

A Breach Can Happen to You
(or Already Has, and You Just
Don't Know It Yet):
How Nonprofits Can Best Manage
Cybersecurity Risk

Thursday, December 10, 2015, 12:30 – 2:00 pm ET

Venable LLP, Washington, DC

Moderator

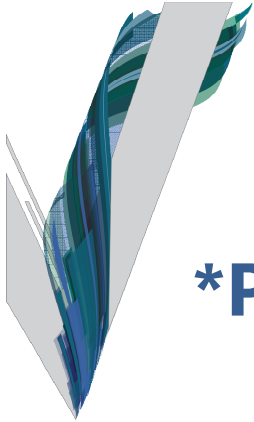
Jeffrey S. Tenenbaum, Esq., Partner and Chair of the Nonprofit
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Speakers

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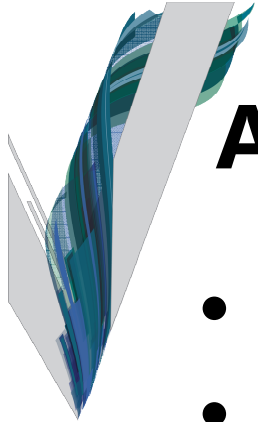
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Upcoming Venable Nonprofit Events

Register Now

- **January 14, 2016:** [Impact Investing and Nonprofits: Opportunities, Innovative Structures, and Creative New Ways to Raise Funds and Further Your Mission](#)
- **February 4, 2016:** Nonprofit Chapters and Affiliates: Finding Structures and Relationships That Address Your Challenges and Work Well for Everyone (*details and registration available soon*)
- **March 10, 2016:** Nonprofit Federal Award Recipients: Meeting New Requirements, Avoiding Dangerous Pitfalls, and Adding Value through a Strong Compliance Program (*details and registration available soon*)



Agenda

- What do the bad guys want?
- Who are they?
- How do they do it?
- What are the potential harms?
- What can I do now to help prevent a breach?
- What can I do now to help mitigate the harm of a breach?
- What should I do when there's a breach?
- Q&A



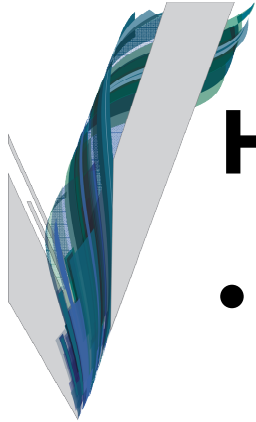
What Do the Bad Guys Want?

- Customer or Client Data
- Trade Secrets/IP/Confidential Information
 - Includes 3rd party information
- Employee Data
- Financial Assets
 - Payment cards; banking information
- Disruption/Destruction
 - Extortion, revenge or just for kicks



Who Are the Bad Guys?

- Nation-state sponsored (APT)
 - Intelligence gathering or disruption
 - Political, economic or military
- Organized crime – financially motivated
- “Hacktivists” – focused on notoriety or a cause
- Disgruntled employees and customers
 - Former and current



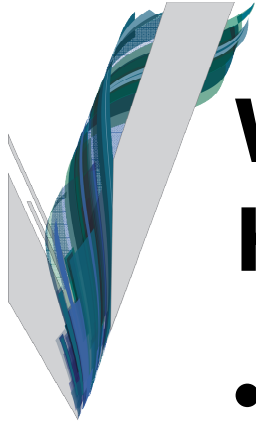
How Do They Do It?

- Vulnerabilities in system
 - Very patient and probing
 - Will move laterally through system
- Third-party vendors
- Rogue employees with inside access
- Well-meaning employees – inadvertently:
 - Social engineering
 - Phishing
 - Malware in email
- DDOS attacks



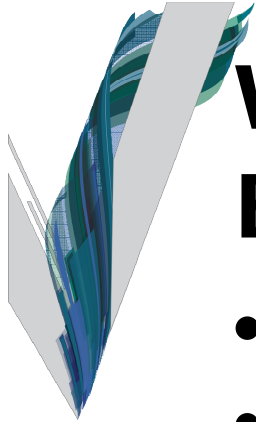
What Are Some of the Potential Harms?

- Loss of IP
- Loss of financial assets
- Loss of customer data
- Loss of trade secrets/confidential information
- Loss of reputation
- Loss of business (due to interruption)
- Costs of forensic investigation
- Costs of legal counsel



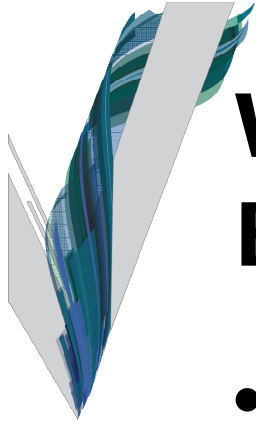
What Are Some of the Potential Harms?

- Costs of 3rd party claims and damages
- Costs of contractual liability claims/damages
- Costs of regulator investigations and penalties
- Costs of notification/credit monitoring
- Costs of customer call center
- Costs of crisis management/PR firm
- Costs of remediation



What Can I Do Now to Help Prevent a Breach?

- Designate responsible individual
- Review current systems, physical facilities and processes for vulnerabilities
 - Consider security consultant (and remember attorney-client privilege)
- Conduct regular security audits
- Review contracts with relevant vendors
 - Require data security commitments
 - Require reps & warranties
 - Helps flush out important issues
 - Forces vendor to take it seriously
 - Caution: "I'll sign your paper today"



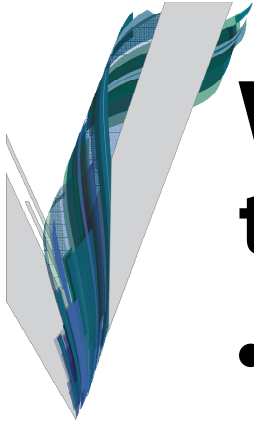
What Can I Do Now to Help Prevent a Breach?

- Perform due diligence around vendor systems and facilities
- Perform due diligence of acquisition target systems
- Ensure system updates and maintenance are performed in a timely manner



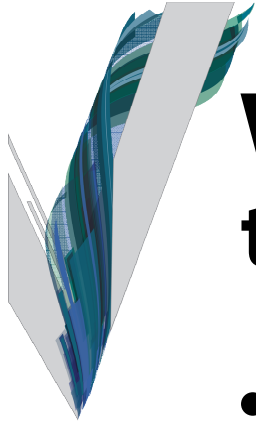
What Can I Do Now to Help Prevent a Breach?

- Train employees on security do's and don'ts
 - Regularly
- Maintain written security policy (will address things like destruction of documents, safeguarding and destruction of computer [including copier] hard drives, physical security, passwords, etc.)
- Maintain top-down emphasis (from board level and executive team) on security



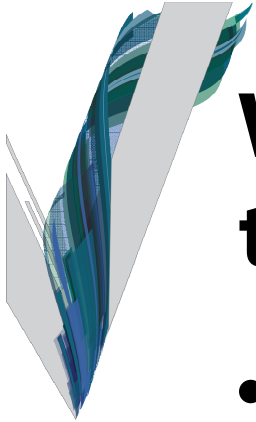
What Can I Do Now to Help Mitigate the Harm of a Breach?

- Review compliance with legal and contractual data security requirements
 - Health care
 - Financial services
 - PCI-DSS
 - 3rd party contracts
- Consult Government Resources
 - NIST Cybersecurity Framework
 - “Lessons Learned from FTC Cases”
 - State AG Guidance



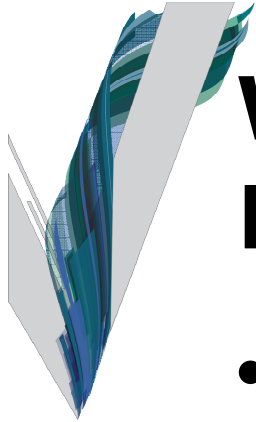
What Can I Do Now to Help Mitigate the Harm of a Breach?

- Maintain appropriate insurance coverage
 - Include cyber insurance
 - Use a knowledgeable broker/consultant
- Prepare incident response plan
 - “The Game Plan”



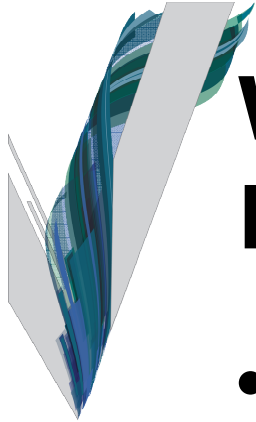
What Can I Do Now to Help Mitigate the Harm of a Breach?

- Review privacy promises to ensure consistency with actual practices
- Review vendor and customer contracts
 - **Appropriate** risk shifting (includes insurance)
 - Notification obligations
- Confirm vendor insurance



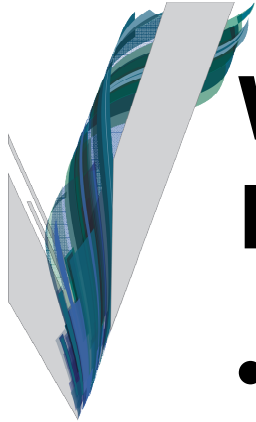
What Should I Do When There's a Breach?

- Isolate compromised systems, if applicable
- Preserve relevant logs and other IT data
- Activate incident response plan and notify relevant POCs
- Retain data breach law firm to:
 - Advise on notification and messaging
 - Retain forensic firm (for privilege)
 - Help avoid missteps that will be second-guessed later



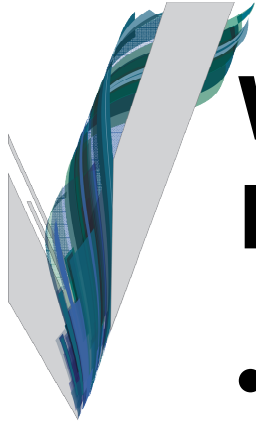
What Should I Do When There's a Breach?

- Notify insurance carrier
 - Coordinate with carrier throughout
 - Carrier may have experience to share
 - Coordination reduces chances of misunderstanding leading to coverage issues
- Retain forensic firm (if applicable)
 - Have law firm retain (for privilege/work product)



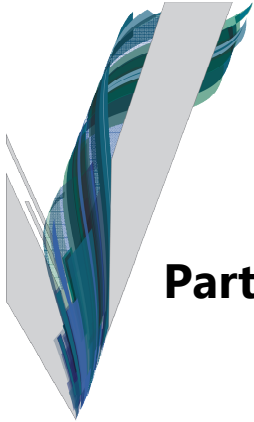
What Should I Do When There's a Breach?

- Exercise caution with written communications
- Refer all press inquiries to PR department or designated individual
- Add additional members to response team as needed
 - Public relations (internal and/or external)
 - Customer service
 - HR



What Should I Do When There's a Breach?

- Establish command center (law department) for coordination of all activities related to breach
- Review contracts for notification obligations
- Notify 3rd parties (law enforcement, regulators, individuals and 3rd party businesses) where required by law



Questions?

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