

**From 12/17/13 Oversight and Government Reform Committee interview
with CMS Chief Information Security Officer Teresa Fryer**

Q So you testified that you read the documents and that people on your team read the documents?

A Uh-huh.

Q And my question, did Mr. Schankweiler read the preliminary report?

A Yes, he would have. As the ISSO, he would have, yes.

Q Okay. The next slide in the PowerPoint, slide 5?

A Yes.

Q It's titled FFM (Eligibility and Enrollment, Financial Management and Planning Management) Approach.

Did you prepare this slide?

A No, I did not.

Q Do you know who prepared this slide?

A I can't speculate as to who did.

Q During the briefing on September 23rd, do you remember who discussed this slide?

A No, I was not at the briefing.

Q You were not at the security briefing on September 23rd?

A To Michelle Snyder, no, I was not.

Q Do you know anything about that meeting?

A No.

Q Was anyone on your team in that meeting?

A No.

Q Do you know who was in that briefing?

A No, I do not.

Q So your only role in that briefing was to prepare slide 4?

A Yes.

Q So this recommendation in slide 5, "Follow the mitigation plan and issue an interim ATO," do you know whose recommendation that is?

A No, I don't.

Q Is that your recommendation?

A No, it's not.

Q Would it have been your recommendation?

A No.

Q What would your recommendation have been?

A My recommendation was a denial of an ATO.

Q Who did you make that recommendation to?

A To my management. To the authorizing official.

Q Which is who?

A Tony Trenkle.

Q And did you do that in person?

A Yes, and it was during the security testing when the issues were coming up about the availability of the system, about the testing in different environments. I had discussions with him on this and told him that my evaluation of this was a high risk.

Q And did those discussions occur -- was it just the two of you when you gave him that recommendation?

A In the beginning, yes, and then we also briefed HHS.

Q Who at HHS?

A Frank Baitman and Kevin Charest.

Q Do you recall when you made that recommendation to Mr. Trenkle?

A No, I can't recall the date.

Q Was it prior to September 23rd?

A Yes.

BY [REDACTED]

Q Ms. Fryer, just for the record, you said Frank Baitman and Kevin, what was his last name?

A Charest.

Q How do you spell that?

A C-H-A-R-E-S-T.

Q Thank you. And when did that -- so just to back up for a second. So you had an in-person meeting with you, Mr. Trenkle, and you spoke with Frank Baitman and Frank Charest. Is that right?

A On a telecon, yes.

Q Telecon. Do you recall when that was?

A September 20th.

Q Does that date stick out in your mind for a particular reason?

A No.

Q You just happen to remember that date?

A I just happen to remember that date.

Q Okay. And so you recommended denying the ATO during that call?

A Yes.

Q And what did Mr. Trenkle recommend?

A He did not recommend anything at that -- I mean, at that time. It was just a discussion as to the security -- the completion of the security testing and the issues that were

raised and briefing HHS on the results.

Q And did Mr. Trenkle share your perspective on the ATO?

A I can't speak to that.

Q He didn't say anything that would indicate to you whether or not he shared your perspective?

A No.

Q Did he share your concerns?

A Yes, he did.

Q Did he express those concerns to Mr. Baitman and Mr. Charest on the call as well?

A I really don't recall how it was presented.

Q And what is Mr. Charest's role at HHS?

A He's the HHS CISO.

Q And what's Mr. Baitman's role?

A He's the HHS CIO.

Q What was Mr. Baitman and Mr. Charest, what was their reaction to the concerns and recommendations that you presented on the call?

A They were aware of the issues that were occurring during testing. Kevin Charest had asked that I keep him updated on the progress of the SCA.

Q Do you know how they became aware of the issues identified during the testing?

A I mean, I gave briefing -- I gave updates to Kevin either orally or I had communicated in emails.

BY [REDACTED]:

Q When did you start giving Mr. Charest updates on the SCA?

A I don't recall exact dates.

Q Mid-September or prior to mid-September?

A Prior to mid-September.

Mr. [REDACTED] During August as well?

Ms. Fryer. I can't recall if it was August.

BY MR. [REDACTED]:

Q Did he ever make any recommendations to you, Kevin Charest?

A I'm sorry, Kevin Charest?

Q Yes.

A No, he did not.

Q He didn't offer you any feedback on some of the issues that were occurring?

A No, he did not.

BY MR. [REDACTED]:

Q Other than asking you to continue to keep him informed?

A Yes.

Q And was this call on September 20th your first interaction with Mr. Baitman about this issue?

A Yes.

Q And what was your understanding of the purpose of Mr. Baitman being on the call?

A I'm sorry, can you rephrase that?

Q Sure. So I'm just asking, you had been keeping Mr. Charest in the loop and updating him regularly, and then you had your first interaction with Mr. Baitman on September 20th. What was your understanding of why Mr. Baitman became involved on September 20th?

A I just know that we had scheduled a meeting to discuss, you know -- it was the end of the testing, and it was just to discuss the issues that were raised during testing with both Frank Baitman and Kevin Charest.

Q So you said they weren't surprised by what you were telling them. Did they express concern about the security of the -- did they express concern about the results of the testing as well?

A I don't recall. Again, they knew there were issues.

Q Did either of them express any disagreement about any of the concerns or recommendations that you were expressing?

A No, they did not.

Q So how did the conversation conclude? What were the next steps or deliverables associated with the ending of the call?

A I don't recall. It was just the conclusion of the testing and the issues that were raised.

Q Did they indicate that they were going to speak about this, to anyone else about this issue?

A No, they did not.

Q So at the conclusion of the call on September 20th, you weren't sure whether or not an ATO would move forward?

A Correct.

Q So what happened next? Did you have any other conversations about an ATO with anybody else after September 20th?

A No, no, my job is just to present -- again, is to evaluate the risks, present them to the authorizing official, and it's their job to make a risk-based decision on whether or not the system goes into operation.

Q So when did you learn that an ATO had in fact been authorized?

A Monday, that September 23rd, was when I had gotten -- was asked to provide input for this briefing to Michelle Snyder. And then on Tuesday I had received an email from George Linares to provide input to the risk decision memo.

BY MR. [REDACTED]:

Q What's the risk decision memo?

A The risk decision memo was one that Marilyn Tavenner signed agreeing with the recommendation for a 6-month ATO.

Q So you did not call that an ATO?

A Yes, it is an ATO that Marilyn signed, yes.

Q Okay.

BY MR. [REDACTED]:

Q So you were asked to contribute to a memo that would conclude with a decision that you disagreed with?

A I was asked to provide input on the risks associated that were discovered during the testing.

Q And did you provide that input?

A Yes, I did.

Q What form did your input take?

A It was through an email.

Q Was it language to be added to the document?

A Yes.

Q And was that language, in fact, added to the document?

A In some form, yes.

Q So it was edited --

A Yes.

Q -- before it was added to the document?

A Yes. It went through a vetting process.

Q Were there risks or descriptors of that risk that you wrote that did not make it into the final document?

A It was more of the high level risk, such as the testing in different environments on different versions of code, which had made it into the document.

Q So there were some changes, at least, some deletions between what you drafted and what --

A There were changes, yes.

Q Were there any deletions?

A I don't recall.

Q Did you agree with the changes that were made?

A Yes.

Q So when you were asked to contribute to the risk decision memo, was it communicated to you that it was expected that Ms. Tavenner would sign it and an ATO would be granted?

A It was communicated to me that it was going to Marilyn Tavenner, yes.

Q And who communicated that to you?

A George Linares and Tony Trenkle.

Q Did you at that time express any concern or disagreement?

A No, I just provided the input.

Q You'd expressed concern, you know, previously, and disagreement with the decision. Why did you choose not to at that point?

A Again, my responsibility is just to provide, again, the evaluation of the risk

that was discovered during testing, present it to the authorized official. My job is not to grant or deny an authority to operate. That's the responsibility of the authorizing official.

BY MR. [REDACTED]:

Q Who is Mr. Trenkle.

A Yes.

Q Did Mr. Trenkle have a discussion with you about whether he would be able to authorize signing the ATO?

A Can you rephrase?

Q Normally the CIO will issue the authority to operate, correct?

A Yes.

Q In this case, the authority to operate was not issued by Mr. Trenkle, correct?

A Correct.

Q Do you know why Mr. Trenkle did not issue the authority to operate?

A No, I can't speculate as to why he didn't.

Q So you didn't have a conversation with him where he listed what his reasons were for elevating the ATO to Ms. Tavenner?

A No.

BY MR. [REDACTED]:

Q Ms. Fryer, Chairman Issa, when he was here earlier, asked you questions and asked you about your views on a potential change in policy or change in law that would enable you and the people in your position in the Federal Government to have veto power as to whether or not an ATO moves forward. You said that you thought that would be a positive change. Do you recall that?

A Yes.

Q If in fact the law would have enabled you to do that with respect to this case,

would you have exercised that authority and prevented the ATO from moving forward?

HHS Counsel Ms. [REDACTED] That's a request for a speculation.

Ms. Fryer. Yes, I believe -- I can't speculate on that because I only look from a security perspective, I only look at security risks, and even in this documentation it says you have to take other risks into consideration when you put a system into production.

BY MR. [REDACTED]:

Q I understand.

A I can only look at security risk.

Q But if the law were to enable you, and purely from a security perspective, to veto the authorization of an ATO, would you have done so from a security perspective?

HHS Counsel Ms. [REDACTED] She is here as a fact witness, Chris. She's not here as your expert.

Mr. [REDACTED] With respect, she answered that question. She provided her input. She's providing input into potential changes in law that would be within the jurisdiction of the committee. She's here, and I'm just asking a simple question.

HHS Counsel Ms. [REDACTED] In all fairness, she was prepared to come and tell you her recollection to fact. I have no idea of the degree to what she is prepared to come and offer policy judgments to assist you with legislative development.

He's asking you to speculate. If you would like to speculate, I won't stop you.

Ms. Fryer. I would like to see a change in policy as to the role of the CISO, but that doesn't mean that I would have the sole authority to say whether or not a system would go into operation, authorization, because again I only look at security risks, and even NIST tells us that you have to look -- the authorizing official has to look at all the different risks to business. They have to weigh the business risk, they have to weigh all different types of risk.

Mr. [REDACTED] Thank you.

BY MR. [REDACTED]:

Q You testified that Mr. Baitman, Mr. Charest, and Mr. Trenkle knew of your recommendation not to issue an ATO. Did anyone else at CMS or HHS know of your recommendation?

A Yes.

Q Who?

A Henry Chao.

Q Anybody else?

A I don't recall.

Q How did you convey to Mr. Chao your recommendation that an ATO shouldn't be issued?

A He was on the telecon on September 20th.

Q Okay. So the teleconference on September 20th was yourself, Mr. Trenkle, Mr. Baitman, Mr. Charest, and Mr. Chao?

A Yes.

Q Do you recall what Mr. Chao said on the teleconference after you informed everyone on the call of your recommendation?

A Yeah, he wanted to know what the concerns were because there were no high findings.

Q And to the best of your recollection, what did you say?

A Again, it was in response to the uncertainties that were discovered during testing because of the testing in different environments. And the different codes, different versions of the code were tested, so it just raised the level of uncertainty and the unknown risks.

Q And after you explained that, did he give any other feedback?

A No.

Q After that conversation, was there any sort of next steps developed by any of those four gentlemen?

A No.

Q Do you know if any of those four gentlemen informed anyone else of your recommendation?

A No, I don't know.

Q So you don't know if Ms. Snyder knew of your recommendation?

A No.

Q You don't know if Ms. Tavenner knew of your recommendation?

A No.

Q Should Ms. Tavenner have known of your recommendation?

A I can't answer that. My job was to brief the authorizing official.

BY MR. [REDACTED]:

Q Ms. Fryer, other than Frank Baitman and Kevin Charest, do you know if any other official within HHS knew of you recommendation?

A No, I don't know if anybody else knew.

Q How did the September 27th ATO memo, how did that originate? Whose idea was it for it not to go through the usual process at the CIO?

A I can't speculate as to how it originated. I just was asked to provide input to it.

Q Do you know what day it was sent to Ms. Tavenner --

A No.

Q -- for her signature?

A No, I don't.

Q And Mr. Trenkle didn't tell you -- well, did Mr. Trenkle tell you why he was not going to sign the ATO?

A No, he did not.

Q Did Mr. Trenkle express concerns about the security testing?

A When I briefed him during the testing, there were concerns as to the issues that were being raised.

Q And is it correct that you didn't feel that the mitigation plan was sufficient for the system to go live?

A The mitigation plan identified in the risk decision memo were added protections. To compensate for those unknown risks -- we couldn't mitigate or remediate those unknown risks, so the mitigation plan gave extra protections for the marketplace as a whole, extra protections.

Q But there's a limitation to doing a mitigation plan when the security testing has issues, correct?

A I don't understand that.

Q Is the usefulness of a mitigation plan in part a function of the security testing?

A I'm sorry, repeat the question.

Q Is the mitigation plan in part a function of the type of security testing that occurred?

A No, usually a mitigation plan or remediation plan is put into place after findings are discovered.

Q So it's difficult to have a mitigation plan when you don't do the testing and aren't sure what the risks are?

A Yes.

Q Okay. And that was a weakness with -- so the mitigation plan just didn't address the unknown, the unknown risks?

A The mitigation plan helped reduce those -- put added protections into place

since there were those unknown risks.

Q And the mitigation plan would have been stronger if there was a complete integrated security test?

A If they were able to do the testing in a single environment and on the same version, there would have been -- there would have been, of course, less uncertainty and less unknown risk. Every system is going to have unknown risk, but because the testing wasn't conducted in a single environment dedicated, there was more unknown risk.

Q Have you ever recommended an ATO not be issued and that ATO subsequently was issued anyway?

A Yes, that has happened in the past.

Q How often has that happened?

A In the 2 years I've been at CMS, 2, 3 times.

Q Out of how many?

A Out of -- I can't -- I can't say. We have almost 200 FISMA systems. But it has happened. We may have --

Q So is it out of hundreds of times or --

A Probably not even -- not even a hundred.

Q Okay.

[REDACTED]

[REDACTED]

BY MR. [REDACTED]:

Q Do you recall what -- you said two or three times it's happened. Do you recall those two or three times, particular systems that you recommended against authorizing?

A I don't recall the names. I can recall the situations, you know, the times that -- you know, the issues that were raised of why we would not have recommended an ATO.

Q What were those, to the best you can remember?

A Well, again, it was -- I think it was the risks that were raised during testing. Again, it might have been that the system wasn't ready to be tested, and we may have encountered the same issues during testing.

Q In those cases in which your recommendation was not followed, who was responsible for rejecting your recommendation?

A The authorizing official is always responsible for whether or not a system goes into operation.

Q And who was that official in those two cases or three cases?

A Tony Trenkle was the authorizing official for the 2 years I've been there.

Q Ms. Fryer, you mentioned that the authorizing official has to weigh different types of risk, including security risk. In your opinion, what other types of risk could potentially outweigh the risk associating with moving forward with an insecure system?

A I can't speculate as to what would outweigh a security risk. That's not in the realm of my responsibility. I just can identify security risks.

Q Do you think there's any risk out there that would outweigh the risk of

launching of an insecure system where people's personal information is at risk?

A Are you asking for my opinion?

Q I am.

HHS Counsel | Ms. [REDACTED] And, again, this is speculation you're asking her.

Ms. Fryer. Again, this is speculation. I'm not in that position to say what risk would outweigh another risk. I only look at security risk and make a recommendation just from a security perspective based on security risk.

Mr. [REDACTED]. Okay.

BY MR. [REDACTED]:

Q How did you learn about Mr. Trenkle's intentions to elevate this issue to Ms. Tavenner?

A In conversation.

Q Conversations with who?

A With Tony. I don't recall exact conversations. I don't recall exact dates of conversations where his exact -- when he intended to raise the issue.

Q Do you recall what he said to you about why he was going to elevate this issue to Ms. Tavenner?

A No, I don't.

BY MR. [REDACTED]:

Q Did this strike you as unusual?

A I'm sorry, that --

Q Did it strike you as unusual that the issue would be elevated to Ms. Tavenner?

A No.

BY MR. [REDACTED]:

Q Have you ever been involved in an ATO process before that has involved the

CMS Administrator?

A No.

Q So why did it not strike you as being unusual then?

A It didn't because of the level of -- well, first, complexity of the system and because of just the sensitivity of the system. It was a very, so to speak, in-the-spotlight marketplace system. It was the magnitude of the system.

Q But prior to, sort of, September 23rd when the results of MITRE security control assessments were known, you didn't have any knowledge that this issue was going to be raised to Ms. Tavenner?

A I don't recall in conversations --

Q Okay.

Do you know if Ms. Snyder was involved in the decision to elevate the ATO to Ms. Tavenner?

A No, I don't know.

Q Do you know if George Linares was involved in the decision to elevate the ATO to Ms. Tavenner?

A No, I don't know.

Q Do you know if Frank Baitman was involved in the decision to elevate this ATO to Ms. Tavenner?

A No, I don't know.

Q Do you know if Mr. Charest was involved in the decision to elevate this ATO to Ms. Tavenner?

A No, I don't.

Q Did you ever have, after the September 20th teleconference, did you have any subsequent conversations with Mr. Baitman, Mr. Charest, or Mr. Chao about the security of

the marketplace?

A No.

Q So you haven't -- have you spoken to Mr. Chao since September 20th?

A No.

Q Have you spoken to Mr. Baitman since September 20th?

A I don't recall if we had any follow-on conversations. I do keep Kevin Charest updated on the weekly scans that we're conducting.

BY MR. [REDACTED]:

Q So you've had follow-up meetings and conversations with Mr. Charest since mid-September?

A Yes.

Q And did the issue of the ATO ever come up after the ATO was signed?

A No.

Q You didn't feel it was important to bring it up afterwards?

A With Kevin Charest?

Q Right.

A No, he was updated. He was kept updated on the status.

Q The status of the security testing?

A The status of the ATO after it was signed by Marilyn Tavenner. And I just kept him updated on the weekly security scans that were being conducted.

Q When you say "the status of the ATO," did the status of the ATO change?

A No. That's why it wasn't brought up again after Marilyn had signed the ATO.

Q Okay.

BY MR. [REDACTED]:

Q Do you know why Henry Chao and James Kerr's names appear at the top of

the ATO?

A No, I do not.

Q Do you know who made that decision for their names to appear at the top of the ATO?

A No.

Q When you discussed this issue with Mr. Chao, you testified that he said that there were no high findings in MITRE's report and that you raised the issue of all the unknown security risks. And do you recall whether he said anything else, sort of, as the lead operational manager of HealthCare.gov?

A No.

Q How long did the phone call last?

A I don't recall. It was a half-hour?

Q Half-hour?

A Yeah.

Q Who did most of the speaking on the call?

A Myself and Tony, from what I could recall.

Q Did you get that anyone shared your perspective about the depth of the risks involved?

HHS Counsel Ms. [REDACTED]. You want to know if somebody said that?

BY MR. [REDACTED]:

Q Was your impression that anyone shared your --

A I don't recall.

Q Okay.

Do you know if Henry Chao reviewed the results of MITRE's security testing, the preliminary report, prior to revising the September 27th ATO?

A No, I wouldn't know that.

Q Would it have been advisable for Mr. Chao to have reviewed MITRE's security assessments prior to having his name listed on the September 27th ATO?

A I can't answer that. That wouldn't have been my responsibility.

Q Did you have a discussion with James Kerr about this ATO before it went to Administrator Tavenner?

A No.

Q And you testified that you didn't have any conversations with Ms. Tavenner about this memo.

A No, I did not.

BY MR. [REDACTED]:

Q Ms. Fryer, did you discuss your recommendation against moving forward with the ATO with Mr. Lyles, Darrin Lyles?

A No, I did not.

Q So, to your knowledge, he was not aware of your recommendation?

A No.

Mr. [REDACTED] Did you discuss it with -- just one more time -- did you discuss it with anyone else within the Federal Government other than Mr. Baitman, Mr. Charest, Mr. Trenkle, and Mr. Chao?

Ms. Fryer. No.

Mr. [REDACTED] So you didn't discuss it with any of the other members of your team, the Federal members or the minor members of your team?

Ms. Fryer. Members of my team I did, because they review the -- they review the security artifacts and then the results of the SCA.

BY MR. [REDACTED]:

Q So the members of your team, again, are Mr. King?

A Yes, Jason King.

Q And Ms. Hoffman?

A And Jessica Hoffman. And Jane Kim is the one that actually prepares the ATO packages.

Q Jane Kim and --

Mr. [REDACTED] Jacqueline Toomey?

Ms. Fryer. And Jacque Toomey is the division director.

BY MR. [REDACTED]:

Q And you testified -- remind me the name of the individual who was your deputy.

A Oh, Michael Mellor. Yes.

Q Was he involved, as well?

A Yes.

Q So did you discuss your recommendation with this team?

A I didn't discuss it in a formal -- usually, they review the artifacts and list, you know, the security risks that were discovered. If there is, you know, documentation that's lacking, they'll list that out on an executive summary.

Q Did the other members of your team share your recommendation?

A I can't answer that. That's speculation.

Mr. [REDACTED] So it's fair to say that there was never -- you never had either one-off discussions or a group discussion about your decision to suggest not moving forward with an ATO with your team members?

Ms. Fryer. No, I did not.

BY MR. [REDACTED]:

Q Did you inform any of them that that was going to be your recommendation?

A In conversations, you know, I'm sure it came up because they need to know how to write the letters to the authorizing official. They prepare the ATO letter.

Q So, in those conversations in which you informed them that you were going to recommend against moving forward with an ATO, did any of them express disagreement with your decision?

A I can't speculate as to -- I mean, they're professionals. They don't express an opinion as to whether or not they disagree or agree with my decisions as the CISO.

Mr. [REDACTED] Is an ATO issued over the objection of the Chief Information Security Officer FISMA-compliant?

HHS Counsel Ms. [REDACTED] Say that again.

Ms. Fryer. Say that again.

BY MR. [REDACTED]:

Q Is an ATO issued over the objection of the Chief Information Security Officer FISMA-compliant?

A Is it FISMA-compliant?

Q Yes.

A Yes, an ATO can be issued even if the recommendation from the CISO is a denial of an ATO. The authorizing official is the one that makes that decision.

Q Okay.

A Right.

Q What's the role of the Chief Information Security Officer under FISMA?

A To carry out the FISMA duties of the CIO.

Q Okay.

Did you formalize your recommendation in any way? Did you produce a memo, or

did you email anybody?

A No. I had drafted a memo to be given to Tony, but it never made it up to Tony because of the risk decision memo that was being drafted.

BY MR. [REDACTED]:

Q So can you walk us through that? So you drafted it, and then what did you do with it? Did you send it to somebody?

A No.

Q You never pressed "send" on the email?

A No. No.

Q Because of the intervening event of you being asked to contribute to the memo?

A Yes.

Q The draft that you prepared, is that still in your possession --

A Yes.

Q -- still on your computer?

A Yes.

BY MR. [REDACTED]:

Q The last page of the ATO, one of the earlier exhibits, it's titled "The Federally Facilitated Marketplace Decision Memo, Risk Acknowledgment Signature Page."

And it reads, "We acknowledge the level of risk the agency is accepting in the federally facilitated marketplace. The mitigation plan does not reduce the risk to the FFM system itself going into operation on October 1st, 2013. However, the added protections do reduce the risk to the overall marketplace operations and will ensure that the FFM system is completely tested within the next 6 months."

And this is signed by yourself, Mr. Trenkle, and Ms. Snyder. What is this document?

A This page?

Q Yeah.

A This is an acknowledgment of the risk.

Q Do you know why this page was included with the ATO?

A No, I can't speculate as to why this was added.

Q Do you know at whose suggestion this page was included with the ATO?

A Again, I can't speculate as to who originated --

Q Who -- I'm sorry, were you going to say something else?

A No.

HHS Counsel | Ms. [REDACTED] Let me say something else, though. I'm just wondering what's the timing.

Mr. [REDACTED] A couple of minutes, I think I'll get through this.

HHS Counsel | Ms. [REDACTED] Okay.

BY MR. [REDACTED]:

Q Who asked you to sign this page of the document?

A I was asked by Tony to sign.

Q And why did you sign this document?

A Again, they were asking -- it was being asked that the CISO acknowledge the level of risk that was identified with this system.

Q So, by signing this, you were acknowledging the level of risk. You were not acknowledging that you agreed with the decision to proceed with the ATO?

A Yes.

Q Did you make it clear that you were not agreeing with the decision to -- for the ATO when you signed this document?

A Yes. This actually went through a vetting process, and this language was

drafted by myself, this language on this page. So there were many -- it was a vetting process for this letter.

Q Explain what that means.

A So it was vetted, changes were made, and it went back out for review.

BY MR. [REDACTED]:

Q It always included this final --

A No, this did not always --

Q This page.

A It did not always include this last page.

Q So the risk acknowledgment page was added during the vetting process for the entire ATO?

A Yes. Not during the entire ATO. During the drafting of this risk decision memo, this last page was added.

BY MR. [REDACTED]:

Q And it was Mr. Trenkle's idea to include this last page?

A I know I said earlier it was Mr. Trenkle's idea, but I really can't recall who suggested this separate page.

Q Okay.

BY MR. [REDACTED]:

Q But you drafted the language?

A I drafted the language because I was putting my signature on it.

Q And who else was involved in the vetting process?

A I don't recall everybody that was in. I know George Linares, Tom Schankweiler. There were several names that were on the email distribution list.

BY MR. [REDACTED]:

Q Were you ever asked to put your name on something that you weren't comfortable putting your name on?

A Yes.

Q Can you explain that?

A Again, it was in regards to the recommendation for a 6-month ATO.

Q And who presented you with that?

A George Linares was the one that had sent out the version for review. I don't know who authored -- again, I don't know who authorized this letter originally.

Q So was Mr. Linares -- did he ask you to sign the version that you were uncomfortable with?

A No, he did not ask me to sign it. He asked for review.

Q Okay. And was that draft sent to you via email?

A Yes.

Q Do you still have that draft?

A Yes.

BY MR. [REDACTED]:

Q So your signature block was not on the draft.

A On?

Q The draft of the version that you were asked to review.

A My signature was to be part of that draft, the original draft, yes, not a separate page.

Q So, okay, just to be clear, so what we're looking at here in this exhibit, there was an original draft that did not include the third page.

A Yes.

Q And in that original draft -- well, let me ask you that. How did that original

draft compare to this exhibit? What were the differences?

A I couldn't tell you. I mean, there were many different iterations of this risk decision memo before the final was signed.

Q So in the draft that you received, who was to sign that draft?

A It was to be signed by the business owner, Henry Chao, myself, and the CIO; Michelle Snyder, and Marilyn Tavenner. Or, actually, it was going to Marilyn Tavenner.

Q And the business owner is who?

A Jim Kerr.

Q So it was to be signed by Jim Kerr, Henry Chao, the CIO, who was?

A Tony Trenkle.

Q And Ms. Snyder. And it was going to be signed by -- and you.

A And myself to Marilyn Tavenner.

Q For her to sign, as well?

A Yes.

Q And did you express your unwillingness to sign that document?

A In the wording that was in draft, some of the wording in earlier versions, yes.

Q What was the wording that you refused to sign?

A That it said all parties recommend a 6-month ATO.

Q And did you communicate your refusal to sign that document via email?

A Yes.

Q To who?

A George Linares.

Q Did Mr. Linares respond to your email?

A Yes. He wanted to know what my concerns were.

Q And did you express your concerns?

A Yes.

Q What did you express to him?

A I said that I could acknowledge the level of risk but not concur with the recommendation for a 6-month ATO.

Q And you communicated that in your email, as well?

A Yes.

Q Did he respond to that email?

A No. I don't recall if he did.

Q So when did you send that email?

A It was the week of the 23rd. I don't recall the date.

Q So after you had this email exchange with Mr. Linares, what happened next?

A There was another revision of the letter.

BY MR. [REDACTED]:

Q Was it still a single document at that time?

A No, I believe that's at the point that it was broken out to be an acknowledgment --

Q Okay.

A -- page for myself and Tony and Michelle Snyder.

BY MR. [REDACTED]:

Q And upon receiving that draft, did you indicate your willingness to sign on?

A Yes.

Q Were you concerned at all about the structure of the document such that your signature on it could be read by uninformed people of the details of this process as an agreement with the decision to move forward with a 6-month ATO?

A Say that again.

Q Ms. Fryer, there's a signature page here on the third page. You testified that's unusual. The recommendation expressed in the first two pages is to move forward with a 6-month ATO, which you testified you disagreed with. You then signed a third page, which is attached to that first two pages.

Were you or are you concerned at all that anyone might have the misimpression that you agreed with the recommendation because of the structure of the document?

A I wasn't concerned at the time.