



Deutscher Bundestag

3. Untersuchungsausschuss
nach Artikel 44 des Grundgesetzes

Nur zur dienstlichen Verwendung

Stenografisches Protokoll der 20. Sitzung – Teil 1 - endgültige Fassung* -

3. Untersuchungsausschuss

Berlin, den 29. Januar 2021, 9.00 Uhr
10557 Berlin, Konrad-Adenauer-Str. 1
Paul-Löbe-Haus, Europasaal (4.900)

Vorsitz: Kay Gottschalk, MdB

Tagesordnung - Beweisaufnahme

Einziger Punkt der Tagesordnung

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Matthew Earl
(Beweisbeschluss Z-69)

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Hildegard Bäumler-Hösl
(Beweisbeschluss Z-63)

siehe Stenogr. Protokoll 19/20 II

* Korrektur- und Ergänzungsanmerkungen der Zeugen zur vorläufigen Protokollfassung sind als Anlage beigelegt. Die betroffenen Protokollpassagen sind nachfolgend mit einem * gekennzeichnet.



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Mitglieder des Ausschusses*

	Ordentliche Mitglieder	Stellvertretende Mitglieder
CDU/CSU	Güntzler, Fritz Hauer, Matthias Michelbach Dr. h. c. (Univ Kyiv), Hans	
SPD	Kiziltepe, Cansel Zimmermann Dr., Jens	
AfD	Gottschalk, Kay	
FDP	Toncar Dr., Florian	Schäffler, Frank
DIE LINKE.	De Masi, Fabio	
BÜNDNIS 90/DIE GRÜNEN	Bayaz Dr., Danyal	Paus, Lisa



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Fraktionsmitarbeiter*

CDU/CSU	Gerster, Cornelius Brandt, Wolfgang Genske, Marlene Günther, Kevin
SPD	Hawxwell, Anne Weber, Saskia Schinzel, Boris Sacharow, Alexander Schauhoff, Lenard Schneider, Yannik
AfD	Dabelstein, Lorenz Buchholtz, Immanuel
FDP	Iza Schilling, Philipp Reuss, David
DIE LINKE.	Olschewski, Niklas
BÜNDNIS 90/DIE GRÜNEN	Kern, Florian Bendel, Yannik

* anwesend laut Unterschriftenliste



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Teilnehmer Bundesregierung*

BMF	ARn Koch RR Gräf RDn Barczyk RD Fritz RD Ziegner
AA	LR I Gloßner
BK	RD Mai
BMJV	ORR Scholz Zorn

Teilnehmer Bundesrat*

Land

Bayern	RRn Sikler
Hessen	RD Simon

* anwesend laut Unterschriftenliste



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(Beginn: 9.05 Uhr)

Vorsitzender Kay Gottschalk: Liebe Kolleginnen und Kollegen! Ich eröffne unsere 20. Sitzung, die zugleich die 10. Beweisaufnahmesitzung ist.

Ich frage mal den Kollegen Fleischer: Ist die Öffentlichkeit so weit hergestellt, auch in die Streaming-Räume? - Es wird genickt. Also, ich stelle damit fest, dass die Öffentlichkeit hergestellt ist, und begrüße ganz herzlich die Zuschauerinnen und Zuschauer sowie die Vertreterinnen und Vertreter der Presse.

Außerdem heiße ich die anwesenden Vertreter der Bundesregierung und des Bundesrates wie immer herzlich willkommen.

Ebenso begrüße ich herzlich die Zuschauerinnen und Zuschauer in den Sälen 2.200 und 4.700, in die unsere heutige Sitzung gestreamt wird. Bitte beachten Sie, dass die nachfolgenden Hinweise auch für Sie gelten.

So sind eigene Ton- und Bildaufnahmen von der Sitzung nicht gestattet. Zuwiderhandlungen können nicht nur zu einem Sitzungsausschluss, sondern auch zu einem Hausverbot und zu strafrechtlichen Konsequenzen führen.

Nach diesen einleitenden Hinweisen rufe ich nunmehr unseren **einzigen Tagesordnungspunkt** auf:

Öffentliche Zeugenvernehmung

Matthew Earl
(Beweisbeschluss Z-69)

Hildegard Bäumler-Hösl
(Beweisbeschluss Z-63)

Den Zeugen Christoph Schulte, der ursprünglich heute auf der Tagesordnung stand, haben wir gestern bzw., um genau zu sein, heute bis viertel nach zwei etwa vernommen. Wir werden also die Zeugen in der eben von mir genannten Reihenfolge - Earl, Bäumler-Hösl - vernehmen.

Vernehmung des Zeugen Matthew Earl

Kommen wir also nun zunächst zur nichtförmlichen Vernehmung des Kollegen Matthew Earl, der aus der Deutschen Botschaft in London zugeschaltet ist. Vielen Dank, dass Sie bereit waren und unserer Einladung gefolgt sind. Und ein herzliches „Good morning!“ nach London.

Zeuge Matthew Earl: Good morning!

Vorsitzender Kay Gottschalk: Good Morning! - Ich möchte zunächst darauf hinweisen, dass es sich bei Ihrer Befragung nicht um eine förmliche Zeugenvernehmung im Sinne des Untersuchungsausschussgesetzes handelt. Sie unterliegen daher keiner strafbewehrten gesetzlichen Wahrheitspflicht. Wir gehen aber selbstverständlich davon aus, dass Sie uns wahrheitsgemäß berichten.

Zeuge Matthew Earl: I will do.

Vorsitzender Kay Gottschalk: Herr Earl, ich würde Sie bitten, sich kurz vorzustellen und, wenn Sie das wünschen, auch zum Untersuchungsgegenstand, also dem, warum wir hier seit 8. Oktober tätig sind, auszuführen. Herr Earl, stellen Sie sich zunächst mal kurz vor: Alter, Name.

Zeuge Matthew Earl: I would very much like to thank you for your time and inviting me into your inquiry into the circumstances of the Wirecard collapse. It's a privilege to sit here and speak to you today. However, I do think it is regrettable that the countless warnings into the character of* Wirecard were not heeded in the many years prior. So I very much appreciate and welcome your considerable efforts. I am sure from this message* fully reviewed there will be* valuable lessons to be learned going forwards.

My name is Matthew Earl, I'm 41 years old, I am a managing partner of ShadowFall Capital & Research, which is a London based hedge fund. We are based in the United Kingdom and also registered by in the United States by the Securities



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and Exchange Commission. Myself, I have almost two decades of experience in financial markets. Separate to Wirecard and over this time, I have exposed a number of sort* of frauds and failures which have predominantly been based in the UK market.

I am what many call a short seller. I conduct detailed and forensic research into public companies. Because it is* research, I conclude that there is corporate malfeasance, misunderstood value,

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accounting or outright fraud, then there probably is insecurity in the relevant company and so that's security short*. If my findings are correct, and over the time the market comes to reflect the increased risk to the issuer, then the research has contributed to market efficiency, and I am

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to doing so*. Short selling is not a crime, I would add, and it's a practise that goes back many centuries. It is commonly used by innumerable market participants to mitigate financial risk and improve price discovery. There are numerous studies which support this view. Over the recent decades there had been*

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on this conventional practice to what is called activist shorting. This is where those that are short issuers seek to publicly explain the rationale behind why they are short. In my view, the activist shorting has developed largely to counter to what appears to be a growing abdication of responsibility by several market actors. The abandonment of duty resides with both, market participants and regulators, as well as other stewards of governance such as auditors or corporate board members.

In the case of Wirecard, when financial crimes of this nature are suggested, I think for many people they see no accountability for those that are meant to protect the victims of these crimes, namely the innocent shareholders. And by shareholders I do not necessarily mean professional fund managers who are often bearing little economic or reputational risk. I mean the underlying shareholders who either directly invest in DAX 30 companies which you would not expect to be fraudulent or indirectly by placing their trust into institutions that are supposedly there to exercise due skill, care and diligence. The short sellers*, some may think I'm something of a pessimist, however, I can assure you that I actually have a hopeful disposition on life. Though* I hope that as a result of this inquiry persons are held accountable for enabling Wirecard to bring such disrepute to the reputation of Germany's financial market and measures are taken to improve the system and promote professional scepticism, as required.

On a more personal note, I would also welcome some acknowledgement and accountability for the appallingly stressful, at times traumatic, and financially burdensome treatment that my family and I have received since I attempted to highlight Wirecard's fraud in 2016 and indeed over the years that followed. Of course Wirecard's management is responsible for a significant portion of this mistreatment which included surveillance, eavesdropping, cyber hacking and aggressive legal threats to intimidate and silence me. But I believe that Germany's financial regulator BaFin also played a key part in attempting to silence the critics of Wirecard. Rather than encouraging independent scrutiny to seek the truth regarding Wirecard, from my experience it appears that BaFin took the complete opposite approach. This comes not just from my perspective, but also from many others where Germany's regulator appears to have made a concerted effort to silence many critics of Wirecard to stop them from revealing the truth. Further, from the information that has now come to light since Wirecard's collapse in June 2020, I believe the weight of evidence has shifted from what at best could be regarded as simple incompetence at BaFin to, and I



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hope this is not the case, something much less excusable, such as collusion.

Again, I thank you very much for your time this morning and I very much welcome the opportunity to help you discover the truth of Wirecard and I'll answer any questions that you may have in a truthful and honest manner. Thank you.

Vorsitzender Kay Gottschalk: Vielen Dank, Herr Earl. - Dann würde ich jetzt mit den Fragen beginnen, und dann sind die anderen Kollegen dran. Wir sind sehr gespannt auf Ihre Antworten.

Herr Earl, ich übernehme erst mal ein paar allgemeine Fragen, auch für die Kollegen dann immer. Wie haben Sie sich im Weiteren, im Sonstigen auf diese Sitzung vorbereitet? Sind Sie vielleicht noch von anderen Stellen kontaktiert worden, oder haben Sie das rein aus Ihren Aufzeichnungen dann hier vorbereitet?

Zeuge Matthew Earl: No this is all my own recordings, my own experience; I didn't have any contact in the lead up to this.

Vorsitzender Kay Gottschalk: Okay. - Wann sind Sie erstmals auf die Unstimmigkeiten bei der Bilanzierung des Wirecard-Konzerns aufmerksam geworden? Denn das Ganze hat ja für uns auch eine Vorgeschichte. Können Sie das skizzieren?

Zeuge Matthew Earl: Yes. I mean I had never heard of Wirecard up until late 2015 when it was brought to my attention the acquisition that they were proposing to make with an Indian business called GI Retail and it was quite a significant acquisition in terms of size for the company at that point in time. I look at accounts of companies and when I looked at this acquisition, I thought I'll investigate in terms of the footprints of GI Retail, the Indian business, and how successful it is because Wirecard described it as though it was a very successful payments business. It very quickly became apparent that it in no way resembled the impression that Wirecard had given to the markets as the scale and profitability that this Indian business was suggested to have. And so I started to dig further into the filings of Wirecard

and the financial history of it and it became very obvious quite quickly that this was probably classic accounting fraud and indeed it is, obviously there has been evidence that it is classic accounting fraud. And one of the key things with acquisitions such as GI Retail is that if a company is falsifying its profits then the likelihood is that the cash that you'd expect with those profits doesn't exist. Though, a good way of having a reason for that cash to not to be present within the company is to make bogus acquisitions where either the money for the purchased business doesn't actually change hands or it does change hands and is recycled back into the company. And I think it's fair to say that that has been the case with GI Retail.

Vorsitzender Kay Gottschalk: Okay. Ich würde gerne noch mal generell - Sie hatten das auch ausgeführt, und Dan McCrum hat da so auf meine Fragen und auf die der Kollegen ähnlich reagiert - Sie haben das eben so als „konzertierte Aktion“ bezeichnet. Wie hat auf Sie im Ausland und einem der Finanzplätze überhaupt der Welt, in London, denn das Leerverkaufsverbot der BaFin gewirkt, jetzt nicht nur persönlich auf Sie, sondern eben auch auf Marktteilnehmer?

Zeuge Matthew Earl: The short selling then, I think, came into effect around February last year or March last year, I think it was. So me personally, it didn't impact on me because I didn't have a position in the company, I stopped shorting the company in 2016. I think obviously it's very unusual. I'd never known a short selling ban to be implemented on a single issuer. Obviously, there have been short sell bans in the past across the market and for certain sectors of the market in times of financial distress. However, for a single issuer I've not been aware that that has been implemented by European regulator in the past. Obviously, I think the narrative that was given at the time by BaFin, was that this was implemented because there was market manipulation effectively into this stock and that journalists such as Mr McCrum had potentially been colluding with hedge funds in order to drive the share price down. Which is, I would add, a false narrative



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but that was the narrative that was provided at the time. It was very unusual.

Vorsitzender Kay Gottschalk: In dem Zusammenhang habe ich auch den Kollegen McCrum gefragt, aber auch andere Kollegen, die man aus der Branche kennt, und würde Sie da gerne noch mal um Ihre Expertise bitten. Ist Ihr Eindruck, dass in Deutschland im Prinzip ein sehr ideologisch, wenn nicht sogar extrem negativ geprägtes Bild des Shortsellings, was für mich eigentlich ein ganz normales Marktelement für einen funktionierenden Markt ist, herrscht, also dass man in Deutschland speziell fast schon - ich sage es mal in einem anderen Vergleich - böse Heuschrecken drin sieht, während auch hier eigentlich ausgeführt wurde, auch von vielen Fachleuten - - ja gerade der Shortseller wirtschaftlich gesehen in ein viel höheres Risiko reingeht als jemand, der entsprechend eine Long-Position vielleicht aufbaut. Könnten Sie da aus Ihrer Expertise heraus was sagen, wie Sie da die deutsche, sagen wir, Meinungskultur sehen?

Zeuge Matthew Earl: I certainly think the share culture is very different, not necessarily just in Germany but across Europe versus perhaps the Anglo-Saxon market and the United Kingdom and the United States. There's a much more speculative nature, I think, to the Anglo-Saxon markets where around particular points in the financial calendar people will take bets. Both ways I would add - whether they would wish to go long or short in a stock in anticipation of what the financial results may well be. Whereas I think that with European investors it's more a kind of longer-term investment duration that they see rather than more short-term nature speculative.

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I think what happened with the explanation around I think the lead up of the short selling ban, again which was a false narrative, was the explanation was given that the short interest in Wirecard had increased ahead of the Financial Times publication on January 30th, 2020, I think it was, which highlighted on the front page of the

Financial Times that the Singaporean business of Wirecard had been embroiled in falsifying financial statements and money laundering. This was actually a false narrative because this short interest had risen somewhat but it was very minor in terms of the increase. And that would be perfectly natural because on the day that the Financial Times published their report that was also the day of Wirecard's preliminary financial results, on January 30th, and so you would automatically get some natural speculation as to what those results would be, which is why there was a little bit of a short interest increase. That's is perfectly natural and likewise you would have some on the long side, being long the stock.

The real explosion in the short interest came after the publication of the Financial Times articles which is perfectly natural because the fact in the matter is that what is arguably the world's preeminent financial newspaper had on its front page essentially alleged that the company Wirecard was engaged in fraudulent activity in Singapore. And in terms of the source for that story, the source is: That this wasn't from so-called short sellers or market participants of the company, but from insiders of the company, whistleblowers and internal company documentation. So as source material goes there is probably no better source than that which the Financial Times had. And that's why the short interest exploded after the publication and quite rightly so.

Vorsitzender Kay Gottschalk: Ich bin ja nun hier eher so auch als ein harscher Kritiker der BaFin und ihrer Arbeits- und Funktionsweise bekannt und würde hier aber mal eine Lanze brechen. Es gehören ja zwei dazu, was das - Sie haben es mit einer konzertierten Aktion beschrieben - - Denn gleichzeitig - in Deutschland, muss man dazu beschreiben, sind die Staatsanwaltschaften weisungsgebunden - ist dieses ja doch mit strafrechtlichen Ermittlungen dann gegen Dan McCrum - Sie haben ja auch von Ihren Problemen gesprochen - - aber auch mit strafrechtlichen Ermittlungen seitens der bayerischen Staatsanwaltschaft orchestriert worden. Da lag uns auch ein Fax vor. Da kann man den Eindruck gewinnen: Wenn man eine sehr glaubhafte Geschichte in Richtung



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Staatsanwaltschaft oder zur Staatsanwaltschaft spielt, die dann noch mit den Maßnahmen - deswegen sage ich: da gehören diesmal wohl zwei zu, nicht nur die BaFin - - und die BaFin dann in Vorleistung geht, muss man ja auch sagen: Eine sehr unkritische Staatsanwaltschaft, die eigentlich gesagt hat: Alles das, was die BaFin macht und was an Verdachtsmomenten gegen die bösen Shortseller, also Self-Fulfilling-Prophecy, im Raum ist, wird dann auch noch mit Strafanträgen gestützt seitens der Staatsanwaltschaft. Wie ist das denn angekommen, dass dann also quasi neben der BaFin, die das Leerverkaufsverbot im Februar 2019 erließ, auch noch die Staatsanwaltschaft, die - wie gesagt, das ist auch ein Unterschied zu den angelsächsischen Ländern - sehr weisungsgebunden durch die Innenministerien ist - - erlassen wurde. Wie ist das angenommen worden?

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Herr Vorsitzender!)

- Ja?

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ich bekomme eine Rückmeldung aus dem Streaming-Raum, dass dort kein Ton ist!)

- Okay, das ist schlecht.

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ja!)

So, wir müssten einen kleinen Moment warten, Herr Earl, weil wir hier immer die Öffentlichkeit auch brauchen. Ein Raum hier im Parlament, der ist uns gerade sozusagen technisch abhanden gekommen; die verstehen uns nicht. Deshalb würde ich Sie bitten, kurz mit der Antwort auf meine Frage zu warten, damit dann alle, auch die Öffentlichkeit, Ihre Antwort hier eben wahrnehmen können. - Gut, also die technischen Probleme sollen behoben sein, Herr Earl. Insoweit: Ist die Frage von mir so weit angekommen?

Zeuge Matthew Earl: Yes.

Vorsitzender Kay Gottschalk: Gut, dann würde ich Sie jetzt um Antwort bitten, und wir lauschen. Prima.

Zeuge Matthew Earl: Yes, sure. Yes, I was incredibly surprised that the prosecutor didn't actually think to contemplate that there may be something more to this. I mean the fact is that the company itself, Wirecard, had a long history of people being critical of it - whether it's the accounting or it was the activities that the company was up to. I mean indeed obviously myself highlighted the money laundering aspect in 2016 and the evidence there I thought was incredibly compelling. I think the BaFin, the prosecutor and BaFin, had a very one-sided view of things, they didn't seem to want to even contemplate that there may be credibility to the allegations which had been raised. In a way it was almost as if when someone had reported a crime that instead of actually investigating that crime, they investigated that messenger to see if he had parked illegally or something like that. I mean it was just absurd in terms of how they went after the messengers. When it comes to the prosecutor, yes, I was very surprised that they just had this kind of very single focus of investigating what was essentially a case against the critics of Wirecard presented by BaFin and taking that at face value and not exercising any scepticism as to whether or not they should perhaps open up and widen their investigation to actually investigate the allegations that had been presented against the company, given also how significant and serious they were, those allegations.

Vorsitzender Kay Gottschalk: Kleinen Augenblick. Also, ich höre, der Ton ist in dem Saal wieder weg.

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Falls es irgendwie hilft: Ich habe die Information bekommen, dass es wohl ein Problem mit der Dolmetscherspur ist, der englische Ton aber gut ankäme, wenn



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man ihn denn auch sozusagen zuführen würde! Englischer Ton ist ja jetzt besser als gar keiner! Dann könnte man fortsetzen!)

- Auf jeden Fall ist es öffentlich, ja.

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Und ich traue das den meisten zu, dass sie das hinbekommen!)

- Okay. Also, wir hören gerade: Die englische Spur, also der englische Ton, kommt in dem Saal an. Dann ist für mich zumindest die Öffentlichkeit hergestellt. Und ich hoffe, dass in Teilen dann auch wieder die deutsche Spur für die Kollegen, die dort anwesend sind, die der englischen Sprache nicht so mächtig sind, ankommt, und würde dann für mich entscheiden, dass wir fortfahren und keine Zeit verlieren.

Sie sagten das eben: Die Staatsanwaltschaft, aus Ihrer Sicht - das hat Sie auch verwundert -, hat das sehr einseitig gesehen. Und wenn ich dann immer sage: Ja, bei uns die Staatsanwaltschaft ist eben nun mal auch weisungsgebunden, dann bekommt das ein besonderes Geschmäckle.

Ich würde noch mal bitten: Haben Sie auch der Staatsanwaltschaft - Dan McCrum sagte nämlich, er habe der Staatsanwaltschaft - - Und wir haben die Staatsanwältin ja nachher auch hier, und ich werde sie dann nämlich genauso mal fragen, ob sie denn auch so, was von anderen verlangt wird, „Handelsblatt“, Ihre Berichte etc. gelesen hat, auch in dieser Vorbereitung. Ist Ihnen bekannt, dass der Staatsanwaltschaft oder auch der BaFin Ihrerseits oder - Sie haben auch eben von belastbaren Belegen, die Sie auch vorgebracht hatten, gerade was den Erwerb der indischen Firma, die Sie hier beschrieben haben, angeht - - Haben Sie also entsprechend den deutschen Behörden auch dieses, wie Sie sagen, „belastbare Beweismaterial“ zur Verfügung gestellt, oder ist Ihnen bekannt beispielsweise, dass Dan McCrum den Behörden und auch der Staatsanwaltschaft diese

Belege, diese objektiven Belege zur Verfügung gestellt hat?

Zeuge Matthew Earl: Well, there had been several articles, journalists that had written on circumstances of the Indian acquisition. In terms of whether that was offered directly to BaFin, in terms of delivery, I wouldn't know what those journalists had sent directly to BaFin, but for example obviously the Financial Times had reported on it, an investigative journalist in the United States, Roddy Boyd, had written extensively on the Indian business which was acquired.

When I met the prosecutor in Munich in June 2019, they seemed to have a very good understanding of circumstances of the Indian acquisition or actually had some scepticism as to whether or not that was a legitimate transaction. So they did seem to have some knowledge of that. What they didn't seem to have was the understanding of the money laundering aspect of the company which was essentially a network of companies that I believe Wirecard personnel had set up with the architects of a network of shell companies or letterbox companies, thousands of them, which had been organised and set up in the United Kingdom for money laundering purposes. And that seemed to be a real eye-opener to them in June 2019.

Vorsitzender Kay Gottschalk: Prima. - Dann würde ich jetzt an die Kollegen der CDU/CSU weitergeben. Matthias Hauer übernimmt. Bitte schön.

Matthias Hauer (CDU/CSU): Herr Vorsitzender. - Herr Earl, erst mal vielen Dank, dass Sie uns zur Verfügung stehen. Ich fange erst mal zum Aufwärmen damit an, zu fragen, ob denn im Vorfeld des Berichts bereits, ich sage mal, aus dem Umfeld von Wirecard jemand auf Sie zugekommen ist bzw. ob Wirecard vorher wusste, dass dieser Bericht erscheinen wird.

Zeuge Matthew Earl: By “the report”, I presume you mean the Zatarra report?



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Matthias Hauer (CDU/CSU): Genau, genau den meine ich.

Zeuge Matthew Earl: No, they didn't. The report was published in late February 2016. I think at the time what had happened again in the lead-up of the publication of that report was that the short interest in the stock had risen significantly brought to around - I think about 24 percent of the shares in issue were lent out and shorted. Of course at that time that was shortly after the announcement of the Indian acquisition which was announced in October 2015 which I think a number of people had drawn similar conclusions as I had which was that this acquisition made no strategic sense and that they were significantly paying for a business where the assets didn't reflect the value that they were claiming they were paying for it. So I think that that added into the mix in terms of the short interest increasing.

What I didn't realise at the time also which I realised several years later was that apparently the United States authorities had requested the offices at Wirecard to be raided and searched in December 2015 as well. So I presume that - I didn't know that - but I presume some people would have known that perhaps which may also explain the increase in the short interest but as far as the publication of the Zatarra research report in February 2016 the company would not have known that before it had been released.

Matthias Hauer (CDU/CSU): Ich würde gerne mal auf das Verfahren bei der Staatsanwaltschaft München, was gegen Sie geführt wurde wegen Insiderhandel und was dann gegen Zahlung einer Geldauflage eingestellt wurde, zurückkommen. Wir hatten ja gerade schon darüber gesprochen, ob Sie Behörden irgendwie Unterlagen vorgelegt hatten oder die Beweise, die Ihnen vorlagen. Haben Sie gegenüber der Staatsanwaltschaft - Sie hatten ja, nehme ich an, auch das Bedürfnis, da Ihre Unschuld darzulegen. Haben Sie diese Belege, die Ihnen vorlagen, denn auch vollständig der Staatsanwaltschaft vorgelegt damals?

Zeuge Matthew Earl: Yes. So in I think it was in March or April 2017* I received a letter from the Munich public prosecutor saying that they were minded to bring a preliminary prosecution against me in regards to potential market manipulation of Wirecard's equity and stock. And obviously the first thing that I did there was I wanted, wished to defend myself, however, the first thing I did was appoint a German lawyer to request the case file and upon receipt of that case file several weeks later it was quite apparent that the case that BaFin had constructed was flimsy to say the best, it was incredibly weak. In fact, remarkably in the BaFin case file they seemed to acknowledge that all the evidence that had been provided in the Zatarra report was indeed accurate. But they didn't really like the way it had been written, if anything.

So at that point in time I didn't have much faith that if I was to come to Germany and attempt to defend this potential prosecution, I didn't have much faith that I would have a fair hearing, if you like. However, whilst thinking about that, in the meantime the prosecutor reached out to my lawyer and said that effectively they didn't see that there was much merit to this case, and they wished for it to be closed and to withdraw the case which they did upon agreement that I would make a donation to a charity which I did. So it was being faced with either spending significant period of time away from my family, travelling to Germany, not knowing if I was to go to trial when that would happen or indeed the costs that would be involved in that and whether it would be a fair trial versus essentially what I thought was a shakedown by the prosecutor to make the case go away which it did. So I was good with that. There was no admission of guilt or anything on my part and the case was withdrawn so I could never be prosecuted for it.

Subsequent to that, in June 2019 or prior to June 2019, the prosecutor reached out to me to ask if I'd be interested to go and attend a hearing in Munich to provide evidence to them which I did. And at that point in time I went there obviously on the understanding that I couldn't be prosecuted but be there as a witness. And I presented



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what was effectively a four-hour presentation which centred mainly on the money laundering aspect of Wirecard. And I think that they seemed convinced that there was merit to the evidence that had been provided in that hearing in June 2019.

Matthias Hauer (CDU/CSU): Sie haben ja gerade beschrieben, dass Sie bei der Staatsanwaltschaft den Eindruck hatten: Die berufen sich vor allem auf die BaFin. Also, würden Sie dann eher der Staatsanwaltschaft für Ihr damaliges Strafverfahren einen Vorwurf machen, oder sehen Sie eher die BaFin da in der Schuld?

Zeuge Matthew Earl: Well, I think BaFin I would lay most of the blame with, principally because they had the ability, I think, to investigate the allegations. Indeed, they did look at it, as far as the Zatarra research was concerned, as I said, they seemed to agree that they could find nothing objectionably untrue in the research in Zatarra. They came to the conclusion that it was true. And if it was true what had been put in that research was so serious in terms of the accusations of money laundering and corporate fraud that I think that they had a strong enough case to actually precede* with investigating the company or at least providing much greater scrutiny over the company which they clearly didn't.

With regards to the prosecutor, I think that they should have, certainly after the hearing that I had in June 2019, they should have immediately opened up an investigation into the company because, as I say, they did seem to be quite taken aback by the weight of evidence that I provided to them and the implications of it. I mean they certainly got the implications of it. The public prosecutor Frau Bäumler-Hösl herself said, her main concern seemed to be the statute of limitations, in that some of the evidence provided with regards to the examples of where money laundering had happened, she was concerned that that had happened too far in the past to be able to prosecute it or to bring a case in regard to that particular example. Of course I suggested that it wasn't in the past so much when I highlighted it in 2016, but it was ignored at that point in time.

Matthias Hauer (CDU/CSU): Herr Earl, Sie haben ja gerade gesagt, aus Ihrer Sicht trägt die BaFin die Hauptschuld. Sie haben gesagt, die BaFin hat in dem Zatarra-Bericht keine inhaltlichen Fehler festgestellt. Sie haben gesagt, die BaFin, die hielt das alles für zutreffend, was in dem Bericht stand; aber es sei halt schlechter Stil gewesen, in dem er formuliert ist. - Und vorhin haben Sie in Ihren Eingangsstatement auch gesagt, die BaFin hat eine wichtige Rolle gespielt, auch Kritiker zum Schweigen zu bringen. Sie haben sogar von einer „konzertierten Aktion“, die stattgefunden hat, gesprochen und die BaFin damit auch erwähnt in dem Zusammenhang. Sie haben die Frage aufgeworfen, so nach dem Motto: „Ist das Unfähigkeit?“, und dann haben Sie aber eigentlich auch schon die Antwort gegeben und haben gesagt: Geheime Absprachen haben da eher stattgefunden. Da würde ich Sie bitten, das noch mal etwas stärker zu unterfüttern, also mit etwas mehr Details, was Sie damit meinen, dass die BaFin da sozusagen verstrickt gewesen sei.

Und dann schließe ich direkt die Frage an, warum aus Ihrer Sicht die BaFin nicht tätig geworden ist danach. Warum ist man dann, wenn man davon ausgegangen ist, was Sie da ermittelt haben, stimmt, nicht gegen Wirecard vorgegangen aus Ihrer Sicht?

Zeuge Matthew Earl: Yes, well, firstly BaFin obviously gave significant credibility to the company and also tried to discredit the critics of the company and so, in actions by opening up an investigation into the critics of the company, rather than opening up a separate investigation or dual investigation into the allegations against the company, gave, I think, the market the impression that the allegations couldn't have been true and they were false, whereas obviously they were not. That gave more credibility to the company which encouraged both the company and also of course obviously the shareholders of the company and new shareholders that came into the company. And indeed gave the ability to the company to continue to raise capital in the markets.

I'm surprised that they didn't even seem to consider, if they had recognised the allegations were



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true, that they should actually start to investigate the company, I was shocked that they didn't. As I said, instead they went after the critics. With myself the case centred around the fact that they didn't like the fact that there were too many sources provided in the research document. Now the reason for the sources was that the allegations were so wild, and you'd be hard-pressed to make this all up. Unless you had the original source material to be able to go to, you might not actually believe it. So that's why the source material was provided. I don't know why they didn't investigate the company, I really don't. But what I do know is that it gave credibility to the company and it dissuaded other critics of raising awareness around misconduct of the company because the fact is that the treatment that was provided to myself and other critics of the company was very poor, to say the least, and the threat of prosecution is obviously a very powerful mechanism to dissuade anyone from ever criticising that company. The second part of your question was ...?

Matthias Hauer (CDU/CSU): Warum die BaFin nicht ermittelt hat und ob es dafür aus Ihrer Sicht Gründe gegeben hat. Aber das haben Sie eigentlich beantwortet.

Ich würde dann noch weiterfragen, und zwar möchte ich Bezug nehmen auf eine Stellungnahme der BaFin an das Bundesfinanzministerium zu dem Zatarra Report und möchte daraus zitieren. Das ist MAT A BMF-4.04, Blatt 268. Dort folgendes Zitat:

Auffällig ist, dass die verdächtigen Personen (darunter neben natürlichen Personen auch anglo-amerikanische „Hedge Fonds“) dem Anschein nach einen recht einheitlichen kulturellen Hintergrund haben - überwiegend israelische und britische Staatsangehörige. Daher ist nicht auszuschließen, dass es sich um eine netzwerkartige Struktur („Insiderring“) handelt.

- Zitat Ende. - Wenn man das liest, dann macht das natürlich fassungslos und ist inakzeptabel

und vor allem auch völlig sachfremd. Da würde ich Sie mal nach Ihrer Einschätzung zu diesem Zitat, zu dieser internen Stellungnahme der BaFin an das BMF - was ja scheinbar dann auch lange Zeit niemanden gestört hat, diese Stellungnahme - fragen. Würden Sie das so werten, dass man bei der BaFin händeringend irgendwelche Argumente gesucht hat, um gegen Sie vorzugehen?

Zeuge Matthew Earl: Yes, certainly. I mean I was appalled and shocked just to read that this was something that they had concluded. Obviously, I am British, I have no Israeli connections, there was no ring, if you like. This was independent research that had been provided or researched into. It does feel as though they were reaching for any argument they could find. Quite why they reached for that argument I don't know. A possible explanation is that in the months following the publication of the Zatarra research there were emails that were circulated in the market amongst brokers, press, media and investors that suggested that, they were fabricated emails I should add, that suggested that there was a ring of persons - no connection to myself - that had essentially thought to construct this research in order to drive the share price down. I don't know whether BaFin believed those emails to be true or not but they were fabricated, they were false. If they did, then that obviously suggests that they have a fairly low threshold for evidence and two, I would say that they are relatively credulous as well.

Matthias Hauer (CDU/CSU): Hat es zu irgendeinem Zeitpunkt Ihnen gegenüber eine Entschuldigung eigentlich mal gegeben seitens der BaFin oder des Bundesfinanzministeriums?

Zeuge Matthew Earl: No. As I said in my opening statement, I think the treatment that I received, not just myself but obviously others - - But I've borne a lot of mistreatment in regard to this which, to be truthful, has been horrific. Yes, I understood that the company was largely responsible for most that in terms of the surveillance. I can assure you it's not very nice to have to have



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passwords set up at my children's school to ensure that no one else can collect them, to have to have my telephone number on rapid response with the local police, to have documents circulated to discredit me and accuse me of being a criminal. And yes, I understand that that was probably largely the implementation by the company but, as I said, BaFin gave significant credibility to this company. And indeed, obviously latterly they tried to defend the company and attempted to prosecute myself along with others. But I have never received an apology from BaFin, and it's been a very traumatic and costly experience.

Matthias Hauer (CDU/CSU): Nach den Unterlagen, die Sie ja auch zur Verfügung gestellt haben durch Ihre Recherchen: Zu welchem Zeitpunkt hätte aus Ihrer Sicht die BaFin die Möglichkeit gehabt, auf Basis der Informationen den kriminellen Machenschaften bei Wirecard auf die Schliche zu kommen oder ein Ende zu setzen? War das direkt im Nachgang zu 2016 dann?

Zeuge Matthew Earl: It was immediately, I would argue. Of course, all the information came from open-source information so there was no insider information. I think they may have thought that they had an insider leak because the content of it was so accurate. But it was all from open-source information. The only issue with that was because it came from open-source public filings, invariably those filings would have been filed no earlier than say 12 to 18 months prior. But they would certainly have been statue to limitations within that period in order to open up an investigation and, I think, to immediately understand that this was a fraudulent company and that it had been actually a long-running fraud. I think there's also a narrative out there that this fraud had occurred relatively recently. Believe me, my view is that this was a fraud that had lasted in various guises, but had lasted for a long period of time, probably stretching back the two decades that the company has been in existence.

Matthias Hauer (CDU/CSU): Und dann sind Sie der Auffassung, dass - - Ich meine, 2016 war

dann sozusagen der erste - - gab es die ersten Vorwürfe im Zuge des von Ihnen veröffentlichten Berichts. Aber es kamen ja danach auch immer wieder kritische Berichterstattungen. Haben Sie sich nach dem Bericht noch mal in irgendeiner Weise mit dem - - oder nach dem Bericht und Ihren Stellungnahmen auch zu dem, was die BaFin dann formuliert hat: Haben Sie danach noch mal tiefergehend auch mit dem Unternehmen befasst? Haben Sie danach noch mal Short-Positionen beispielsweise aufgebaut?

Zeuge Matthew Earl: Not after that, no. Because it became quite obvious that few people were prepared to believe that research, the content of it, as I say, probably because of the actions that were taken by one the company of complete and blank denial, but two, I would argue, the regulator, BaFin, in terms of effectively giving the market the view that Wirecard was the innocent party in all this and that it had been on the receiving end of untruthful allegations against it. Though research was published, because I thought that the regulators or statutory authorities would actually look into the company.

(Ausfall der Tonübertragung)

It was blindingly obvious that this company had been involved in serious misconduct and wrongdoing.

But they didn't and they took the company's side which meant it is a worthless task in terms of actually shorting the company. That said, I didn't stop my efforts just to continue to raise awareness of the wrongdoings of the company and so over the course of the years after I had meetings with the Metropolitan Police here in London where I had a meeting with a senior detective and a superintendent. Obviously, I had meeting with the Department of Justice and the FBI in New York in July 2018 and then in June 2019, as I said earlier, I met with the Munich public prosecutor to raise awareness of the wrongdoings of the company.

Matthias Hauer (CDU/CSU): Vielen Dank.



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Vorsitzender Kay Gottschalk: Vielen Dank. - Dann wäre jetzt der Kollege Dr. Florian Toncar für die FDP-Fraktion an der Reihe. Bitte schön.

Dr. Florian Toncar (FDP): Vielen Dank, Herr Earl, dass Sie uns zur Verfügung stehen und schon so viel auch akkurat hier ausführen und beantworten konnten. - Ich möchte noch mal ein paar Daten kurz abklopfen, dass wir da in zeitlicher Hinsicht präzise sind. Sie haben meines Erachtens ausgeführt, dass Sie im März 2017 erfahren haben, dass ein Ermittlungsverfahren gegen Sie läuft wegen Zatarra. Ist das das korrekte Datum?

Zeuge Matthew Earl: Yes, I think it was like March 2017*.

Dr. Florian Toncar (FDP): Und eingestellt wurde das gegen Geldauflage. War das Ende 2018? Ist das auch korrekt?

Zeuge Matthew Earl: I think it was actually July 2017* that it was withdrawn.

Dr. Florian Toncar (FDP): Also, es lief letzten Endes nur vier Monate.

Zeuge Matthew Earl: Yes, as I said, most of the period of time was taken up by - there was effectively a month to respond, to appoint a lawyer, which obviously I did very hastily and then there was the request for the case file. The case file was extensive. I mean what was surprising was that the case file actually, yes there was investigation into myself and Fraser Perring, indeed, with regards to Zatarra, but a large portion of the case file was anyone that had been short with the company leading up to the Zatarra research release.

With regards to the content on Zatarra, as I said, it was incredibly weak in terms of the argument that BaFin had as I said they themselves couldn't even find anything to be objectively untrue in within the allegations. Their issues were minor issues which was that they felt that the conflict of interest hadn't been sufficiently disclosed. So as an example for that, I think on the website it said

that the reader of the research should assume that the author may have a short position in the company whereas on the actual download it said that the reader should assume that the author has a short position in the company. This was a typo on our part, it wasn't an attempt to mislead the reader, but they argued that that was suitably ambiguous so as to not sufficiently provide a disclosure of conflict. And as I said, the other argument they had was that there were too many sources provided within the research. Remarkably!

Dr. Florian Toncar (FDP): Also, man kann zumindest festhalten, dass die BaFin das alles sehr genau gelesen hat, um diese feinen Unterschiede auch wahrzunehmen. - Dann möchte ich gerne noch mal nachfragen: Sie haben jetzt zweimal erwähnt eine Zeugenvernehmung bei der Staatsanwaltschaft in München. Und Sie sagten jetzt jeweils: Juni 2019. Und ich will nur, weil das sehr relevant ist, noch mal sichergehen, dass wir über Juni 2019 und nicht über Juni 2020 sprechen. Waren Sie 2019 bei der Staatsanwaltschaft in München als Zeuge, und hat sich das 2019 beigegeben, oder war es direkt vor dem Zusammenbruch des Unternehmens 2020?

Zeuge Matthew Earl: Yes, it was a full year, in mid-June 2019, before the company collapsed that I went and attended a hearing with the prosecutor in Munich and I gave an extensive presentation with supporting evidence and supporting filings which they requested thereafter.

Dr. Florian Toncar (FDP): Und die Sorge der Staatsanwaltschaft vor Verjährung hat sich auch direkt in dem Gespräch im Juni 2019 geäußert. Ist das korrekt?

Zeuge Matthew Earl: Yes. It was quite a peculiar meeting because I think initially, it was quite a frosty atmosphere at the start where I think they probably thought I was public enemy number one, to some degree. However, as we went through the presentation there was definitely a lightbulb moment where they realised, as far as I'm concerned, that the company was at fault here and that the company was effectively



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fraudulent and that they had been laundering significant amounts of money. I mean for example the prosecutor at one moment said “my goodness, this is a DAX 30 company!” and I said “well yes, that’s the whole point! Unfortunately, that’s your problem.” And other instances, “where you found all this information on the internet?” „Yes.“

(Heiterkeit des Abg.
Dr. Florian Toncar (FDP))

Dr. Florian Toncar (FDP): Wer war dabei bei dem Gespräch seitens der Staatsanwaltschaft, und wer hat Sie gegebenenfalls begleitet?

Zeuge Matthew Earl: Yes, so on the prosecutor’s side there was the chief public prosecutor Frau Bäumler-Hösl, there was another prosecutor Matthias Bühring who I believe was in charge of the McCrum case prosecution and there was a detective from the Munich, I think, economic crimes unit or Munich police. On my side there was my lawyer Timo Schmucker, my business partner Mark Westcott and there was also an interpreter that I was appointed.

Dr. Florian Toncar (FDP): Danke schön. - Hatte die Staatsanwaltschaft während des Gesprächs Sorge, dass in naher Zukunft Verjährung eintreten könnte, oder hat die Staatsanwaltschaft behauptet, Verjährung sei bereits eingetreten?

Zeuge Matthew Earl: Well, I gave I think about five examples when there was clearcut evidence that the company had been involved in money laundering and obviously those examples were in chronological order in terms of the earliest example being first and so after the second example, I think it was after the second example, the prosecutor said, but that’s not within statute of limitations or that’s outside of statute of limitations. And I said, don’t worry, I’ll get on to more recent examples. So I think fundamentally the power was with them in terms of this company didn’t suddenly clear up its act over recent years, far from it. So the power was with them to actually, on the basis that it was quite obvious that this company had been involved in illegal activity, to

open up an investigation and to work out what they had been doing in more recent times.

Vorsitzender Kay Gottschalk: Vielen Dank. - Dann jetzt die SPD-Fraktion. Dr. Zimmermann, bitte schön.

Dr. Jens Zimmermann (SPD): Ja, vielen Dank, Herr Vorsitzender. - Herr Earl, ich würde auch sehr gerne auf Ihr Gespräch mit der Staatsanwaltschaft in München eingehen, was auch mein Kollege eben angesprochen hatte. Wenn man sich die Unterlagen durchliest, dann ist quasi so mit das Erste, was Sie erwähnt haben, dass Sie Dan McCrum persönlich kennen. Könnten Sie sozusagen vielleicht kurz erläutern, seit wann Sie sich kennen, wie oft Sie sich austauschen, wie Ihr Verhältnis ist?

Zeuge Matthew Earl: Yes, I do know Dan, Dan McCrum. I’ve known him, I think, since 2014, 2015. I don’t know him that well. We’ve had probably three or four lunches over the last six years now, I imagine. I certainly had no knowledge that Dan was publishing those pieces in the Financial Times in early 2019 at all. Fact is I hadn’t heard from Dan probably for about six months prior to that. It was almost as if he’d fallen off the face of the earth which turns out he had to some degree because I think the Financial Times had locked him up in a room whilst he was writing all this. So yes, I know Dan, I wouldn’t say spectacularly well but I’ve known him over the years.

Dr. Jens Zimmermann (SPD): Es ging irgendwie, haben Sie, glaube ich, gesagt, vier Stunden, dieses Gespräch mit der Staatsanwaltschaft. Und wenn ich das richtig sehe, haben Sie da auch erläutert, wie die Marktveränderungen oder die Marktbewegungen rund um die Veröffentlichung des Zatarra Reports aus Ihrer Sicht zu interpretieren sind. Vielleicht könnten Sie uns das auch noch mal erläutern.

Zeuge Matthew Earl: Oh yes, it was actually both, the Zatarra but also the Financial Times publication as well in January 2019. So actually I’d say it was probably the first half an hour, I



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was there about four and a half hours I was there in total, and the first half an hour was with regards to the Dan McCrum case and it was just highlighting the fact that it was a false narrative that had been put out by the company Wirecard and seemingly supported by BaFin that the Financial Times publications could have been leaked. And one of the main reasons, pieces of evidence the company Wirecard and seemingly BaFin had suggested that had credibility was that the short interest had risen in the lead-up to the publications, the initial publication the Financial Times in January 2019. The fact was that the short interest went up a tiny fraction. It didn't really go up much at all and if it did go up the reason would have been that the company was reporting its numbers on that day, on January 30th, 2019. And that's a very normal market event to have some speculation as to whether those numbers will be good or bad and if you think they're going to be bad you're likely to shorten the stock.

And the fact is that the company was very highly valued at this point in time and there may have been some scepticism as to whether or not the company had done as well as most people were thinking during that period that they were reporting for. So there would have been some natural selling ahead of that but that wasn't enough to suggest that there had been leakage from the Financial Times to market participants in order to trade ahead of those publications. And it was to show that actually the real explosion, the short interest, occurred after the publication which was what you'd imagine. You know a significant newspaper having gone through probably their legal counsel, the internal editorial process with whistleblowers from within the company and the company's own corporate material. And they're alleging that the company's been involved in fraud, in money laundering, in a growth engine in Asia Pacific. I would argue that then it's quite natural for people to sell the stock short or even long holders to exit their positions, as well, which is what happened. That's perfectly natural. So when I explain this, I would say that the prosecutor in charge of McCrum's case looked somewhat crestfallen.

(Heiterkeit des Zeugen)

Dr. Jens Zimmermann (SPD): Okay. - Aber jetzt um bei Ihrer letzten Aussage noch mal anzusetzen: Wie ging es nach Ihrer Aussage, nach diesem Besuch weiter? Hat Sie die Staatsanwaltschaft München dann irgendwie noch mal kontaktiert? Haben Sie da noch mal was gehört?

Zeuge Matthew Earl: Only the next day when I returned to London when at the end of the meeting, hearing they said that they would contact me for all the supporting material. Because I gave a PowerPoint presentation, I think it was probably about 40, 50 pages long but of course there was all the company's filings that would support the presentation, so they asked for that and I sent them over a schematic of all the corporate relationships and human relationships between all these entities, which they contacted me the next day to have those sent over securely the next day by email, which I did. After that I never heard from them again.

Dr. Jens Zimmermann (SPD): Haben Sie dann aber noch sozusagen das weitere Verfahren verfolgt, wie die staatsanwaltschaftlichen Ermittlungen weitergingen?

Zeuge Matthew Earl: Yes of course, obviously I subscribe the Financial Times, so I avidly followed what was going on. It was encouraging to see that certain parts of the German media as well starting to exercise some scepticism around the company, and I think there was actually some very good reporting in the German press into expanding on the allegations that the Financial Times had raised, so it did feel as though, I think, something had changed in terms of the view. Certainly amongst the media, I would argue, or the company. At the time also, still to this day, I'm still a victim of crime with the Department of Justice in terms of computer intrusion alongside other people, I think. Obviously I don't have great insight into that case because that's being orchestrated by the FBI, but my understanding is that the common thread in terms of the recipients of all this computer intrusion are critics of Wirecard.



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Dr. Jens Zimmermann (SPD): Das wäre tatsächlich auch meine nächste Frage gewesen. Ist Ihnen da irgendetwas bekannt, wie der Stand der Ermittlungen des FBI an der Stelle ist?

Zeuge Matthew Earl: I'm not privy to the investigations in terms of what they're doing at the moment. What I would say is that when I met them in July 2018 in New York, I met the FBI agents and the district attorney of the Southern District New York office. That was around the investigation that they had opened up in terms of the computer hacking, the cyber hacking. I did say at that meeting, would you like me to run through all the money laundering aspect of it? To which they responded, oh no, we know all about that, don't worry. So I would say that they have a very good understanding of the activities Wirecard had been up to.

Dr. Jens Zimmermann (SPD): Haben Sie selbst irgendwelche Erkenntnisse oder Vermutungen, wer in diese Hacking-Geschichten verwickelt werden kann? Ich sage auch mal meinen Gedanken dazu möglicherweise: Wir reden hier in dieser Runde sehr oft über Herrn Jan Marsalek mit Verbindungen zu Geheimdiensten usw. Haben Sie da irgendwelche Erkenntnisse?

Zeuge Matthew Earl: Well I mean with regards to those sorts of activities it's invariably going to be outsourced because ultimately you want to have plausible deniabilities, so. How they were outsourced I wouldn't know. I mean as I said the common thread amongst the recipient of these activities are critics of Wirecard, whether that's hedge funds or journalists or short sellers such as myself. I think there was a very good investigation conducted by Citizen Lab that investigates cyber hacking against private individuals and they discovered that there was an Indian-based business called BellTroX that looked to have been conducting that activity and ultimately, I would imagine that they would have been commissioned by Wirecard.

Dr. Jens Zimmermann (SPD): Okay. - Sie hatten eben noch mal erwähnt, dass dann auch medial die Meinung in Deutschland sich verändert hatte.

Vielleicht können Sie das mal skizzieren, wie Sie das wahrgenommen haben, von der Veröffentlichung des Zatarra Reports, sage ich mal, bis zur Insolvenz der Wirecard, wie Sie die Berichterstattung in Deutschland wahrgenommen haben.

Zeuge Matthew Earl: I suspect it was probably because of the actions taken against the journalists and that ultimately the Financial Times journalists were doing their job, they were investigating the company and writing on that and it was the response by the German authorities against those journalists, to attempt to prosecute them for doing so and to try to prosecute them on the basis that they had tipped people off effectively. I suspect that that probably didn't sit very well with a number of journalists in Germany and that's why perhaps they decided to look a little bit more into the company and then realised that actually there's credibility to the allegations that had been raised against the company and explore their own sources of course, in which case things can change very, very quickly in that respect.

Dr. Jens Zimmermann (SPD): Das war jetzt aber schon Ihre Schlussfolgerung und Interpretation. Also, weil eben hatten Sie nämlich sehr klar erwähnt, dass Sie sozusagen dann das Gefühl hatten, dass in den deutschen Medien sich sozusagen das Blatt dann gewendet hat. Ich frage ja insbesondere auch in der Zeit nach der Veröffentlichung des Zatarra Reports. Also, was weiß ich, wenn ich mir hier anschau zum Beispiel: Geschichte des „Handelsblattes“, 24. Februar 2016.

(Abg. Dr. Jens Zimmermann (SPD) liest in einem Dokument auf einem Handy)

Die schreiben da: „Zweifelhafter Analystenreport prügelt Wirecard-Aktie herunter“. Da gab es ja noch keine Ermittlungen gegen Dan McCrum.

Vorsitzender Kay Gottschalk: Okay, Antwort, und dann wäre der Kollege De Masi dran.

Zeuge Matthew Earl: I mean after the Zatarra research in 2016 I think that most of the German



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press largely ignored it, the allegations. And it was quite easy discredited. I mean one of the fundamental problems of the Zatarra research was that it was anonymous so therefore it was very easy to discredit it because you could argue that these were just people seeking to profit by making up wild accusations against the company and that's a very easy explanation to believe. Of course, the reason it was anonymous - I initially didn't set out with anonymity, I would add, I actually published research about the company under my own name with regards to the Indian acquisition. It was when I discovered that there was a money laundering aspect to it which I thought that's very different to accounting fraud because you don't know who's behind all of it, who is acting on behalf of the money laundering side of it. That was the instance to take the anonymity approach.

Would I do it again? Probably, yes because obviously the response by the company would have been swifter, so, at least, there was a delay in terms of when they ultimately discovered who it was - between the treatment that I received. But that was, I guess, the reason why it was so easy to discredit because the anonymity side of it. And indeed obviously the accusations were, you would be hard pressed to make them up. I mean, in the Zatarra report it is saying that the compliance officer in their Asia Pacific business had set up pornographic websites. These were quite wild allegations. They were true, I would add, but this is not the sort of thing you would expect to have at a regulated bank. Where the compliance officer for a significant division has a sideline in setting up porn sites. So I think it's quite easy to dismiss, not to pursue.

Vorsitzender Kay Gottschalk: Vielen Dank. - Dann hat als Nächstes das Wort der Kollege Fabio de Masi für die Fraktion Die Linke.

Fabio De Masi (DIE LINKE): Good morning, Mr Earl! - Es tut mir leid, dass wir unter diesen Umständen die Befragung heute durchführen. Das hat nichts mit Shortselling zu tun, sondern mit Corona.

Ich möchte Ihnen eine Frage stellen: Ist es zutreffend, dass Sie derzeit darum kämpfen, dass Wirecard bzw. der Insolvenzverwalter Ihnen Auskunft darüber erteilt, welche Informationen gegen Sie gesammelt wurden durch Wirecard? Und was würden Sie sich wünschen in diesem Zusammenhang, vielleicht auch von der deutschen Politik oder von den Ermittlungsbehörden? Gibt es etwas, was Sie an uns richten möchten?

Zeuge Matthew Earl: Yes, I would. So at the moment my German lawyers have requested what is effectively a data subject access request, to request all the information that Wirecard has on myself and to hand that over. I imagine that it's quite extensive and I would like to know just how intrusive their surveillance has been against myself and my family and what information they have. I think I have a right to know that. It has been reported to the data commissioner in Bavaria, I believe, by my lawyers because Wirecard have refused or the insolvency administrators have refused to hand that over at the time. I would like to see that, and I would like to see who commissioned that activity to survey myself, to eavesdrop and to try to hack into my email and I would like to see them prosecuted for it.

Fabio De Masi (DIE LINKE): Vielen Dank. - Herr Earl, ich habe eine Anfrage vor dem Wirecard-Skandal einmal gerichtet an die Bundesregierung - da ging es auch um den Zatarra-Bericht -, und da wurde geantwortet, dass die BaFin auch den Zatarra-Bericht untersucht hätte. Später wurde dann erläutert, dass aber zu dieser Untersuchung nicht eine einzige Seite, nicht ein Dokument von Wirecard seitens der BaFin angefordert wurde. Ist das auch Ihr Kenntnisstand?

Zeuge Matthew Earl: Sorry, that Wirecard didn't request the investigation or ...?

Fabio De Masi (DIE LINKE): No, that BaFin didn't request one single document from Wirecard investigating the accuracy of your report.

Zeuge Matthew Earl: It wouldn't surprise me. What I do know is that in their actual case, investigation into Zatarra, I vividly remember a line



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saying that they could find nothing objectively untrue. The fact is that it was so meticulously sourced that whenever there was an allegation or a fact that had been highlighted you could literally go to the bottom of the page to determine that that was actually true. Whether they looked at those sources, I don't know. Evidently it would seem, possibly not. It wouldn't surprise me.

Fabio De Masi (DIE LINKE): Herr Earl, Sie haben ja ausgeführt, dass alles Open Source Information war, die Sie zusammengetragen haben. Aus Ihrer Erfahrung auch der britischen Märkte: Wie wäre denn nach Ihrer Erfahrung die Financial Conduct Authority im Vereinigten Königreich mit einem solchen Bericht umgegangen im Vergleich zur BaFin?

Zeuge Matthew Earl: Yes, well I would imagine that the FCA would have probably taken it more seriously. And I think also not just that, I think they have a better structure in terms of people being able to report these allegations of impropriety to the regulator. Whether it would have been the regulator that would ultimately investigate it, I don't know. I would imagine that they would have probably passed it on to an authority such as the economic crime unit, but I certainly believe that it would have been easier to report it and that it would have been taken far more seriously.

Fabio De Masi (DIE LINKE): Herr Earl, in der deutschen Wochenzeitung „Die Zeit“ wird eine Präsentation erwähnt in einem Artikel des Journalisten Ingo Malcher, eine Präsentation, die Sie gegeben haben, ich glaube, an die Staatsanwaltschaft. Wären Sie denn bereit, uns als Ausschuss diese Präsentation auch zur Verfügung zu stellen?

Zeuge Matthew Earl: Yes, of course. Yes.

Fabio De Masi (DIE LINKE): Vielen Dank. - Herr Earl, mir liegt hier das Vernehmungsprotokoll der Staatsanwaltschaft vor. Und darin wird ausgeführt, dass auf die Frage der Staatsanwältin, dass nach Internetrecherche offensichtlich ein Großteil des Geldes aus dem Ankauf von GI

Retail in Mauritius gelandet sein soll, Sie das bestätigen. Es war also Ihr Eindruck, dass auch durchaus der Staatsanwaltschaft bekannt war, dass es einen Emerging Market Fonds auf Mauritius gibt, der vielleicht auch Herrn Marsalek oder sonst wem zuordnenbar war?

Zeuge Matthew Earl: Yes, the prosecutors seem to have a very good understanding of the circumstances around that acquisition of the Indian business where effectively a middleman, a middle company had been used to purchase that business at a fraction of what it was ultimately sold on to Wirecard for. And I think they had a very good understanding as to who was potentially behind that business based in Mauritius. And also I would argue that they had a very strong interest in Jan Marsalek, as well.

Fabio De Masi (DIE LINKE): Okay, vielen Dank. - Meine Zeit ist um. Ich setze das dann in der nächsten Runde fort.

Vorsitzender Kay Gottschalk: Vielen Dank. - Und als Nächstes hat das Wort Dr. Bayaz für Bündnis 90/Die Grünen.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ja, vielen Dank, Herr Vorsitzender. - Guten Morgen, Herr Earl! Viele Grüße nach London, und schön, dass Sie sich die Zeit nehmen, uns hier bei der Aufklärung dieses Themas zu unterstützen.

Ich will auch noch mal ansetzen bei Ihren Erfahrungen, Kontakten und Gesprächen mit der Staatsanwaltschaft in München. Im Juni 2019 - Sie haben ja schon einiges darüber gesagt, wie diese Ermittlungen vonstattengingen und dass Sie am Ende das Gefühl hatten, dass die jetzt Ermittlungen aufnehmen, was dann offenbar nicht der Fall gewesen ist - war allerdings auch das Thema, wenn ich das richtig lese, dass man Sie noch mal konfrontiert hat mit den Gedanken aus dem Februar 2019, die am Ende zu dem Leerverkaufsverbot geführt haben. Und darauf wird dann auch verwiesen, dass sogenannte Short-Attacks - das ist ja schon auch eine Wertung und



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ein Narrativ in dem Moment - kurz bevorstünden. Hat man Ihnen denn Ihnen gesagt, was die Indizien dafür sind, dass diese Short-Attacken bevorstehen? Was hatte die Staatsanwaltschaft da konkret in der Hand?

Zeuge Matthew Earl: Ah well, it was based on evidence that had been provided by BaFin. Now I would imagine that given BaFin's role in supposedly being the supervisory body for financial markets they would have thought that BaFin would understand and be fluent in effectively the practise of markets and whatever BaFin had provided them was accurate and reliable. Matter of fact is, it wasn't reliable, I mean it was a false narrative. But that is what they relied on. It was ridiculous. And when I explained to them obviously they understood just how weak the case was, the evidence was to support what BaFin had provided. I mean it was also simple stuff, it was absurd in parts, where, I think, part of the case against Dan McCrum was also suggesting there had been a collusion by hedge funds based in London that the reason that they thought they were colluding was because two particular hedge funds were a hundred metres apart in their addresses in Mayfair. Well, Mayfair in London is basically where every hedge fund in London is located, so the fact that they were several doorsteps down doesn't necessarily mean that they're colluding. But that is the argument that they were seeking to construct.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Genau. - Da würde ich auch gerne hinkommen; denn es gibt hier ja auch dann eine Kommunikation zwischen der Staatsanwaltschaft und der BaFin - da sind so Hinweise -, aus der sie sozusagen auch diese Short-Attacke befürchten. Und bei einer geht es um einen Whistleblower aus Singapur. Kennen Sie diesen ehemaligen Whistleblower aus Singapur, der im Februar 2019 von Singapur nach London geflogen sein soll? Sagt Ihnen das was?

Zeuge Matthew Earl: I don't know the whistleblower, no. I've never met the whistleblower or spoken to the whistleblower. I was asked whether I paid for their ticket to come to London

in the hearing with the prosecutor in June 2019, which why they believed I had done so, I don't know but I can assure you I hadn't.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ja. Also, hier stehen nicht Sie, sondern Mark Westcott - ich nehme an, ein Kollege oder so. Aber genau, das ist die Geschichte. - Und der andere Aspekt, der erwähnt wird - -

Zeuge Matthew Earl: Yes.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Yes, it's your colleague.

Zeuge Matthew Earl: He was in the hearing and he said, no, he hadn't paid for it either.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Und die andere Geschichte, die sehr, ja, abenteuerlich klingt, ist, dass Mitarbeiter von Bloomberg von Jan Marsalek - übrigens steht hier „Compliance Officer“, was ja interessant ist; er war ja COO, nicht Compliance Officer;

(Heiterkeit)

aber das ist die ganze Ironie an dem Thema und sagt ein bisschen was über das Verständnis - 6 Millionen Euro gefordert haben sollen, sonst werde man ein Angebot von der „Financial Times“ annehmen, um auch böse Geschichten zu schreiben. Ist das auch etwas, mit dem Sie von der Münchner Staatsanwaltschaft konfrontiert wurden?

Zeuge Matthew Earl: I don't recall them asking me anything about that. I hadn't heard about anything like that.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Okay, dann habe ich das ein wenig abgeklopft. - Hatten Sie den Eindruck grundsätzlich, dass die Staatsanwaltschaft München - denn auch da gibt es drauf Hinweise - sehr nah - - Marsalek auch eine Quelle, ein Zeuge für sie gewesen ist, dass auch der Name in den Unterhaltungen zwischen Ihnen und der Staatsanwaltschaft immer wieder



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als Zeuge für die Indizien, die die Staatsanwaltschaft hat, herangezogen wurde? Ist der Name dort gefallen?

Zeuge Matthew Earl: I don't recall them mentioning the whistleblower by name.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Nicht den Whistleblower. Jan Marsalek, meine ich.

Zeuge Matthew Earl: Oh yes, yes. They had an interest in Marsalek.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Und klang das für Sie - - Hatten sie Interesse, weil sie ihm auf der Schliche waren, oder hatten sie Interesse, weil sie ihn für eine verlässliche Quelle gehalten haben? Wie war da Ihr Eindruck?

Zeuge Matthew Earl: My impression was that they had suspicions around him and that they were quite suspicious of him basically.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Vielleicht - weil meine Zeit abgelaufen ist - eine letzte Frage: In dem Zatarra Report hatten Sie ja mit vielem recht. Mit einer Sache hatten Sie unrecht. Sie haben damals geschrieben: „Kursziel: 0 Euro“; die Aktie steht heute bei 50 Cent. Da geht also noch was. Aber Spaß beiseite.

Das ist ja ein sehr ernster Vorwurf, wenn man in dem Report 2016 schon geschrieben hat: „Wir haben es hier auch mit Fraud zu tun“ oder „Betrug ist sozusagen Kern des Geschäftsmodells. Und deswegen glauben wir ganz und gar nicht an dieses Unternehmen zu dem Zeitpunkt.“ Vielleicht können Sie da noch mal drauf eingehen, weil es ist ja schon eine Besonderheit, zu sagen: Da gibt es irgendwie ein paar schmutzige Geschäfte im Ausland und vielleicht einen Kern eines gesunden Geschäftsmodells. Aber Sie wussten von Anfang an: Der Betrug ist sozusagen „in the center of attention“.

Zeuge Matthew Earl: Yes, well, my understanding of the company is that it started out in the early 2000s and for a period of time it was very

much involved in processing online pornographic payments, and this is obviously the dawning of the internet, when pornographic material was not as profligate as it is currently today. As that market effectively dwindled, what they were very good at was obfuscating payments because obviously* across the Visa and Mastercard network, and by obfuscating, I mean changing coding details in the transactions so that these payments would be able to go across the Visa and Mastercard network, often actually to defraud the online customer. Of course, that market deteriorated to some degree because pornographic material became free, it became essentially free on the internet, but at the same time, what had occurred was the rapid growth of the online gambling market.

That was legal for a long period of time, up until October 2006, I think it was, when it suddenly became overnight illegal in the United States through the Unlawful Internet Gambling Enforcement Act, UEGA*. Now, just because it became illegal in the United States doesn't mean that that market has disappeared overnight; the US gambling market is the biggest in the world, always will be, and even though it was illegal, there were gamblers that wanted to gamble, though my understanding is that, because Wirecard, at that point in time, had become very well-versed in terms of how to obfuscate and falsify payment transactions across the Visa and Mastercard network, that as the legal incumbents in that market exited, Wirecard actually entered that market quite strongly and, for probably about five years or so, provided a lot of processing services to the major gambling companies, US-facing customers in the gambling market. Now, that was probably quite a lucrative business for them, albeit illegal and effectively money-laundering, but it was probably quite lucrative for them.

And then what happened was in April 2011, the Department of Justice effectively closed down the major gambling companies overnight, in the so-called Black Friday - I think it's called Black Friday in the gambling market - where they sequestered the assets - these are the assets of all major



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three gambling companies - and closed the web-sites down. Now, I think at that point in time, gambling profits, gambling-related profits, US-facing gambling related profits, probably constituted at least 90% of Wirecard's profitability. Problem was that obviously that had evaporated almost immediately, so the issue that Wirecard would have faced would be, "Well, do we come clean and say we have a monumental profit warning and our profits no longer exist," which would obviously beg the question, "Why do they not exist," and they could hardly give the reason, "Because we have been processing illegal gambling money in the United States for the last five years and we are guilty under the title 18 of the US monetary code for laundering money. Take us to prison." So at that point in time, they had to start falsifying their profits, and profits to some degree are a relatively easy metric to falsify. The problem is that if you have fake profits you have to have fake cash because you expect to see cash associated with those profits. So if you haven't got the real profits you don't have the cash. You have to come up with reasons as to why that cash doesn't exist.

So I think from 2011 onwards, that's when it started to transition from effectively a large money laundering operation to a classic accounting fraud, where they were falsifying the profits, thereafter, from 2011. And the reasons that they had for the cash not being present were vented on either unusual accounts, receivables at that balances versus their payables in terms of their working capital within the business, two, bogus acquisitions where they were buying effectively businesses at inflated prices where the money either changed hands but was recycled back into the business or it never changed hands at all, three, over more recent years, where they started embarking on extending credit to their customers where perhaps they weren't extending the credit in the first place. And then fourthly, when they exhausted all those avenues, they simply turned to falsifying bank statements for trustee accounts with supposedly banks in the Philippines where there was 1.9 billion that didn't exist.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Danke schön.

Vorsitzender Kay Gottschalk: Vielen Dank. - Dann mache ich jetzt weiter. Ich würde noch mal gern da anschließen, wo der Kollege Toncar und auch Kollege de Masi waren, nämlich bei diesem Sommer 2019 in der Staatsanwaltschaft.

Haben Sie dort - weil wir haben ja die Staatsanwältin nachher hier, und da kann ich sie dann fragen, ob im Ermittlungszeitraum sie - - Das war ja nur - ich kann ja nach ihrem Eindruck fragen - - hat das Geschäft dann verstanden und fragte Sie laut Ermittlungsprotokoll: Wo haben Sie denn die Unterlagen alle her? - Da haben Sie gesagt: Die sind im Internet zugänglich.

Dann rekapituliert der Herr Toncar noch mal auf Verfristung. Und dann sagten Sie: „Na ja, das Modell geht ja weiter“, ob nun „round-tripping“, auf Seite 3 Ihres Zatarra Reports - da gehe ich gleich noch mal ein; sehr gut mit einem Schaubild auch beschrieben - - Also, die Staatsanwaltschaft musste schon realisieren nach diesem Gespräch: Das geht weiter, die Geschichte, ob nun verfristet oder nicht. Dann gucke ich mir halt die öffentlich zugänglichen Daten in 2019 zu 2020 an.

Zeuge Matthew Earl: Well, they obviously had - - I think it was very evident that this had certainly been going on up until 2016, because obviously that's when the Zatarra research had been published. And I think that one argument could be that the company may have been up to no good and may have been embroiled in this illegal activity for a long period of time, but it stopped doing so and it hasn't done so since. In which case, what did they replace that business with because you don't suddenly replace a business overnight with lost profitability, certainly to the scale that Wirecard claimed it had. So I think that would probably mean that that answer was less likely. Though the likelihood is that they had continued or if they hadn't been involved in that activity then they were having to just essentially falsify the profitability in the business and that it was a classic accounting fraud and there was obviously widescale evidence to support that view as well.



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Now from a prosecutor's perspective, they have the ability to open up an investigation and they have the ability to ask, to interview people and to request the filings, the financial statements and to, I guess, put pressure on people to see how they respond to quite straightforward answers. And I think that if they had done so then this would have been discovered a long time in advance of June 2020 when ultimately the company folded.

I would argue also that, where we are in these current markets, if EY, the audit firm to Wirecard, hadn't actually refused to sign-off on the accounts of the company. My understanding is they had a draft letter to give them a clean audit. If that had been provided, then Wirecard would probably be going about on its merry way today and have probably raised even more capital from investors to continue its fraudulent activities.

Vorsitzender Kay Gottschalk: Malen Sie den Teufel nicht an die Wand! - Ich frage Sie mal so konkret im Erleben: Haben Sie sich durch die Maßnahmen der BaFin in dem Untersuchungszeitraum eingeschüchtert gefühlt?

Zeuge Matthew Earl: Oh yes, yes, I mean, it's horrific. I was dumbfounded. As I have said I have been in the financial market for 20 years and Wirecard is certainly not the first fraud that I have highlighted. To be on the receiving end and to be seen and actually portrayed as the criminal in this whole affair when I am one of the people that is trying to raise awareness of the legality* of the company and the fact that it was fraudulent was horrific. As I said, it put tremendous pressure on myself and my family.

Vorsitzender Kay Gottschalk: Hat das das Bild abgerundet, als Sie dann hörten, im Untersuchungszeitraum haben auch Mitarbeiter von der BaFin in den Aktien gezockt? Und mir hat dann noch in der Sondersitzung im Untersuchungszeitraum, in dem wir uns bewegen, Herr Hufeld - das ist der Präsident, der Vorsitzende dieser BaFin - gesagt, er würde alles wieder so machen. Halten Sie dann aus dem, was Sie jetzt geschildert haben, im Untersuchungszeitraum, in

dem - Sie haben ja gesagt: vieles war öffentlich zugänglich; ich habe Ihren Bericht gelesen - - Halten Sie dann einen Präsidenten, der an der Spitze dieser Behörde steht und sagt, er würde alles wieder so machen - ich glaube, der hat sich bei Ihnen ja auch noch nicht bis heute entschuldigt -, für geeignet, die Reformen einzuleiten, die notwendig sind?

Sie haben ja gesagt - - Auch Dan McCrum hatte das uns und mir hier auf die Frage bestätigt, er könne sich gar nicht vorstellen, dass sich im FTSE oder in den Vereinigten Staaten - Sie haben eben die amerikanische Wertpapieraufsicht angesprochen - so was überhaupt abspielen könnte. Und ja, was ist da Ihre Meinung zu, also zu den Fragen von mir: Spekulation der Mitarbeiter, Compliance und ein Präsident, der sagt, er würde alles wieder so tun, wie Sie es hier geschildert haben.

Zeuge Matthew Earl: Well, I think that beggars believe. I think that obviously I would go on, what I have read in the newspapers with regards to the dealings in Wirecard shares by BaFin employees. I am amazed that they did so. I mean first and foremost, I am amazed that any employee of a regulator does so. And certainly, when it comes to a company that was a contentious and has had as much criticism against it and has - -

Vorsitzender Kay Gottschalk: Das ist in der APAS auch üblich bei uns. - Machen Sie weiter, bitte.

Zeuge Matthew Earl: Obviously I am very surprised. I can't see you how you can have a free open inquiry into the conduct of a company if you are incentivised financially, as certain employees of that regulator may be, to ensure that that company gets a clean bill of health. Presumably if they were in longer* stock, they would not want anything to come to light that would reflect poorly on that company, on Wirecard.

Vorsitzender Kay Gottschalk: Und nochmals die Frage: Glauben Sie, dass jemand - Sie haben ja



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gesagt: so geht es nicht; das muss bissiger, reformierter werden - - Kann so jemand, der sagt, er macht das wieder so als Vorsitzender dieser BaFin - - Trauen Sie dem das zu, dass er einen Neuanfang dieser BaFin, der ja offensichtlich ist, einleiten kann, wenn jemand sagt: „Ich würde das wieder so machen“?

Zeuge Matthew Earl: Certainly not. No, I would say he is the least capable person of implementing a reform. Certainly if he is not willing to acknowledge the mistakes that were made, first and foremost, and then he is prepared to repeat those mistakes.

Vorsitzender Kay Gottschalk: Okay. Das ist ja eine deutliche Antwort. Ich habe vor drei Wochen oder so schon den Rücktritt gefordert, aber okay. Danke. - Dann macht Herr Michelbach weiter für die CDU/CSU-Fraktion.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Herr Earl, wir sind sehr erschrocken darüber, dass sich bis heute weder die BaFin noch das BMF bei Ihnen entschuldigt hat und Ihre Ehre öffentlich wiederhergestellt hat. Wir Mitglieder sind hier im Untersuchungsausschuss des Deutschen Bundestages darüber sicher beschämt, dass das so stattfindet. Und ich als ältestes Mitglied dieses Ausschusses entschuldige mich auch, sicher auch im Namen meiner Kollegen, für die Anschuldigungen, Diskriminierungen und Anzeigen, die gegen Sie auch hier in Deutschland stattgefunden haben. - Fühlen Sie sich heute wieder sicher, wenn Sie nach Deutschland gehen?

Zeuge Matthew Earl: First, I may say thank you. That's the first time I have actually had an apology for the treatment that I received, so I very much welcome that and I am very thankful of that. I have friends in Germany, and I would very much like to come to Germany. Obviously, I couldn't for a number of years, either for fear of personal safety or for fear of prosecution. These days, I would hope that I would be safe to come to Germany and that I would very much like to come at some point.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Herr Earl, Sie haben sich ja auch dann Hilfe bei der britischen Polizei gesucht. Und da gab es ja dazu Stellungnahmen von Wirecard. Wie können Sie die nachträglich noch beurteilen - sind die Ihnen noch geläufig? -, die Ihnen da entgegengebracht wurden? Und damit wurde ja Ihre Glaubwürdigkeit bei der britischen Polizei erschüttert.

Zeuge Matthew Earl: Well, I think with regards to the British authorities, to some degree there was the view that the German authority should be on top of this and this was essentially a German issue to resolve, because obviously the company headquartered in Germany and regulated by BaFin. So I can sort of understand why they didn't pursue that. The other aspect I would add is that they had significant budgetary pressures at that point in time, where they just didn't have the budget or the manpower to pursue any line of inquiry into it. I think what they did in that instance was actually to reach out to the US authorities as well. But where that went, I am not entirely sure.

The fact is that, I think, I had some correspondence with the FCA, so I made them aware of the issues that I was being faced with by Wirecard and BaFin. What was actually, I think, one of my biggest mistakes was that in the legal correspondence I had between Wirecard and its lawyers in late 2016, early 2017, the final letter I sent back to Wirecard was that henceforth any future correspondence that I received from Wirecard would be copied into the Financial Conduct Authority, and I never heard from Wirecard thereafter, in terms of legal correspondence, that is. I wish that had been the very first letter my lawyers had sent back to them because, believe me, it would have cost me a great deal less.

I think the UK authorities didn't know what to do in the whole affair really.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Vielen Dank. - Herr Earl, ich habe natürlich jetzt Fragen zu den Enthüllungen, die in Ihrem Report stattgefunden haben. Wäre es



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den deutschen Aufsichtsbehörden ja schon 2016 möglich gewesen, die kriminellen Machenschaften von Wirecard zu beenden, wenn man nur fachmännisch richtig hingeschaut hätte? Und was ist da generell an Prüfungen versäumt worden?

Zeuge Matthew Earl: Yes, certainly. Let's not forget actually before the Zatarra report, there was a series of reports actually. There was the first one that was released - a 100-page report - in late February 2016, and there were follow-up reports as well. And one particular report, there is a follow-up, was actually a countenance to the statements that Wirecard and its management had made to the market, and it was evident from those statements that Wirecard had made, that they had provided false and misleading information into the market. So despite whether or not the BaFin wished to investigate the core thrust of the allegations in the initial report, it was blindingly obvious that Wirecard had made false statements to the market. Because it was very simple to evidence that what they had stated was untrue. So first and foremost they could have opened up an investigation into why they had provided those false and misleading statements into the market.

There was a number of ways. It was almost as if you were spoiled for choice in terms of opportunity to investigate this company. And I have always said if there was a book written on fraud, then Wirecard could easily be cited in every chapter, any number of - -

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Vielen Dank, Herr Earl. - Wir haben den Eindruck, das Blendwerk von Wirecard in Deutschland war immer damit verbunden: mit einer Art Hochstapelei und einer intransparenten Durchführung des Geschäftsmodells. Wussten Sie, dass Wirecard in den DAX 30 kam ohne jegliche Prüfung in Deutschland? Kann man sich so was überhaupt vorstellen?

Zeuge Matthew Earl: Well, I mean, it entered the DAX 30, I would imagine, largely by the fact that it had grown to the market evaluation* that it

achieved because of the credulity of its investors. Let's not forget, when it first came to market, I think it was in 2005, it came by what's called a reverse IPO which has a lower threshold of reporting requirement when you first enter a market, as compared to a standard initial public offering. So there is a long history of this company having opacity to its reporting and its financial statements. The argument that was given, I think, in terms of the lack of transparency within the accounts, was that "If you didn't understand it then you must be fairly stupid," and of course to some degree most people wouldn't question the lack of transparency in the accounts because they were fearful that one could get the impression that they were stupid. They just got away with it for a number of years, in that respect.

I mean that's not unusual, either. There are companies that have done so and used this in the past.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Ja, das ist wohl so. - Dabei waren ja Ihre Vorwürfe sehr dezidiert gegenüber Wirecard. Sie haben geschrieben: Es gibt die Ermöglichung von Geldwäsche, von illegalem Glücksspiel, von Bilanzbetrug und Betrug gegenüber Kreditkartenunternehmen. Ist diese Zusammenfassung jetzt in diesen vier Punkten so zutreffend?

Zeuge Matthew Earl: Yes, absolutely. And if anyone had really provided any scrutiny from an authority perspective then, I think, it would have become very quickly apparent exactly what they have been doing, and that they had been misrepresenting the business to the market, and that they actually had no real business there, other than the fraud that it had become.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Was war bei Ihnen der schwerwiegendste Vorwurf, der Sie zu dem vernichtenden Urteil „Kursziel von 0 Euro“ hat kommen lassen? Das hat ja doch einen gewissen Schwerpunkt, dass man schon sehr frühzeitig bei Ihnen auf das Kursziel 0 Euro gekommen ist. Was war da der ausschlaggebendste Vorwurf, den Sie da bewertet haben, für dieses Kursziel?



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Zeuge Matthew Earl: It was the money laundering, because effectively they had been laundering, I would argue, probably billions of euros in online gambling related monies for a long period of time. If they had been investigated and found guilty in that respect, then they would have probably immediately lost their licences with both the Visa and Mastercard networks which would have rendered the business effectively worthless.

The Zatarra research itself largely focused on the money laundering aspect because with accounting fraud - accounting fraud can be relatively subjective to some degree in that they could try and argue that, you know, it's lack of transparency, but it's all above board or it's within the realms of the permissible accounting standards, but it might be at the aggressive end of it, whereas money laundering is pretty black and white and clear cut. And I thought that that is what would be recognised very quickly by the authorities such as BaFin or the legal authorities and that that would be the easiest way for them to open up an investigation, because ultimately that's very objective and there is very little subjectivity to that. Of course, they didn't, but had they done so, I think it would have been very apparent that the business was essentially*.

(Ausfall der Tonübertragung)

I know I was perhaps too pessimistic with 0, but I think I got it pretty close with 50 cents.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Das ist wohl richtig, Herr Earl. Aber vielleicht noch mal mit Ihren Worten die Beschreibung des Vorwurfs hinsichtlich der Geldwäsche und vor allem der Verletzung der Glücksspielgesetze in den USA. Da würden wir gerne noch mehr Hintergrundinformationen bekommen. Vielleicht können Sie da mit Ihren Worten noch mal, vielleicht in einfachen Worten zusammenhängend uns das noch mal erklären.

Zeuge Matthew Earl: Firstly, in terms of the penalties if you are found to have conducted that activity, they are significant in the United States.

As an example of that, when the Unlawful Internet Gambling Enforcement Act came in in October 2006, when it became illegal overnight to process online gambling monies into the United States, there was a company that was found guilty of having conducted that activity six months after the UEGA came into effect. And that company, just for that six-month period, faced, I think it was, a 340 million dollar fine. Now, bearing in mind that I believe that Wirecard had been conducting that for at least five years, the fine would have been much more significant than 340 million dollars.

So I think that it would have probably put them out of business, to say the least, and also would have probably incurred criminal charges against the management of the company, in which case, if that had come into effect, then there would be no one to be able to continue to conceal the fraud within the company. In terms of what they were doing, there is a very simple case example actually which is where they very nearly got discovered at what they had been doing in 2010.

So, in February 2010, I don't know, he is quite infamous now, Michael Schütt, who is a German national who is residing in Florida, and his task was, effectively, as a money runner. He was tasked with receiving tens of millions of dollars in gambling related monies and distributing those to online gamblers in the United States, whether it was their withdrawals from their accounts or whether it was their gambling winnings.

Anyway, his role was to distribute these monies, but they were being sent over to him by a company based in the United Kingdom called Blue-tool Ltd., and they were being transmitted over to him by a Wirecard bank account held in Blue-tool's name. Over the course of about a nine-month period, he received, just from this one account alone, around 70 million dollars.

Firstly, that's illegal. Secondly, this was investigated by the United States Secret Service. But what they didn't know at the time, because the



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filings for that company hadn't been disclosed, was that Bluetool had been set up by a company formation agent also based in the United Kingdom which was co-owned by Wirecard employees. So Wirecard employees set up that company, gave it a bank account, and then through the Wirecard bank transmitted tens of millions of dollars of gambling monies over to the money runner in the United States. That, I believe, they did for a long period of time. But unfortunately, they didn't get discovered at that point.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Vielen Dank. - Ich würde die restliche Zeit meinem Kollegen Fritz Güntzler übergeben.

Fritz Güntzler (CDU/CSU): Von mir einen schönen guten Morgen nach London!

Zeuge Matthew Earl: Good Morning!

Fritz Güntzler (CDU/CSU): Herr Earl, ich habe noch mal eine Frage. Sie haben ganz zu Beginn ausgeführt, dass Sie bis zum Ende des Jahres 2015 Wirecard gar nicht kannten, sondern dass der Indien-Deal Sie aufmerksam gemacht hat darauf, sich mit Wirecard mal zu beschäftigen. Wo kam die Information denn her? Die fliegt ja nicht so einfach da rum.

Zeuge Matthew Earl: Obviously, I had been writing about companies over a long period of time and for some reason people like to read what I write on these companies, so someone contacted me who was a reader - I had been writing a blog at the time - and said, have you ever looked at this company Wirecard, they have just announced this acquisition.

I read the statement that they had made around the acquisition and thought, I'll go and have a look at this Indian business. It was time consuming to get the information on it, but it was relatively straightforward because it was just a matter of requesting the company financial statements from the Indian company's house where they were filed and doing a lot of internet searches in terms of the history of the company and the

founders of the company that they were thinking of acquiring.

The first thing that stood out was that there were inconsistencies with regard to the timeline that Wirecard had presented for the history of this company versus its own internet footprint and history, so that was slightly odd in terms of why these inconsistencies were there. Secondly, when the filings of the financial statements for the Indian business were obtained - again, open-source information -, they showed a business nothing quite like how Wirecard had described it for several reasons. Firstly, Wirecard had described that they were buying a business worth 340 million euros in India that was very heavily involved in online payments. Well, the filings for this business showed that essentially it was a ticketing agent. What they had was kiosks at train stations and airports where they sold airline tickets and train tickets. That's not really an electronic payments business as Wirecard was portraying it at the time.

Secondly, Wirecard claimed that this company was achieving, I think, something like 45 million euros in revenue and around 7 million in EBITDA in profit which was going to increase to 15 million in profit the next year. Well, the filings for this company showed that it had around, I think it was, 9 million in revenue and no profit whatsoever. So it was - well, it took a while - quite apparent from the findings that this company bore no resemblance to how Wirecard described it.

Fritz Güntzler (CDU/CSU): Vielen Dank. Es ist ja ernüchternd, zu sehen, dass Sie auf Informationen zugreifen konnten, auf die hätten alle zugreifen können, und sie haben es nicht getan. Haben Sie eigentlich eine Erklärung dafür, warum - -

Zeuge Matthew Earl: Sorry, this is the surprising thing. Sometimes, when you look at these things you can't quite believe what you are seeing, you think, am I the only person seeing this. At the time, there was, I think, is was a 5 or 6 billion market cap company; it certainly wasn't where it was when it got to 24/25 billion, but still quite a



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large company and you think, how on earth there is no one else looking into this. Obviously, some people were, but most people were ignoring it.

Fritz Güntzler (CDU/CSU): Das wäre genau meine Frage gewesen: Haben Sie eine Erklärung dafür, warum man ja anscheinend überall wegesehen hat: die Abschlussprüfer, die BaFin, alle irgendwie?

Zeuge Matthew Earl: I'll park BaFin aside, but from a market perspective there is no real incentive to dig deeper into these things. So, for example, it's no secret that Wirecard had significant cheerleaders amongst investment banks. There were many investment banks that, with their research arms, all had buy recommendations on Wirecard and the reason behind that would be because ultimately, despite claiming to be exceptionally profitable and to be showing rapid profit growth, Wirecard was a very capital-intensive business. It had a ferocious appetite for cash, and if you are an investment bank, you are in the business of raising capital to provide to cash-hungry businesses. That's how you get paid. You don't get paid for writing independent, thought-provoking research that actually gets to the truth of the matter. You get paid if you have cosied up to the management of the company so that they are willing to come to you to help them raise capital. And that is where the money is. If they are raising half a billion in equity then the likelihood is that they are probably going to be willing to pay somewhere between a 2% and 4% fee on that capital rate*, which is quite material. So, in that respect, there is the incentivisation from investment banks to not provide too much scrutiny over these matters.

With BaFin, you would think at best, which is not particularly encouraging, that it is just downright incompetence that they didn't investigate. At worst, it is obviously something much more significant. With regards to the audit firms, EY, for example. I mean, let's not forget the history of EY in relationship with Wirecard: Wirecard, up until 2008, had an auditor, Roland Weigl I think his name was, who was auditing other entities that were owned or controlled by Marcus Braun

and Paul Bauer-Schlichtegroll, the original founder of Wirecard and owner of the business. So I would argue that there was not any significant independence at that audit level in those early days.

EY appeared on the scene in 2008 when they were called in to perform a special audit into the company and they gave them a clean bill of health and they were appointed thereafter in 2009. Now, most people seem to think, for some reason, that audit firms are there to identify fraud. They are not. They are there to ensure that the numbers add up. And the numbers they are provided stem from what management provides them.

So yes, they should exercise professional scepticism. For example, if the company claims that it has a billion in revenue, but it says we haven't received the cash for that yet, it is all in invoices, we just haven't been paid for it, then you should exercise some professional scepticism and think that perhaps that revenue doesn't exist because they were never getting paid for it. It wasn't quite that extreme with Wirecard, but there were certainly significant instances within the financial statements that would suggest that EY didn't exercise professional scepticism. But, ultimately, they are not there to identify fraud. People seem to think that if a company has been given a clean set of accounts then fraud cannot exist. Well, I would challenge you to provide me an example of any fraudulent company that hasn't had a clean set of accounts.

Fritz Güntzler (CDU/CSU): Herzlichen Dank.

Vorsitzender Kay Gottschalk: Vielen Dank. - Ich würde gerne noch mal so ein bisschen, weil man hatte den Eindruck, viele zweifelten so Ihre Kompetenz an - - Deswegen würde ich gerne noch mal aufnehmen: Im Fachgespräch mit Dan McCrum am 5. November 2020 in diesem Ausschuss gab dieser dem vorläufigen Bandabschrift-Protokoll 19/4, Teil 3b zufolge an, Sie seien umfassend bei der unabhängigen Finanzaufsichtsbehörde Financial Conduct Authority, FCA, im Vereinigten Kö-



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nigreich registriert. Da wollte ich einfach mal fragen: Seit wann sind Sie dort registriert? Was ist diese FCA - damit man auch mal einen Eindruck von Ihnen bekommt? Und wurden Sie auch eben im Zuge Ihrer Berichte und des Zatarra-Berichts von der FCA kontaktiert?

Zeuge Matthew Earl: No, the FCA, the Financial Conduct Authority, is the equivalent of BaFin in the United Kingdom. It's the regulator of the financial market over here in the United Kingdom. It's the equivalent of the Security Exchange Commission in the United States. My career history is that I have degrees in mathematics and economics, and I was initially an economist at the Royal Bank of Scotland. I've been a regulated individual, an approved person by the regulator for most of my career. I've worked at investment banks and, in recent years, I've had my own hedge fund, which I manage, and that is regulated by the Financial Conduct Authority and is also registered with the Security Exchange Commission in the United States, so it's a shame that people doubt my competency, but I do have qualifications and I do have experience in these matters.

Vorsitzender Kay Gottschalk: Sie hatten es eben schon angemerkt - und der Kollege Güntzler hat das auch noch mal angesprochen -: Wie gesagt, im April 16, knapp zwei Monate nach eben dem Erscheinen Ihres Zatarra Reports, hatte EY entsprechend uneingeschränkt bestätigt. Jetzt die Frage: Hatten Sie vielleicht auch entsprechend nach diesem Bericht EY Unterlagen zukommen lassen - weil die ja eben, das ist ja immer das Problem, eigentlich nur sozusagen die ordnungsgemäße Buchführung prüfen; ein bisschen mehr tun sie, aber da will sich jeder ja drauf zurückziehen -, oder umgekehrt: Kann ja auch sein, dass vielleicht einer der Prüfer gesagt hat: „Mensch, ich habe das gelesen. Steht da dann vielleicht doch etwas drin, was mich in meinem Prüferdasein voranbringen kann?“? Also, gab es vielleicht auch mal einen Kontakt von EY in Ihre Richtung, zu sagen: „Mensch, was ist dadran? Wie haben Sie das ermittelt?“? Und vielleicht auch da die Frage, die ich dranhängen würde:

Mit wie viel Personen waren Sie an der Erstellung des Zatarra Reports damals dran, bzw. wie viele waren da beschäftigt?

Zeuge Matthew Earl: Zatarra took, it was myself and Fraser Perring, many, many months of research into the company. Initially, I started writing about the company under my own name on a financial blog that I used to write, which is still available on the internet. It was when the money laundering aspect of it became evident that I decided to go down the nom de plume of Zatarra route.

No, I have never had any correspondence with EY. I would be amazed if they hadn't read the Zatarra research because it was very high profile and, obviously, it did have a significant impact on the valuation of the company for a moment in time. The fact is that the equity value of Wirecard was probably about as worthless in 2016 as it was in June 2020. And from subsequent reporting and what I have read in the papers over the past year or so is that, certainly with the Indian acquisition that they made, there should have been sufficient evidence that EY should have been very sceptical as to the nature of that transaction and the legitimacy of that transaction.

Vorsitzender Kay Gottschalk: In Ihrem Bericht - ich hatte die Seite 3 mal gezeigt - kamen Sie auch zu der Auffassung, Wirecard würde gegen die Betriebsvorschriften von Visa Europe verstoßen. Visa Europe erhielt eine Ausfertigung des Berichts. Was können Sie uns über die Reaktion hier, auch mal um andere Player da noch mal mit reinzunehmen, von Visa Europe zu Ihrem Bericht wiederum mitteilen und eben dem Vorwurf, Sie würden - -

Zeuge Matthew Earl: Yes, they were certainly in violation of both the Mastercard and Visa rules. First and foremost, from bringing disrepute to the reputation of Visa and Mastercard because, ultimately, they would be defrauding consumers and indeed counter parties within the financial system by omitting* these fraudulent transactions to go ahead. Obviously, it didn't just centre on gam-



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bling monies; it also centred on illegal pharmaceuticals transactions, illegal pornographic transactions, unlicensed gambling companies, so they would be defrauding the wider financial market, counter parties in the system and, ultimately, the consumer banks as well.

I did reach out to Visa. I had a call with, at the time I think he was the Chief Risk Officer for Visa. It was quite disappointing to be truthful in that his main query was who I was. I didn't wish to give my name. I just said that I had a lot of information on Wirecard and I could present how they were going about defrauding them. His response was that, well, unless I know who you are, I can't determine the authenticity of that evidence. To which my response was, well, you only have to go to the company's house and look at these companies and look at everything on the internet. I can assure you, I haven't put that there under any false pretences. So he had no interest in it whatsoever.

It was slightly different with Mastercard in that they were quite aware of the Zatarra research and I managed to get a call with the Vice President, again, for Risk or the General Council for Risk. And what transpired there was, effectively, three or four calls with the risk officers at Mastercard where, over the course of three or four weeks which we had scheduled, their response was always: yes, we can see how they are violating our standards and we have actually taken action against them in the past for this violation of standards. However, have you got anything that they are doing currently in violation of our standards.

My response was that, well, not at this minute because the only evidence that I have to go on is all the all open-source information that would have been filed 18 months earlier. You do because you see everything that goes across your own network. Their response was essentially: unless you have got anything that can show us in real time what is in violation of our standards, we are not prepared to do anything, which I was astonished at. It felt to me as though they were

very aware of the issues with Wirecard and certainly what they were doing and, if anything, they used Wirecard almost as a piggy bank to dip into and fine now and again when they managed to catch them out.

Vorsitzender Kay Gottschalk: Ist auch interessant, vielleicht auch mal was für unsere Aufsichtsbehörden. Gut, dann bedanke ich mich. - Dann ist als Nächstes Frau Kiziltepe für die SPD-Fraktion.

Cansel Kiziltepe (SPD): Vielen Dank, Herr Vorsitzender. - Hallo Mr. Earl! - Ich habe auch einige Fragen an Sie. Meine erste Frage ist: Kennen Sie Daniel James Harris?

Zeuge Matthew Earl: No.

Cansel Kiziltepe (SPD): Ich habe hier eine Zeugenaussage vorliegen - MAT A BayStMJ-2 CD-14.02, Blatt 19 -, und in dieser Zeugenaussage beschreibt Herr Daniel James Harris sich: Er gilt als Kronzeuge im Fall Dan McCrum, „Financial Times“, wo die Staatsanwaltschaft gegen Dan McCrum auch ermittelt. Und in seiner Zeugenaussage sagt er, dass es sich hierbei um Marktmanipulation handelt, und er schreibt, dass er ein Aktienhändler ist. Er nennt zwar die Firma nicht, für die er arbeitet, aber die Firma ist auch in Mayfair. Und ich dachte: Vielleicht kennen Sie Daniel James Harris. Aber Sie kennen ihn nicht.

Zeuge Matthew Earl: I don't know him. I've never heard the name to be honest.

Cansel Kiziltepe (SPD): Okay, vielen Dank. - Dann wollte ich Sie fragen, ob Sie wissen, dass Wirecard versucht hat, die Staatsanwaltschaft München mit den britischen Staats- - Strafbehörden in Kontakt zu bringen. Ist Ihnen das bekannt?

Zeuge Matthew Earl: I am not sure whether it was the Munich prosecutor or BaFin that requested the Financial Conduct Authority in the UK to open an investigation or to assist in their investigation into the persons they thought were behind Zatarra. I think they asked for my house



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to be, effectively, raided and searched, which the Financial Conduct Authority refused to do so.

Cansel Kiziltepe (SPD): Okay. - Haben Sie Erfahrungen mit dem Serious Fraud Office gemacht?

Zeuge Matthew Earl: No. In terms of legal authorities over here in the United Kingdom, I had a meeting with the London Metropolitan Police. That was in, I think, June 2017. But not the SFO, no.

Cansel Kiziltepe (SPD): Okay. Und wenn ich Sie richtig verstanden habe, wissen Sie nichts von den Versuchen, dass Wirecard die Staatsanwaltschaft München und die britischen Strafbehörden in Kontakt zu bringen versucht hat. Ich habe das eben nicht ganz verstanden.

Zeuge Matthew Earl: What I know is that someone from BaFin reached out to the Financial Conduct Authority to request assistance into investigating myself and others that they thought were behind Zatarra and that they requested our houses to be raided and searched. I don't know whether there was at a different level between the Munich prosecutor and prosecuting authorities such as the SFO in the UK any correspondence between them, I don't know.

Cansel Kiziltepe (SPD): Okay. Ich frage nur deshalb, weil es so aussieht nach internen Dokumenten in der Wirecard-Korrespondenz, dass hier über die Rechtsanwaltskanzlei Bub Gauweiler Wirecard versucht hat, eben eine sehr renommierte Rechtsanwaltskanzlei in London, Arknum, in Verbindung zu bringen, weil Arknums Verbindungen zur Serious Fraud Office auch sehr eng seien, hier gewisse Gespräche herbeizuführen. Das Ziel dabei lassen wir jetzt mal außen vor.

Ich wollte noch mal zu den Wirtschaftsprüfern kommen und Sie fragen, wie Sie ihre Rolle, also die Rolle der Wirtschaftsprüfer, hier einordnen. Sie hatten ja auch gesagt: EY hat jahrelang testiert. Und hätte EY weiter testiert, wäre das munter so weitergegangen.

Zeuge Matthew Earl: Yes, well, the fact of the matter is that Wirecard was just as fraudulent in 2013, 2014, 2015, 2016, 2017, and 2018 as it was in June 2020. The 1.9 billion in cash, I think it's more now, then, in June 2020, that was supposedly held in two trustee accounts in the Philippines, didn't exist just as much as the cash didn't exist in the years prior. Now, the fact is that, from what I have read in the media, is that EY didn't seek to verify the presence of that cash. Now, that's pretty much auditing 101. One of the first things you do as an auditor is that you determine whether that cash is present and where it is located. Now, if they didn't, then I would argue that that is probably a significant failure on EY's part.

And it is, I think, true that the fact the accounts were signed off, year in, year out, with a clean set of accounts by EY gave a veneer of authenticity to the financial statements that the company furnished the market with, provided the market with. And that, of course, gave the company the ability to continue to draw on further capital from the market; whether it was through equity issuance, with shareholders subscribing for shares in the company and parting with their cash, or whether it was through the debt markets through corporate bond issuance or through loans from banks.

Cansel Kiziltepe (SPD): Vielen Dank. - Wir hatten auch in einer unserer Sitzungen eine andere Wirtschaftsprüfungsgesellschaft hier, die KPMG, die auch den Sonderbericht gemacht haben, die uns bestätigt hatten, dass diese Überprüfung der Bankseiten ganz einfach ist und das keiner forensischen Überprüfung bedürfe. Nun ist es auch so, dass sich ja viele - - Die Märkte verlassen sich darauf, wahrscheinlich verlassen auch Shortseller sich auf solche Testate, die Aufseher. Also, alle Aufsichtsbehörden, die wir hier gehört haben, haben gesagt: Ja, wir verlassen uns eben auf diese Testate. Wirtschaftsprüfung ist ein öffentlicher Auftrag. Wenn ich Wirtschaftsprüferin wäre und ein Unternehmen so lange prüfen würde, ein Zatarra-Bericht veröffentlicht wird - Sie haben ja gesagt, EY müsste diesen Bericht kennen -, dann befasse ich mich natürlich auch damit. Hätte EY



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mit einer einfachen Prüfung, wie KPMG das ja sagt, das also erkennen müssen? Oder besser gesagt: Aus Ihrer Sicht: Wer hätte als Erstes diesen Betrug sehen können oder müssen?

Zeuge Matthew Earl: The first that should have, I think, had ultimate responsibility to recognise the fraud and to take action would have been BaFin. They are probably, I think, after the audit firm, EY. And as you say, I share KPMG's view which is that this should have been readily identifiable, certainly if one would go looking for it and to try to determine whether or not the accounts were in good financial order and that the cash existed. I think that would have probably been very easy and straightforward to identify. It's either there or it's not.

Cansel Kiziltepe (SPD): Also, ist es so, dass sich in Großbritannien die FCA auch nicht auf Testate verlässt, sondern eigenständig dann auch Bilanzen prüft?

Zeuge Matthew Earl: Yes, I believe so. I think the FCA would recognise that it is not unusual for fraudulent companies to have clean audits. As I said earlier, an auditor is not necessarily there to identify fraud. Ultimately, they are there to ensure that the numbers add up and those numbers are provided to them by the management of the company, so they rely on the honesty and integrity of the management of the company that is providing those numbers to them. You could argue, I would argue that an audit is nothing further than a marketing document for the company.

Cansel Kiziltepe (SPD): Ja, dafür brauche ich dann aber auch keinen Wirtschaftsprüfer. Aber gut. - Mich interessiert noch, weil meine Zeit zu Ende geht, eine andere Frage. Wir hatten während oder im Zuge der Finanz- und Weltwirtschaftskrise auch das Problem, dass spekuliert wurde auf Staatsanleihen, auch auf den Euro. Es wurde ja schon die Kultur angesprochen hier in den europäischen Ländern, die ja auch sehr schlechte Erfahrungen damit gemacht haben. Mich würde interessieren, wie Sie Activist Short-selling im Hinblick auf Staatsanleihen und

Unternehmensaktien, aber auch auf Währungen bewerten. - Danke.

Zeuge Matthew Earl: With short selling you obviously perform your research, and you act on the basis of the conclusion of that research. So, if you conclude that the intrinsic value of a company is materially lower than the prevailing market value of that company, then you elect a short list*, and if you wish to be activist around it then what you are attempting to do is to convince others that you are correct in your thesis. Now, the problem there is that you have to convince other people. With sovereign debt, I think that is very, very tricky because your counter party in that respect is the central banks. They have extremely deep pockets, and I don't think that is probably much of a fight you are ever going to win, to be honest.

Certainly, over the last 20 years or so what has been more apparent, and here I digress slightly, is that in financial markets macrodata has become largely irrelevant. I remember starting off as an economist whereby; the financial markets, sovereign debt values, currency rates, the movements would be determined by whatever economic data had been released on that day. These days, economic data is fairly meaningless in terms of the impact on financial markets. I think all that has happened, certainly over the last ten years, is that the money that has been pumped by the central banks and the loosening of monetary conditions has resulted in nothing other than asset price inflation. And therefore asset prices have been totally detached from the economic reality of matters. But that's a very long and separate discussion.

Cansel Kiziltepe (SPD): Es ist eine andere, aber meine Verbindung war eher, zu zeigen, wie das Ansehen der Shortseller in Europa in Deutschland ist, weil wir auch in anderen Bereichen andere Erfahrungen - - Natürlich ist das ein anderes Thema, insofern - -

Stellvertretender Vorsitzender Dr. h. c. (Univ Kyiv) Hans Michelbach: Vielen Dank, Frau Kollegin Kiziltepe. - Wir kommen nun zur nächsten



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Fraktion, und zwar der FDP-Fraktion. Herr Dr. Toncar hat das Wort.

Dr. Florian Toncar (FDP): Danke schön, Herr Michelbach. - Herr Earl, ich möchte noch mal fragen: Ist es zutreffend, dass das Ermittlungsverfahren, das gegen Sie geführt wurde 2017, auch auf einer Strafanzeige durch die BaFin basierte, oder hat die Staatsanwaltschaft das ohne BaFin-Anzeige eingeleitet?

Zeuge Matthew Earl: My understanding is that the case was, effectively, presented to the prosecutor by BaFin. It was a preliminary prosecution that I was notified of by the Munich public prosecutor. So the case had been constructed by BaFin and, effectively, the Munich prosecutor had elected to potentially prosecute that.

Dr. Florian Toncar (FDP): Sind Sie jemals von der BaFin angehört worden? Sie sind ja betroffen gewesen von der Untersuchung. Gab es eine Anhörung? Hatten Sie Gelegenheit, sozusagen Stellung zu nehmen, Ihre Rechte zu wahren gegenüber der BaFin?

Zeuge Matthew Earl: Shortly after the initial Zatarra research was published in February 2016, there was an email from BaFin received by the Zatarra email account which didn't wish to address any of the allegations. All it sought to do was to determine who was behind Zatarra and where we were registered as a financial advisor. And the reason that they had given why they thought that we were a financial advisor was because not that we had - - We didn't actually say sell the stock, we just said the shares were worth zero euros and that they had thought that that implicitly provided financial advice. To some degree I wish I said they were worth a packet of peanuts then that would have probably negated that argument. That was all they were interested in in that instance.

I did actually attempt to contact the whistleblower line at BaFin on two separate occasions later on in 2016. I phoned up, I didn't give my name but I said I wished to discuss Wirecard and

evidence against Wirecard and as soon as I mentioned Wirecard the person on the other end of the line said, "I'm sorry, I don't speak very good English, call back", which I was quite astonished at because from my experience most Germans speak better English than most English people speak English. And then when I did call back and again mentioned Wirecard, they just hung up, and I never heard from BaFin ever again.

Dr. Florian Toncar (FDP): Das ist unfassbar. - Und das war die offizielle, öffentlich bekannt gegebene Whistleblower-Hotline der BaFin, richtig?

Zeuge Matthew Earl: Yes, yes.

Dr. Florian Toncar (FDP): Vielen Dank. Da haben Sie uns noch weitere Aspekte mitgeliefert, um die wir uns in Deutschland kümmern müssen. Das werden immer mehr. - Wer hat denn dafür gesorgt, dass die staatsanwaltlichen Ermittlungen gegen Sie persönlich öffentlich geworden sind?

Zeuge Matthew Earl: I don't know that.

Dr. Florian Toncar (FDP): Haben Sie selber oder Ihr Anwalt oder eine mit Ihnen in Kontakt oder in Verbindung stehende Person das für die Öffentlichkeitsarbeit verwendet, oder ist davon auszugehen, dass das aufseiten einer der beteiligten Behörden passiert ist?

Zeuge Matthew Earl: No, it certainly wasn't made public on our side. It had come from a breach of confidentiality from one of the authorities that were involved in Germany.

Dr. Florian Toncar (FDP): Das ist auch deshalb natürlich interessant, weil genau diese Ermittlungen die ja von Ihnen schon beschriebene Einschüchterungswirkung auf andere Wirecard-Kritiker hatten und dadurch vielleicht am Ende auch der Eindruck entstanden ist: Es gibt nur sehr wenige davon, und der Rest vertraut dem Unternehmen. - Die Einstellung gegen Geldauflage: Wie viel Geldauflage mussten Sie denn bezahlen für eine karitative Organisation?



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Zeuge Matthew Earl: Well, again, this was another slightly unusual state of affairs where they didn't wish to put anything down on paper, which my UK lawyers were astonished at because I said "do they send me something in writing?", and my lawyer said, "no, they don't want to send you anything in writing, they just want to see proof that you have paid a donation to what was a German foodbank, and the donation was for 35,000 euros".

Now my view was, as I say, I was quite prepared to go over and fight this had it proceeded to court. My dilemma was, firstly, I had a young family at the time, how long was I going to have to spend away from the UK, two, obviously how much time it would take up anyway, three, the cost, because one would imagine that the legal costs would be far significantly above 35,000 euros. I was told that if the prosecution did get to court then it was ultimately not going to be successful. Then the likelihood would be that the prosecutor would withdraw it on the penultimate day before ever getting to complete conclusion, in which case I would still bear all the cost. And then finally, I couldn't rely on a fair trial essentially. So, faced with those options, it was a fairly simple decision to make to say where the foodbank is based, basically.

Dr. Florian Toncar (FDP): Gut. Auch bemerkenswert. - Eine letzte Frage noch: Sie haben viel über Herrn Marsalek gesprochen. Wie beurteilen Sie denn die Rolle von Markus Braun beim Zustandekommen der Bilanzmanipulationen von Wirecard? Das ist eine Diskussion, die hier in Deutschland zurzeit an Fahrt aufgenommen hat, auch aufgrund des Vortrags des Anwalts von Herrn Braun. Wie würden Sie die Rolle von Braun einschätzen in dem Gesamtkomplex?

Zeuge Matthew Earl: Well, I think that, what ultimately was a 24 billion euro fraud, could not be orchestrated by one single individual. I don't even think it could have been orchestrated by two individuals, Braun and Marsalek. I think that there were a number of parties involved. I think that what is also evident is that even employees

who worked at Wirecard once they had left Wirecard never really left in that they would always have related parties' transactions and they would be within the wider Wirecard network. So I think this was a long running fraud, a conspiracy at management level, where there were a number of individuals involved in orchestrating that fraud.

Vorsitzender Kay Gottschalk: Vielen Dank. - Dann hat als Nächstes das Wort Fabio De Masi für die Fraktion Die Linke.

Fabio De Masi (DIE LINKE): Vielen Dank. - Herr Earl, in dem Moment, wo Sie erwähnt haben, wie Sie bei der BaFin angerufen haben und „Wirecard“ gesagt haben und dann habe man aufgelegt, hat komischerweise die Videoübertragung beendet. Aber das hat gar nichts miteinander zu tun. Ich wollte das nur erwähnen, weil ich es unterhaltsam fand.

(Der Zeuge lacht)

Zeuge Matthew Earl: I hope it wasn't connected.

Fabio De Masi (DIE LINKE): Aber wir hören Sie gut. - Der Kollege Toncar hat eine sehr wichtige Frage gestellt im Zusammenhang, wer denn diese Anzeige betrieben habe. Nur damit Sie das auch verstehen, weil wir von der BaFin immer gesagt bekommen, im Prinzip hätten sie gehandelt wegen der Staatsanwaltschaft, und die Staatsanwaltschaft sagt, sie habe gehandelt wegen der BaFin. Deswegen versuchen wir, das einer Aufklärung zuzuführen. Die Kollegin Kiziltepe hatte von einem Herrn Harris berichtet. Das ist so ein Dirty Harry. Wenn Sie sich etwas Schnee in die Nase ziehen wollen, dann gehen Sie zu diesem Mann. Das ist aber ein wichtiger Belastungszeuge für die Staatsanwaltschaft gewesen. Also, nur damit Sie den Kontext kennen.

Jetzt aber zu meinen Fragen: Hier in dem Vernehmungsprotokoll der Staatsanwaltschaft wird erwähnt von Ihnen - Sie machen ja Ausführungen zu Zahlungsabwicklungen im Pornografiebereich und Online-Glücksspiel und führen in dem Kontext aus, dass nach Ihren Informationen in einem kleinen Ort in Großbritannien namens Consett in



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der Grafschaft Durham über 1 000 Briefkastenfirmen gegründet worden seien, die dafür genutzt würden, Zahlungen aus illegalem Glücksspiel abzuwickeln. Und Sie führen auch gegenüber der Staatsanwaltschaft aus, dass einige dieser Briefkastenfirmen noch aktiv seien und im Fokus von Ermittlungen des Department of Treasury stünden. Haben Sie Kenntnis darüber, ob die Staatsanwaltschaft jemals mit dem Department of Treasury oder britischen Ermittlungsbehörden in Kontakt getreten ist, um diese Vorwürfe abzu prüfen?

Zeuge Matthew Earl: I don't know whether they got in contact with them on their own volition, in that respect. I do know that the public prosecutor seemed very interested in the scope of that investigation and what they knew, particularly with the FBI and the Department of Justice. What I showed was, effectively, this network of companies, all the letterbox companies that were being used in order to conduct this money laundering and the fact was that there were over a thousand of these companies based in the United Kingdom that had been incorporated by a formation agent which was co-owned by Wirecard employees. And when these companies had fallen foul of the legal authorities and they had been discovered, they had been revealed to have been using Wirecard bank accounts, so it wasn't a wild stretch of the imagination to realise that it had been set up by Wirecard employees and they had been given a Wirecard bank account, so Wirecard should have been fully knowledgeable as to the activity that they were conducting.

The reason they were set up in the United Kingdom was effectively to defraud Visa and Mastercard and the other counter parties in the financial system because it's all to do with risk in that, if you make an online gambling transaction and the merchant that you are conducting that business with is based, say, in the Philippines, well, there is two significant risk criteria there: one is the nature of the transaction. Gambling, which is much higher risk than if you were buying, say, a bicycle online. And secondly, the location of that merchant.

The Philippines are going to be a much more significantly risky country to transact with than the United Kingdom. And so the beauty of some of these companies in the United Kingdom was that it gave a false impression of where the merchant was truly located, so these were, effectively, sister companies for merchants that would have been based in the Philippines or Thailand, and, secondly, it gave a false impression as to what the underlying nature of the transaction was. So it would be purported to be a transaction with a UK company buying flowers or carpets or flags or whatever online, whereas, actually, it would have been a higher risk category based in the Philippines, such as pharmaceuticals, online gambling or pornography.

Fabio De Masi (DIE LINKE): Es ist ja an verschiedenen Stellen ausgeführt worden, wie Wirecard sein Geschäftsmodell angepasst hat: zunächst Zahlungsabwicklung für Pornografie im Zeitalter der Router, wo dann hohe Gebühren kassiert wurden und Menschen, die sich ertappt fühlten, dann trotzdem diese Rechnungen bezahlt haben, um das, ich weiß nicht, vor dem Ehepartner oder so zu verstecken, und dann ging es eher in das Online-Gambling. Sie haben auch ausgeführt die Gesetzeslage in den USA. Hatten Sie den Eindruck, dass die Staatsanwaltschaft, die ja auch Ermittlungen zwischenzeitlich mal geführt hat - ich glaube, nach den „Paradise Papers“ wegen Zahlungsabwicklung Online-Glücksspiel über die Wirecard-Bank -, Klarheit hatte über diese Vorwürfe, über Online-Glücksspiel und auch über Geldwäsche?

Zeuge Matthew Earl: The impression I received when I met the prosecutor in June 2019 was that they were actually quite unaware of this network in the United Kingdom of these thousands of companies. When they became aware of it as I presented the evidence and examples, several examples of this, I think that it dawned on them very, very quickly as to the scale and the magnitude of it, the duration of it and the seriousness of it. I think they very quickly understood that.

Fabio De Masi (DIE LINKE): Okay, vielen Dank. - Dann hätte ich nur noch eine abschließende



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Frage. Es gab ja im politischen Raum in Deutschland viele Bemühungen, das Online-Glücksspiel weiter zu liberalisieren durch den Einsatz auch verschiedener Ministerpräsidenten, und im Zuge dessen hätte auch Wirecard direkt als Abwicklungsinstanz profitiert. Aufgrund auch Ihres Commitments zu Marktintegrität: Welche Haltung haben Sie dazu? Fänden Sie es sinnvoll, dass in Deutschland Online-Glücksspiel weiter liberalisiert wird?

Ich wollte zum Ende auch noch daran erinnern, dass es toll wäre, wenn wir die versprochene Präsentation haben könnten, die Sie am Anfang angesprochen haben.

Zeuge Matthew Earl: Yes, of course, I'll send the presentation. As for the liberalisation of online gambling, the gambling market is always going to be there. I would imagine that it is much better for it to be regulated, which would make it more difficult for illegal gambling to occur. And if it was regulated that would obviously have the benefit of bringing in significant tax revenue streams, which can help with the enforcement of regulation but also to assist those who may have gambling issues as well. So I think it is probably better to have it liberalised and regulated.

Fabio De Masi (DIE LINKE): Thank you very much.

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Wie viel Zeit haben wir noch?)

Vorsitzender Kay Gottschalk: So, vielen Dank. - Wir machen jetzt so einen kleinen Tausch, weil die Kollegen noch zur namentlichen Abstimmung eilen. Dann gucke ich einmal zu den Kollegen der CDU/CSU, und das wäre dann Matthias Hauer. Bitte schön.

Matthias Hauer (CDU/CSU): Herr Vorsitzender. - Herr Earl, ich würde noch mal gerne zurückkommen auf die Gespräche, die Sie geführt haben mit der BaFin. Könnten Sie dazu noch mal die Zeitpunkte oder Zeiträume sagen, wann das in etwa

stattgefunden hat, diese Gespräche, die Sie vorhin angesprochen haben?

(Bild- und Tonausfall)

- Ich sehe jetzt auf dem Bildschirm, dass ich nichts sehe. Dürfte ich bitten, die Zeit zurückzustellen?

Vorsitzender Kay Gottschalk: Ich frage mal die Kollegen Dolmetscher: Haben Sie einen Ton? - Auch nicht, wird mir signalisiert. Okay. Hören Sie uns wieder?

Zeuge Matthew Earl: I missed the question.

Vorsitzender Kay Gottschalk: We start again.

Matthias Hauer (CDU/CSU): Gerne noch mal die Frage nach der technischen Störung. Sie hatten ja gerade berichtet von Ihren Gesprächen, die Sie mit der BaFin geführt haben. Da möchte ich Sie bitten, noch mal die Zeitpunkte zu sagen, wann das war.

Zeuge Matthew Earl: Yes, well, the email from BaFin was received initially in March 2016, two or three weeks after the initial Zatarra research notes were distributed. I can't remember exactly when I phoned BaFin. I think it was probably December 2016 when I phoned BaFin on the whistleblower line in an attempt to report Wirecard. And that's when, in the first instance, it was: They were speaking very good English and then suddenly, when I mentioned Wirecard, there was a lack of understanding, and then, when I called back a few days later and I mentioned Wirecard, they simply hung up. Then I gave up, I mean, I just thought there was very little point.

Matthias Hauer (CDU/CSU): Also, das war alles Ende 2016, spätestens Anfang 2017, so um den Dreh, zeitlich.

Zeuge Matthew Earl: Yes, in terms of the calls because that was when I became aware of the surveillance by Wirecard against myself, where there were vehicles parked outside the house and



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the surveillance had become noticeable. It had been going on for a long period of time before that, but it was unknown to me. And that's when I started opening up a regular dialogue with the Financial Conduct Authority, and attempted to reach out to BaFin.

Matthias Hauer (CDU/CSU): Wir haben ja gleich Frau Bäuml-Hösl von der Staatsanwaltschaft hier als nächste Zeugin und haben da ja auch an sie viele Fragen, sicherlich auch zu den Gesprächen, die Ihrerseits, also von Ihnen, Herr Earl, mit der Staatsanwaltschaft geführt wurden, auch die Informationen, die Sie gegeben haben, was daraus genutzt wurde, was damit passiert ist, auch sicherlich zum Beispiel dazu, was für Kenntnisse die Staatsanwaltschaft hinsichtlich dieses Fonds in Mauritius hatte. Aber mich würde jetzt interessieren, ob Sie uns noch eine Frage mit auf den Weg geben möchten. Was ist aus Ihrer Sicht besonders klärungsbedürftig gegenüber der Staatsanwaltschaft, einerseits, ich sage mal, was Ihre Person jetzt betrifft, die Verfolgung, die Sie da erlitten haben, aber auch, ich sage mal, zur Sachaufklärung des Wirecard-Skandals?

Zeuge Matthew Earl: Well, first and foremost, I would like to understand what precisely they did after that hearing I had with them in June 2019 when I received the impression that the evidence I gave them was extremely compelling, and it was new to them, and they fully understood the severity of it and the potential for Wirecard to be the enormous fraud that it was and what they did thereafter, and if they didn't do anything, why didn't they do anything. Secondly, I would like to try and understand why the German justice system is, as I have experienced it, which is that effectively whistleblowers can be persecuted and attempted to be prosecuted, and then have their confidentiality of these matters breached, their reputations sullied and effectively threatened with prosecution unless they agreed to withdraw from raising criticism.

Matthias Hauer (CDU/CSU): Vielen Dank. - Ich übergebe dann den Rest jetzt an den Kollegen Dr. Michelbach.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Herr Earl, vielen Dank. - Wir müssen noch mal auf das Thema „Bilanzierungspraktiken der Wirecard AG“ zurückkommen, die ja, wie wir heute wissen, illegal waren. Das Geschäftsmodell stellt sich für uns so dar, dass man eine Wirecard Bank AG ins Schaufenster gestellt hat und mit einer Art Versteckspiel dahinter viele Tochtergesellschaften von Wirecard gegründet hat, die immer wieder letzten Endes zu einem Versteckspiel, zu einer Betrugsgrundlage wurden, insbesondere beim Erwerb von, sagen wir mal, sehr zwielichtigen Gesellschaften. Können Sie uns da noch mal vielleicht diese Frage beantworten, wie Sie dieses Geschäftsmodell noch mal auch bewertet haben?

Zeuge Matthew Earl: I think, firstly, in terms of the profitability of the company, you could probably say that it didn't pass the Madoff test in that it was too good to be true, first and foremost, in that the profit growth in the business was pretty much, year in, year out, the same as it was the prior year and it grew like clockwork, basically, which is very unusual. Despite the fact that you might have a structural growth story, the growth within a business in a rapidly growing market will still fluctuate from year to year.

In terms of the business itself, I think the banking licence was the Holy Grail in the equation, certainly from a money laundering aspect, because in the chain of payments across, say, the Visa and Mastercard network - - What Wirecard originally was, was a payment processor. And the payment processor acts on behalf of the merchant to package up the transaction details and send them over across the Visa and Mastercard networks to the customer's bank, which would be the issuing bank.

Now, if you are conducting or helping to facilitate a fraudulent transaction, you can't really do much about the customer's bank, the issuing bank, because you can't determine whether your customer has their bank account with Commerzbank, Deutsche Bank, HSBC, Barclays or whoever. Likewise, you don't necessarily have control of who your merchant banks with, that



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would be the acquiring bank. And the acquiring bank may well flag up the fraudulent transaction as well.

So the beauty of it with Wirecard's model was that they had a banking licence, so they had their own bank, and therefore they solved part of the equation: with the merchant bank, the acquiring bank, so that they had surety that one part of the transaction would never flag up the fraudulent nature of it. So I think that worked very well for them for a long period of time. I think that what ultimately blew the company up from a profit basis was the closure of the online gambling market in the United States in 2011, which was when they had to start to embark on a spending spree across Asia pacific buying up, effectively, worthless assets at inflated prices.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Das heißt also mit anderen Worten, dass die erworbenen Tochtergesellschaften zu einem völlig überhöhten Wert in die Bilanzen aufgenommen wurden. Gewissermaßen war das ein Scheingebilde.

Zeuge Matthew Earl: Yes. I'll give you an example. I mean, in the earlier days, I think it was 2013 or 2014, they bought a business, I think it was in Singapore, called Trans Infotech. And Trans Infotech they roughly purchased for about 20 million euros. Now, it was quite evident from the financial statements of Trans Infotech that this was not worth 20 million euros, indeed it wasn't even a going concern in the year they acquired it because it was loss making and burning bucketloads of cash.

What happened was that apparently, they paid 20 million euros for it, but 18 million euros actually went to another party who acquire so-called customer relationships. Now, those customer relationships had nothing to do with that business. They were not present within that business prior to them acquiring it, and who that money went to I do not know. I suspect that, either that money didn't go to that person, and they claimed it did, but they had a reason for that money, that cash, no longer being there, or it did go to this mystery

person and it was recycled back into Wirecard so that they could claim they had a profit in cash.

Now, the problem is that if you are a business in a fast-growing sector, such as the online payments space, then you should be growing your business year in, year out, as indeed obviously Wirecard claimed to have been. But the issue they face is that, as your profits are growing, you have to falsify increasing amounts of cash, which is why the M & A activity, the acquisitions that they were making, became larger and larger and larger. So, in 2009/2010, they start off by acquiring business for about 9 million. 2011/2012, they start buying businesses for about 12 to 16 million. 2014, 20 million. By 2015, the deficits between the cash requirement within the business versus the fake profits got to such a degree that they would have to buy a business of significant value such as GI Retail for 340 million euros. So you're beholden to the growth within the business to make increasing these sizeable, but fraudulent, acquisitions.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Also, Herr Earl, wenn ich Sie da richtig verstehe, war das so eine Art Schneeballsystem, sagen wir in Deutschland, mit einer Bank, die vorne hingestellt wurde - -

Zeuge Matthew Earl: Yes, exactly.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Ja, also gibt es das auch in Großbritannien in der Bezeichnung. - Das heißt also, eine Bank, die im Schaufenster stand, die dann geprüft wurde, und alles andere hat man als Technologieunternehmen, nicht als Finanzunternehmen, als Finanzholding, dargestellt und hat sich damit auch gewissermaßen erfolgreich praktisch an den Aufsichtsbehörden vorbeigedrückt oder vorbeigemogelt. Kann man das so beschreiben?

Zeuge Matthew Earl: Yes. The growth within the business largely stemmed from their Asia pacific operations, and that's where most of their acquisitions occurred, if not all of their acquisitions. And when you make increasingly sizable acquisitions it gives you great scope in the accounts to



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use smoke and mirrors, the ability to kind of paper over cracks, basically, or missing cash. And that's what happened. That's the problem. They were a kind of a hostage to their own fortune in a way, in that they had to keep making bigger and bigger acquisitions to cover up the fact that they didn't have the sizeable cash balances that they were expected to have. Which is possibly why, I guess, it was muted that they were going to try and form some sort of transaction with Deutsche Bank at some point in time.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Ja, danach haben wir auch den Vorstandsvorsitzenden der Deutschen Bank, Herrn Sewing, befragt. Er hat das von sich gewiesen.

Aber ich komme deshalb trotzdem auf die deutschen Banken insgesamt zurück. Und zwar: Diese Übernahmendeals mussten ja auch finanziert werden, natürlich auf der einen Seite durch die Aktien, aber auf der anderen Seite eben durch umfangreiche Kreditierungen.

Ein Bankenkonsortium hat Wirecard noch 2019, wo schon viele zwielichtige Dinge im Umlauf waren, einen Konsortialkredit von 1,75 Milliarden Euro gewährt, hat das noch erhöht, obwohl eine Bank, die Landesbank Bayern, ausgestiegen ist, mit klaren Begründungen. Wie erklären Sie sich, dass eine breite Phalanx von Banken Geld in ein Unternehmen, Wirecard, pumpte, das mehr oder weniger eine Luftblase war und so den Fortbestand des Lügegebildes sicherte?

Also, ich lasse die Banken nicht aus der Verantwortung heraus. Sie haben dieses Lügegebilde finanziert, und die Gefahr, dass dieses Lügegebilde aufflog und damit entsprechende Wertberichtigungen vorgenommen werden mussten, war doch nicht zu übersehen. Ich selbst bin von Haus aus mittelständischer Unternehmer. Ich habe in 50 Jahren Unternehmerdasein noch nie einen Kredit ohne Sicherheiten bekommen. Wirecard ist es gelungen, ohne jede Sicherheit 1,75 Milliarden Euro von diesen Banken zu bekommen. Wie erklären Sie sich ein solches unvorsichtiges Vorgehen der Banken?

Zeuge Matthew Earl: I suspect that is probably a sign of the times to some degree, in that I think the extension of credit has got to such a level where there are very few questions asked these days. I think that's just more a reflection of the monetary policies that we find ourselves generally having across most markets. The fact is that Wirecard was supposedly in a fast-growing market. I think that, to some degree, there is a lot of box ticking. So the key components to that would be: has the audit been signed off, yes, who has it been signed off by, oh, it's a Big Four audit firm, EY, we have heard of them, they are pretty respectable, so the accounts must be clean. What's the business in, ok, it's in the online payments space, it's regulated by BaFin, and therefore, their significant credibility is extended to the company then.

I guess some comfort would have been taken from the share price performance. Because, let's face it, the company was tremendously successful on the equity markets. I mean, the share price pretty much went up like the proverbial rocket and then again, obviously, it then gained entry to the prestigious DAX 30. So, to some degree, people who were looking to extend credit were probably thinking that it would be unfathomable that a company that was in the DAX 30 could be embroiled in fraud. I think there is an outsourcing of responsibility, to some degree. Possibly, because they think that since it's regulated there is someone scrutinising it and making sure that it meets the standards requirement to receive credit.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Vielen Dank. - Unsere Mittelstandsunternehmen sind scheinbar im falschen Kästchen bei unseren Banken gelandet.

(Heiterkeit des Zeugen)

Ich darf aber noch mal sagen: Es wäre doch möglich gewesen für einen Risikovorstand - -

Zeuge Matthew Earl: I mean, that's probably true. The bigger you are, probably the easier it is to get



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credit, to some degree, or the bigger you are perceived to be, the easier it is. There is that old fallacy*, if you owe the bank 100 euros, that's your problem. If you owe the bank 1 billion euros, that's their problem. That's probably the case in this example.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Gut, ich habe schon immer den Eindruck, dass der Ehrliche da manchmal der Dumme ist. - Aber, Herr Earl, ich habe noch eine Frage. Es hätte bei einem Risikovorstand einer Bank doch mal vielleicht das forensische Denken geben können, diesen Erwerb der GI Retail in Indien zu hinterfragen und auch den Wert dieses Geschäftes mal zu bemessen, wie einfach 1,75 Milliarden zu kreditieren.

Zeuge Matthew Earl: Oh yes, of course. Absolutely. I mean, the fact is that even the shareholders, the equity holders as well, they voted with their funds in buying equity in the company and keeping the share price up and giving this illusion that the company was worth 18, 20, 24 billion. The fact is that they were extremely negligent and did not conduct sufficient scrutiny of the financial statements or just generally use any common sense either at the end of the day. I mean, from an equity perspective, from any funds that were invested in the company, the problem there is that, although they may say they have a 2, 3, 4% equity interest in Wirecard, in terms of their whole portfolio, it may constitute less than 1% of their allocation. Although, one, are they necessarily finding the time to properly scrutinise that when they have hundreds of other companies to look into, and two, if ultimately it fails and blows up, well does that cause any significant economic damage to them? Probably not.

The other aspect, again, the reason given as to why it couldn't be a fraud, I think BaFin fell for as well, was that how could this be an enormous fraud when the single largest shareholder in the company is Marcus Braun himself who owns 7% of the equity, or whatever it was, and that he had invested money into the company. Well, it just so happens that actually he was gifted most of that equity back in 2005, so he didn't really use much

of his own cold hard cash to buy equity in it, but, nonetheless, he had ended up with 7%. Well, precisely because he has got 7% in a company that would have been worth 1 billion euros or more, perhaps that is precisely why he was incentivised to perpetrate the fraud. That would be my argument. I think it is just complete negligence and a lack of scrutiny and due skill and care and due diligence, basically.

Dr. h. c. (Univ Kyiv) Hans Michelbach: (CDU/CSU): Vielen Dank.

Vorsitzender Kay Gottschalk: Vielen Dank, Dr. Michelbach. - Ja, „clear common sense“. - Dann ist als Nächstes dran Dr. Bayaz für Bündnis 90/Die Grünen. Bitte schön.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Genau, eine Nachholrunde. Vielen Dank, dass Sie darauf Rücksicht genommen haben. - Herr Earl, ich habe noch mal ein paar sehr konkrete Fragen, einfach noch mal, um für mich da ein klares Verständnis zu bekommen. Sie haben ja einiges auch dazu gesagt: Ihre Zusammenarbeit und Ihre Erwartungen auch von Regulatoren wie die FCA und die SEC, die Sie ja beruflich überwachen. Ich möchte Sie noch mal fragen: Glauben Sie, wenn es diesen Fall Wirecard in Großbritannien gegeben hätte - Sie haben den Zatarra Report 2016 herausgegeben -, dass es dort auch fünf Jahre gebraucht hätte, um das Kartenhaus zum Zusammenfallen zu bringen?

Zeuge Matthew Earl: No, not at all. I am not saying that it would have happened immediately, but I think it certainly would have been much shorter than the five-year period. I think that there would have been a lot more interest in terms of, one, determining whether the evidence provided was accurate and, if so, then working out how was best to proceed, whether that was a matter for the Financial Conduct Authority or whether it warranted the interest of someone like the Serious Fraud Office or the Economics Crime Unit or the National Crime Agency to investigate it.



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Likewise, if it was in the United States it would have probably been investigated very quickly by the Securities and Exchange Commission. Indeed, I actually submitted a complaint to the SEC because Wirecard was dual listed in the States, it had a so-called American depository receipt, so it did, to some degree, fall under the purview of the SEC, and they received that. As far as I was aware, they were reviewing that complaint. Of course, it's collapsed in the period since.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ich kann mir vorstellen, dass Sie mitbekommen haben im letzten Jahr, dass die BaFin - - einige BaFin- - nicht wenige BaFin-Beschäftigte selbst Wirecard-Finanzprodukte gehandelt haben, manche „long“, manche „short“; so genau weiß es die BaFin nicht. Hat Sie das überrascht? Wäre das bei der FCA, bei der SEC auch denkbar oder möglich? Und wie bewerten auch andere Marktteilnehmer, mit denen Sie sich ja auch austauschen, diese Vorkommnisse mit Blick auf Deutschland?

Zeuge Matthew Earl: I was astonished that that was happening. I still can't quite believe it, to be honest. I don't see how you can have any independent thought process in terms of potentially investigating a company or certainly scrutinise a company or oversee the financial regulation of a company if you have a vested financial interest in the success of that company. There is no independence there and there is a significant conflict of interest. It's ironical that BaFin sought to bring a prosecution against myself because they suggested that there was ambiguity around the conflict of interest in the Zatarra research disclaimer, whereas there was no ambiguity whatsoever with regards to their conflict of interest, they were conflicted.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Ich versetze mich gerade noch mal in die Lage der Staatsanwaltschaft. Jetzt haben wir den Juni 2020, Wirecard ist am Boden. Um das besser zu verstehen, würde ich ja noch mal Leuten wie Ihnen quasi die Hand reichen, die früh auf dem richtigen Trichter waren. Gab es Ihrerseits noch mal - - Hat sich die Staatsanwaltschaft oder auch die BaFin bei Ihnen nach dem Juni 2020 noch

einmal gemeldet, um vielleicht noch mal Fragen zu klären oder Dinge, die Sie in Ihrer Präsentation in 2019 schon präsentiert haben? Oder gab es da keinen Kontakt?

Zeuge Matthew Earl: There was zero contact. Apart from the day after I returned to London in June 2019 where they requested the secure transmission of the evidence from that hearing, I didn't hear anything from either BaFin or the prosecutor thereafter.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Gut. Vielleicht auch, weil gerade keine englischsprachige Person im Haus war.

(Heiterkeit des Zeugenf)

Zeuge Matthew Earl: Maybe.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Vielleicht haben Sie auch mitbekommen, dass im Jahr 2020 noch einmal Netzwerke bemüht wurden in Deutschland. Sie müssen die nicht kennen. Vielleicht kennen Sie sie: Herr zu Guttenberg, Herr Diekmann, die, ich sage jetzt mal, die deutsche Öffentlichkeit und auch deutsche Politiker für ein Leerverkaufsverbot gewinnen wollten, und zwar als bezahlte Berater von Wirecard. Ist das dasselbe Muster, was Sie 2019 quasi beobachtet haben, dass dort Wirecard versucht hat, deutsche Behörden, deutsche Politiker, die Öffentlichkeit für so ein Leerverkaufsverbot zu gewinnen? War das eine ganz gezielte Strategie, und die Behörden waren Helfershelfer dabei?

Zeuge Matthew Earl: Politically, I wouldn't know. It certainly felt like they exerted significant influence over BaFin. And then BaFin, in turn, exerted significant influence over the prosecutor because, effectively, the prosecutor was provided with what BaFin had provided them. And what BaFin had collated was very one-sided, and it felt as though it had been heavily influenced by the input from Wirecard and the Wirecard management.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Gut. - Ich habe noch eine abschließende Frage,



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und dann würde Frau Paus sicherlich noch mal eine Runde brauchen. Sie haben ja vorhin auch über Ihre Beziehung oder Ihr berufliches Verhältnis zu Dan McCrum berichtet. Der hat ja eine ähnliche Erfahrung gemacht wie Sie. Vielleicht haben Sie mitbekommen, dass der deutsche Bundesfinanzminister, der es ja nicht für nötig angesehen hat, sich zu entschuldigen, eine Laudatio auf Herrn McCrum gehalten hat. Haben Sie das mitbekommen? Und wie haben Sie und Ihre Kollegen das bewertet?

Zeuge Matthew Earl: Well, it is good that Dan has been congratulated on helping to expose this fraud and also exonerated. I was pleased for Dan, very pleased.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Gut. Danke schön.

Vorsitzender Kay Gottschalk: Ja, ich habe jetzt keine Fragen mehr, habe aber mit den Kollegen der Fraktionen abgestimmt - ich denke, das ist überfällig -: Wir können die Jahre 2016 bis 2019 nicht wettmachen. Aber vielleicht hilft es Ihnen, wenn der Untersuchungsausschuss und ich mich als Vorsitzender bei Ihnen für die Vorgänge und Abläufe entschuldige und wir Ihnen hier über alle Fraktionen auch zusagen, zu versuchen, diese Abläufe zu klären, damit das nicht wieder geschieht. Also von mir aus als Vorsitzender in Ihre Richtung nochmals: Entschuldigung für das, was Sie und Ihre Familie da mitmachen mussten. - Und dann, würde ich sagen, machen wir weiter.

Zeuge Matthew Earl: Thank you. That is very much appreciated, thank you.

Vorsitzender Kay Gottschalk: Welcome. - So. Dann ist als Nächstes dran - - Ich gucke in Richtung SPD.

Dr. Jens Zimmermann (SPD): Ich hätte eine Frage noch. Ich weiß gar nicht, ob sie vorhin schon mal gestellt wurde. Aber vielleicht, weil das schon irgendwie - - Es ist hart am Untersuchungsgegenstand dran. Wie stehen Sie eigentlich zu diesen

ganzen Aktivitäten gerade rund um GameStop und Nokia usw.?

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Das ist aber echt nah dran!)

- Aber vielleicht mag er ja trotzdem was dazu sagen. Er war so im Plaudermodus die ganze Zeit. Möglicherweise - - Oder was meinen Sie: Was sollte die BaFin in diesem Fall tun?

Zeuge Matthew Earl: It's obviously quite captivating at the moment and quite incredible what's happening. The issue there is that GameStop is not for one second as valuable as the market currently describes its value, so the problem there is that you have a significant number of retail investors that are putting stock in there. It is a very heavily shorted stock. I don't necessarily think it has been shorted on the basis that it's a fraud. I think it has been shorted because the valuation, as it was three weeks ago, was already higher than what it is probably intrinsically worth, but there is a significantly higher short interest in it and a frenzy of activity in it that has just bid up the price to an astronomical level. And it becomes a kind of self-fulfilling prophecy basically where you have short covering which creates - - the share price goes up, and so on and so forth.

There have been things like that that have occurred over the last few years, very similar instances. I mean Eastman Kodak had its Kodak moment, if you like, similar to GameStop, I think it was last year or the year before. Hertz for example, which fell into bankruptcy, it actually filed for chapter 11 last year, and the share price went up materially probably 4- or 5- or 6-fold when the shares were, effectively, worthless. I mean, the company itself had told the equity investors that it was bankrupt, that it was worthless. I think it is just a symptom of the markets that we are in, which is the amount of money that is swashing around in the system, the access and cheapness with which you are able to trade in these markets and the accessibility of it, basically.

Dr. Jens Zimmermann (SPD): Danke schön.



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Vorsitzender Kay Gottschalk: Danke, Dr. Zimmermann. - Dann wäre als Nächstes - - Ich schaue mal in die Runde. Möchte Frank Schäffler für die FDP noch Fragen stellen? - Bitte schön.

Frank Schäffler (FDP): Ja, ich möchte noch mal die Frage stellen, wie eigentlich die britischen Aufsichtsbehörden mit solchen Fällen wie Ihnen umgehen. Also, wenn denen Erkenntnisse bekannt werden, wie gehen die britischen Aufsichtsbehörden damit um? Hören die Sie an, gehen die aktiv auf Sie zu, oder was machen die? Haben Sie solche Erfahrungen, die Sie uns berichten können?

Zeuge Matthew Earl: Yes, I think they probably would contact - - and, indeed, have done in the past. I don't necessarily think that it would be the Financial Conduct Authority that would investigate. I think that they would probably do a very high-level review and pass it on to an authority such as the Economic Crimes Unit or the National Crimes Agency. Which entity they would pass it on to would depend on the severity of the fraud and what it would involve, but I certainly believe they would be more proactive in that respect, and indeed that has happened. Recently, I have written on a company where the Financial Conduct Authority have reached out to request the report on that company and the notes and the supporting material for that company.

Frank Schäffler (FDP): Ja, das sagte Dan McCrum hier auch im Ausschuss, dass die britischen Behörden eben viel aktiver dann auf die Informationsgeber zugehen würden, anders als das in Deutschland der Fall ist. - Jetzt sind Sie in Deutschland ja auch dadurch aufgefallen, dass Sie gegen ein anderes Unternehmen auch Vorwürfe erhoben haben, die Firma Grenke. Ist denn da die deutsche BaFin auf Sie zugekommen und hat sie abgerufen?

Zeuge Matthew Earl: That wasn't me with Grenke. That was Fraser Perring.

Frank Schäffler (FDP): Das habe ich dann verwechselt. Okay. - Dann bedanke ich mich.

Vorsitzender Kay Gottschalk: Vielen Dank, Frank Schäffler. - Dann wäre als Nächstes dran - ich schaue noch mal - Fabio de Masi für die Fraktion Die Linke.

Fabio De Masi (DIE LINKE): Nur eine Frage: Mr Earl, könnten Sie - Sie werden ja auch oft in Verbindung gebracht mit Fraser Perring - noch mal Ihre geschäftliche Beziehung zu ihm oder Nichtbeziehung, darstellen?

Zeuge Matthew Earl: Yes. I had never met Fraser Perring or heard of Fraser Perring prior to Wirecard. I was introduced to Fraser by a mutual friend in, I think, October/November 2015 when I had already started writing on Wirecard publicly under my own name and he asked if we could swap notes on it, which I said we could do. It was only when I discovered about the money laundering aspect of it looking into the past, particularly the Michael Schütt episode, which I decided I wanted to publish something, to get something out there, because people needed to know about this, but to do it under the nom de plume of Zatarra, the anonymity element to it. I have not had any dealings with Fraser Perring since then, and I wouldn't wish to.

Vorsitzender Kay Gottschalk: Vielen Dank. - Dann wäre jetzt noch mal Frau Paus für Bündnis 90- -

(Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN) meldet sich zu Wort)

- Alles klar, okay.

Dr. Danyal Bayaz (BÜNDNIS 90/DIE GRÜNEN): Herr Earl, eine Frage hätte ich noch, und zwar: Wir haben jetzt hier mit Betrug zu tun. Wir beschäftigen uns auch mit Gesetzgebung darüber im Bundestag. Herr Michelbach hat ja den ehrbaren Kaufmann mehrmals bemüht, und dazu braucht es Regeln. Und da will ich Sie fragen: Reicht es aus Ihrer Sicht aus, oder, jetzt auch mit Blick auf Ihre Branche, braucht es auch welche mit einem



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monetären Anreiz, Betrug aufzudecken? Vielleicht können Sie da noch mal ein, zwei Sätze zu sagen.

Zeuge Matthew Earl: Yes, of course. Look, I hate to break it to you, but Germany has just as much fraud in the financial sector as any other country in the world and fraud is always going to be prevalent and it is going to be inducted and orchestrated as much as the perpetrators can get away with it. I think that what would probably be helpful would be to go down the route of the US authorities have gone down, which is where whistleblowers can be financially incentivised to raise awareness and also be protected, first and foremost, be protected with either confidentiality or legal protections.

And I think it would be worthwhile to set up a properly funded investigative unit which is actually going to investigate allegations, certainly allegations like that of the nature of Wirecard if they ever happen again, fully, and seek to find out the truth. I think that that could probably, after a while, be quite self-funding. There is, as I have said, a not insignificant amount of fraud that is being perpetrated in financial markets. And the way to tackle that is to either implement significant fines to deter that or criminal sentences. After a while, I suspect that it would be easier to implement fines and that that could therefore fund such ambitions, basically.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Herzliche Grüße auch von mir nach London, Herr Earl. - Ich wollte noch mal zum Thema „Rolle der Wirecard Bank“ im Zusammenhang mit Geldwäsche zu sprechen kommen, weil hier im Rahmen der Untersuchung schon eine Rolle spielt, inwieweit tatsächlich die Geldwäscheabwicklung in der Bank stattgefunden hat oder inwieweit es im Konzern gewesen ist, weil das hier regulatorisch einen Unterschied macht. Für die Bank ist die Geldwäscheaufsicht die BaFin, für die Wirecard AG gibt es keine Geldwäscheaufsicht. Könnten Sie uns noch mal erläutern, wie nach Ihrer Auffassung die Geldwäsche tatsächlich stattgefunden hat in der Wirecard Bank?

Zeuge Matthew Earl: Okay. I'll give you an example. There was a company called Bluemay Enterprises which was registered in Consett, County Durham, in the United Kingdom. In 2014, the UK Insolvency Service found that Bluemay Enterprises was a front for an unlicensed gambling company, I think a Dutch-based gambling company. And Bluemay Enterprises had a Wirecard bank account which had over 30 million euros in credit to the account. So, these monies that were held within the Wirecard banking account were in relation to unlicensed gambling, not only were they unlicensed but they were deceiving Visa and Mastercard because they were using a company that was based in the UK that actually had nothing to do with the Dutch-based gambling company, and that is money laundering. That is obfuscating the nature of the transaction.

There are also tax implications, as well, because where is the tax in relation to that activity being paid. There is a whole plethora of illegal activity, but the beauty of it was that it was largely concealed because Wirecard controlled a lot of the elements of the transaction chain in that; with regards to, one, providing the account, two, providing the company that could be used as the front, and three, the payment processing element to it as well, and, indeed, obviously, the avenue into the Visa and Mastercard network because they were a license holder of it.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Könnten Sie vielleicht noch erläutern, wie viel davon bei der Kontrolle bei der Wirecard Bank lag oder wie das Zusammenspiel war zwischen Wirecard Bank und Wirecard AG?

Zeuge Matthew Earl: In 2014, if Bluemay had credits of over 30 million euros, I think the customer deposits at the time would have been about 500 million. Though, as a depository base it is quite material. With Michael Schütt, for example, when he received 70 million euros over the course of nine months, that certainly would have been material in terms of the customer deposit base at that point in time. I think it is important to understand here, Wirecard bank is not a retail bank. It doesn't have retail presence and



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people can go in and deposit money. It is, effectively, a bank for commercial enterprises and merchants, and therefore you don't have to have front-facing operations or anything.

The relationship between AG and the bank itself, I think, as I tried to describe earlier, is that the bank is the Holy Grail in terms of being able to have another element of the transaction chain where you can conceal fraudulent transactions because if you are simply the payment processor in that transaction chain you can be discovered either by the customer bank, the issuing bank, or you can be discovered by the merchants acquiring bank. But, if you are acting for the merchant as a payment processor and providing the bank account, you have a lot more control than if you are just singularly the payment processor - in terms of control over discovery of that fraudulent activity.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Bei Ihrem Termin bei der Staatsanwaltschaft München I im Juni 2019: Hat die Staatsanwaltschaft Ihnen gegenüber offenbart, dass sie Amtshilfe geleistet hat gegenüber den USA im Zusammenhang mit den Anschuldigungen und der Verfolgung der USA in Bezug auf Geldwäsche der Wirecard Bank?

Zeuge Matthew Earl: Whether they had had contact with them? Whether I had?

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Ob Ihnen bekannt ist - - Ist Ihnen bekannt, dass die USA sich gewandt haben wegen Amtshilfe an Deutschland, an die Staatsanwaltschaft München, im Zusammenhang mit der Verfolgung des Verdachts der Geldwäsche gegenüber Wirecard?

Zeuge Matthew Earl: Not at the time of Zatarra. That was revealed with the case file that I had obtained from BaFin when they were attempting to bring that preliminary prosecution against me, so that was an interesting element to that case that I was about to discover, which was that in, I think it was December 2015, the US authorities reached out to the prosecutor in Germany to assist them in an investigation to do with money laundering.

I also think that probably stemmed from an investigation by the Department of Treasury Financial Crimes Enforcement Network which was investigating another bank at the time called FBME, which was, effectively, blacklisted in 2014 or 2015 by the Department of Treasury for money laundering, facilitating weapons proliferation transactions, terrorist financing, and there had been merchant accounts from Wirecard bank that were transferred to FBME in, I think it was in 2013 or 2014, and material monetary transactions between the banks as well.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Und war das noch mal Thema in Ihrem direkten - -

Vorsitzender Kay Gottschalk: Frau Paus, die Zeit ist locker jetzt rum. - Ich frage jetzt erst mal noch: Besteht noch Bedarf? - Gut, ich frage jetzt erst mal Kollegen der CDU/CSU. - Kollegen SPD. - AfD. - Nein. Kollegen FDP? - Nein. Kollege de Masi? - Nein. Dann Frau Paus.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): War das Thema bei Ihrem Termin 2019? Ich habe ja verstanden, 2015/16 hatten Sie ja keinen direkten Kontakt. Da wurden ja auch keine weiteren Dokumente ausgetauscht von Ihrer Seite. Aber haben Sie bei dem Termin 2019 über diesen Sachverhalt auch gesprochen?

Zeuge Matthew Earl: Yes. This was one of the five examples I gave in terms of how I believed they were involved in money laundering. I think it was the fifth example.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Und hatten Sie bei diesem fünften Beispiel den Eindruck, dass die Staatsanwaltschaft da über mehr Informationen verfügte als bei den anderen Fällen? Hatten Sie den Eindruck, sie hatten tatsächlich eigenständig auch ermittelt sozusagen im Rahmen der Amtshilfe?

Zeuge Matthew Earl: I'm not sure, to be honest. I do think the money laundering angle was quite a surprise to them, certainly the scale of it and the seriousness and the severity of it. I think it was a surprise to them. I think they realised very



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quickly the magnitude of it and how serious it was.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Dann eine letzte Frage: Haben Sie eine Einschätzung - - Also, gibt es eine Einschätzung im Markt zur Frage der Verfolgung von Geldwäsche nach unterschiedlichen Standorten? Wie ist da sozusagen die Auffassung in Bezug auf Geldwäscheverfolgung in Deutschland im Vergleich zum Beispiel zu Großbritannien oder den USA?

Zeuge Matthew Earl: I think that money laundering basically occurs in every major economy. I don't think it is ever really going to stop. Unfortunately, it is unlikely that it will ever stop. I think that the best think that can be achieved is to learn from the mistakes that have been made to try to prevent similar examples happening again in the future. With regards to the banking system, I think Germany probably has, it is fair to say, a fairly poor reputation amongst the major economies in terms of overseeing their banks and money laundering within their banks. I guess the US is certainly much harsher and will be readier to implement fines probably more against foreign banks than against their own domestic banks, I would argue. I think it is fair to say that Wirecard hasn't helped, certainly not helped and that Germany has not a particularly great reputation in supervising their banks.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Springt Ihnen da was ins Auge, was der Unterschied ist der amerikanischen Aufsicht gegenüber der deutschen? Ist es das Instrument, ist es die Kontrolle, sind es die Insights?

Zeuge Matthew Earl: I think it's possibly more experience, financial market experience, i.e. practical experience. I think that the SEC and other authorities probably have employees that have worked for banks or that have actual market experience rather than being in a life career, being employed there for a long period of time and not actually having any direct market experience, so in a way they only understand the theory. I would suspect that there is probably a bit more

common sense applied and probably better funding to some degree, not perhaps in the UK but certainly better in the US, which is probably symptomatic of the fact that they can afford that because they do legislate significant fines when they capture wrongdoing.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Okay, also eher die Kultur und nicht die legislativen Möglichkeiten, nicht die gesetzlichen Rahmenbedingungen, nicht die Instrumente, die sie haben, sondern einfach die kulturelle Differenz der Aufsicht gegenüber dem Markt.

Zeuge Matthew Earl: Yes. I think that the UK, obviously since Brexit I am not sure, but certainly for a long period of time, UK banks have been required to adhere to the European Securities and Markets Authority, ESMA, essentially.

Lisa Paus (BÜNDNIS 90/DIE GRÜNEN): Danke schön.

Vorsitzender Kay Gottschalk: Gut. - Jetzt hatte sich Herr Toncar gemeldet bei uns, via Messengerdienst. Wo ist er? Er möchte noch Fragen stellen, hat man mir jetzt signalisiert. Wann ist er denn hier? Weil normalerweise ist natürlich Präsenz - - Aber ich würde jetzt gerne, wenn er nicht da ist - -

(Abg. Dr. Jens Zimmermann (SPD) meldet sich zu Wort)

- Dr. Zimmermann.

Dr. Jens Zimmermann (SPD): Es kann natürlich jede Fraktion so lange Fragen stellen, wie sie möchte. Ich möchte nichtsdestotrotz anregen, mit Blick auf die Uhr: Wir haben jetzt gleich 13 Uhr. Und ich glaube, wir sind uns alle relativ einig, dass wir eine hochkarätige Zeugin warten haben. Ich weiß nicht, wie die Pläne für heute Abend sind, aber ich bin mir nicht sicher, ob wir aus diesem Zeugen jetzt noch - - Aber noch mal: Ich will da nicht derjenige gewesen sein, der jemanden daran gehindert hat, hier noch die entscheidende Frage zu stellen. Aber ich habe jede Menge



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Fragen an Frau Bäumler-Hösl und würde die gerne bei Tageslicht noch stellen.

Vorsitzender Kay Gottschalk: Ich habe mal nichts hinzuzufügen.

Frank Schäffler (FDP): Ja, wir machen mal weiter. Vielleicht ist das eine alte Geschichte gewesen. Vielleicht ist das jetzt nichts - - Also, mir hat er nichts geschickt, also insofern - -

Vorsitzender Kay Gottschalk: Okay. Weil Präsenz ist schon erforderlich. Ich würde jetzt einfach noch 15 Sekunden. Wenn er da jetzt durch die Tür erscheint - - Die Chance soll er haben. Aber wir sitzen alle hier und bei aller Wertschätzung für alle Kollegen hier - - Und nun sind die zehn Sekunden rum.

Also, ich gucke noch mal in die Runde. Gibt es Fragen, Fragewünsche bei der CDU?

(Matthias Hauer
(CDU/CSU): Nein!)

Bei der SPD?

(Dr. Jens Zimmermann
(SPD): Nein!)

Bei der AfD: Nein. Bündnis 90/Die Grünen? - Die Linke? FDP kann ich jetzt nichts hören. Damit stelle ich fest, dass keine Fraktion nunmehr Fragen hat.

Dann können wir Ihre Befragung für heute beenden. Das Protokoll der Befragung wird Ihnen nach Fertigstellung zugesandt. Und da war, glaube ich, noch ein spezieller Wunsch von Herrn de Masi, dass noch was mit übermittelt werden sollte. Das wäre nett, wenn Sie das tun. Sie haben die Möglichkeit, dann noch Anmerkungen entsprechend vorzunehmen.

Ich darf mich wirklich recht herzlich bei Ihnen bedanken, wünsche Ihnen noch einen schönen Tag - Sie haben ja eine Stunde mehr noch von dem schönen Tag -, bedanke mich noch mal beim Auswärtigen Amt, insbesondere beim Personal

der Deutschen Botschaft, für das Ermöglichen dieser Befragung und wünsche allen Beteiligten und auch Ihnen und Ihrer Familie, Matthew Earl: Kommen Sie gesund durch diese schwierige Zeit! Bleiben Sie gesund! Und ich hoffe, wir sehen Sie alle mal lächelnd hier in Deutschland.

Zeuge Matthew Earl: Thank you very much. Thanks for your time.

Vorsitzender Kay Gottschalk: Welcome. - Gut, dann bereiten wir jetzt vor, und ich bitte dann Frau Bäumler-Hösl zu uns in den Saal, unsere zweite und letzte Zeugin für heute. Ich würde sagen, es dauert einen Moment. Wir setzen um 13 Uhr fort. Dann kann jeder sich kurz mit Nahrung eindecken, wir lüften einmal kräftig durch, und es passt. Dann ist bis 13 Uhr kurz unterbrochen

(Unterbrechung von
12.52 bis 13.03 Uhr)