responding to a Catastrophic Event

- **Contact and Assemble Crisis Team**
- **Implement Crisis Plan**
- **Immediately Engage In-House Expertise and Outside Experts to Get to the Root of the Matter**
- **Assemble Pertinent Documentation**
- **Coordinate Legal, Business, Communications Responses**
- **Develop Clear Messaging Based on Known Facts**
- **Address the Impact on Human Victims/Other Businesses**
- **Involve Insurers**
- **Issue Litigation Holds**



SURVIVING CATASTROPHIC EVENTS

Responding to a Catastrophic Event (Cont'd)

- **Communicate with Employees/Stakeholders**
- **Communicate with Regulators/Government Officials**
- **Communicate with Media**
- **Engage in Social Media Outreach**
- **Implement Mitigation Strategies**
- **Implement Outreach to Those Affected by Event**
- **Preserve All Physical Evidence/Documentation**
- **Analyze Potential Exposure/Recovery**



SURVIVING CATASTROPHIC EVENTS

The Impact of Social Media



 **DORSEY**
always ahead

 **padilla**ert

SURVIVING CATASTROPHIC EVENTS