1		_	ISTRICT COURT T OF NEW YORK
2		Χ	
3	UNITED STATES OF AMERICA,	:	18-CR-00204(NGG)
4	Plaintiff ,	:	
5	-against-		United States Courthouse Brooklyn, New York
6	KEITH RANIERE, et al.,	:	
7	Defendant.		June 13, 2019, Thursday 9:30 a.m.
8		Χ	
9	TRANSCI	RIPT	OF TRIAL
10	BEFORE THE HONORABLE NICHOLAS G. GARAUFIS UNITED STATES DISTRICT JUDGE, and a jury		
11	APPEARANCES:	JIKIO	T GODGE, and a jury
12	For the Government:	DTCU	ARD P. DONOGHUE
13	Tor the dovernment.	Unit	ed States Attorney MOIRA K. PENZA, ESQ.
14		•	TANYA HAJJAR, ESQ.
15		Assi	MARK LESKO, ESQ. stant United States Attorneys
16			Cadman Plaza East klyn, New York 11201
17	For the Defendant:		MAN & ASSOCIATES, P.C.
18		New '	Third Avenue York, New York 10017
19			MARC A. AGNIFILO, ESQ. TENY ROSE GERAGOS, ESQ.
20		_	HANNESIAN & DEROHANNESIAN
21		Alba	Broadway ny, New York 12207
22		BY:	PAUL DerOHANNESIAN, II, ESQ. DANIELLE R. SMITH, ESQ.
23			
24	Official Co	ourt I	
25		uter	PR@gmail.com ized stenography. Transcript cription.

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4869
                               Proceedings
                  (In open court - jury not present.)
1
 2
               (Judge NICHOLAS G. GARAUFIS entered the courtroom.)
 3
                  (Defendant entered the courtroom.)
 4
              THE COURT:
                          Appearances, please.
              MS. PENZA:
                          Moira Penza, Tanya Hajjar, Mark Lesko
 5
6
    for the United States. Good morning, Your Honor.
7
              THE COURT: Good morning.
8
              MS. PENZA: Also at counsel table is Special Agent
9
    Michael Lever and Paralegal Specialist Teri Carby.
10
              THE COURT: All right, good morning.
              MR. AGNIFILO: Good morning, Your Honor.
11
    Agnifilo, Teny Geragos, Paul der Ohannesian, and Danielle
12
13
    Smith for Keith Raniere, who is with us this morning in court.
14
              Good morning.
              THE COURT: Good morning, everyone. All right,
15
16
    please be seated.
17
              Okav. You have more for the witness?
18
              MS. HAJJAR: Yes, Your Honor.
19
              THE COURT: All right.
20
              MS. HAJJAR: Not too much longer.
21
              THE COURT: Anything else?
22
              Okay. Let's bring in the witness.
23
              Please bring in the jury.
24
               (The witness entered the courtroom and resumed the
25
    stand.)
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Proceedings
                                                                 4870
               (Pause.)
1
 2
               (Jury enters.)
 3
               THE COURT: Please be seated.
               Good morning, members of the jury.
 4
               THE JURORS: Good morning.
5
               THE COURT: All right, let's continue with the
6
 7
    examination of the witness.
8
               MS. HAJJAR: Thank you, Your Honor.
9
               THE COURT: I remind the witness that he is still
10
    under oath.
               THE WITNESS: Yes, Your Honor.
11
12
               (Continued on the following page.)
13
14
15
16
17
18
19
20
21
22
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24
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Booth - direct - Hajjar
                                                           4871
     previously called as a witness by the Government, having
     been previously duly sworn/affirmed by the Courtroom
     Deputy, was examined and testified further under oath as
DIRECT EXAMINATION RESUMED
     Good morning, Examiner Booth.
     Good morning.
     Examiner Booth, I am going to show you what's in evidence
as Government Exhibit 550.
          (Exhibit published.)
     And yesterday we were discussing the reports you
generated in connection with the folders within the "Studies"
folder, is that right?
     And you testified to a number of images, but one from
each of these folders?
     Now, is there one folder that we didn't review the
contents of, Examiner Booth?
```

22 I think it was the last folder.

23 Q The last folder.

BRIAN BOOTH,

follows:

BY MS. HAJJAR:

Yes.

Yes.

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Α

Α

Q

Q

And you testified regarding EXIF data in connection with a single image from each of those folders?

> SAM 0CR RMR CRR **RPR**

- 1 A Yes, I did.
- 2 Q With respect to Government's Exhibit 508, which was the
- 3 | first image we looked at, you testified that that was created
- 4 based on the EXIF data in December of 2005?
- 5 A Yes.
- 6 Q And with respect to 509, you testified that was with
- 7 respect to November 2005?
- 8 A Yes.
- 9 Q And with respect to the images in the remainder of the
- 10 | folders, that's from folder BJ103005 through Msk101905, what
- 11 was the month and year of the images that we looked at
- 12 yesterday?
- 13 A That was October of '05.
- 14 Q Examiner Booth, you testified that you also created a
- 15 report with respect to the images in this folder, V110205, is
- 16 | that right?
- 17 A That's correct.
- 18 | Q Now, I'd like you to direct your attention to Government
- 19 | Exhibit 518-A through U.
- 20 MS. HAJJAR: May I approach the witness, Your Honor?
- 21 THE COURT: Yes.
- 22 BY MS. HAJJAR:
- 23 | Q Examiner Booth, can you just look at those exhibits?
- 24 A (Witness complies.) I have.
- 25 | Q Are those exhibits images that were also reflected in

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4873
                         Booth - direct - Hajjar
1
    your report with respect to that folder?
 2
         Yes, they were.
 3
              MS. HAJJAR: Your Honor, the Government offers
 4
    Government Exhibit 518-A through U.
5
              MR. Der OHANNESIAN: No objection.
              THE COURT: All right, Government Exhibit 518-A
6
7
    through U received in evidence.
8
               (Government's Exhibits 518-A through 518-U were
9
    received in evidence.)
10
              MS. HAJJAR: Your Honor, can I just retrieve
    the book?
11
12
              THE COURT: Yes, you may.
13
              MS. HAJJAR: Your Honor, at this time, I would like
14
    to ask that the images be published to the jury alone with
    Special Agent Rees, if that's all right with Your Honor.
15
16
              THE COURT: All right.
17
               (Images shown to the jury alone.)
18
    BY MS. HAJJAR:
19
         Examiner Booth, the images that comprise those exhibits,
20
    some of them are located in this folder (indicating), is that
21
    right?
22
    Α
         Correct.
23
    Q
         And what is the name of that folder?
24
    Α
         It's 2005-11-02-0422-20.
25
    Q
         And the remaining images are located in this folder
```

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4874
                         Booth - direct - Hajjar
    (indicating)?
1
 2
         Yes.
         What's the name of that folder?
 3
 4
    Α
         2005-11-24-0814-46.
         And the title of the main folder that contains both those
5
    folders?
6
7
         That is V110205.
8
         Now, in connection with the report you created, was there
9
    EXIF data for each of these photographs within that folder?
10
    Α
         Yes, there was.
11
         I am showing you --
12
              MS. HAJJAR: Can I show something just to the
13
    witness, Your Honor?
14
              THE COURT: Go ahead.
15
               (Exhibit published to the witness alone.)
    BY MS. HAJJAR:
16
17
         I am showing you what's marked for identification as
18
    Government Exhibit 504-B.
19
    Α
         No.
20
              THE COURT: Go ahead.
21
              MS. HAJJAR: Thank you.
22
    Q
         Can you see that, Examiner Booth?
23
              MS. HAJJAR: May I approach the witness with it,
    Your Honor?
24
               THE COURT: Yes, go ahead.
25
```

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4875
                         Booth - direct - Hajjar
    BY MS. HAJJAR:
1
 2
         Do you recognize this exhibit?
         Yes, I do.
 3
    Α
 4
         And is this the EXIF data for the images that we just
    discussed?
5
         Yes.
6
    Α
7
              MS. HAJJAR: Your Honor, the Government offers
8
    Government Exhibit 504-B into evidence.
9
               MR. Der OHANNESIAN: No objection.
10
               THE COURT: All right, Exhibit 504-B is received in
11
    evidence.
12
               (Government's Exhibit 504-B was received in
13
    evidence.)
14
               MS. HAJJAR: May I publish it, Your Honor?
              THE COURT: Yes, let us see.
15
16
               (Exhibit published.)
17
               THE COURT: Okay. All right.
18
              MS. HAJJAR: Thank you.
19
    Q
         Examiner Booth, this exhibit is not the entirety of the
20
    report you created with respect to that folder, is that right?
21
         No, it isn't.
    Α
22
    Q
         It's just the EXIF data?
23
    Α
         Yes.
24
         Okay. And so for the first page of Government
    Exhibit 504, that's the first image we looked at, Image --
25
```

```
Booth - direct - Hajjar
                                                                 4876
1
    sorry, just referring to Government Exhibit 550, that's the
 2
    first image here (indicating)?
 3
               (Exhibit published.)
 4
    Α
         Yes, it is.
    Q
         And what is the EXIF image make and model?
 5
         The make is a Cannon EOS 20D.
 6
    Α
 7
    Q
         And the date and time?
8
         The date/time original is 2005:11:02 17:59:16.
    Α
9
    Q
         And that's November 2nd, 2005?
10
    Α
         Yes, it is.
11
    Q
         Turning to page 11 of the same exhibit, it's the same
12
    camera for Image 0151.
13
               And what's the date and time?
14
    Α
         The original date and time is 2005:11:02 17:59:25.
         And that's, again, November 2nd?
15
    Q
16
         Yes, it is.
17
               THE COURT: Do you have the serial number of the
18
    camera?
    BY MS. HAJJAR:
19
20
         So turning your attention, Examiner Booth, to page 16 of
21
    that exhibit.
22
               (Exhibit published.)
23
    Q
         That's, again, the Cannon EOS 20D camera?
         Yes.
24
    Α
25
    Q
         And what's the serial number?
```

Booth - direct - Hajjar

- 1 A The serial number is 1420908348.
- 2 Q Is that the same serial number as all of the images we've
- 3 been discussing this far?
- 4 A Yes, I believe it is.
- 5 Q Turning your attention to page 31, this is for
- 6 | Image 0153.
- 7 The same camera associated with this?
- 8 A Yes.
- 9 Q What's the date and time?
- 10 A The date/time original is 2005:11:02 17:59:34.
- 11 | Q And turning to page 41, this is for Image 154. What's
- 12 | the date and time?
- 13 | A Date/time original is 2005:11:02 17:59:47.
- 14 Q The following image, which is on page 51. The date and
- 15 | time?
- 16 A The time original is 2005:11:02 18:00:22.
- 17 | Q For the following image, Image 156, is that, again,
- 18 | November 2nd, 2005?
- 19 A Yes.
- 20 Q And the following image, again, November 2nd, 2005?
- 21 A Yes, it is.
- 22 | Q And the same for the following image, 158?
- 23 A Yes, it is.
- 24 | Q The following image as well, 159?
- 25 A Yes, it is.

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Booth - direct - Hajjar
                                                                 4878
         And 160, the same, November 2nd, 2005?
1
    Q
 2
    Α
         Yes.
 3
         And the same for 161?
    Q
 4
    Α
         Yes.
         As well as 162?
5
    Q
    Α
         Yes.
6
         As well as 163?
7
    Q
8
    Α
         Yes.
9
         Now, I want to direct your attention quickly to
10
    Government Exhibit 550 again.
11
               (Exhibit published.)
12
    BY MS. HAJJAR:
13
         Each of the images we looked at were dated November 2nd,
    2005.
14
15
               Are they within the folder titled 2005-11-02?
16
         Yes, they are.
    Α
17
         Okay. The remaining images are within 2005-11-24, is
18
    that right?
19
         Correct.
20
         And so starting with the first image of that segment,
21
    which is -- what's the name of the first image in that folder?
22
    Α
         That is IMG_0104.
23
    Q
         Sorry. I'll just zoom in a bit on Government
    Exhibit 550.
24
25
         0h, 184.
```

Booth - direct - Hajjar

- 1 Q 0kay.
- 2 So the remaining images span from Image 184 through
- 3 | Image 191, is that right?
- 4 A Correct.
- 5 Q So with respect to the EXIF data for Image 184, what's
- 6 the date and time?
- 7 A The date/time original is 2005:11:24.
- 8 Q So that image was taken November 24th, 2005?
- 9 A Correct.
- 10 Q And is it the same camera, Cannon camera?
- 11 A Yes, it is.
- 12 | Q And turning to the -- page 146 for that image, is it the
- 13 | same serial number?
- 14 A Yes, it is.
- 15 | Q Then turning to the following image, Image 185, is the
- 16 date and time the same -- the -- not the time, necessarily,
- 17 but the date, November 24th, 2005?
- 18 A Yes, it is.
- 19 Q And for the following image, 186, is this also the same
- 20 date, November 24th, 2005?
- 21 A Yes, it is.
- 22 | Q And the next image as well, the same date?
- 23 A Yes, it is.
- 24 | Q And Image 188, the following image, same date?
- 25 A Yes, it is.

Booth - direct - Hajjar 4880

- 1 Q And image --
- THE COURT: We can't see the number.
- 3 MS. HAJJAR: I'm sorry. There we go.
- 4 THE COURT: Go ahead.
- 5 BY MS. HAJJAR:
- 6 Q Image 189, the same date?
- 7 A Yes, it is.
- 8 Q The last image, which is Image 190, is it the same date?
- 9 A Yes, it is.
- 10 Q Did you observe anything about the times of the images in
- 11 | sequence?
- 12 A The times, in general, weren't -- as far as -- as far as
- 13 | the seconds are concerned, were sporadic. So they're not in
- 14 one-second order. So it's not like 28 seconds, 29 seconds,
- 15 | 30 seconds. They're grouped in -- a little off. So I gather
- 16 | that just would be standard.
- 17 | Q What do you mean by --
- 18 A They're not just scattered around. They were not in an
- 19 order, just like where it's one second, every two seconds you
- 20 get a picture. So it doesn't seem to be a timer, it seems to
- 21 be just normal usage of a camera.
- 22 | Q Can you explain that? What do you mean?
- 23 A Well, you might take a picture every one or two seconds.
- 24 And, you know, depending if you're at a party, you know how
- 25 many pictures you take at a party. You're not taking one

- 1 every two seconds and it's timed every two seconds, unless you
- 2 have it on a timer. So it's going to be sporadic.
- 3 Q So it's not regular, in other words, the images -- the
- 4 | time and -- the specific time of each image in sequence?
- 5 A Yeah, it's not a regular pattern where it's every two
- 6 seconds. So it does not appear to be on a timer.
- 7 | Q And, Examiner Booth, the EXIF data we just examined, they
- 8 | reflect two dates on which the images were taken?
- 9 A Yes.
- 10 Q November 2nd, 2005, and November 24th, 2005?
- 11 A Correct.
- 12 MS. HAJJAR: No further questions, Your Honor.
- 13 THE COURT: Cross-examination.
- 14 | CROSS-EXAMINATION
- 15 BY MR. der OHANNESIAN:
- 16 Q Good morning. Is it Mr. Booth?
- 17 A Yes, it is.
- 18 | Q Is that your official title that I should use?
- 19 A You may.
- 20 Q Okay, thank you.
- 21 In terms of the material you reviewed, is it only
- 22 | your material that you reviewed?
- 23 | A Yes.
- 24 | Q Do you understand my -- did you review any material
- 25 | prepared by anyone else, either from the FBI, any other lab or

- 1 any other person?
- 2 A Well, I'm a coach. So I actually have a trainee that was
- 3 with me at the time that was actually putting their hands on,
- 4 on some of the stuff, as we did it. We did it in tandem.
- 5 Q Other than you and your trainee, did anyone else provide
- 6 you with information concerning the digital items which you
- 7 | examined?
- 8 A No, I did -- everything else was done by hand.
- 9 Q And I believe you, on direct, explained that you're
- 10 | dealing with something called "digital evidence," is that the
- 11 | phrase you used?
- 12 A Yes, it is.
- 13 | Q And is that how you would refer to the information that
- 14 you have testified about concerning these images?
- 15 A Yes. I would.
- 16 Q And your examination of the hard drive would be a
- 17 | forensic examination of that hard drive, correct?
- 18 A Yes, it would be.
- 19 Q And the same with respect to the data card, is that
- 20 | correct?
- 21 A Yes, it would be.
- 22 | Q You were indicating yesterday that you want to be very
- 23 | careful when you examine digital evidence, is that correct?
- 24 A That is correct.
- 25 | Q Because digital evidence can be altered in the course of

- 1 | examination, correct?
- 2 A Yes, it can.
- 3 Q And digital evidence can be damaged in the course of
- 4 handling, correct?
- 5 A It could be.
- 6 Q And digital evidence can be destroyed through improper
- 7 | handling, correct?
- 8 A Correct.
- 9 Q And that's why you testified you took special precautions
- 10 to preserve the digital evidence that you were asked to
- 11 | examine in this case, correct?
- 12 A Correct.
- 13 | Q In terms of the steps in digital forensics, the first
- 14 | step would be identifying the evidence that you want to
- 15 | collect?
- 16 A Correct.
- 17 | Q That does not involve you, correct?
- 18 A No. it does.
- 19 Q That would be someone in the field who would do that?
- 20 A Well, it depends on how you identify identification,
- 21 is -- when it comes to me in a lab, I have to identify the
- 22 | item as it is to me in the lab.
- 23 | Q In terms of the information -- or excuse me.
- 24 In terms of the devices to collect, were you
- 25 | involved in that process in this case?

- 1 A No, I was not.
- 2 Q And then the next step would be to collect the item,
- 3 | correct?
- 4 A If the meaning of collect, you mean obtaining the digital
- 5 | information off of it?
- 6 Q No, to the physical item, the hard drive, the thumb
- 7 drive, a camera.
- 8 You don't collect the physical item from the scene?
- 9 A I am capable of doing that. But in this instance, I have
- 10 not.
- 11 | Q And that's my question.
- 12 In this case, you did not collect the physical
- 13 | evidence, correct?
- 14 A No, I did not.
- 15 | Q And you weren't asked to?
- 16 A No, I wasn't.
- 17 | Q And then the next step would be preserving the digital
- 18 | evidence.
- 19 Is that something you were involved with?
- 20 A Yes, it is.
- 21 | Q And then after you preserve it, you analyze it, correct?
- 22 | A Yes.
- 23 Q And that's what you did.
- 24 And then the final step would be reporting the
- 25 results of your examination, correct?

- 1 A Yes.
- 2 Q And part of collecting the evidence would be placing the
- 3 evidence in a bag, correct?
- 4 A That's one means.
- 5 Q And identifying it or tagging it to identify what it is?
- 6 A Yes.
- 7 Q Now, in this case, when you received Government
- 8 | Exhibit 503, the Western Digital drive, was it bagged?
- 9 A I think it was in a paper bag.
- 10 Q But you --
- 11 A It was an evidence -- an evidence paper bag that was
- 12 sealed.
- 13 | Q Do you have any records or notes, which would reflect the
- 14 | condition of Government Exhibit 503, the Western Digital
- 15 drive, at the time you received it?
- 16 A Not in front of me, no, I do not.
- 17 Q When you say not in front of you, does it exist?
- 18 A We -- we take great care in making sure that we document
- 19 as we receive items.
- 20 | Q And what kind of documentation would exist, which relates
- 21 | to your examination of Government Exhibit 503 at the time you
- 22 | received it?
- 23 A Well, we take typewritten notes as we go along,
- 24 | contemporaneously, to make sure that we can recreate any steps
- 25 | that we make during the exam process. So if we need to

- 1 recreate them or if another examiner needs to recreate them,
- 2 | we can do that.
- 3 Q And would those typewritten notes reflect the condition
- 4 or how you received Government Exhibit 503?
- 5 A Yes, it would.
- 6 Q Whether it was a paper or plastic bag?
- 7 A Yes, it would.
- 8 Q And whether it was sealed or not?
- 9 A Correct.
- 10 | Q Do you know, without referring to those notes, whether
- 11 | you received Government Exhibit 503 in a sealed or unsealed
- 12 bag?
- 13 A From what I recall, it was sealed. We -- we had to open
- 14 up the seals on all the evidence that we got.
- 15 Q And with respect to Government Exhibit 520, the Cannon
- 16 camera, do you recall if that was in a sealed bag when you
- 17 | received it?
- 18 $\mid A \mid$ No, that -- that was in a box, a cardboard box. And, no,
- 19 the box, itself, was not sealed at the time.
- 20 Q So the Cannon camera, which is Government Exhibit 520,
- 21 | was not in a bag, correct?
- 22 A The Cannon camera was in a Cannon camera bag in a brown
- 23 paper box.
- 24 | Q Okay. And was there any seal with respect to the box
- 25 | that the camera was in?

- 1 A Yes, there was a seal on the top of the box. But I
- 2 understand the camera was used the day before in court and
- 3 | had, at least at that point, been unsealed.
- 4 Q Okay. So what date was the camera unsealed?
- 5 A I -- I don't know at that point.
- 6 Q Do you have notes that reflect when the box with the
- 7 | camera was unsealed?
- 8 A No, I don't know.
- 9 Q Do you have notes and records?
- 10 A My notes reflect what -- how I received the item.
- 11 | Q And that would reflect the condition of the camera being
- 12 | in an unsealed box when you received it?
- 13 A Yes. I always -- we mention of what the box was in, what
- 14 color the box was in. Whether it was in a paper bag or if it
- 15 was in a plastic/cellophane bag, we note that.
- 16 Q And do you usually receive electronic evidence in
- 17 unsealed boxes or bags?
- 18 A Not always. Sometimes the case agents would have needed
- 19 to look at the item beforehand, and they might have unsealed
- 20 | it. So it doesn't always come to us sealed.
- 21 Q And when an agent unseals evidence, a record is made of
- 22 | that?
- 23 A Not always.
- 24 | Q Should a record be made of when evidence is opened or
- 25 | unsealed?

```
Booth - cross - der Ohannesian
                                                                 4888
         No, I don't think so. It doesn't necessarily need to be.
 1
 2
          Is it fair to say you have no idea when the box with the
    camera was unsealed?
 3
         No, I do not.
 4
    Α
 5
               (Continued on the following page.)
 6
 7
 8
 9
10
11
12
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14
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18
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21
22
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24
25
```

SAM OCR RMR CRR RPR

- 1 BY MR. DER OHANNESIAN (Continuing):
- 2 Q Would it be fair to say you have no information on what
- 3 | happened to the camera prior to the time that you examined it?
- 4 A Well, with the evidence sheet, we know a path of who has
- 5 gotten the evidence at any point in between me and it actually
- 6 being obtained out in the field.
- 7 Q And who was it that had access to the camera or the box
- 8 prior to the time of your examination of it?
- 9 A I don't have that evidence sheet in front of me to be
- 10 able to refer.
- 11 | Q If you had that evidence sheet, could you answer that
- 12 question?
- 13 A Yes, I could.
- 14 Q And with respect to Government Exhibit 524, the LEXAR
- 15 | card, was that submitted to you in a bag of some sort?
- 16 A Yeah, it was a cellophane bag.
- 17 Q Was it a sealed cellophane bag?
- 18 A No, it was not.
- 19 Q Was Government Exhibit 524, LEXAR datacard, in the box?
- 20 A Yes, it was.
- 21 | Q The box you previously described with the camera?
- 22 | A Yes.
- 23 | Q Was there a separate piece of paper which would identify
- 24 | who, if anyone, had access to that datacard prior to your
- 25 | examination of it?

- A Any time we have a piece of evidence and it obtains other
 evidence in it -- say you have a laptop and you have a CD-ROM
 inside. We always package up the extra evidence that we've
- We don't always modify or change and put it on separate chains. We keep it all together to show that it's reflective of coming through that item. We put a NYC barcode

number to identify it as something that came from the parent.

obtained from the device in with the original evidence.

- 9 Q The NYC barcode, is that applied by someone like 10 yourself, Mr. Booth, in the CART lab?
- 11 A Yes, it is.
- 12 Q That's not applied by an agent in the field.
- 13 A No, it's only by CART examiners.
- 14 Q So, only when it gets to CART does that NYC CART number 15 get on the device.
- 16 A Yes.

- 17 Q Have you produced your notes and records to the
 18 prosecution in this case concerning the condition of these
 19 items when you received it?
- 20 A No, I did not.
- Q Were you ever asked by the prosecution in this case to produce the notes and records pertaining to your evidence collection and examination in this case?
- A I was asked if I had notes, but, at this point, my notes
 aren't complete. So, my report is my notes. My report won't

	Booth - Cross - Der Ohannesian 4891
1	be done until all processing is complete, and processing was
2	ongoing up until a couple days ago with some of these items.
3	MS. HAJJAR: Your Honor, can we have a sidebar?
4	THE COURT: All right.
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6	(Continued on the following page.)
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1 (The following occurred at sidebar.)

MS. HAJJAR: I just don't want there to be any misunderstanding with the jury. He's saying CART notes. He means the CART examiner under him, Virginia Donnelly, the primary examiner. I don't want there to be a misunderstanding that Mr. Booth -- that these are his notes. I think he's referring to them as CART's notes with respect to the receipt of this evidence and chain of custody.

It's fine if we're moving on, but I don't want there to be a misimpression with respect to that.

MR. DER OHANNESIAN: He said he had notes that would answer these questions. That's the reason they have notes, to know the condition of the evidence. They haven't been produced, and I think the defense is entitled to them, certainly after the direct examination, at least.

And I specifically asked for them this morning because when I read his testimony yesterday, there were other references to there probably may be notes in this case. I didn't realize this existed also. That's why we'd be entitled to that.

And I think there are some important issues and I've only scratched the surface of it. And I didn't realize this problem until a second ago. I think I'm entitled to it, whether his assistant made it or he did.

MS. HAJJAR: We don't have the notes, your Honor.

They're Ms. Donnelly's 3500. We can obtain them, but they're not -- he testified yesterday he received the forensic image from Ms. Donnelly and he testified that he was not -- he never said I was the one who imaged the devices.

Those notes that reflect the way that they were obtained by CART are in Ms. Donnelly's possession. If the defense wants to call Ms. Donnelly, we can obtain the notes and we can complete the circle if that's an issue.

MR. DER OHANNESIAN: I'm not asking to call anybody, I want the prosecution to fulfill its obligation under Rule 16, 3500.

And I don't want them to show up later as a response to my cross-examination. I think it's grossly unfair to say oh, we do have evidence, that it was sealed --

THE COURT: You've just been told they don't have that evidence.

MS. HAJJAR: We don't have them currently, but if this is an issue we can ask -- we do not have them, but we can ask Ms. Donnelly if she has the notes, if you'd like them, or call Ms. Donnelly to establish --

MR. DER OHANNESIAN: I think the testimony also referred to photographs, which was my first indication that there may be more than we were given. That's why I checked again last night.

Are there photographs?

MS. HAJJAR: I believe you were provided with photographs through Special Agent Christopher Mills, who photographed every piece of evidence.

MR. DER OHANNESIAN: I'm talking about photographs of his examination.

MS. HAJJAR: What I believe Mr. Booth is saying is that when CART received them, the primary examiner Virginia Donnelly, if she had taken photographs, we don't have them. But if this is an issue, we can call her, we can get that material.

MR. DER OHANNESIAN: Donnelly was identified as a trainee. I do want any notes or photographs that relate to the examination and the condition of the evidence when it was received.

MS. HAJJAR: We can get Ms. Donnelly, your Honor, if this is an issue for the defense.

MR. DER OHANNESIAN: I don't think I need Donnelly, I think I just need the records. I don't think it's Donnelly. He said these are the records that he has that he used and how it's done.

If he has someone assisting him, that's fine, but I think that the testimony that we just received entitles me to receive that material as 3500 material. And it's not speculative and, believe me, it's not irrelevant in this case.

MR. AGNIFILO: I think it's Rule 16 for scientific

evidence. I don't think it's a matter of 3500.

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Here, we have the right to know under Rule 16 the steps that were taken in the creation of scientific evidence.

And it sounds like maybe because this particular account

4 And it sounds like maybe because this particular account 5 wasn't indicted all that long ago --

I'm not trying to find fault with anybody. We have to protect the record and protect this particular issue.

THE COURT: Maybe we'll take the day off and look for notes. That's where we are.

MS. HAJJAR: That's fine, your Honor.

MR. DER OHANNESIAN: I don't think we need all day.

THE COURT: Really? How do you know where this person is? She may be off today.

Couldn't you have subpoenaed?

You knew who was going to testify.

MR. DER OHANNESIAN: Your Honor, it's not our duty to subpoena. The duty is under 3500 and Rule 16.

THE COURT: Yeah, I know about duties.

MR. DER OHANNESIAN: I specifically asked this morning again when I had a question to the prosecutors. I received no response. It's not like -- as I said, I think there may be photographs based on his testimony on direct.

MS. HAJJAR: Your Honor, this was never raised an issue except for this morning. We're happy to find Ms. Donnelly and see if there were additional photographs.

But it's not this witness' 3500 and it's not Rule 16. Whether their CART took photographs that are in the possession of Ms. Donnelly we can certainly find out, but I only heard about this this morning.

MR. AGNIFILO: Just to complete the point, I raised in opening court, I think right after this count was indicted, that we needed all of the Government's materials on this because we were being asked to go to trial in a very short amount of time.

THE COURT: No, no, you weren't asked to go to trial, you insisted ongoing to trial in a short amount of time. Please don't. What we have gone through on this --

MR. AGNIFILO: I'm saying --

THE COURT: The short amount to trial is you made that record that you needed to have a trial immediately. I could have done this in the fall.

MR. AGNIFILO: Your Honor, we haven't --

THE COURT: I mean, really, this accommodated everyone's schedule, not mine.

MR. AGNIFILO: I'm not finding fault with the trial date.

THE COURT: I'm just saying the short amount of trial argument raises the specter of how we were pushed to trial. So, we've tried the case and now let's see if these notes exist.

1	Send somebody out there there are certainly		
2	enough people in this room to go find them. See if the		
3	notes exist. And you can finish the rest of your		
4	cross-examination. Let me know before it's over, that's all.		
5	If we can't find the person or the notes don't		
6	exist, we'll take it up.		
7	MS. PENZA: Your Honor, may I be excused to try		
8	to		
9	THE COURT: Please.		
10	MS. PENZA: Thank you.		
11	THE COURT: Well, can you talk about something else		
12	for a while?		
13	MR. DER OHANNESIAN: Sure.		
14	THE COURT: Great.		
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16	(Continued on the following page.)		
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- 1 (Sidebar ends; in open court.)
- THE COURT: Please continue.
- 3 BY MR. DER OHANNESIAN:
- 4 Q Mr. Booth, the records that you refer to in terms of the
- 5 | condition of the evidence when you receive it, do you consider
- 6 those part of your records that you use in this case?
- 7 A Yes, I do.
- 8 Q And in this case, you were working with another
- 9 | individual who was a trainee, correct?
- 10 A Yes.
- 11 | Q And were the two of you generating notes and information
- 12 together?
- 13 A Yes, she was typing up the notes. I had to verify the
- 14 | notes that she takes.
- 15 | Q So, there's not two different sets of notes, one for the
- 16 | trainee and one for you?
- 17 A Well, I did the camera. When I received the camera, I
- 18 did my own notes on the camera.
- 19 Q Were there photographs in this case as you examined the
- 20 | evidence?
- 21 A Yes, I think I definitely made the -- I made my FET take
- 22 | photos of the items as we did them.
- 23 | Q Have you produced those photos to the prosecution?
- 24 A It's been months. I may have.
- 25 Those aren't something that I normally wind up

- 1 producing. Those are for us to refer to, make sure of the
- 2 | condition of the item when we received it.
- 3 Q And the photos would help you do that correct?
- 4 A They could. It's not mandated that we do it, but I do it
- 5 as a good faith practice.
- 6 Q In this case, you took photos to have a record of the
- 7 | condition of the evidence when you received it?
- 8 A I did it in this instance? No, I did not.
- 9 Q You had your assistant?
- 10 A I don't know off the top of my head if I had my assistant
- 11 do it. It was months ago.
- 12 | Q And do you know the date the evidence was collected in
- 13 this case?
- 14 A No, I do not.
- 15 | Q Do you have any information, like a property receipt done
- 16 | at the scene, which would reflect any date as to when the item
- 17 | was collected at a scene?
- 18 A That goes along with the piece of property that you're
- 19 | talking about. So, I'd have to produce that piece of evidence
- 20 here with the property sheet to be able to tell you.
- 21 | Q So, you would have that information in front of you when
- 22 | you do the examination. You don't have it here today.
- 23 A No. I do not.
- 24 | Q One of the concerns -- you talk about a process, which I
- 25 | want to make sure we understand, that you took in this case

- 1 with the evidence and break it down by particular pieces of
- 2 evidence.
- The first step, you said, was to duplicate the
- 4 | electronic data is that, correct?
- 5 A It's a forensic backup.
- 6 Q And by "backup," it's a separate piece of electronic
- 7 | information, correct?
- 8 A Yes, it is.
- 9 Q And I think the process you described yesterday, your
- 10 | word was right blocking, correct?
- 11 A We use a right blocker to block the device as we copy it.
- 12 | Q And a right blocker is a separate device that attaches to
- 13 | the subject computer?
- 14 A Or device.
- 15 Q Any device, be it a computer, a thumb drive, a cell
- 16 phone.
- 17 A Yes.
- 18 Q So this right blocker attaches to the subject device,
- 19 whatever that may be, and wherever you will transfer the
- 20 | information to, correct?
- 21 A Correct.
- 22 | Q And that's good practice as a forensic examiner?
- 23 A Yes, it is.
- 24 Q It's necessary practice.
- 25 A Yes.

- 1 Q And did you right block with respect to the datacard
- 2 | which is Government Exhibit 524?
- 3 A Yes, I did.
- 4 Q So, right blocking is something you do even with a device
- 5 | which might be the datacard from a camera, correct?
- 6 A Correct.
- 7 | Q And do you know the date on which you did your right
- 8 | blocking for the Government Exhibit 503, the Western Digital
- 9 | external hard drive?
- 10 A No, I don't know the date off the top of my head.
- 11 Q Do you have a record of that?
- 12 A Yes, we'll have a record back at the lab.
- 13 Q Is that part of your notes?
- 14 A Yes.
- 15 | Q And with respect to Government Exhibit 524, I believe you
- 16 | called it a media card; is that your phrase?
- 17 A SD?
- 18 Q SD?
- 19 A SD card. I think it's CF card coming from the camera, if
- 20 | I'm not mistaken.
- 21 Q You called it CF card?
- 22 A Yes, compact flash.
- 23 Q Is that a little, very small --
- 24 A It's a little bigger than a standard SD card that people
- 25 | are used to seeing in the cameras these days. It's a little

- 1 | fatter because it's mainly used for speed. An SD card is
- 2 usually around the size of your thumb; these cards area a
- 3 | little bigger and they fit into a bigger slot in cameras.
- They're really not in use as much anymore.
- 5 Q When you say "not in use," because this is a much older
- 6 product?
- 7 A Yes, and we've moved on since then on SD card
- 8 capabilities.
- 10 what it is. Maybe while you mention it, we could use it now.
- 11 I'd like to show you Government Exhibit 524.
- 12 (Exhibit published to the jury.)
- 13 Q This is the device that you said what was not in the
- 14 | camera, correct?
- 15 A No, it was not.
- 16 Q It was in the box --
- 17 A Yes.
- 18 | Q -- is your recollection.
- 19 And how do you call that?
- 20 A If you turn it over, I think it's a CF card, compact
- 21 | flash, CF. That's the common letters we use to call these
- 22 cards.
- 23 | Q And there's a similar device used on modern cameras but
- 24 | it's smaller, more compact, and holds more information?
- 25 A Correct.

- 1 Q Do you know the date on which you first examined the
- 2 | Canon camera, Government Exhibit 503?
- 3 A I think it was 6/10 or 6/11.
- 4 Q Of what year?
- 5 A Of this year.
- 6 Q 2019?
- 7 A Yes.
- 8 Q Did you examine the Western Digital drive around the same
- 9 | time that you examined the camera?
- 10 A No. The Western Digital drive was done months ago, from
- 11 | what I recall.
- 12 Q And was the media card examined in June of 2019 or at
- 13 | some other time, if you know?
- 14 A I wasn't analyzing a camera at that time.
- 15 | Q Which time?
- 16 A At that.
- 17 Q June 2019?
- 18 A No, we're talking months ago when we first got the
- 19 Western Digital hard drive. We didn't receive a camera with
- 20 | that.
- 21 | Q Do you know when you received the camera?
- 22 A I just received it recently.
- 23 | Q So, your forensic examination in this case took place in
- 24 different months.
- 25 A Yes.

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- 1 Q How about different years?
- 2 A Possibly.
- 3 Q In terms of the devices you examined in this case, one
- 4 was, you said, a Western Digital hard drive, correct?
- 5 A Yes, it is.
- 6 Q And you were shown that on direct examination, correct?
- 7 A Yes.
- 8 MR. DER OHANNESIAN: Ms. Hajjar, the Western Digital
- 9 drive?
- 10 (Exhibit published to the jury.)
- 11 | Q Can you see this well enough to identify this as the
- 12 drive that you examined?
- 13 A Yes, I can.
- 14 Q And this is the sticker here that you indicated is
- 15 applied at the CART lab, correct?
- 16 A Correct.
- 17 | Q This device has no markings on it when it's collected at
- 18 | the scene, correct?
- 19 A I am sure they put some markings. Possibly if they put
- 20 | it in a bag, they put markings on the outside of the bag.
- 21 | Q I'm talking about on the device.
- 22 A No, not other than these that I know of, no.
- 23 Q This one you received in a sealed bag, correct?
- 24 A Yes.
- 25 | Q Does this look like the bag you got it in?

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1	(Exhibit published to the jury.)
2	A Yes it does.
3	Q This tells you the date that the agent may have collected
4	it, March 27?
5	A Yes.
6	Q You said there was no sealed bag for the camera, correct?
7	A No. It was a box that I received it in.
8	Q And there was no sealed bag for the LEXAR card, correct?
9	A I don't recall it being sealed.
10	(Exhibit published to the jury.)
11	Q This hard drive, this cannot be accessed without being
12	connected to another device, correct?
13	A Correct.
14	Q It's like a thumb drive; by itself, you can't just look
15	at what's on it without connecting it with something, correct?
16	A Correct.
17	Q Now, you mentioned a LaCie hard drive, correct, LaCie?
18	A I don't recall mentioning a LaCie hard drive. Unless
19	you're talking about in other pieces of evidence
20	MR. DER OHANNESIAN: Ms. Hajjar?
21	(Exhibit published to the jury.)
22	Q Very quickly, can you read Exhibit 560 on it?
23	A Government Exhibit 560.
24	Q And see on the back there's a CART signature?

Yes, I do.

Booth - Cross - Der Ohannesian

- 1 Q Are those your initials?
- 2 A No, those are Virginia Donnelly's initials.
- 3 Q That date of 9/11/18, what is that?
- 4 A That's the date that she had received the evidence and
- 5 did a physical query of it to make sure she had serial
- 6 | numbers, things of that nature.
- 7 Q Does that mean it was examined on that date or not?
- 8 A That's when the examination starts.
- 9 (Exhibit published to the jury.)
- 10 Q On this card here, Government Exhibit 524, there's a date
- 11 of -- can you read it?
- 12 A 2/22/19.
- 13 | Q Is that when you first examined?
- 14 A No, that's not.
- 15 | Q What was the date you first examined this card?
- 16 A I have my initials on there and it's 6/10 of 19 and 11.
- 17 | Sorry, I couldn't tell from the tint.
- 18 | Q Is this what you're referring to?
- 19 A Yes.
- 20 Q It says 6/10/19?
- 21 | A Yes.
- 22 | Q And your initials?
- 23 | A Yes.
- 24 Q On February 22, 2019, what happened?
- 25 A Those are initials of Steven Flatley.

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- 1 Q Who is Steven Flatley?
- 2 A He's another senior examiner at our lab.
- 3 Q Mr. Flatley examined this?
- 4 A He had received it on the 2/22 of 19, I see.
- 5 Q We'll come back to this card.
- There were other items that you examined too that
- 7 | are in the reports that were placed in evidence by the
- 8 prosecutor that you testified about?
- 9 A Yes.
- 10 Q You understand my question?
- 11 A Yes I do.
- 12 Q This is Government Exhibit 504-A.
- 13 (Exhibit published to the jury.)
- 14 Q Can you read that okay?
- 15 A I can read it.
- 16 | Q The evidence list is where you indicate the items that
- 17 | were examined by the CART lab?
- 18 A Yes.
- 19 | Q Standard practice is what you did here, to list
- 20 | everything; is that correct?
- 21 A This is something that's -- it's not standard, it's what
- 22 | AD Lab does for all evidence items that you put into it.
- 23 | Q Again, AD Lab is a software used by forensic examiners?
- 24 A Yes, it is.
- 25 Q So, the first device here says Western Digital external

- 1 drive; do you see that?
- 2 A Yes, I do.
- 3 Q Is that the external drive -- is that the Western Digital
- 4 | hard drive that you testified about on direct examination?
- 5 A No, it is not.
- 6 Q That's a separate Western Digital device, correct?
- 7 A Yes.
- 8 Q And the reason you know that's not the one that you
- 9 testified about is the serial number?
- 10 A Yes, plus the NYC sticker that we assign it.
- 11 | Q And then the next item is a LaCie external hard drive.
- 12 Is that the LaCie drive we just looked at?
- 13 A I believe it is. I'd have to look at the NYC sticker,
- 14 but I think that's the only LaCie thing that we have in this
- 15 | list.
- 16 Q I'll put it up here for you.
- 17 (Exhibit published to the jury.)
- 18 A 23726, yes, I think that does match.
- 19 Q Third item is a Western Digital external hard drive?
- 20 A Yes, I see that.
- 21 | Q Is that the Western external drive that you examined and
- 22 | testified about on direct examination?
- 23 A Yes, it is.
- 24 Q And the next item is a USB drive. I'll turn it over.
- 25 Have you read it?

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- 1 A Yes.
- 2 Q Identified as a Toshiba drive, correct?
- 3 A Correct.
- 4 Q Next device is a tower.
- 5 Is "tower" a brand name?
- 6 A No, that's just a description that we gave to the device.
- 7 Q So, "tower" would be like a computer tower?
- 8 A I would have to reference that with something else, but
- 9 this is the hard drive that was obtained. Her description was
- 10 | "tower hard drive."
- 11 Q Whose description?
- 12 A Virginia Donnelly's, as she was typing it in.
- 13 | Q As you look at this report, Exhibit 504-A, do you know
- 14 | what kind of device "tower" is here?
- 15 A Not off the top of my head.
- 16 | Q It's identified as being 500 gigabytes?
- 17 A Yes, it's a hard drive of 500 gigabytes. That, I know
- 18 | for sure.
- 19 | Q Then there's a LaCie external of 500 gigabytes?
- 20 A That's the one you showed before.
- 21 Q That's the one I showed you.
- 22 And on the first page, I had referenced the LaCie
- 23 external one terabyte. Is that a different device?
- 24 A It has to be a different device, yes.
- 25 Q Can you tell by looking at the lab sticker?

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- 1 A Yes, because this one is 23730 and the other one matched
- 2 the one that you showed me.
- 3 (Exhibit published to the jury.)
- 4 A This is 726 and we just got to the 722.
- 5 Q As with the Western hard drives, there were two LaCie
- 6 drives.
- 7 A Yes.
- 8 | Q You can't tell just by looking at a device, correct?
- 9 A Usually not. That's why we put the sticker on.
- 10 Q That's why you take the steps you do, so you know what
- 11 LaCie we're talking about, correct?
- 12 A Correct.
- 13 | Q And then the next device was a USB, 120 gigabytes; do you
- 14 | see that?
- 15 | A Yes.
- 16 Q That was examined in this case?
- 17 A Correct.
- 18 Q And then a compact flash card?
- 19 A Correct.
- 20 | Q Is that compact flash card the same as Government Exhibit
- 21 524?
- 22 A No, it is not.
- 23 (Exhibit published to the jury.)
- 24 | Q So, on this report, the LEXAR drive, Government Exhibit
- 25 | 524, is not referenced, correct?

- 1 A No, it's not.
- 2 Q Now, in terms of the JPEG images that you testified
- 3 about, what's the rough size of a JPEG image?
- 4 A JPEGs can get very large in size.
- 5 Q How about the ones you examined in this case?
- 6 A I wasn't referencing the size, to tell you the truth.
- 7 Q Is that something that's a gigabyte?
- 8 A Could be.
- 9 Q Do you know how many images were on the, let's say --
- 10 A There were over 200 on the CF card. I know that.
- 11 Q The CF card being Exhibit 524?
- 12 A Yes.
- 13 Q Is that total images?
- 14 A There are close to 300 images, I think, in total with
- 15 | card space that I recovered.
- 16 (Exhibit published to the jury.)
- 17 \mid Q And you said this card was -- I think it says it on it --
- 18 two gigabytes?
- 19 A Yes.
- 20 Q And how many gigabytes in a terabyte?
- 21 A How many gigabytes?
- 22 Q Yes.
- 23 A A thousand megabytes equal a gig. A thousand gigs equal
- 24 a terabyte.
- 25 Q So, a terabyte would be a lot of information?

- 1 A Yes, quite a bit.
- 2 Q And if you want me to show you these for this question, I

3 | will.

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- Do you know about how much digital data was in the devices that were examined referenced in Exhibit 504?
- 6 A As far as raw data, you're talking about?
- 7 Q Space.
- 8 Does my question makes sense, first of all?
- 10 forensics. We usually don't look at the amount of data that's

It makes sense, but not in the way that we use it in

- 11 | roughly on a drive because we also could do compression when
- 12 | we wind up imaging files on our hard drives. We like to
- 13 compress them down so they don't take as much space on the
- 14 | network as we're working with them.
- So, unless I was actually asked to do an audit on
- 16 the amount of total space that was used on a hard drive, I
- 17 | wouldn't have those numbers here with me.
- 18 Q Let me approach it this way: The first device had one
- 19 terabyte of information?
- 20 A Yes.
- 21 Q The second device had one terabyte?
- 22 A Correct.
- 23 Q The third device had 500 gigabytes?
- 24 A Correct.
- 25 Q Half a terabyte?

- 1 A Yes.
- 2 Q Next device had four gigabytes?
- 3 A Yes.
- 4 Q Next device had 500 gigabytes?
- 5 A Yes.
- 6 Q Next device had 500 gigabytes?
- 7 A Yes.
- 8 Q Half a terabyte, correct?
- 9 A Correct.
- 10 Q The next device, 120, that's the capacity of the device,
- 11 | right?
- 12 A Capacity, yes.
- 13 | Q That's what all these numbers I'm referring to on this
- 14 exhibit are the capacity, right?
- 15 A Correct.
- 16 Q All the devices that we just went through on Exhibit
- 17 | 504-A were forensically examined by the Federal Bureau of
- 18 | Investigation?
- 19 A Yes.
- 20 | Q And report was generated with respect to those devices?
- 21 A No, a report wasn't generated on those devices. Only on
- 22 | 1B16 was a report generated, that I know of.
- 23 | Q If you felt there was anything of value to the
- 24 | investigators and prosecutors, you would have generated report
- 25 on those cases?

- 1 MS. HAJJAR: Objection.
- THE COURT: You may answer.
- 3 A If the case agent had asked for anything that he found of
- 4 | interest on any of the drives, a report would be generated
- 5 | from them.
- 6 Q Did you refer in your direct testimony to a Dell
- 7 | Dimension computer?
- 8 A I didn't refer. I think I saw the file path that
- 9 indicated a Dell Dimension.
- 10 Q Was that file path on all of the images about which you
- 11 | testified on direct examination?
- 12 A No.
- 13 | Q Do you know which ones the Dell Dimension was not
- 14 | associated with?
- 15 A I don't have any reference to that on any of the other
- 16 devices we have.
- 17 | Q Do you know on which images the Dell -- do you know on
- 18 | which images to which you testified the Dell Dimension
- 19 | computer was associated?
- 20 A 1B16 was the one that we saw a file path that mentioned a
- 21 Dell Dimension.
- 22 Q What is 1B16?
- 23 A It is an external Western Digital hard drive.
- 24 | Q So, the Western drive which is in evidence as Government
- 25 | Exhibit 503 was associated with a Dell Dimension computer?

- 1 A I have the file path that references a Dell Dimension.
- 2 As far as an association, I can't make that determination
- 3 | because I don't have a Dell Dimension to refer back to, which
- 4 | would have been plugged into it.
- 5 Q That's my next question: You didn't have a Dell
- 6 Dimension computer to look at, correct?
- 7 A No, I did not.
- 8 Q That's why there are certain things you can't tell when
- 9 | you don't have that Dell Dimension computer, correct?
- 10 A Exactly.
- 11 | Q Do you have any knowledge of that Dell Dimension computer
- 12 | existing anyplace?
- 13 A We've done a query over all the devices that were
- 14 actually gathered at the scene, and I asked the case agent
- 15 | federal come across any Dell Dimension -- and the model number
- 16 is referred to in there -- and we've come back as not having
- 17 that device.
- 18 Q So, the absence of the Dell Dimension computer was a
- 19 | topic of your discussion with the case agents, correct?
- 20 A Yes, it was.
- 21 | Q Because you would have liked to have had that, correct?
- 22 A Definitely.
- 23 | Q And it would help you in rendering opinions in this case,
- 24 | correct?
- 25 A Yes.

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1	Q And when you talk about the evidence collected in this
2	case, you're referring to all the evidence collected in this
3	case of an electronic nature, correct?
4	A Yes.
5	Q Not just that one location, correct?
6	A Well, I wouldn't know the locations, I'm just noting what
7	evidence is referred to in this case that the case agent might
8	have access to.
9	Q So, you aren't limiting it to just the residence or a
10	TAIL drive where a device was located, you just said, Is there
11	any Dell Dimension collected in this case?
12	A Yes.
13	
14	(Continued on the following page.)
15	
16	
17	
18	
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24	
25	

- 1 (Continuing)
- 2 | Q The Canon camera, which we haven't looked at yet
- 3 | together, let me first show you an exhibit number for the
- 4 record, Exhibit 520.
- 5 (Exhibit published.)
- 6 A I see.
- 7 Q And I know you referenced a serial number. Is there a
- 8 date of manufacturer for this item?
- 9 A Not that I see.
- 10 Q Did you look into what the date of manufacture was?
- 11 A I didn't. I know my case agent has. Not the actual
- 12 | manufacturer of it, but when the lot was normally developed at
- 13 this time, from what I understand.
- 14 | Q You don't have that? You don't know what it is?
- 15 A No. I don't.
- 16 Q So you don't know how long this camera has been in this
- 17 | world; correct?
- 18 A In production or just when they made this model camera
- 19 | specifically?
- 20 Q When they made this camera or when this model was in
- 21 production.
- 22 A I know it was in production back right before 2005 or
- 23 | sometime.
- 24 | Q You don't know whether it was 2004, 2003?
- 25 A No, I don't.

- 1 Q 2002.
- 2 A No.
- 3 | Q Canon EOS has been around a long, long time?
- 4 A Oh, EOS cameras definitely have, yes.
- 5 Q Back to the 1980s?
- 6 A Yes.
- 7 Q This one has a battery?
- 8 A Yes, it does.
- 9 Q Did you examine the battery?
- 10 A The battery is not charged and we try to do a little
- 11 | trick where we try to boost the battery to try to allow it to
- 12 | take a charge, and I attempted that, and the battery wouldn't
- 13 take a charge.
- 14 Q Is that what happens to batteries when the device isn't
- 15 used for a long period of time?
- 16 A Yes. If they're not continuously charged, they can lose
- 17 charge completely, and then they're not recoverable.
- 18 Q And with respect to Exhibit 520, what, if any, forensic
- 19 examination did you conduct?
- 20 A Of the camera itself besides the physical looking at the
- 21 camera?
- 22 Q Right.
- 23 A That was it.
- 24 | Q There was no internal examination of this device;
- 25 | correct?

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- 1 A I wasn't able to power it up.
- 2 Q On the same exhibit, 520, looking at the side here. You
- 3 | see where it says open?
- 4 A Yes.
- 5 Q Do you know what that is?
- 6 A That is a slot for a CF card.
- 7 Q That would presumably where Exhibit 524 goes?
- 8 A Yes.
- 9 Q And again, 524 cannot be used without a device; correct?
- 10 A Correct.
- 11 | Q It has to be attached to something?
- 12 A Yes.
- 13 | Q A camera would be one device it could be attached to?
- 14 A Yes.
- 15 | Q But there were other external devices to which 524 could
- 16 | be attached: correct?
- 17 A Yes.
- 18 | Q You earlier said that you asked the case agent or agents
- 19 | in this case about the Dell Dimension computer?
- 20 A I asked if there was any reference to a Dell Dimension
- 21 | in, I think the exact model number that was stated.
- 22 | Q And who do you mean by -- what is the name of that agent
- 23 or agents that you asked?
- 24 A Mike Lever.
- 25 | Q And when you were asking about this Canon camera, and

- 1 | some historical information or biographical information about
- 2 the camera, who was the case agent that you spoke to?
- 3 A That was the same case agent.
- 4 Q Any other agents besides Michael Lever?
- 5 A No.
- 6 Q Now, are you the first representative of the FBI to
- 7 | examine the Government Exhibit 503, the Western Digital drive?
- 8 A Yeah, from what I know, yes. I was the only person --
- 9 Q Are you the first person in the FBI --
- 10 A -- besides -- besides my trainee with me.
- 11 | Q Which would be at or about the same time?
- 12 A At the same time. We were sitting together.
- 13 | Q And with respect to Government Exhibit 520, the Canon
- 14 camera, would you be the first representative of the FBI to
- 15 | look at the camera?
- 16 A No, I was not.
- 17 | Q Who would be the first person?
- 18 A Stephen Flatley.
- 19 Q And Stephen Flatley, is that the person whose initials
- 20 | are on Government Exhibit 524?
- 21 | A Yes.
- 22 Q And I think that was February 22, 2019.
- 23 A If I was going by his sticker, yes.
- 24 Q Should we look at the sticker of the camera to see if
- 25 | it's the same date?

- 1 A Well --
- 2 Q Let's look at Exhibit 520.
- Is there anything on the camera that tells you when
- 4 | this was first examined by the representative of the FBI?
- 5 A No. The evidence sheet would show the date that Stephen
- 6 | actually got it.
- 7 Q So there's nothing on the device; correct?
- 8 A No.
- 9 Q And this doesn't have a bag, plastic or paper, with any
- 10 | markings on it to look at either; right?
- 11 A No, it's got a box.
- 12 0 A box?
- 13 A Yes.
- 14 | Q And the box would have -- would that have when
- 15 Mr. Flatley looked at it?
- 16 A It would have when he received it. With the evidence
- 17 | sheet, that always goes along with our evidence.
- 18 MR. der OHANNESIAN: May I approach the witness,
- 19 Your Honor.
- No, I can put it on the screen just for the witness.
- 21 THE COURT: Just one moment.
- Go ahead.
- 23 MR. der OHANNESIAN: I'm going to show you what's
- 24 been marked Defense Exhibit 945.
- 25 Q Do you recognize this?

- 1 A Yes, I do.
- 2 Q What is this?
- 3 A This is the sheet that came with the evidence.
- 4 Q Looking at the next page. When you say the evidence,
- 5 does this -- well, let me go back to page 1.
- 6 Does -- this is just for one piece of evidence or is
- 7 | it for more?
- 8 A This is just for the digital camera, the Canon camera.
- 9 Q And looking at the second page of Defense Exhibit 945, is
- 10 | there anything on that page that helps refresh your
- 11 | recollection as to when any representative of the FBI first
- 12 | examined the Canon camera?
- 13 A You'd have to scroll down because I'm not seeing the
- 14 | whole sheet.
- 15 | Q There's another page, too, if you don't see it here.
- 16 A Okay. You will have to show me the second sheet.
- 17 | Q The second sheet is actually the third sheet of this
- 18 | exhibit so we're clear on the record.
- 19 A Yes, I do see that Stephen Flatley had gotten it around
- $20 \mid 2/22$ of 19, which is the same as the sticker.
- 21 | Q And while we're on this, does this help refresh your
- 22 recollection as to when you first examined the Canon camera in
- 23 | evidence?
- 24 A Yes. I first got the camera on 6/10.
- 25 Q And then?

- 1 A Then the next day I did the examination and handed it
- 2 back.
- 3 Q Would 6/10, 6/11 be at or about the time you had that
- 4 discussion with Special Agent Lever about the camera?
- 5 A No.
- 6 Q Would it be before that?
- 7 A Which discussion about the camera are you talking about?
- 8 Q The biographical information about the camera.
- 9 A Do you mean as far as...
- 10 Q How long it's been around in existence.
- 11 A No, this was something that was referenced when Steve
- 12 | first got the camera back on 2/22.
- 13 Q So it would have been before you had it on June 10th?
- 14 A Yes, this is a long time ago.
- 15 MR. der OHANNESIAN: Government's Exhibit 524.
- 16 Q Is there -- do you know the exact date that you first
- 17 | examined 524?
- 18 A That would on 6/11.
- 19 Q Let's talk about some of the electronic information,
- 20 digital evidence in general, and then talk about this case.
- 21 When you examine, you said an image, you generate
- 22 | something you called a hash value?
- 23 | A Correct.
- 24 | Q And a hash value, you said, is an identifying piece of
- 25 | information about an image?

- 1 A Yes, it is.
- 2 | Q And there are different types of hash values?
- 3 A Yes, there are.
- 4 Q MD5s been around a long time?
- 5 A Yes.
- 6 Q And I think you said it was, you say, like a fingerprint?
- 7 A We look at it as akin to a fingerprint.
- 8 Q Akin?
- 9 A Yeah.
- 10 Q Because it is possible to have two different images with
- 11 | the same MD5 value; correct?
- 12 A It is a possibility, but there's almost an impossibility.
- 13 And then there's ways that I can explain that possibility.
- 14 | Q Well, my -- there's a possibility you said?
- 15 A Yes.
- 16 Q And there's many images on the internet displaying two
- 17 different messages with the same hash value; correct?
- 18 A I don't know that there's many, but I know there are
- 19 some.
- 20 Q And you've seen those images; correct?
- 21 A Are you talking about graphic messages or forensic
- 22 images?
- 23 Q Photographic images.
- 24 A No, I haven't seen all the MD5 collision messages that
- 25 | are on the net.

- 1 Q Were there issues with MD5 that led forensic examiners to
- 2 | adopt a different hash value system?
- 3 A No. There was no reason for someone to adopt a different
- 4 hash value system, but there was a collision, as they call it,
- 5 | with an MD5 collision.
- 6 Q And a collision is another way of saying two pictures
- 7 | with the same --
- 8 A Not two pictures, two files.
- 9 Q And is there something called SHA hash value?
- 10 A Yes. Secure hash algorithm.
- 11 | Q And is that used by some forensic labs?
- 12 A Yes, it is.
- 13 Q Is it used by the FBI?
- 14 A We use it alongside the MD5 cache, but the MD5 is what we
- 15 use exclusively.
- 16 \mathbb{Q} When you say use it alongside, did you use the SHA1 hash
- 17 | value alongside the MD5 value in this case?
- 18 A No, I did not.
- 19 Q The SHA1 value is also used even on home cameras;
- 20 | correct?
- 21 A It's used on many different devices.
- 22 | Q First developed by the National Security Agency?
- 23 A If I recall, yes.
- 24 Q And there's been issues with SHA1 also; correct?
- 25 A Yes.

- 1 Q And it's led to a further revision called SHA256.
- 2 A No. SHA256 was developed well before they ever found an
- 3 I issue with SHA1.
- 4 Q And there is an SHA2?
- 5 A Yes, there is.
- 6 Q And that's considered the latest in terms of SHA hash
- 7 | value systems?
- 8 A Not necessarily.
- 9 Q SHA2 is more advanced than SHA1?
- 10 A It's a tougher algorithm, that's for sure.
- 11 | Q When you saw tougher algorithm, again, trying to deal
- 12 | with this issue of whether two images will have the same hash
- 13 | value; correct?
- 14 A Two images will not have the same hash value. Two files
- 15 can.
- 16 | Q And two files, that's what you're talking about the
- 17 | collision; correct?
- 18 A Yes.
- 19 Q Two files having the same hash value.
- 20 So you reported an acquisition hash value for the
- 21 | images in this case; correct?
- 22 | A Yes.
- 23 Q That's not something that you testified about on direct
- 24 other than you did it; correct?
- 25 A Correct.

- 1 Q And then the discussion about metadata. There are
- 2 different types of metadata; correct?
- 3 A Correct.
- 4 Q And some come from the file system; is that correct?
- 5 A Correct.
- 6 Q I think you touched on that yesterday; correct?
- 7 A Yes, I did.
- 8 Q A file system could be an operating system?
- 9 A Yes.
- 10 Q It could be Windows?
- 11 | A Those are different -- different devices that use them.
- 12 | Operating systems use file systems in order to be able to
- 13 store their data.
- 14 | Q And different -- Linux is an operating system?
- 15 A Yes.
- 16 | Q Apple is an operating system?
- 17 A Yes.
- 18 | Q And then there are versions of each of those; correct?
- 19 A Of the file systems, yes. And of different kind of
- 20 operating systems that run also.
- 21 | Q And with respect to your analysis in this case, were you
- 22 | able to determine the operating system which was utilized?
- 23 A In which way?
- 24 Q For the Western Digital device.
- 25 A No, I was not.

- 1 | Q That's because you didn't have the Dell Dimension
- 2 | computer; correct?
- 3 A Not necessarily. There were three computers that were
- 4 listed under those backup folders. Any one of those could
- 5 have been used to actually have this device plugged into it.
- 6 Q So there were three devices that had been connected to
- 7 | this hard drive at some point?
- 8 A I don't know if they were connected. I just know there
- 9 was a file system, a folder named after a file system.
- 10 Q So --
- 11 A Or a computer.
- 12 Q Did you want to say something else?
- 13 A The folders were named after a computer, a type of
- 14 | computer. So we have a Dell Dimension. I think there was a
- 15 | Mac that was named as a folder.
- 16 0 Correct.
- 17 | A I'm not thinking that the computer actually generates
- 18 | those. I'm thinking that someone just names a folder. And
- 19 | I'm not assuming that someone had to attach to that computer,
- 20 | but that's the only information we have to go on. So we need
- 21 to try to run down all that information to see if we can find
- 22 one.
- 23 | Q Not having access to any of those three computers makes
- 24 | it more difficult to identify data, metadata from the
- 25 | operating system; correct?

- 1 A From the OS, from the FS, the file system itself, to see
- 2 | if something's been plugged in, yes, in that respect, it is
- 3 | hard.
- 4 Q Was there any other reason that you wanted to see that
- 5 Dell Dimension computer?
- 6 A Well, if I had that Dell Dimension computer, I would do a
- 7 | full workup of that computer. And I would look to see if that
- 8 USB drive was plugged it, when it was plugged in, how often it
- 9 was plugged in, what letter was generated when it was plugged
- 10 | in, how the files were copied to and from it, things of that
- 11 | nature.
- 12 Q There's also, I think -- I don't know if you used the
- 13 | word application metadata?
- 14 A Yeah, it could be file metadata.
- 15 Q That's, for example, on a Word file?
- 16 A Yes.
- 17 | Q To say who created the document; right?
- 18 A Yes, an author would be named sometimes.
- 19 | Q When you get the software for Word you put the name in,
- 20 | could be Brian's computer or Brian Booth; right?
- 21 A Correct.
- 22 | Q But somebody else can use Brian's computer, the document
- 23 | would still have metadata saying Brian Booth; correct?
- 24 A Correct.
- 25 | Q And then there's also embedded metadata?

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- 1 A Yes, there is.
- 2 Q Is that something you discussed in this case?
- 3 A We were talking about the embedded metadata for a .jpg
- 4 | file.
- 5 Q For what?
- 6 A On a .jpg file.
- 7 Q Now, metadata can be changed; correct?
- 8 A It can. Depending on what type of metadata you're
- 9 | talking about, and how hard it is, really depends on what
- 10 | version or what type of metadata you're talking about.
- 11 | Q And metadata can be changed by the end-user?
- 12 A Yes.
- 13 | Q The end-user being the person who's at the computer;
- 14 | right?
- 15 A Sometimes, yes.
- 16 Q So you go on your computer, anyone can, and change the
- 17 date and time; correct?
- 18 A Yes.
- 19 | Q You can change the year; correct?
- 20 A Yes.
- 21 Q That can be done at any time?
- 22 A It depends on what operating system and what type of
- 23 | security you have on the operating system. If you have a
- 24 | laptop from your corporation, they may block you from doing
- 25 that.

- 1 Q But here you don't know what, if any, security was on any
- 2 of the operating systems involved in the images that you
- 3 | testified about; correct?
- 4 A You're talking about the Restistive, the 1B numbers or
- 5 are you talking about --
- 6 Q From the Western Digital, yes, the 1B.
- 7 A The 1B is an external hard drive. It can be plugged into
- 8 any type of operating system. I have no knowledge of it.
- 9 Q Also, there can be automatic actions that can change the
- 10 | metadata?
- 11 A In some software can do that, yes.
- 12 | Q When we talk about automatic actions, computer antivirus
- 13 | software can change metadata?
- 14 A It would actually quarantine something if it deemed it to
- 15 be an issue, but I don't know about it changing metadata. It
- 16 depends on what kind of metadata you're talking about right
- 17 how, because there's --
- 18 Q Some metadata?
- 19 A There's various different metadatas that we're talking
- 20 about in this courtroom, so you're throwing a very broad stick
- 21 at this.
- 22 | Q We'll narrow down.
- But with respect to metadata, the copying process
- 24 or -- can affect metadata?
- 25 A Yes, it can.

- 1 Q When we say copying process, what do you mean by that?
- 2 A If you drag and drop a file or a folder from one device
- 3 to a USB device, or a thumb drive, and then take it to another
- 4 one and copy and drag it, it could do that. That will change
- 5 | metadata.
- 6 Q Backing up a computer can be an automatic function;
- 7 | correct?
- 8 A Yes, it can.
- 9 Q Like an office can back up every night its files?
- 10 A Correct.
- 11 | Q And that would change the metadata?
- 12 A It could.
- 13 | Q And I think you said data changes, metadata changes, as
- 14 | it moves across computers.
- 15 A Yes, it does. File system metadata.
- 16 | Q And that's something that happened with respect to this
- 17 Western hard drive: correct?
- 18 A In possibility, it could.
- 19 Q Pardon?
- 20 A Considered in a possibility, it could.
- 21 | Q So you can backdate metadata?
- 22 A You can change a computer's date and time and then copy
- 23 | data on to it and have it backdated in that sense.
- 24 | Q And is there something called time stomping?
- 25 A Yes, there is.

- 1 Q Is there that different from just backdating, time
- 2 stomping?
- 3 A That's very close to -- if you want to use a similar term
- 4 to say, you can use that as a term for it.
- 5 Q There's actually softwares that do that for you?
- 6 A It could. It's not something normally out there in use.
- 7 Q And somebody with hacking skills might know about time
- 8 | stomping software?
- 9 A Yes.
- 10 Q That's something you've seen?
- 11 A Yes, I have.
- 12 | Q And you talked about a file creation date yesterday?
- 13 Yes?
- 14 A Yes, I have.
- 15 Q So you had information concerning -- yesterday did you
- 16 testify to the file creation date for any of the images from
- 17 | the Western Digital drive?
- 18 A I think I mentioned one file creation date in particular.
- 19 Q Do you remember what that date was?
- 20 A It was a 2003 date.
- 21 | Q And then the last modified date is when the user last
- 22 | modified a file?
- 23 A That's usually what happens.
- 24 | Q When you say usually, there's other ways that last modify
- 25 date can be there; correct?

- 1 A Yes.
- 2 Q For example?
- 3 A Well, from moving computers across from one computer to
- 4 | another, if you've got a file system that is a very, what we
- 5 call a young file system, like something we use with floppy
- 6 disks, they don't actually hold on to all that data because
- 7 | newer file systems can hold modified data, access data, much
- 8 differently.
- 9 So sometimes when you move the files across, a
- 10 | creation date would be made, but a last access date wouldn't
- 11 be created completely. You'd only have a date. So in some
- 12 ways you can actually modify dates and times as you move
- 13 | across different file systems.
- 14 | Q And that's not something you're able to determine without
- 15 examining the computers along the way?
- 16 A Not unless we have them in our hand, no.
- 17 Q So, for example, in this case, we know there was a Dell
- 18 Dimension computer?
- 19 A I don't know that, but if you're telling me.
- 20 Q Your analysis reflected a path that said Dell Dimension?
- 21 A Yes, I do.
- 22 Q And you said there were two other computers?
- 23 A Two other file paths that indicated other computers.
- 24 Q Like an Apple?
- 25 A Like an Apple computer, yes.

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- 1 | Q What was the third?
- 2 A It was another Dell computer.
- 3 Q And then you mentioned last access date?
- 4 A Yes, I did.
- 5 Q And last access date can have many meanings also;
- 6 | correct?
- 7 A Yes.
- 8 Q It can mean literally the last time someone accessed it;
- 9 correct?
- 10 A Correct.
- 11 | Q And it can also mean the last time it was copied?
- 12 A A last access date can be moved across one computer to
- 13 | another, but the access date, if they're like devices, would
- 14 stay. So unless you've actually opened up an item and looked
- 15 | at it, it wouldn't change the last access date.
- 16 | Q So last access doesn't even mean last view?
- 17 A In some cases, software will change the last access date
- 18 | if you've opened it up. But it's really software dependent.
- 19 Q So last access date does not necessarily mean last
- 20 viewed?
- 21 A Correct.
- 22 | Q But if a file is viewed, it would be reflected in an
- 23 | access date?
- 24 A If it's opened up?
- 25 Q Yes.

- 1 A Depending on what piece of software.
- 2 Q And in terms of file folders, files can be moved from one
- 3 folder to another; correct?
- 4 A Yes.
- 5 Q And you don't have that information when you examine a
- 6 | hard drive such as this, whether files were moved or not?
- 7 A Well, between devices, I do not.
- 8 Q Or even when it was on a Dell Dimension, Dell computer or
- 9 Apple computer?
- 10 A No, I do not.
- 11 | Q Does DOS script also impact the file names?
- 12 A Does what? Excuse me?
- 13 | Q DOS. D-0-S script?
- 14 A I don't know what you're referring to.
- 15 Q Your examinations were at different times; correct?
- 16 A As far as my two examinations here were at two different
- 17 | times, yes.
- 18 Q With respect to the images that you testified about this
- 19 morning, Government Exhibits 518, A through U, they're also
- 20 | reflected in your report.
- 21 You understand my question?
- 22 | A As far as looking at the actual items themselves?
- 23 Q Let me try to break it down then.
- 24 So Government Exhibit 518-A through U are like
- 25 | images, printed images?

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- 1 | A Okay, yes.
- 2 Q In addition, you have a report that talks about those
- 3 | images and the data for those images; correct?
- 4 A Yes.
- 5 Q And some of those were reviewed with you on direct
- 6 examination by the prosecutor; correct?
- 7 A Correct.
- 8 | Q Do you know, without looking at your report, what the
- 9 | file creation date is for each and every one of Government
- 10 Exhibit 518-A through U?
- 11 A No, I'd have to see the report itself.
- 12 Q Then we can do that.
- 13 MR. der OHANNESIAN: This is Government
- 14 | Exhibit 504-A. I'm going to put it on the screen.
- 15 (Exhibit published.)
- 16 Q Starting with -- first of all, can you read it?
- 17 | A The highlighted item?
- 18 Q Yes, .jpg 150?
- 19 A Yes, I can.
- 20 Would you like me to read it out loud?
- 21 Q Does that help you recall the file creation date for .jpg
- 22 | 150?
- 23 A Yes, it does.
- 24 Q July 26th, 2003?
- 25 A Correct.

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                                                                  4938
          151, file creation date.
1
    Q
 2
          Correct.
    Α
 3
          Same?
    Q
 4
    Α
          2003.
5
    Q
         .jpg 152?
    Α
         Correct.
6
7
    Q
          July 2003.
8
               .jpg 153, July 2003?
9
    Α
          Correct.
10
    Q
          .jpg 154, creation date of July 2003?
11
    Α
         Yes.
12
          .jpg 155, creation date of July 26th, 2003?
    Q
13
    Α
         Yes.
14
          .jpg 156, creation date of July 2003?
    Q
15
         Correct.
    Α
16
          .jpg 160, a creation date of July 26th, 2003?
    Q
17
    Α
         Correct.
18
    Q
          .jpg 161, creation date of July 26th, 2003?
19
    Α
          Correct.
20
    Q
          .jpg 162, creation date of July 26th, 2003?
21
    Α
          Correct.
22
          And .jpg 163, a creation date of July 26th, 2003?
    Q
23
    Α
         Correct.
24
          So with respect to .jpg images 150 to 163, they were all
25
    created, according to your forensic examination, on July 26th,
```

- 1 | 2003; correct?
- 2 A Yes.
- 3 Q And in terms of the times, going back, we'll go
- 4 backwards. That date, 2:05:16, 2:05:16, 2:05:15,
- 5 2:05:15, 2:05:14, 2:05:14, 2:05:14, 2:05:13, 2:05:13?
- 6 A Correct.
- 7 Q 2:05:12, 2:05:12, 2:05:12, and 2:05:11.
- 8 So on those, the first set of .jpg images, there was
- 9 | a creation date of July 26th, 2013?
- 10 A Correct.
- 11 | Q Now, with respect to .jpgs 184 to 191, which you talked
- 12 | about this morning and yesterday, which were also contained in
- 13 | Exhibit 518, do you know what the file creation date was for
- 14 | those messages?
- 15 A I recall, I thought they were 2003, also.
- 16 Q Would you know for sure if you looked at --
- 17 A The report would show it.
- 18 Q The one we were just looking at?
- 19 A Yes.
- 20 Q So this is Exhibit 504-A. This is the second set of
- 21 | images that you testified about with the prosecution. .jpg
- 22 | 184 creation date, July 26th, 2003, 2:05 p.m.?
- 23 | 185, July 26th, 2003?
- 24 A Correct.
- 25 Q 205.

- 1 .jpg 186, creation date, July 26th, 2003, 2:05 p.m.
- 2 .jpg 187, file creation, July 26th, 2003, 2:05 p.m.
- 3 .jpg 188, file creation, July 26th, 2003, 2:05 p.m.
- 4 .jpg 189, July 26th, 2003, 2:05 p.m.
- 5 .jpg 190, July 26th, 2003, 2:05 p.m.
- 6 And the last in this series from 184 to 191, file
- 7 | creation date of July 26th, 2003, at 2:05 p.m.?
- 8 A Correct.
- 9 Q So looking at that, it's fair to say that for images 184
- 10 to 191, they have the same file creation date as .jpg images
- 11 | 150 to 163.
- 12 A Yes.
- 13 | Q And in your opinion, is the metadata that was generated
- 14 | with respect to file creation reliable?
- 15 A No.
- 16 Q Is it possible these images were created in 2004?
- 17 | A Yes.
- 18 Q Is it possible they were created in 2005?
- 19 A Yes.
- 20 | Q Is it possible they were created in 2006?
- 21 A You can keep going on what dates. I don't know.
- 22 | Q Right. It could be 2008?
- 23 A Yes.
- 24 | Q It could be 2010?
- 25 A Correct.

		Booth - cross - der Ohannesian 4941		
1	Q	Because the file creation metadata is not reliable in		
2	this	this case, according to you; correct?		
3	Α	The file the file system metadata for those dates and		
4	times are not accurate.			
5	Q	That issue has nothing to do with how you may have		
6	conducted your examination; is that correct?			
7	Α	Correct.		
8	Q	And these images which form the basis of the photographs		
9	which were displayed today, also had modified dates on them?			
10	Α	Yes, they did.		
11	Q	And do you remember what the modified date was for .jpg		
12	images 150 to 163?			
13	Α	If I recall, it came back to a 2005 date.		
14	Q	Okay. And with respect to .jpg images 184 and 195, do		
15	you recall what the file modified date was?			
16	Α	I think they call came back to 2005.		
17	Q	And then did you determine in your analysis file access		
18	dates?			
19	Α	No, I did not.		
20				
21		(Continued on following page.)		
22				
23				
24				

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Booth - cross- der Ohannesian

- 1 | EXAMINATION CONTINUES
- 2 BY MR. der OHANNESIAN:
- 3 Q Again, I'm focusing on JPEG Images 150 to 163, and 184 to
- 4 191.
- 5 Looking, again, at Exhibit 284, starting with
- 6 Exhibit 150, did you determine an access date on that?
- 7 A Software has produced an access date of 2010.
- 8 Q And do you know what the access date -- now, there's no
- 9 | time on that, right?
- 10 A No, there's not.
- 11 | Q And was there an access date for the other JPEG images?
- 12 A Yes, there were.
- 13 | Q Do you know what that access date was for each image,
- 14 | JPEG 150 to 190?
- 15 A I recall they were all alike.
- 16 Q Well, let's make sure.
- 17 A Okay.
- 18 Q Let's not guess.
- 19 (Exhibit published.)
- 20 | Q Looking at JPEG 151, 152, 153, 154, 155, 156, 157, 158,
- 21 | 159, so far all generating the same access date?
- 22 | A Yes.
- 23 Q 0f 2/12/2010?
- 24 A Yes.
- 25 | Q So this is refreshing you that you did do that, correct?

- 1 A Well, I didn't -- you asked me if I had -- if you would
- 2 rephrase how you said it. You said --
- 3 Q Generated or reported.
- 4 A Well, I -- the system reported this information. I'm not
- 5 reporting back with my past testimony. We didn't talk about
- 6 access dates.
- 7 Q Fair enough, you're absolutely correct.
- 8 So, JPEG 160, file access date, again, the same,
- 9 2/12/10; JPEG 161, which is a separate series of JPEGs that
- 10 | you were asked about that were contained in Exhibit 518, also
- 11 has the access date of 2/12/2010; same for JPEG 162; yes?
- 12 A Yes.
- 13 | Q And finally, JPEG 163, that also -- excuse me, that was
- 14 | in the same series.
- 15 The next series begins with JPEG 184, that also,
- 16 though, has the same access date?
- 17 A Correct.
- 18 | Q And, again, just quickly looking at 184, 185, which
- 19 starts at the bottom of page 46, access date of 2/12/2010,
- 20 same for 186, 187, 188, 189, 190 and 191, correct?
- 21 | A Correct.
- 22 | Q So for all these images your metadata reflected a last
- 23 | access date of February 12th, 2010, correct?
- 24 A Correct.
- 25 Q And I think you said accessing does not necessarily mean

- 1 | viewing either, correct?
- 2 A Not necessarily.
- 3 Q Would it be fair to say that you have no information of
- 4 | any file access date after February 12th, 2010 for any of
- 5 these images?
- 6 A Not that I know of.
- 7 Q Is there another form of metadata called thumbs.db or
- 8 | thumbs database?
- 9 A Yes.
- 10 Q And is that something that you reviewed in this case?
- 11 A That was processed, but as far as going in and reviewing
- 12 each of the thumb.db's, no, I did not.
- 13 | Q Do you have any notes concerning your findings on the
- 14 | thumbs database?
- 15 A No, I do not.
- 16 Q But you did it?
- 17 A We looked at it, yes.
- 18 Q You didn't report it though?
- 19 A No.
- 20 Q And let's define what thumbs database is.
- 21 A Well, thumbs.db is -- is part of the Microsoft operating
- 22 | system that when you open up folders and view contents and you
- 23 usually see them come up in thumbnails, a thumbs.db file is
- 24 | created in that folder to hold that data.
- 25 Depending on what file system you have, it can

- 1 | actually be saved in the user's data portion of the computer.
- 2 | So instead of saving it in the folder, Windows 10 likes to
- 3 save it in a users data folder, and that will hold different
- 4 | size versions of the thumbnails that you find in there, too.
- 5 Q It's supposedly makes it more convenient or easier for
- 6 you to view the image?
- 7 A To browse through, yes.
- 8 Q And that is a form of metadata that forensic examiners
- 9 look at, correct?
- 10 A Sometimes, yes.
- 11 | Q And that thumbs.db data or browsing should be after the
- 12 | photo is taken?
- 13 A Not necessarily. Not all operating systems make a
- 14 | thumb.db folder.
- 15 | Q Well, this case, the Western Digital did have a thumbs.db
- 16 on it, correct?
- 17 | A Yes, it had multiples.
- 18 Q Okay.
- 19 And when there is thumbs.db, you can't view a file
- 20 | before it exists, correct?
- 21 A You can double click on it and open it.
- 22 | Q But the date and time of a thumbs.db entry cannot be
- 23 before the creation of the file?
- 24 A No -- well, the thumbs.db might be there before you add
- 25 | files into the folder. So yes, a thumbs.db can be there and

- 1 | created before you add more files to it.
- 2 Q Did you notice any anomalies in the thumbs database in
- 3 this case when we talk about JPEG images, any of the JPEG
- 4 | images from 150 to 191?
- 5 A And those were on 1B16, I gather?
- 6 Q Yes.
- 7 A Not that I had noticed.
- 8 Q Did you notice that some of these files say they were
- 9 | created an hour before they were created according to
- 10 thumbs.db?
- 11 A No. I did not notice that.
- 12 | Q That wouldn't be good, would it?
- 13 A I would want to look at it, but no, I wouldn't say it's
- 14 good or bad.
- 15 Q Do any of the reports that you put into evidence in this
- 16 | courtroom say anything about the thumbs database metadata?
- 17 A No, it does not.
- 18 | Q Who determines whether to report the thumbs database data
- 19 | in a forensic report?
- 20 A An examiner would.
- 21 | Q Pardon?
- 22 A An examiner would.
- 23 | Q Brian Booth?
- 24 A Could be me, could be another examiner.
- 25 Q And in this case, who would it be?

SAM OCR RMR CRR RPR

THE COURT: I think we ought to do it as one unit.

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Booth - cross- der Ohannesian
                                                                4949
1
              MR. der OHANNESIAN:
                                    Okay.
 2
              THE COURT: So we will simply have to wait.
 3
              And then your next witness after this?
 4
              MS. HAJJAR:
                            I believe it would be Special Agent
    Weniger, unless to the extent the notes present an issue we'll
 5
    call Virginia Donnelly to explain that further. But if not,
6
7
    our plan was Special Agent Weniger, case agent.
8
              THE COURT: And how long will he be on the stand on
9
    direct?
10
              MS. HAJJAR: Approximately two hours, Your Honor.
11
              THE COURT: All right, we still might get done
12
    today.
13
              Why don't you let Mr. Reccoppa know when the notes
14
    arrive.
15
              MS. HAJJAR: Will do.
              THE COURT: All right, and provide them to the
16
    defense.
17
18
              MS. HAJJAR:
                            Yes.
19
              THE COURT:
                           Okay, thank you.
20
               (The defendant exited the courtroom.)
21
               (Judge NICHOLAS G. GARAUFIS exited the courtroom.)
22
               (Recess taken.)
23
                  (In open court - jury not present.)
24
               (Judge NICHOLAS G. GARAUFIS entered the courtroom.)
25
                 (The defendant exited the courtroom.)
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Booth - cross- der Ohannesian
                                                                  4951
               THE COURT:
                           Okay; thank you.
1
 2
               (The defendant exited the courtroom.)
               (Judge NICHOLAS G. GARAUFIS exited the courtroom.)
 3
               (The defendant exited the courtroom.)
 4
               (Luncheon recess taken.)
 5
6
               (Afternoon session continued on the following page.)
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SAM OCR RMR CRR RPR

1	THE COURT: Yes.
2	MS. PENZA: we have a few documents that are in
3	dispute for Special Agent Weniger. Other than that, I think
4	we are going to be able to enter all the remaining documents
5	on consent before his testimony begins.
6	Though, I would ask for a few more minutes before I
7	put that on the record with Mr. Agnifilo and Ms. Geragos, just
8	to make sure there is no question
9	THE COURT: Okay. Go ahead.
10	MS. PENZA: But would you would Your Honor like
11	to hear first about the documents in dispute?
12	THE COURT: What is in dispute?
13	MR. AGNIFILO: All right, Judge. So we've consented
14	to about 95 percent of things.
15	What we haven't consented to is Government
16	Exhibit 668, which is a <u>Times Union</u> article from
17	February 12th, 2012.
18	THE COURT: Well, what is that about?
19	MS. PENZA: So, Your Honor, we're not putting in the
20	entire article. This is just the cover page of the article.
21	And the reason it's important is because, as with
22	as with the <u>Forbes</u> article, the <u>Albany Times Union</u> article was
23	something that caused a lot of in terms of in terms of

that were taken, a lot of that centers around the Albany Times

the Government's proof regarding the enterprise and actions

24

Union, including several of its reporters, et cetera. 1 2 And so the front page shows that this was a big 3 This was the first -- this was the lead story in the 4 Albany Times Union. It shows the date, and it shows that 5 there was going to be this four-part series. So it is for the timing of these articles. 6 7 not including the content of the articles in it. 8 THE COURT: What is the problem? 9 MR. AGNIFILO: She can get testimony about the date 10 of the article. Ask the witness what date was the article. 11 MS. PENZA: I think it's -- if Your Honor -- if Your 12 Honor sees it, I think it's important to see what this 13 actually was, like it -- that this was a big deal. 14 This wasn't just some small article in the middle of the newspaper. This was the lead story and it was going to be 15 16 covered for four days in a row. And so I think that shows the motive behind, basically, targeting the authors of this 17 18 article. 19 THE COURT: You are going to ask the witness about 20 this? 21 MS. PENZA: Yes, Your Honor. Just -- not -- just to 22 put that one page into evidence and ask about that. 23 THE COURT: Could I see it?

SAM OCR RMR CRR RPR

MS. PENZA: Yes, Your Honor. You have the one --

MR. AGNIFILO: Your Honor, actually, what I -- what

24

might be easier is, I will give Your Honor -- it's only maybe
five exhibits. So I can just give them all to the Court.

THE COURT: Thank you.

MS. PENZA: And that will be --

THE COURT: All right, next.

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MS. PENZA: I don't actually have it in front of me.

This one --

MR. AGNIFILO: So the next one, so the next one I know, Judge, is there is an unofficial transcript from RPI.

THE COURT: And it has been -- there is a declaration from the secretary and general counsel?

MR. AGNIFILO: Of the unofficial transcript.

First of all, I don't know what the relevance of the transcript is. And second of all, I don't know what the provenance of the unofficial transcript is.

MS. PENZA: Well, the providence, Your Honor, is evident from there. And we -- so Special Agent Weniger will testify that we provided a subpoena to RPI, and that we received this record in response.

The relevance is, Your Honor, we are putting in, without objection, the defendant's biography that was listed on the NXIVM website, which -- which lauded him for his three degrees from RPI and his taking of graduate-level math classes and physics classes. And I think his mediocre-to-failing grades in those classes is certainly relevant.

0'Hara --

Your Honor.

Allison Mack.

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you can see, it -- this is a listing of Michele's collateral. Michele was Allison's slave. We are putting in -- or -- Your Honor, a DOS -- labeled a DOS slave, of course.

> THE COURT: I see.

THE COURT:

MS. PENZA: But she was -- this is her listing of collateral, but at the bottom she lists what she is still demanding of her own slave, Michele's own slave, Souki. And

> SAM 0CR CRR **RPR** RMR

and that's...

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1
              THE COURT: And you oppose that?
 2
              MR. AGNIFILO: I just -- I think it's -- I think
 3
    it's hearsay and it raises sort of a troubling inference that
 4
    somehow Mr. Raniere would have had an obligation to respond,
    because the article -- the --
5
              THE COURT: No one has an obligation to respond to
6
    the media.
7
8
              MR. AGNIFILO: I understand, but --
9
              THE COURT: You know that would create the -- I
10
    mean, you can ask the question on cross-examination.
11
              MR. AGNIFILO: Okay.
12
              THE COURT: That's about it?
13
              MS. PENZA: I think that's it for the objections.
14
              THE COURT: So you want to put in this face page
    here (indicating)?
15
16
              MS. PENZA:
                          Just that, yes, Your Honor.
17
              MR. AGNIFILO: Judge, we just -- we'd be happy to
18
    consent to the timing of it. I just don't think that the
19
    article is relevant. And I think --
20
              THE COURT: Well, it is not the article, it's just
21
    the front page.
22
              MR. AGNIFILO: Well, but it -- that is even worse,
23
    in a sense, because, you know, now we have him on the front
24
    page, leaving the jury to speculate about things that really
25
    are neither here nor there or -- nor are evidential,
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1
              MS. PENZA:
                          The last thing I was just going to say
 2
    is we have a hard copy of the Forbes article, and we were just
 3
    going to use it as a -- for demonstrative purposes today.
 4
    don't need to admit the actual article.
              THE COURT: All right, that is fine.
5
6
              MR. AGNIFILO: Very good.
7
              THE COURT: All right.
              MR. AGNIFILO: Can I retrieve my --
8
9
              THE COURT: Of course. Please, please.
10
              MR. AGNIFILO: Thank you. Thank you, Your Honor.
                          Be my guest.
11
              THE COURT:
12
              MR. AGNIFILO:
                             Thank you very much.
13
              THE COURT: All right, are we ready with the jury?
14
              Okay. Please bring in the witness.
15
               (The witness entered the courtroom and resumed the
    stand.)
16
17
              (Jury enters.)
18
              THE COURT: All right, please be seated, everyone.
19
              First of all, let me thank the jury for agreeing to
20
    the adjustment of the schedule a little bit. I thought that
21
    because we had some administrative details to deal with, we
22
    would rather deal with them while you were having lunch, and
23
    then move ahead with the trial.
24
              So, again, the parties and I thank you for
25
    accommodating all of us.
```

	Proceedings	4961
1	You may continue your	
2	MR. der OHANNESIAN: Thank you.	
3	THE COURT: cross-examination of the witness.	
4	The witness is reminded he is still under oath.	
5		
6	(Continued on the following page.)	
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SAM OCR RMR CRR RPR

- () This is Exhibit 945, which we looked at from this morning.
- 15 945 is the package sheet from the digital camera piece of Α 16 evidence.
- 17 And does this include the data card, Exhibit 524, or not?
- 18 From what I -- my understanding was that was what was
- 19 obtained outside the -- or inside the actual camera.
- 20 Q So do you know if there is a separate document for the 21 data device?
- 22 No, there isn't.

BRIAN BOOTH,

the witness.

follows:

BY MR. der OHANNESIAN:

Go ahead.

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- 23 Q Then I want to show you document 960.
- 24 What is that?
- 25 It's a evidence bar code. It's 1B16. It's the -- one

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MR. der OHANNESIAN: Is that okay, Your Honor, if I give it to the witness?

THE COURT: Sure.

THE WITNESS: (Witness complies.)

- 1 BY MR. der OHANNESIAN:
- 2 Q First, the number on that exhibit on the front page, just
- 3 | so I -- for the record, is DX what?
- 4 A DX 961.
- $5 \mid Q$ And what is DX 961?
- 6 A DX 961 is a rough draft of the examination notes.
- 7 Q Are those the notes that you were referring to this
- 8 morning?
- 9 A Yes, I am.
- 10 Q That you said you didn't have?
- 11 A Yes.
- 12 | Q That might help you answer some questions?
- 13 A Yes.
- 14 Q Does it contain the photos that were taken in this case
- 15 | also?
- 16 A Yes, they do.
- 17 | Q Okay. And, again, if you need that to answer my
- 18 | questions, to refresh your recollection, just let me know.
- 19 The first question is: Are there any photos that
- 20 were taken of the box in which the Cannon camera and storage
- 21 | device were located?
- 22 A No, there wasn't.
- 23 | Q Now, you can answer that with certainty, correct?
- 24 A Yes, because the -- because of the speed of having to do
- 25 | the camera at this point, and that the camera was also

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Proceedings
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- 1 produced in court already, that I just needed to
- 2 | actually process the item, and get it -- get the item
- 3 processed.
- 4 | Q When you say the camera was produced in court, when was
- 5 | that?
- 6 A I think it was that morning, if I'm -- if I'm not
- 7 | mistaken. I wasn't in court, so I don't know.
- 8 Q Will those notes in Exhibit 961 help you answer that
- 9 | question, if you believe the camera was produced in some court
- 10 proceeding?
- 11 A No.
- 12 Q Okay. That's just your guess?
- 13 A Yeah, that was what I heard from someone on the squad.
- 14 | So I don't know for sure.
- 15 | Q That's not reflected in the notes, correct?
- 16 A No, it's not reflected in the notes.
- 17 | Q Does Exhibit 961 help you answer the question when the
- 18 | Cannon camera and storage device were delivered to the FBI
- 19 | CART office?
- 20 A No, the evidence sheet would have that information.
- 21 Q Is that one of the two exhibits that we just put in
- 22 | evidence?
- 23 A Yes, I would believe it would be.
- 24 Q Looking at Exhibit 945.
- 25 (Exhibit published.)

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4966
                               Proceedings
         That's the Cannon camera?
1
    Α
 2
    Q
         Yes.
 3
    Α
         Yes.
 4
         And this morning, I think -- looking at the first page,
    does that tell you when it came to the CART office?
5
         You'll have to scroll down a little -- scroll up a little
6
7
    bit, and it's up to the right. It says when we received it.
8
               (Exhibit published.)
9
    Α
         You're going down. You need to go up.
10
    Q
         What's the date?
         You need to go up.
11
    Α
12
              THE COURT: To the top of the page?
13
              THE WITNESS: Yes, top of the page.
14
              THE COURT: Hold on.
15
              MR. der OHANNESIAN: This can be for the jury.
16
              THE COURT: Yes, I know. I just want it to be up.
17
              Yeah, okay.
18
               (Exhibit published.)
19
              THE WITNESS: And you need to move it to the left a
20
    little bit, so I can see it.
21
              MR. der OHANNESIAN: Here you go.
22
              THE WITNESS: 3/27 of '18.
23
    BY MR. der OHANNESIAN:
24
         So March 27th, 2018, is when the Cannon camera and
25
    Exhibit 524 were delivered to the lab?
```

- 1 A Yes.
- 2 Q And do your notes now, Exhibit 961, help you answer the
- 3 | question when the Cannon camera and storage device, 524, were
- 4 | first examined by the CART unit?
- 5 A The -- the -- my notes reflect when I examined and had
- 6 access to the Cannon camera.
- 7 Q Okay. And that's what --
- 8 A And only -- and only me having access to that.
- 9 Q And what do your notes reflect?
- 10 A I received it on 6/10 of '19.
- 11 Q June 10th, 2019?
- 12 A Yes.
- 13 | Q And then you generated a report, correct?
- 14 A Correct.
- 15 Q And February 22nd is when the CART office first put an
- 16 evidence sticker on the device, correct?
- 17 A Correct.
- 18 Q And then June 11th is your initials when you did your
- 19 | work with this device, correct?
- 20 A Correct.
- 21 | Q You prepared a report concerning the metadata obtained
- 22 | from the storage device, which is Exhibit 524, correct?
- 23 | A Correct.
- 24 | Q Exhibit 521, which is in evidence, contains information
- 25 | about metadata associated with images from this electronic

- 1 device, correct?
- 2 A Correct.
- 3 Q It's okay to call it an electronic device?
- 4 A Yes, you can.
- 5 Q And when we talk about the metadata in this case for this
- 6 card, it would include when it was created, correct?
- 7 A The metadata will have a date/time that would say a
- 8 created date.
- 9 Q When it was accessed?
- 10 A It will have an access time/date.
- 11 | Q And when it was modified?
- 12 A And modified dates, yes.
- 13 | Q And was this device also taken through the process of
- 14 | write copied -- write protected?
- 15 A When it was in my hands it was write protected, yes.
- 16 Q Can you tell me when that was?
- 17 A That happened on 6/11.
- 18 | Q And, again, the reason you write protect to be -- the --
- 19 | whether it's a hard drive or a piece of data, like this data
- 20 disk, forensically you don't access it directly, correct?
- 21 A No, we don't.
- 22 | Q And that's what you described yesterday to the
- 23 | prosecutor, that's what you described to me this morning,
- 24 | correct?
- 25 A Correct.

- 1 | Q And that's very, very important, correct?
- 2 A Yes, it is.
- 3 Q Because you want to maintain the integrity of the
- 4 | electronic evidence?
- 5 A Yes, I do.
- 6 Q I'd like to take you to -- this is page 84 of
- 7 Exhibit 521. And I'd like to begin with JPEG on top here,
- 8 224.
- 9 (Exhibit published.)
- 10 BY MR. der OHANNESIAN:
- 11 | Q First of all, I want to make sure you can read that.
- 12 A I can see it.
- 13 | Q You say that this image was created on March 9th, 2006?
- 14 A That's the created date that's --
- 15 0 Yes?
- 16 A That's the created date that's listed for the file.
- 17 Q It was modified on March 9, 2006?
- 18 A That's the modified date that's reflected from the file
- 19 system.
- 20 Q And then it was accessed, correct, on a certain date?
- 21 A Yes, I see it's been accessed.
- 22 | Q It was accessed on September 19, 2018, correct?
- 23 | A Correct.
- 24 | Q Look at exhibit -- the same exhibit, Image 225.
- The next item reflects what might be called "carved"

- 1 data"?
- 2 A Yes.
- 3 Q Okay. It doesn't mean the image doesn't exist on the
- 4 | computer, though, correct?
- 5 A Well, if you're talking about the EXIF HTML, is that what
- 6 you're referencing?
- 7 Q No. Well, for example, right below it you see Image 225?
- 8 A Yes.
- 9 Q Let's continue. Image 225 created in March 9, 2006,
- 10 | correct?
- 11 A Correct.
- 12 | Q Modified in 2006 and it was accessed on September 19,
- 13 | 2018, correct?
- 14 A Correct.
- 15 | Q And that's according to what you're reading off this
- 16 | Exhibit 524, correct?
- 17 A Correct.
- 18 Q And Image 227, that was also accessed on September 19,
- 19 | 2018, correct?
- 20 A Correct.
- 21 Q Exhibit [sic] 228 was accessed on September 19, 2018?
- 22 A Which number again, excuse me?
- 23 Q 228.
- 24 | A Yes.
- 25 | Q Image 229, that was also accessed on September 19, 2018,

- 1 | correct?
- 2 A Correct.
- 3 Q Image 230 was accessed on September 19, 2018, correct?
- 4 A Correct.
- 5 Q Image 231, JPEG, accessed on September 19, 2018? Is that
- 6 what the access date is?
- 7 A Is that a question or --
- 8 Q Yes. My question is: Does your report, in Exhibit 521-A
- 9 of the Government, reflect that JPEG Image 231 was accessed on
- 10 | September 19, 2008 [sic]?
- 11 A Correct.
- 12 | Q Does your report reflect that Image 233 was accessed on
- 13 | September 19, 2018?
- 14 A Correct.
- 15 THE COURT: Could you repeat that?
- MR. der OHANNESIAN: Yes.
- 17 BY MR. der OHANNESIAN:
- 18 Q Does your report reflect that JPEG Image 233 was accessed
- 19 | by September 19 -- on September 19, 2018?
- 20 A Correct.
- 21 Q Image 234, JPEG, accessed on September 19, 2018?
- 22 A Correct.
- 23 | Q Image 235 accessed on September 19, 2018?
- 24 A Correct.
- 25 Q Image 236 accessed on September 9, 2018?

- 1 A Which -- which metadata are you specifically --
- 2 Q The date accessed.
- 3 A You're talking from the file system?
- 4 Q I'm talking about the data that we just looked at.
- 5 A That file system data appears to have been changed.
- 6 Q When we say "changed," it was changed while it was in the
- 7 possession of the FBI?
- 8 A If I'm taking the dates on when we received it, it would
- 9 appear so.
- 10 Q And the dates that you received just now came from your
- 11 | report, correct?
- 12 A Yes.
- 13 | Q That you generated as evidence in the case against --
- 14 United States against Keith Raniere, correct?
- 15 A Yes.
- 16 Q The goal of forensic examination is to preserve the
- 17 | electronic data, so that the metadata doesn't change, correct?
- 18 A Correct.
- 19 Q Do you know the name of the person who accessed the SD or
- 20 media card, Exhibit 524, on September 19, 2018?
- 21 A No, I do not.
- 22 | Q Do you have any record in any piece of evidence or notes
- 23 | that reflects the accessing of Government Exhibit 524 by any
- 24 representative of the FBI on September 19, 2018?
- 25 A No, I do not.

- 1 Q Based on your forensic examination of the Western Digital
- 2 drive, or Government Exhibit 524, do you have any digital
- 3 | evidence that Keith Raniere knew the content of any of the
- 4 | electronic images on either Government Exhibit 503 or 524?
- 5 A I don't know Mr. Raniere, so I would never know what he
- 6 knows.
- 7 Q Do you have any -- based on your forensic examination, do
- 8 | you have any digital evidence as to the identity of any
- 9 | individual who at any time may have accessed any information
- 10 on the Western Digital hard drive?
- 11 A I do not know.
- 12 Q Based on your forensic examination, do you have any
- 13 digital evidence of the identity of any individual who may
- 14 | have accessed any electronic information on Government
- 15 | Exhibit 524?
- 16 A I don't know who had access to this.
- 17 | Q And based on your forensic examination of Government
- 18 | Exhibit 503 or 504, do you know the identity of any person who
- 19 | took any particular image about which you have testified
- 20 before this grand jury -- before this jury?
- 21 A I just know people's pictures that are in the images,
- 22 | that's it.
- 23 | Q You don't know the identity of any person who would have
- 24 been behind the camera at any particular time --
- 25 A No.

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Proceedings
                                                                4975
         -- fair to say?
 1
    Q
2
    Α
         Fair.
 3
              MR. der OHANNESIAN: Nothing else, Your Honor.
    Thank you.
 4
 5
               (Continued on the following page.)
 6
7
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9
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SAM OCR RMR CRR RPR

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Booth - redirect - Hajjar
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    (Continuing.)
1
 2
              THE COURT: Redirect?
 3
              MS. HAJJAR: Yes, briefly, Your Honor.
 4
    REDIRECT EXAMINATION
    BY MS. HAJJAR:
5
         Good afternoon, Examiner Booth.
 6
    Q
 7
    Α
         Good afternoon.
8
         Mr. DerOhannesian talked a lot about metadata previously
9
    with you.
10
    Α
         Yes.
         He asked you questions about various types of metadata,
11
    is that right, on cross-examination?
12
13
    Α
         Yes.
14
         He didn't once mention EXIF data; is that right?
15
    Α
         Correct.
16
         You spent the majority of your testimony on direct
    examination referring to EXIF data?
17
18
    Α
         Yes. I did.
19
         Why is that?
20
         There's two types of metadata. There's the stuff that
21
    you find on file systems which is called file system metadata,
22
    and then there is metadata that is embedded into images and
23
    into audio files and things of that nature. That's EXIF data.
24
    And EXIF data is actually put inside the file. Unlike the
25
    metadata that we've talked about previously which is attached
```

outside of the file by the operating system. The file system moves that along from place to place with it. So, at any point of giving that movement from place to place, there are times that things can get modified.

But when it comes to EXIF data, it used to be it would only be hard-coded in. You couldn't modify it. And only during changes during the years did they open up that you could change the author's name of a photo or even a Word document that you might have. You can always go in and change the author and put comments in and things like that and that's metadata for a Word file. But when it comes to photos, they still keep you from changing dates and times. It's not easy to change those. You have to go through special processes to change those things.

Adobe will allow you to copy a photo and modify it and it will take some of that metadata over, but it will actually put in that. Adobe has modified their system. They're taking steps to show that, listen, if you manipulate this we're going to show it in some sense. It's very rare that I've found someone has been changing metadata within a photo and that time and date does not change from place to place. It stays embedded in the photo. So, there's no outside constraint that's changing it, from an OS, from an Apple computer to a Dell computer.

So these things stay consistent. Those are prime

- 1 places I need to look because unless someone is sitting doing
- 2 | that hacking attempt to trying to do that, which I didn't see
- 3 | that with this drive, I would have to assume all those dates
- 4 | are reflected going all the way through. Those are embedded
- 5 when you take the picture.
- I mean, you can go through your cell phone and see
- 7 | the times and dates and geo locations, too. If you try to
- 8 | modify those dates, you'll find you can do it yourself very
- 9 easily. In that sense, it's very important data here. And,
- 10 | make no mistake, that's the data that I'm after as a forensic
- 11 examiner. I can rely on that time and date. I can't rely on
- 12 the date that someone else put on the files.
- 13 Q What's most reliable in terms of all the metadata that
- 14 was discussed thus far in your examination on direct and on
- 15 cross?
- 16 A The EXIF data.
- 17 Q Okay. Is that better, more reasonable than the created
- 18 date?
- 19 A It's the most reliable.
- 20 Q Is it better than -- more reliable than the modified
- 21 | date?
- 22 | A Yes.
- 23 | Q Is it more reliable than the access date?
- 24 A Yes.
- 25 | Q Is it more reliable than the thumb DB metadata?

- 1 A Yes.
- 2 Q Is it more reliable than metadata that might have been
- 3 | imposed based on an OS or operating system?
- 4 A Oh, definitely.
- 5 Q Every single same type of metadata that was discussed on
- 6 cross-examination of -- and EXIF data, if you were to
- 7 determine which of those was the most reliable which, would it
- 8 | be?
- 9 A The serial number of the camera and the time and the
- 10 date.
- 11 Q On the EXIF data?
- 12 A Yes.
- 13 Q Okay. Is it kind of misleading to just talk about -- if
- 14 you talk about metadata and you don't talk about EXIF data,
- 15 | can that get confusing or misleading?
- MR. DEROHANNESIAN: Objection to the form.
- 17 THE COURT: Sustained as to form.
- 18 BY MS. HAJJAR:
- 19 Q I want to show you, Examiner Booth, just one of the
- 20 | images and this is -- I'm showing you Government Exhibit 550
- 21 | in evidence.
- 22 (Exhibit published.)
- 23 | Q This is the Studies folder that we were talking about?
- 24 A Yes.
- 25 Q What -- which -- the Studies folder, which piece of

Booth - redirect - Hajjar

- 1 digital evidence is that from; the camera or the hard drive?
- 2 A It's from the hard drive.
- 3 Q And the hard drive, does that reflect any change in
- 4 | access date or modified date or creation date as of the time
- 5 | it got to the FBI?
- 6 A No.
- 7 Q So the images that were looked at in the context of this
- 8 case from the hard drive, they -- no change in any of those --
- 9 | that metadata --
- 10 A No.
- 11 Q -- is that right? Okay.
- 12 And looking at the first file in the 11-V1010202005
- 13 | is in here 110205V. That's image 115?
- 14 | A Yes.
- 15 | Q Mr. DerOhannesian went through each of these. I'm not
- 16 going to do every single one, but he went through the creation
- 17 date, the access date and the modified date for each of these
- 18 | files; right?
- 19 A Correct.
- 20 | Q And he pointed out to you that the creation date was
- 21 | 2003. He pointed out the access date was 2010 and the
- 22 | modified date was 2005; is that right?
- 23 A That's correct.
- 24 | Q But he didn't show you the -- that's for image 150,
- 25 | right?

- 1 A Yes.
- 2 | Q And what's this on top, the corresponding file to image
- 3 | 150?
- 4 A What AD Lab does is it opens up the JPEG file and looks
- 5 at the EXIF data, extracts it and saves it as an HTML file so
- 6 | you can view it outside in this kind of form.
- 7 Q What's this? Why is it separate?
- 8 A The information is still there in the JPEG file, but in
- 9 order for us to show the contents of what's in the JPEG file,
- 10 besides the picture that you've already seen, we need to
- 11 extract that EXIF data and save it as, in this case, an HTML
- 12 | file, so when you click on it on the screen you can see
- 13 | contents of that information.
- 14 Q Showing you Government 504-B. Is this the related EXIF
- 15 | data?
- 16 A Yes. it is.
- 17 | Q And this shows the EXIF photo date time original of
- 18 November 5, 2005?
- 19 A Correct.
- 20 Q Now, all of the images in that red binder, all of the
- 21 | images in the V110205, do they have corresponding EXIF data?
- 22 A Corresponding?
- 23 | Q Like, for each of the image files that we looked at that
- 24 | were in the red binder?
- 25 A We had EXIF data.

Booth - redirect - Hajjar

- 1 Q They had EXIF data?
- 2 A Yes.
- 3 Q For each of those did they correspond to November 2nd
- 4 | 2005 or November 24th 2005?
- 5 A Yes, they did.
- 6 Q Consistently?
- 7 A Consistently.
- 8 Q Notwithstanding difference in the creation date?
- 9 A No changes in the date.
- 10 Q And notwithstanding the fact that the modified or the
- 11 | access date may be different than that?
- 12 A No.
- 13 Q Is there any other corroborating information, in your
- 14 | view, as to the date?
- MR. DEROHANNESIAN: Object to the form of the
- 16 question.
- 17 THE COURT: Could you -- could you change the
- 18 | question?
- 19 BY MS. HAJJAR:
- 20 | Q Is there any other information that you found significant
- 21 | with respect to the date that was -- the EXIF data date?
- 22 A Well, the fact that there's so many dates that are in the
- 23 | EXIF data. Say I did have a modification software, I would
- 24 | have to change quite a bit of dates. I mean, I would have to
- 25 go through, you know, a bunch of evidence, number one. But

- 1 then I have to change -- in EXIF data there are dates all up
- 2 and down that including zero numbers, models of cameras,
- 3 things of that nature. So there's quite a bit of data to go
- 4 | through and when you modify a date and time an EXIF date and
- 5 | time in a JPEG, you take the chance of modifying it to where
- 6 | it destroys the JPEG and that's why adobe likes to make a copy
- 7 when they wind up changing EXIF data in the file because they
- 8 | don't want to take the risk of actually ruining the JPEG file.
- 9 So this is one of the reasons why a lot of software
- 10 don't go in and do a lot of changes to the EXIF data. Even if
- 11 | you wanted to just change the author, you're taking a chance
- 12 that you can change the data.
- 13 Q What about the folder names themselves? I know you
- 14 testify on cross-examination that you're not in the head of
- 15 the user who had access to these files or who created these
- 16 | folders, but is there any comparison you can make between the
- 17 | EXIF data the filed folders?
- 18 A The EXIF data and the file folder names image.
- 19 Q The EXIF data for these images are in a folder titled
- 20 November 24, 2005?
- 21 | A Yes.
- 22 | Q And the EXIF data for these images which relate to
- 23 | November 2, 2005 are in a folder with a consistent date and
- 24 | time?
- 25 A Yes.

- 1 Q And what about the -- I know you don't -- do you have --
- 2 | are you aware of the significance of this first letter in this
- 3 | folder name?
- 4 A No, no.
- 5 Q But the -- the numbers that remain, 110205?
- 6 A That reflects the date.
- 7 Q Is that similar to the rest of the letters and numbers
- 8 | you see up that are within this file structure of the Studies
- 9 folder?
- 10 A Yes, it looks like someone put the date and time
- 11 | associated with two letters.
- 12 | Q I'm going to direct your attention to the bottom of
- 13 Government Exhibit 550. The PSA file, did you look at the PSA
- 14 | files associated with each of these images to?
- 15 A Yes. I did.
- 16 Q Can you talk a little bit about PSA files and what they
- 17 | are?
- 18 A They're Photoshop album files and these are files that
- 19 | are generated by Adobe Elements. I don't know if anyone has
- 20 | ever seen some of the software. It used to come embedded on a
- 21 | lot of Dell software. When you used to get a Dell computer
- 22 | you sometimes would get Adobe Elements would come along with
- 23 | it. But it's a piece of software that can allow you to browse
- 24 | and look at a whole bunch of photos at one time like in Apple
- 25 and associate music with the album. It's, like, a digital

- 1 | photobomb of sorts, but just opening up some of the image
- 2 | files in Adobe will start to generate a PSA file like this,
- 3 and what's interesting about PSA files is they hold a lot of
- 4 information. Some of it is your file structure. What else is
- 5 | in your file structure that's associated with your file
- 6 | itself. When you open it up, it's like an Excel spreadsheet
- 7 and you can see all of the files that were associated at that
- 8 date and time in there.
- 9 Q What about the timing of the PSA files as it relate to
- 10 | the original image?
- 11 A They match. They're the same times and dates.
- 12 Q So the -- a file created by Adobe matched roughly the
- 13 | EXIF data of the image creation time which, in this case, was
- 14 | 2005 throughout?
- 15 A Yes.
- 16 Q You were asked a few questions on cross-examination about
- 17 | the number of digital items recovered in this case. Were you
- 18 the examiner for each of those items?
- 19 A For the ones that were listed, I was -- the ones that
- 20 | were listed on the report were put into the -- they were given
- 21 | to me in my training so all of those items were put in and
- 22 processed. As far as the ones that we're focused on at this
- 23 | point, it just 1-B-16.
- 24 | Q And the 1-B-16 is this, again, the digital hard drive
- 25 | that contained the -- the Studies folder that we've been

Booth - redirect - Hajjar

- 1 talking about?
- 2 A Correct.
- 3 Q I think you were asked something on cross-examination
- 4 about significance or evidentiary value of the remainder of
- 5 | the items. Did you -- did you search these other items, these
- 6 other items of digital evidence, you personally?
- 7 A Not all of them, no.
- 8 Q Were the case agents involved in the searches for these
- 9 | items?
- 10 | A Yes.
- 11 | Q For items probative into the investigation of the case?
- 12 A Yes.
- 13 | Q The notes you were provided with by Mr. DerOhannesian,
- 14 | those are notes by -- who drafted those notes?
- 15 A Virginia Donnelley. She's a special agent that I'm
- 16 training.
- 17 Q And she is also a CART examiner?
- 18 A Yes, she's a CART examiner in training.
- 19 | Q And I want to talk a little bit about the camera. I
- 20 think Stephen Flatley's name came up with regard to the camera
- 21 and you testified that you examined the camera quite recently;
- 22 | in June of this -- of this year?
- 23 | A Yes.
- 24 | Q Did someone -- does another CART examiner examine the
- 25 | camera before you?

- 1 A Yes. Stephen Flatley looked at that camera before me.
- 2 Q Did the Government ask you to testify here today and
- 3 create another report instead of Stephen Flatley?
- 4 MR. DEROHANNESIAN: Objection.
- 5 THE COURT: Overruled, you may answer.
- 6 A Yes.
- 7 Q Why?
- 8 MR. DEROHANNESIAN: Objection.
- 9 A Where --as ITS forensic examiners, we -- as senior
- 10 | examiners we're in demand so we go all over the globe. We're
- 11 | in constant usage, I guess you would say, and right now
- 12 | Stephen Flatley is out on assignment in Ghana. So he's not
- 13 able to be here because he's on operation.
- 14 | Q Is that why you created another report very recently with
- 15 respect to the camera?
- 16 A Yes.
- 17 MS. HAJJAR: No further questions, Your Honor.
- 18 THE COURT: Recross?
- 19 | RECROSS-EXAMINATION
- 20 BY MR. DEROHANNESIAN:
- 21 | Q You agree that any metadata, whether it's EXIF data or
- 22 | other data can be changed and altered; correct?
- 23 A Yes, EXIF data can be altered.
- 24 | Q And there's a variety of different ways that that can
- 25 | happen; correct?

- 1 A Yes, it can.
- 2 Q Companies can remove -- if you send a photo to Facebook,
- 3 do they take off that data?
- 4 A Yes, they actually strip off the data.
- 5 Q So Facebook, Twitter that's what they do?
- 6 A Yes, they do.
- 7 Q And then they use that information for their commercial
- 8 purposes?
- 9 A I wouldn't know.
- 10 Q That's another way. There's commercial processes that do
- 11 | that?
- 12 A I would gather.
- 13 | Q And with respect to Mr. Flatly, I think you said his
- 14 | initials are on here, Exhibit 524 from February 22, 2019;
- 15 | correct?
- 16 A Correct.
- 17 | Q And that's when he first looked at this Exhibit 524;
- 18 | correct?
- 19 A All I know is that he received it on that date. I have
- 20 | no idea exactly what he's done on the camera.
- 21 MR. DEROHANNESIAN: Thank you. I have nothing else.
- 22 | THE COURT: Anything further?
- 23 MS. HAJJAR: Just two questions, Your Honor.
- 24 | FURTHER REDIRECT EXAMINATION
- 25 BY MS. HAJJAR:

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Weniger - direct - Penza
                                                                4989
         Examiner Booth, the images you looked at, do they come
1
    Q
 2
    from Facebook or another company?
 3
    Α
         No, they did not.
 4
    Q
         Where did they come from?
5
         They came from a Canon camera.
6
              MS. HAJJAR: Thank you, Your Honor. Nothing
7
    further.
8
              THE COURT: Anything further?
9
              MR. DEROHANNESIAN: No, Your Honor, thank you.
10
              THE COURT: All right. The witness may stand down.
11
              You are excused.
12
               (Witness excused.)
13
              THE COURT: All right. The Government may call its
14
    next witness.
15
              MS. PENZA:
                          Thank you, Your Honor. The Government
16
    calls Special Agent Michael Weniger to the stand.
17
              THE COURT: Very well.
18
               (Witness sworn/affirmed.)
              THE COURTROOM DEPUTY: Please state and spell your
19
20
    full name for the record.
21
              THE WITNESS: Michael Weniger, M-I-C-H-A-E-L
22
    W-E-N-I-G-E-R.
23
               (Continued on the next page.)
24
25
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Weniger - direct - Penza
                                                                 4990
    MICHAEL WENIGER,
1
 2
               called by the Government, having been
               first duly sworn, was examined and testified
 3
 4
               as follows:
    DIRECT EXAMINATION
 5
    BY MS. PENZA:
 6
 7
    Q
         Good afternoon Special Agent Weniger.
8
    Α
         Good afternoon.
9
    Q
         Where do you work?
10
    Α
         I work for the Federal Bureau of Investigation.
11
    Q
         How long have you worked there?
12
    Α
         About nine years.
13
    Q
         Are you part of a specific squad?
14
    Α
         I am, yes.
15
    ()
         And what is that?
16
         My squad is -- is Criminal 2 or C-2 and we work civil
17
    rights, hate crimes and occasionally human trafficking.
18
    Q
         Can you give us a bit of your background from prior to
19
    joining the FBI?
20
                Before coming to the Bureau, I was an officer in
         Sure.
21
    the United States Army.
22
         And then what did you do there?
23
         I was an attorney -- I was a JAG, an Army JAG. I was a
24
    prosecutor at one point. I also did legal assistance and
```

things of that nature.

- 1 | Q Why did you -- why did you decide to switch careers?
- 2 A To be honest with you, I had always planned to come to
- 3 the Bureau assuming things worked out, and I was fortunate
- 4 | enough that they did.
- 5 Q You went straight from JAG to the Bureau?
- 6 A I did, yes.
- 7 Q Now, have you been involved in a criminal investigation
- 8 | into the defendant Keith Raniere and others?
- 9 A Yes, I have.
- 10 | Q How long have you been working that investigation?
- 11 A Since approximately October of 2017.
- 12 | Q And what has your role in that investigation been?
- 13 A I, along with Special Agent Lever, and Investigator
- 14 | Fontanelli have been the case agents assigned to the case.
- 15 Q What does it mean to be a case agent?
- 16 A It means we're handling the day-to-day of the
- 17 | investigation; dealing with or interacting with the United
- 18 | States Attorney's Office, conducting surveillance, executing
- 19 | search warrants, executing arrests, you know, receiving
- 20 | records, reviewing records, interviewing witnesses, finding
- 21 | witnesses, all sorts of things.
- 22 | Q So you've had to deal with me since October of 2017?
- 23 A I have been that fortunate, yes.
- 24 | Q Special Agent Weniger -- one second. I'm showing you
- 25 | what's in evidence as Government Exhibit 204. Are you

Weniger - direct - Penza

- 1 | familiar with this?
- 2 A Yes, I am.
- 3 Q Okay. And do you know where this was recovered from?
- 4 A I do.
- 5 Q Can you just explain? And I'm going to put it down next
- 6 to me.
- 7 A It was recovered from 3 Oregon Trail in Clifton Park or
- 8 | Waterford -- I believe it's Clifton Park which was the
- 9 residence of Nancy Saltzman.
- 10 Q Did you participate in that search?
- 11 A I did not.
- 12 Q Why not?
- 13 A My wife was due that week and, so, I -- I was under
- 14 | strict towards to stay within a two-hour radius of the
- 15 hospital.
- 16 Q And you followed those orders?
- 17 A I did, yes.
- 18 Q Have you since reviewed evidence that was recovered from
- 19 I that search?
- 20 A I have, yes.
- 21 | Q And have you reviewed the contents of what's marked as
- 22 | Government Exhibit 204?
- 23 | A Yes.
- 24 | Q And can you just explain generally what it is?
- 25 A So, there's a number of loose documents located within

- 1 | the box and then there's a great deal of -- a large number of
- 2 | file folders each with labels and names on the top of those
- 3 folders.
- 4 Q So we've looked at -- have you been present in court most
- 5 days?
- 6 A I have, yes.
- 7 Q So you know that we've looked through a number of those
- 8 | folders at various times?
- 9 A Yes.
- 10 Q And so just explain kind of what was in the folders
- 11 generally?
- 12 A Sure. I mean, there were various things but there was a
- 13 common theme amongst them and there were documents that
- 14 | purported to contain financial information for the individuals
- 15 that were listed or labeled, found within the label of the
- 16 | file folders.
- 17 | Q And were you able to categorize -- were you able to put
- 18 | any -- the people who -- an entity that there were folders
- 19 | for, were you able to categorize those into any specific
- 20 groups?
- 21 A Yes. Throughout the course of the investigation as well
- 22 | as conducting some additional research, I was able to
- 23 determine kind of what -- what -- kind of what category each
- 24 | individual may have fallen into.
- 25 | Q And did you prepare a PowerPoint to help -- to help show

- 1 | that to the jury?
- 2 A Yes, I did.
- 3 Q I'm not going to actually play the PowerPoint. I'm going
- 4 | to show you slides from the PowerPoint on the ELMO. I think
- 5 | it will be a little easier for shifting purposes.
- 6 MS. PENZA: I should mark this. I'm sorry, let me
- 7 ask Mrs. Carby what I should mark it as for identification
- 8 purposes.
- 9 (Pause in proceedings.)
- 10 MS. PENZA: Your Honor, on consent of the defense
- 11 I'm going to be showing Special Agent Weniger pages from what
- 12 has been marked for identification purposes only as Government
- 13 | Exhibit 1830?
- 14 THE COURT: 1830 for identification.
- 15 | Q Special Agent Weniger, I'm showing you the first page
- 16 of -- is this the first page of the PowerPoint presentation
- 17 | you put together?
- 18 A Yes.
- 19 Q And, so, can you explain were two of the categories that
- 20 | you put people into from the box that we're looking at, local
- 21 | press and national press?
- 22 A Yes. And when I say local press, local to the location
- 23 | upon which the box was and the file folders were located and
- 24 seized.
- 25 | Q Can you just walk us through the list, please?

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Weniger - direct - Penza
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- 1 A Sure. So the first three -- excuse me, four, names were
- 2 names that were associated with the Albany Times Union
- 3 newspaper and the last two names were names of individuals
- 4 | that were associated with Metroland, which is a -- or which
- 5 was -- I believe it's now defunct, but it was also a
- 6 periodical in the Albany area.
- 7 Q I'm sorry, Special Agent Weniger.
- 8 MS. PENZA: May we publish this to the jury on
- 9 | consent of the defense?
- 10 MR. AGNIFILO: We consent.
- 11 THE COURT: Okay.
- 12 (Exhibit published.)
- 13 BY MS. PENZA:
- 14 Q And, so, on the left you were walking through the local
- 15 press?
- 16 A Correct.
- 17 | Q And how about the national press?
- 18 A In that regard, those three names were individuals that
- 19 worked for Forbes magazine. I should also add that a number
- 20 of these names were writers that wrote stories that were in
- 21 | relation to or about Mr. -- the defendant and/or Nxivm.
- 22 Q Special Agent Weniger, I'm showing you what is a version
- 23 of what's in evidence as Government Exhibit 608 and this is --
- MS. PENZA: Let me put this on the ELMO.
- THE COURT: This is for the jury?

Weniger - direct - Penza

- 1 MS. PENZA: Yes, Your Honor.
- 2 (Exhibit published.)
- 3 BY MS. PENZA:
- 4 Q And can you explain what this is?
- 5 A This is the Forbes magazine cover that -- I believe that
- 6 the article has already been discussed to some extent, but
- 7 | that's the cover, the actual cover, of the magazine.
- 8 Q Okay. And the date on this was -- can you see?
- 9 A Yes, October 13 of 2003.
- 10 | Q And is that the -- is that the defendant that's on the
- 11 | cover?
- 12 | A Yes.
- 13 | Q Turning to page 88 of the hard copy magazine is that the
- 14 | title of the article, Cult of Personality?
- 15 A Yes.
- 16 | Q And the author's name is Michael Freedman?
- 17 A Yes. Mr. Freedman is one of the individuals that's
- 18 | listed on the PowerPoint that we found a folder in relation to
- 19 | Mr. Freedman.
- 20 Q So let's look at Michael Freedman's folder as an example.
- 21 | This is the folder and it says "Michael Freedman"?
- 22 | A Yes.
- 23 | Q And, so, can you just walk us through -- is this
- 24 | representative of the types of documents that were inside the
- 25 | folders?

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         Yes, it is.
1
    Α
 2
         Can you walk us through this document?
 3
         To some extent. As a general matter, it lists particular
 4
    banking institutions and it also provides account numbers,
    indicates the type of account and the account balance as well
 5
6
    as the signatory and the beneficiary of those accounts.
 7
    were similar kind of constructs, but there were other -- other
8
    similar documents that cited additional information to include
9
    account balances as well as initial deposits.
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               (Continued on the following page.)
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- 1 BY MS. PENZA (Continuing):
- 2 Q And then there is information here that says "level one"?
- 3 A Yes. So, there were also -- what we determined was --
- 4 yes, the levels of the type of searches appears to be on the
- 5 | left-hand side of these types of the document.
- 6 Q Okay. And I'm sorry, did I cut you off?
- 7 A No.
- 8 Q So, for all of the individuals that are going to be on
- 9 | this PowerPoint, were there either folders or other
- 10 | information about them in Government Exhibit 204?
- 11 A That's correct.
- 12 Q Let's look at the next page.
- Are these two more categories of individuals whose
- 14 | information was found in Government Exhibit 204?
- 15 A That's correct. There were folders for these individuals
- 16 and what were purported to be banking information related to
- 17 these folks.
- 18 | Q And can you just walk through them for us?
- 19 A Sure. So, Joseph Bruno, who was a New York State
- 20 | senator; Eliot Spitzer, who at the time was the New York State
- 21 | Attorney General; David Soares, who was the District Attorney
- 22 | in Albany County; Charles Schumer, who is a U.S. senator;
- 23 | Steve Pigeon and Roger Stone, who are both -- I have them
- 24 | listed as political operatives. They were lobbyists.
- 25 At one time, I believe Mr. Pigeon was actually a

- 1 politician and had been elected to office.
- 2 Q Do you know whether any of these people were working for
- 3 NXIVM?
- 4 A I do. Well, based upon our investigation, we determined
- 5 that there were occasions where NXIVM hired these individuals
- 6 or certainly had communications with them.
- 7 Q Not all of them?
- 8 A Not all of them.
- 9 Q So, which ones on this list?
- 10 A Mr. Pigeon, Mr. Stone. In terms of hiring, I believe
- 11 | it's those two.
- 12 Q Did they also work with Mr. Bruno?
- 13 A Yes.
- 14 | Q And now on the right?
- 15 A These are the names of four judges, and these are
- 16 | individuals that we were able to determine at one time or
- 17 | another had oversaw cases involving NXIVM and/or the
- 18 Defendant.
- 19 | Q So, within Government Exhibit 204 was what was purported
- 20 to be banking information for these federal judges?
- 21 A That's correct.
- 22 | On this --
- 23 Q Please, go ahead.
- 24 A On this slide, on the left-hand column, these are
- 25 | individuals that had some relationship to the litigation

- 1 | involving Rick Ross, who I believe you heard from yesterday;
- 2 | obviously, Mr. Ross, Rick Ross Institute. And then Morris
- 3 | Sutton, who was a defendant in that lawsuit.
- 4 As well, the final name there is Juval Aviv. Mr.
- 5 Aviv owned a private investigation firm called Interfor. That
- 6 | particular firm was hired by NXIVM for purposes of conducting
- 7 | investigations in relation to some of the folks that are also
- 8 I in the file base.
- 9 Q And if we look on the next page -- the right-hand side of
- 10 the same page?
- 11 A These are individuals that are associated with Edgar
- 12 | Bronfman. Edgar Bronfman, obviously, is the first one
- 13 there -- there's a file folder for him -- as well as Stephen
- 14 | Herbits, who was a witness in this trial, the world Jewish
- 15 | Congress, as well as Israel Singer. Israel Singer is
- 16 associated with and at one time was part of the World Jewish
- 17 | Congress, played a role, employed by.
- 18 | Q Showing you Page 4 of what's marked for identification as
- 19 | Government Exhibit 1830?
- 20 A On the left-hand column, that is Kristin Snyder. Kristin
- 21 | Snyder, I believe we've heard some information in relation to
- 22 Kristin Snyder during the course of this trial.
- 23 And then Heidi Clifford. Heidi Clifford was Kristin
- 24 | Snyder's partner.
- 25 | Q Just very briefly, Kristin Snyder, your understanding of

- 1 how she relates to this case, without going into too much
- 2 detail.
- 3 A Sure. Kristin Snyder had taken a number of courses with
- 4 NXIVM. And at one point, she was taking a course in Alaska
- 5 | and disappeared, leaving information about what her intentions
- 6 | were.
- 7 Q Was she ultimately presumed dead by the State of Alaska?
- 8 A Yes.
- 9 Q Let me just go back for one second.
- 10 MS. PENZA: Your Honor, may I have the Elmo just for
- 11 | Special Agent Weniger for a moment?
- 12 THE COURT: Okay.
- 13 | Q Special Agent Weniger, are you familiar with the document
- 14 | that I'm showing you?
- 15 A Yes.
- 16 Q And is this the cover page of an Albany Times Union
- 17 | article?
- 18 A Yes, it is.
- 19 Q And can you explain -- and what is the date on this?
- 20 A February 12, 2012.
- 21 Q And the title is: Secrets of NXIVM?
- 22 | A That's correct.
- 23 | Q Can you just explain -- at some point, did the *Albany*
- 24 | Times Union cover the Defendant and NXIVM around that time?
- 25 A Frequently. Before 2012 as well.

- 1 Q Without going into the details of their coverage, can you 2 just elaborate a little bit more on that?
- 3 A The Secrets of NXIVM was a six-part series that the
- 4 Albany Times Union ran, but, again, they had had a number of
- 5 | articles both before and after this particular day.
- 6 Q And at this particular point in time, this was the 7 secrets of NXIVM series that were you talking about?
- 8 A That's right.
- 9 Q And fair to say that the Defendant was on the cover?
- 10 A Yes.
- 11 | Q And it ran for basically the entire week?
- 12 A Yes.
- Actually, I may have been mistaken. I believe it
 was a six-part series, but looking at that it may have been a
 four-part series. Either way, it was a number of days that
- 16 coverage was provided.
- 17 Q Was the topic of Kristin Snyder something that was
- 18 | covered by the *Albany Times Union*?
- 19 A Yes, it was.
- Q Just going back to Page 4, can you explain the right-hand side?
- 22 A Yes. Yuri Plyam, as well as Castle Trading, and I
- 23 | believe his spouse Natalia Plyam, were individuals who had
- 24 business dealings that did not go particularly well with NXIVM
- 25 as well as the Defendant, and they were involved in litigation

with -- NXIVM was involved in litigation with Yuri Plyam as well as Castle Trading.

- 3 Q Showing you Page 5, can you explain who these people are?
 - A Sure. I think as a general matter, all of the individuals -- I shouldn't say that. The vast majority of the individuals that had folders within the box were individuals

that had some type of criticism of NXIVM and/or the Defendant.

These individuals, Deke Sharon was an a cappella -he's famous within the a cappella community and at one time
was critical of the Defendant; David Touretzky was a professor
at Carnegie Mellon who was critical of the Defendant; Toni
Natalie at one point in time dated the Defendant and was
involved in litigation with him for a significant period of
time; Carlos Rueda was, I believe, a psychologist -- he was a
psychologist or psychiatrist, but he was cited in a number of
newspaper articles providing opinions as to NXIVM and kind of
their curriculum and teachings.

And then there were folders that bore the names of individuals that were representing NXIVM at some point in time, their own lawyers, as well as the attorneys that represented their adversaries -- when I say "their" adversaries, I mean NXIVM adversaries -- in legal proceedings.

- Q Do you know approximately how long ago Toni Natalie dated the Defendant?
- A I believe that relationship ended in approximately 1998,

- 1 somewhere in that time frame. Certainly by the early 2000s it
- 2 was over.
- 3 | Q And were any of the individuals who are listed here
- 4 | referenced in the *Forbes* article?
- 5 A Yes. Mr. Rueda being one of them, but I believe there
- 6 were a number.
- 7 | Q Turning to Page 90 of the hard copy version of the *Forbes*
- 8 | article, up here is there reference to Toni Natalie telling
- 9 Forbes that she believes Raniere brainwashed her?
- 10 A Yes.
- 11 | Q And over here, there's a description of a 28-year-old
- 12 | woman, and then it says her psychiatrist Carlos Rueda says in
- 13 the last three years he has treated two others who have taken
- 14 a NXIVM class.
- 15 A Correct.
- 16 | Q Those are two individuals whose purported banking
- 17 | information was found in Nancy Salzman's home in this box?
- 18 A Yes.
- 19 Q In addition to those folders with the banking
- 20 | information, was there anything else of note within Government
- 21 | Exhibit 204?
- 22 A I mean, there was quite a bit that was of interest.
- 23 | There was -- it appears that they were able to obtain the
- 24 | state police files in relation to the Kristin Snyder
- 25 disappearance and later determination that she was deceased,

- 1 there were a number of handwritten notes and things of that
- 2 | nature, and there were also electronic communications that
- 3 reflected and appeared to be associated with the banking
- 4 | transactions that we've -- not banking transactions, excuse
- 5 | me, banking information that we've taken a look at already.
- 6 Q E-mail?
- 7 A Yes.
- 8 Q Can you -- after seeing that information, did you take
- 9 any further investigative steps?
- 10 A Yes, we did.
- 11 Again, we reviewed all of the information within the
- 12 box. And once we determined that there was some type of
- 13 | connection between the banking information and the electronic
- 14 | e-mail addresses, we requested and received search warrants
- 15 | for two specific e-mail addresses.
- 16 Q And what were those two e-mail addresses?
- 17 A One being oakhaven.haven@gmail.com, the other being
- 18 | thebeacon2009@gmail.com.
- 19 Q And those are already in evidence as Government Exhibit
- 20 | 1399 and Government Exhibit 1401, respectively?
- 21 | A Yes.
- 22 | Q And did you receive search warrant returns from those two
- 23 | accounts?
- 24 A We did.
- 25 | Q And did you personally review those returns?

- 1 A I did.
- Q Were you able to determine the primary users of those
- 3 | accounts?
- 4 A Yes.
- 5 Q Can you explain?
- 6 A So, for thebeacon2009@gmail.com, the subscriber that was
- 7 | actually listed was an individual by the name of Emiliano
- 8 | Salinas, who was part of the Defendant's inner circle.
- The oakhaven.haven@gmail.com I believe listed the
- 10 | subscriber as simply oakhaven; however, reviewing the e-mail
- 11 | account it became relatively apparent that the individuals who
- 12 | were using it or was primarily Kristin Keeffe.
- 13 Q And was there any interplay between those two e-mail
- 14 | accounts?
- 15 A Yes, there were communications between those two accounts
- 16 and they were consistently corresponding with one another.
- 17 | Q Can you just give us a very high level overview of what
- 18 | you found through your analysis of those two accounts?
- 19 A Well, the oakhaven account being used by, primarily,
- 20 Kristin Keeffe was what was utilized in order to acquire the
- 21 | purported banking information that is found within the hard
- 22 | copy files in 1B53, which is -- I forget the Government
- 23 exhibit number that you're looking at, but the box that is
- 24 | sitting next to you.
- 25 Q Government Exhibit 204?

1 A Yes.

And that information was then -- was often just used, but then there was communications between oakhaven.haven as well as thebeacon2009 e-mail account in order to what appears to be verify the information that was being received, the banking information that was being received from an outside source, which we determined to be a private investigation firm that's located in Canada.

- Q And what is the name of that firm?
- 10 A Canaprobe, which is owned or was owned -- it may still be
 11 in existence, I'm not quite sure, but was operated by an
 12 individual named Richard Marier.
 - Q Now, as part of this PowerPoint did you put together e-mails and other portions of these two accounts to kind of walk the jury through how these accounts were used?
- 16 A I did.
 - Q So let's look at Government -- at Page 6 of what's marked for identification purposes as Government Exhibit 1830.

Can you explain what this is?

A Sure. As mentioned a little bit ago, the oakhaven.haven account was often utilized in order to contact Richard Marier, who was operating the private investigation firm in Canada called Canaprobe. And this is a reflection as to the type of requests that would be made by, again, what we deemed to be Kristin Keeffe using the oakhaven.haven e-mail address to

request the particular banking information from the private investigation firm.

And in this instance -- oftentimes she would attach or attached to these e-mails would be spreadsheets, but in this instance in the body of the e-mail maple it just shows how the request would be made and it would provide what we would call pedigree or biological information or kind of just particular information that's relevant to the individual and may be of assistance to the private investigation firm in terms of identifying their bank account.

- 11 Q So, here this is for Carlos Rueda?
- 12 | A Yes.

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- Q So, there is an address, a date of birth, his license number, and his position as chairman of the department of psychiatry at Our Lady of Mercy Hospital in New York City?
- 16 A Yes.
- 17 Q As well as some other information?
- 18 A Yes.
- 19 | Q So, that information is sent by oakhaven.haven@gmail.com
- 20 to Richard Marier?
- 21 | A Yes.
- 22 | Q Then what is this next page?
- This is Page 7 of what's marked for identification as Government Exhibit 1830.
- 25 A This is just a reflection of what would oftentimes come

- 1 back, the type of information that would be received. So, in
- 2 this instance, for purposes of Mr. Rueda, it reflects that
- 3 there was a Safra Bank account, it has the account number, and
- 4 | it indicates the date it was open as well as the initial
- 5 deposit.
- 6 So, this is just, again -- we've reviewed kind of
- 7 one of these, these type of documents already, but I just
- 8 | included this to try to show the jury the type of document
- 9 that would be received back.
- 10 Q So, fair to say for all of these documents which look
- 11 | similar, there would be this request and then receipt of
- 12 | information?
- 13 A Yes, that's right.
- 14 | Q And you would see it in both the e-mail account and in
- 15 | Government Exhibit 204?
- 16 A Yes, the hard copies.
- 17 | Q And it says at the bottom: Investigate further accounts
- 18 | and levels at your discretion.
- 19 A Yes.
- 20 Q And this is another page?
- 21 A Yes, it is.
- 22 | Q And this says: Inadvertent or deliberate premature
- 23 disclosure of or informal attempts to validate this
- 24 | information is likely to fatally compromise the continued
- 25 existence of this information, may result in civil and/or

- 1 | criminal liability, and must be strictly and absolutely
- 2 avoided.
- 3 A Yes.
- 4 Q Was that at the back of most of these returns that were
- 5 | received?
- 6 A I think most of them, yes.
- 7 Q Can you explain what this is?
- 8 A A lot of times, this is just a reflection of what would
- 9 be received in response. So, two slides back, I believe, or
- 10 I three slides back was the request. This slide shows the
- 11 | response and how it's received. And, so, oftentimes it would
- 12 | come in via fax, and that fax would be sent to the e-mail
- 13 | account of oakhaven, and that, again, being an account that we
- 14 | believe to be associated with Kristin Keeffe.
- 15 | Q Now, in your review of the oakhaven account, were you
- 16 | able to determine who was paying for Canaprobe?
- 17 A Yes, we were.
- 18 | Q And who was that?
- 19 A Clare Bronfman.
- 20 Q Showing you what's Page 10 of Government Exhibit 1830,
- 21 | marked for identification, can you explain this?
- 22 A Sure. So, what's highlighted here and the reason I
- 23 | identified this particular e-mail was because it reflects the
- 24 | individual that was receiving the invoices. And, so, we saw a
- 25 | number of these types of e-mails, but this particular one was

- 1 | sent directly to Ms. Bronfman.
- 2 And it does reflect some of the names I think that
- 3 | we've already discussed early on in terms of the names of the
- 4 | file folders. So, here you see Plyam, you see Ross,
- 5 | presumably Rick Ross -- Yuri Plyam being the other one -- and
- 6 then O'Hara, which is a name that -- there were also documents
- 7 | associated with O'Hara, Joseph O'Hara, in the file box.
- 8 Q Just to be clear, this is an e-mail from Richard Marier,
- 9 | richard@canaprobe.com, to clarewebb21@aol.com?
- 10 A That's right.
- 11 | Q Do you know that to be an e-mail address associated with
- 12 | Clare Bronfman?
- 13 A I do, yes.
- 14 | Q And it's copying oakhaven.haven@gmail.com?
- 15 A Yes.
- 16 Q It says: Hi. I hope you are well. The invoice for
- 17 | services rendered addressed to Ms. Bronfman will be in the
- 18 | amount of \$39,750.
- 19 Is that right?
- 20 A That's correct.
- 21 | Q As agreed, no hard copy will be made and it will not be
- 22 | detailed.
- 23 And then it breaks down the invoice.
- 24 | A Yes.
- 25 Q So, it says 53 searches at \$750, \$39,750?

- 1 A Yes.
- 2 Q So, fair to say it looks like each search cost \$750?
- 3 A Math is not my forte, but that would appear correct, yes.
- 4 Q And just to -- so, some of these e-mails that we're
- 5 looking at, were there also copies of the same -- some of the
- 6 | same e-mails in Government Exhibit 204?
- 7 A Yes, that's how we identified the e-mail addresses that I
- 8 | indicated we requested search warrants for.
- 9 Q So, as we're going through this PowerPoint, the e-mails
- 10 | are either in Government Exhibit 204 or in 1399 or 1401, all
- 11 of which are in evidence?
- 12 A Yes, yes.
- 13 Q Now, is this an e-mail sending another invoice?
- 14 A Yes, I think the next few slides reflect that.
- 15 So, this just indicates that there's an invoice,
- 16 but, in this instance, the invoice is being sent to oakhaven,
- 17 | as opposed to Clare Bronfman; however, the invoice or at least
- 18 the PDF attached to it was in the name of Clare Bronfman.
- 19 | Q And the attachment says Bronfman3950, correct?
- 20 A Yes.
- 21 Q And this was the invoice?
- 22 A Yes, that's right.
- 23 | Q This is September 11, 2009?
- 24 A Yes.
- 25 Q And customer, Bronfman?

- 1 Ross and Al were conducted.
- 2 Q Again, it's to customer Clare Bronfman?
- 3 A Yes.
- 4 Q And it's: Re: Rick A. Ross?
- 5 A Yes.
- 6 Q And this is March 3, 2009?
- 7 A That's correct.
- 8 Q And, so, did this repeat throughout the oakhaven account,
- 9 | both these requests and returns and invoices?
- 10 A Yes.
- 11 Q You reviewed the whole account?
- 12 A I did, yes.
- 13 Q Now, did you make this slide that explains the interplay
- 14 between the oakhaven and thebeacon2009 accounts?
- 15 A I did, yes.
- 16 Q I'm going to put that down, and this is Page 15 of
- 17 | Government Exhibit 1830, what's marked for identification as
- 18 Government Exhibit 1830.
- 19 Can you just explain?
- 20 And if it's helpful to walk through what you've
- 21 | written, feel free toe do so.
- 22 A Certainly.
- So, there was -- what we found, before I kind of get
- 24 | into the slide, what we found was that the information being
- 25 received from Canaprobe was then being vetted and/or verified

through communications that were between NXIVM or Kristin

Keeffe and another private investigation firm; however, there

were layers of communication between Kristin Keeffe and that

private investigation firm. But the account information that

NXIVM was receiving from Canaprobe was being forwarded down

the chain and vetted.

So, the first bullet there just reflects that a request would be sent with similar names and account information that was being received from Canaprobe and that information was being sent to thebeacon2009 account, which was being used by Emiliano Salinas. In turn, Emiliano Salinas or that account was forwarding the requests to an individual by the name of Federico Valenzuela Pena at Vinko Capital.

- Q Do you know where that's located, Vinko Capital?
- 15 A I believe Mexico.
- 16 Q Okay.

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A And then we were able to determine that Pena was forwarding those requests to an individual named James Mulvaney and Mulvaney was acquiring information, the requested information.

Once that information was received, it was then forwarded back up that chain as a general matter.

Q So, it goes from Kristin Keeffe to Emiliano to Frederico Pena to Mulvaney and then back up the chain from Mulvaney to Pena to Emiliano Salinas back to Keith?

- 1 A It appears so, yes.
- 2 Q In your training and experience, do you have any
- 3 understanding as to the reason for all of these levels?
- 4 A It certainly seemed as though it was an effort to, you
- 5 know, skew the source and kind of create some various layers
- 6 to the requests, information requests.
- 7 Q By "skew," does it mean it's harder to kind of trace the
- 8 | source?
- 9 A Yes.
- 10 MR. AGNIFILO: Your Honor, I'm sorry, I'm going to
- 11 | object to this testimony, your Honor.
- 12 THE COURT: You can cross-examine on it.
- 13 Continue.
- 14 | Q Mr. Mulvaney, where is Mr. Mulvaney located?
- 15 A It appears that he was located in New York.
- 16 Q Is there any reason that you know of why the requests
- 17 | would have to go from Kristin Keeffe in Albany to Mr. Mulvaney
- 18 | in New York City by way of Mexico?
- 19 A Not that I know of, no.
- 20 | Q So, then, can you explain what happens after that?
- 21 A Once the information is acquired, it appears to move back
- 22 | up that chain and eventually ending up in response e-mails
- 23 | from Emiliano Salinas to Kristen Keeffe as well as, at least
- 24 | in some instances, the Defendant and Nancy Salzman.
- 25 (Continued on the following page.)

- 1 | EXAMINATION CONTINUES
- 2 BY MS. PENZA:
- 3 Q Okay. We'll go into detail later, but was there any
- 4 other evidence that the information would be given to the
- 5 defendant?
- 6 A Could you clarify? I'm sorry.
- 7 Q And rather than just looking at The Beacon account and
- 8 | looking at Government Exhibit 204, reviewing the other
- 9 | evidence in this case, were there other indications that the
- 10 | information from Canaprobe went to the defendant?
- 11 MR. AGNIFILO: I object to the form of the question.
- 12 THE COURT: You may answer.
- 13 A Yes, I mean I think there were. There were outside
- 14 e-mails, if that's what you're referring to.
- 15 There were e-mails that were -- that reflected that
- 16 the defendant was aware of Mr. Marier, Canaprobe, and he
- 17 | specifically discusses with Kristin Keeffe the relationship
- 18 | that NXIVM had with -- with Canaprobe.
- 19 Q Anything else we need to go over on this slide?
- 20 A No, I don't believe so.
- 21 | Q Now, showing you page 16 of what's marked for
- 22 | identification as Government Exhibit 1830, and can you explain
- 23 this page, please?
- 24 (Exhibit published.)
- 25 A This is just the subscriber information that we received

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Weniger - direct - Penza
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- 1 in relation to the search warrant for TheBeacon2009@gmail.com.
- 2 And, again, it reflects that the individual or
- 3 | subscriber is Emiliano Salinas and it also reflects, I
- 4 | believe, an e-mail address -- yes, recovery e-mail as
- 5 EmilianoSalinas@gmail.com.
- 6 Q That's right there (indicating)?
- 7 A Yes.
- 8 Q Okay. So name Emiliano Salinas and recovery e-mail
- 9 | EmilianoSalinas@gmail.com?
- 10 A Yes.
- 11 It's also worth noting there on -- that this
- 12 | particular account was created on June 12th of 2009, and that
- 13 | surrounds the same time period that -- that these
- 14 | communications were had -- were occurring.
- 15 Q Thank you.
- Showing you page 17 of what's marked for
- 17 | identification as Government Exhibit 1830.
- 18 A Yes.
- 19 (Exhibit published.)
- 20 BY MS. PENZA:
- 21 | Q Can you explain what this is? I'll show you the
- 22 | left-hand side first.
- 23 A So this is -- this is a request for information. And
- 24 | this identifies bank accounts that I believe were received or
- 25 | banking information that I believe was received by Kristin

SAM OCR RMR CRR RPR

- 1 Keeffe at the Oak Haven address from Canaprobe, and then it 2 also reflects account numbers.
- 3 As I said at the beginning, what it appeared to be
- 4 | happening was Kristin Keeffe was receiving information from
- 5 | Canaprobe, banking information from Canaprobe, and then
- 6 attempting to verify that information through a separate
- 7 private investigative firm. This e-mail reflects that the
- 8 | banking information received from Canaprobe was then sent to
- 9 Emiliano Salinas starting the chain to get to the next private
- 10 investigator to verify.
- 11 | Q Okay, so let's just look at a few things.
- 12 So the date of this e-mail is June 13th, 2009?
- 13 A Yes.
- 14 Q So that's the day after the account was created?
- 15 A Yeah. I believe so, yes.
- 16 Q And the subject line is "19 total love your e-mail
- 17 | address..."?
- 18 A Yes.
- 19 Q And then let's just walk through some of the names.
- 20 Are these names that are similar to the names that
- 21 | we saw in the box?
- 22 A That's correct, yes.
- 23 Q So we see Rick Ross Institute, Rick A. Ross, and Harry
- 24 | Separpho, do you know who that is?
- 25 A I do not.

Weniger - direct - Penza

- 1 Q Deke Sharon, do you know who that is?
- 2 A Yes, he's the --
- 3 | Q You mentioned him?
- 4 A He is a prominent name, apparently, in the acapella
- 5 world.
- 6 Q Okay. And we won't go through all of them, but we see
- 7 | Joe O'Hara, Chet Hardin, and there are multiple -- for some of
- 8 these people appear twice. So there's, I guess, Citibank
- 9 Bahamas for Rick A. Ross Institute and then a UBS Geneva for
- 10 | Rick Ross Institute?
- 11 A Yes.
- 12 | Q And then Chet Hardin, Dennis Yusko, Joe O'Hara, Kristen
- 13 Snyder?
- 14 A Yes, correct.
- 15 Q And then showing you slide 18, this is the forward to
- 16 | Federico Pena that you described?
- 17 A Yes.
- 18 Q So this is the same e-mail we just looked at; is that
- 19 | right?
- 20 A It's the same e-mail with the exception of the sender and
- 21 | the recipient.
- 22 | Q Okay. So if we look up here (indicating), so this was --
- 23 | this was Oak Haven to The Beacon on June 12th, 2009, the 19
- 24 | total love your e-mail address?
- 25 A Correct.

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Weniger - direct - Penza
                                                           5021
     And then it's forwarded by TheBeacon2009@gmail.com to
Federico Pena, the next day?
     Yes.
     Showing you slide 20.
          (Exhibit published.)
     I simply included this slide because it appears that the
original list was paired down by -- by the Oak Haven address.
So they just kind of limited the number of names and banking
information that they were requesting.
     And it says six most important?
     Yes.
     Including Rick Ross and Joe O'Hara and Kristen Snyder?
     Correct.
     And was that also forwarded to Mr. Pena?
     It was, yes.
     I don't speak Spanish, but do these seem to be saying
they're the most important ones?
     He seems to be, yes.
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- 17 18 Α
- You do speak a little Spanish, is that right? 19
- 20 Α Very minimal.

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- 21 Q I am showing you slide 22.
- 22 (Exhibit published.)
- 23 Q And can you explain this?
- 24 So I included this particular slide just to show that --
- 25 that Kristin Keeffe was aware that the -- these e-mails were

SAM 0CR **RPR** RMR CRR

- 1 being forwarded.
- 2 It simply just reads: Okay, data forwarded to the
- 3 pertinent person. Love E.
- 4 And I included this e-mail simply to show that the
- 5 | forwards -- not only were the forwards happening, not only was
- 6 the information that Kristin Keeffe was providing to Emiliano
- 7 | Salinas being forwarded by Emiliano Salinas, but that Kristin
- 8 Keeffe was aware of it. And -- and that is seen by virtue of
- 9 the -- the fact that, you know, it's being -- the content of
- 10 the e-mail, itself.
- 11 | Q And showing this e-mail from Federico Pena to Emiliano
- 12 Salinas.
- 13 (Exhibit published.)
- 14 | Q Can you just generally what this is?
- 15 A So this is the information that was being received back
- 16 from Mr. Pena.
- 17 | Q And this would be the information?
- 18 A That's the type of information that was being received in
- 19 response.
- 20 Q Okay. So there would say, that's an example where it
- 21 | says Chet Hardin, is that right?
- 22 A Correct.
- 23 Q And provides that information?
- 24 A Yes.
- 25 | Q And would he actually send screenshots?

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Weniger - direct - Penza
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- 1 A These are -- these are pulled from the actual e-mails,
- 2 yes.
- 3 Q Page 24, is this -- ah, yes.
- 4 A I included these -- I'm sorry.
- 5 Q Nope, go ahead.
- 6 A I included this particular e-mail because not only was
- 7 | the information being forwarded to the Oak Haven e-mail
- 8 | address, but it was also being sent to an e-mail address
- 9 associated with the defendant.
- 10 Q Okay, so this was an e-mail sent directly from The Beacon
- 11 | 2009 to both the Oak Haven account, which is Kristin Keeffe
- 12 | and KeithRaniere@yahoo.com?
- 13 A Yes.
- 14 | Q And this is Pena's information being forwarded by
- 15 | Emiliano to them?
- 16 A That's correct, yes.
- 17 | Q Okay, I am showing you this e-mail. This is page 25 of
- 18 | the exhibit. It's referring to Government Exhibit 1399 at
- 19 page 100.
- 20 (Exhibit published.)
- 21 Q Can you explain this?
- 22 A Well, as I mentioned it, in terms of the overall premise
- 23 or what I believe to be the premise as to what was being done,
- 24 | this e-mail kind of demonstrates that to some extent. I can
- 25 | read the content.

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Weniger - direct - Penza 5024
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- 1 Q Yes, please do.
- 2 A This is the one that bounced yesterday. It wasn't the
- 3 Luxembourg one, but the Citibank Bahamas one -- in parentheses
- 4 -- (Rick Ross Institute.) This is a commercial bank and my
- 5 | friend is of the opinion that this is a checking account.
- 6 Apparently, the account exists and everything matches, so
- 7 either it's closed or the recipient did not accept the funds.
- 8 (He says probably the second one.)
- 9 Q And did the defendant reply to that e-mail?
- 10 A He does reply to particular e-mails. I'm not quite sure
- 11 | if it was this e-mail or not.
- 12 Q Well, let me show you the next slide.
- 13 Is this the response from the defendant?
- 14 (Exhibit published.)
- 15 A Yes. it is.
- 16 Q And so how did the defendant respond?
- 17 A I did not receive the image with this... Only a blank...
- 18 Q But he is responding, acknowledging receipt of this
- 19 | e-mail?
- 20 A That's why I included it, yes.
- 21 Q Showing you slide 27. And this is referencing Government
- 22 | Exhibit 1399, Page 116.
- 23 (Exhibit published.)
- 24 BY MS. PENZA:
- 25 Q Go ahead, please.

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Weniger - direct - Penza
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- 1 A This entire e-mail is relatively relevant. However, I
- 2 did pull a particular line out, and that does -- that -- that
- 3 is in relation to kind of the purpose behind this or what I
- 4 | believe to be.
- 5 Q So let's go through the e-mail and maybe I should get --
- 6 MS. PENZA: Sorry, one second, Your Honor.
- 7 (Pause.)
- 8 Q We can start reading. I just noted that part of it will
- 9 be cut off at the end.
- 10 A Sure.
- 11 | Would you like me to start reading?
- 12 Q Yes, please.
- 13 A Dear K. Again, this is an e-mail from Emiliano Salinas
- 14 | sent on July 6th, 2009 to Keith Raniere, the Oak Haven e-mail
- 15 address, which we believe to be associated with Kristin Keeffe
- 16 and to Nancy@nxivm.com, which we believe to be associated with
- 17 Nancy Salzman. The subject being a forward: Records
- 18 Q I am actually just going to swap this out for a second so
- 19 that you have the full e-mail in front you, courtesy of
- 20 Mr. Agnifilo.
- 21 (Exhibit published.)
- 22 A Dear K. Here is an update on the legal projects I am
- 23 | involved in.
- 24 With respect to the info on the Luxembourg bank and
- 25 Ross' personal account there. This is a privately owned bank

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specializing in private banking and wealth management that is of difficult access, especially for someone with the profile of the person we are investigating, or rather very in line with his profile (professional defrauder and blackmailer.) Μv friend is of the opinion that due to the type of bank this is, the amount deposited is probably not small and something he probably wants to keep out of reach and knowledge. (Luxembourg is a semi-regulated fiscal paradise that asks very few questions when it comes to the origin of funds.) He is

Next paragraph.

looking for more detailed information.

That is the only refund that has not bounced yet. On Friday we sent a request for confirmation that the funds arrived in the account. It can take up to 21 days for that confirmation to happen.

Okay, so let me stop you there.

Can you explain what your understanding is of the first two paragraphs?

My understanding, and, again, my limited understanding, but what it does appear is happening is that certain small amounts or, what I would say, kind of testers are being sent to the accounts that have been identified by Canaprobe to determine whether, in fact, they are accounts associated with the people that Canaprobe claims that they are associated.

Q And let me just ask you at this point:

- 1 Do you know whether all of this information that
- 2 Canaprobe was actually providing was, in fact, true
- 3 | information?
- 4 A Do I -- do I know whether it was true?
- 5 Q Yes.
- 6 A I believe the vast majority, if not all of it, was not
- 7 | true, but I'm not certain.
- 8 Q Okay, there ended up sometime -- is it fair to say
- 9 | sometime later there ended up being a dispute about whether
- 10 this was real information or not?
- 11 A Correct.
- 12 | Q Is your impression at this time -- what is your
- 13 impression at this time about whether the -- I'm sorry.
- 14 Based on your review of the documents, were you able
- 15 to glean an understanding of whether the participants at this
- 16 | time believed that the information from Canaprobe was true?
- 17 A Well, they certainly -- it -- the documents reflect that
- 18 | they seemed to believe it was. However, they also were,
- 19 again, conducting verification-type activities to determine
- 20 whether it was true. In my review.
- 21 | Q They were -- is it your understanding from your review
- 22 | that they were seeking real banking information on these
- 23 | individuals?
- 24 A Absolutely.
- 25 | Q Okay, so can you just continue, please?

- 1 A With respect to the legal cases, here is an update of
- 2 | where we stand. O'Hara, I sent a list of questions to Kristin
- 3 to clarify some points that are needed to determine if we can
- 4 proceed legally against him in Mexico. I --
- 5 Q Let me just stop you right there.
- 6 What is your understanding of that?
- 7 A I mean we have seen that NXIVM was -- was attempting to
- 8 | take legal action, both civil and criminally, against
- 9 defectors and critics in Mexico.
- 10 Q Now this was in 2009, is that right?
- 11 A That's correct.
- 12 | Q Was that practice something that was limited to 2009?
- 13 A No, it was not.
- 14 | Q Do you know whether there were any indications of that
- 15 recently?
- 16 A Yes. In regards to -- to DOS, I think we saw it with Jay
- 17 | as well, and also some additional folks, not to just simply
- 18 | include Jay.
- 19 | Q Can you continue? I'm sorry for interrupting you.
- 20 A You didn't interrupt. I'm done.
- 21 Q Oh, I'm sorry, continue reading. I interrupted your
- 22 reading.
- 23 A Barbara, the lawyers say that it is possible to sue here
- 24 | in Mexico (in Monterey specifically since Edgar has his
- 25 residence there) for blackmail. He will sent me an

- 1 | appropriate cost by the end of the week (Friday, July 10th.)
- Q Do you have an understanding of who the "Barbara" is there?
- 4 A I suspect that this is Barbara Bouchey, yes.
- 5 Q Based on your investigation and your experience in this
- 6 case, do you know of any relationship between Barbara Bouchey
- 7 | and Edgar Bronfman?
- 8 A I believe this is a reference to Edgar Bronfman.
- 9 Q Oh, excuse me, sorry.
- 10 And then can you continue after here (indicating)?
- 11 A He -- he will send me an appropriate -- an approximate
- 12 cost by the end of week (Friday, July 10th.)
- Ross, et al. The lawyers are still trying to figure
- 14 out how to legitimize the banking information we have in the
- 15 Ross, et al case in case we need our lawyers in Albany to
- 16 present it. This is still pending.
- 17 Q Okay, now, that I think was the part that you had called
- 18 | out in the PowerPoint?
- 19 A Correct.
- 20 Q And why was that?
- 21 A Because it's in relation -- it appears that it's in
- 22 | relation to the banking information that -- that they were
- 23 receiving from both Canaprobe and other sources.
- 24 Q And so from your review of these documents and others,
- 25 did you have an understanding of whether there was any --

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- 1 whether lawyers in Albany were -- were aware of the details of
- 2 | what was happening with the Canaprobe -- with Canaprobe?
- 3 A I believe they were, yes.
- 4 Q In Albany?
- 5 A Yes.
- 6 Q And then there is -- then it continues on. And can you
- 7 explain this e-mail?
- 8 A I just included this. It does include -- the "to" line
- 9 includes the defendant, as well as an e-mail address
- 10 | associated with Nancy Salzman, as well as Kristin Keeffe.
- 11 And I included it simply because it discusses
- 12 | compensation or what -- what was being quoted to -- to those
- 13 | three individuals, or at least the people you see in those
- 14 | accounts.
- 15 | Q Okay, so these were accounts, though, that you were
- 16 | familiar with, correct?
- 17 A Yes.
- 18 Q Okay. So Emiliano to the defendant, Nancy and Kristin
- 19 | Keeffe at the Oak Haven account?
- 20 A Yes.
- 21 Q And it says here: The quotes from our friend. I'm
- 22 | translating and explaining his e-mail.
- 23 The cost for each operation is \$1,200 for the first
- 24 operation in a given U.S. state, plus 300 to 600 depending on
- 25 | the bank per additional operation in the state; and then there

- 1 is a price of 3,000 for the Bahamas and 4,000 for Europe and
- 2 the amount of time it will take?
- 3 A That's right.
- 4 Q Okay. And this is an e-mail from Jim Mulvaney to
- 5 Federico Pena?
- 6 (Exhibit published.)
- 7 A Yes. I think the full e-mail is below it, but this kind
- 8 of completes the link between, or at least the chain.
- 9 Obviously, we were able to acquire Mr. Salinas's
- 10 e-mail, as well as the e-mail associated with Kristin Keeffe.
- 11 We weren't able to or we did not request a search
- 12 | warrant for purposes of the e-mail account of Mr. Pena.
- 13 However, I included this, and this is included in the forward,
- 14 just to show -- show that Mr. Mulvaney was the end kind of --
- 15 was the end recipient of the request.
- 16 Q And it says: If the operatives simply visit the
- 17 | institutions demanding immediate response, they may find
- 18 | themselves being served by bankers less experienced who will
- 19 | not take the time to carefully evaluate the records to
- 20 | identify the useful information. A quick answer is not always
- 21 the right answer?
- 22 A Yes.
- 23 Q Were they looking -- do you know whether they were
- 24 looking to go to specific people?
- 25 A I don't. I mean what I can say is that it appears that

- 1 | they were -- they were using banking insiders in order to
- 2 acquire information. That's what it appears. I can't say
- 3 | that definitively.
- 4 Q Are you aware of another way that that information could
- 5 | have been provided?
- 6 A Another way that what information?
- 7 | Q That information would have been provided other than a
- 8 bank insider, if it were true?
- 9 A I mean through a legal process.
- 10 Q But without, outside of legal process?
- 11 A (No response.)
- 12 | Q Outside of a subpoena or search warrant?
- 13 A No, I don't -- I don't believe so.
- 14 Q And is this the full chain that you were talking about?
- 15 (Exhibit published.)
- 16 A It is. So this, again, the relevance here is that it
- 17 shows the -- the line of communication or the chain of
- 18 communication, and it also includes the e-mail account for the
- 19 defendant.
- 20 Q So Federico Pena forwards that e-mail from Jim Mulvaney
- 21 to Emiliano Salinas at The Beacon 2009 and says: I'll reply
- 22 as soon as you tell me.
- 23 And then Emiliano forwards that to the defendant and
- 24 to Kristin Keeffe and says: Apparently, there was another
- 25 | misunderstanding. This is Jim 's reply to our mail asking for

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Weniger - direct - Penza
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- 1 | the results?
- 2 A Yes.
- 3 Q And is this an e-mail from -- this is slide 32 and it
- 4 | references Government Exhibit 1399, page 158.
- 5 And this is from Emiliano Salinas to the defendant,
- 6 | is that right?
- 7 A Yes.
- 8 Q It says: Here is the name and position of Jim. Check
- 9 out these links to have more data on who he is. Love, E?
- 10 A That's correct.
- 11 | Q And were these -- did you -- did you check out these
- 12 | links?
- 13 A I -- I tried to, yes. I think I did. Yes, I did.
- 14 | Q And you ended up -- you explained earlier who Jim
- 15 Mulvaney is?
- 16 A Yes.
- 17 | Q Slide 33, and this references Government Exhibit 1399,
- 18 page 169.
- 19 (Exhibit published.)
- 20 Q This is --
- 21 A So if you -- if you -- if you take a look at the bottom
- 22 of the e-mail or, excuse me, the document, you will see that
- 23 | that's the beginning of the -- the original e-mail we were
- 24 discussing where Mr. Mulvaney speaks of -- of banking
- 25 | insiders.

There's additional pages to this particular e-mail, but it is a forward of that -- of that -- that e-mail, the banking insiders e-mail, which goes up and -- and through Mr. Salinas and eventually gets to Oak Haven, as well as the defendant.

I pulled this particular e-mail because of Kristin Keeffe's response; and that response being: Never send to Keith. Ever. Please don't forget this again. XO.

(Continued on the following page.)

SAM OCR RMR CRR RPR

- 1 BY MS. PENZA: (Continuing.)
- 2 Q Are you aware of communications between Kristin Keefe and
- 3 the defendant about this process?
- 4 A Yes. I mean, he's on prior e-mails in relation to it.
- 5 Q And is he on other e-mails as well?
- 6 A Yes.
- 7 Q And, so, this was the e-mail we just looked at. This was
- 8 the one that was forwarded to the defendant and then, fair to
- 9 | say, here Kristin is telling Emiliano "never send to Keith
- 10 | ever"?
- 11 A That's right.
- 12 | Q Last -- lastly, showing you slide 34 and this is a
- 13 reference to Government Exhibit 1399 at page 194. And this is
- 14 | from Emiliano to Kristin at the Oak Haven account and the
- 15 | subject line is, "Judicial order in Mexico. Hey, K, we are
- 16 | moving on and trying to get a judicial order in Mexico on the
- 17 Ross case. Could we have a talk about the potential charges
- 18 | that will be involved? I will call you later. Take care, E."
- 19 | A Yes.
- 20 | Q Remind us, who -- what is Emiliano Salinas' position in
- 21 | Mexico?
- 22 A He's the son of a former president in Mexico. He's also
- 23 | Harvard-educated. He's a bright man and played a large role
- 24 | in both Nxivm/ESP Mexico as well as Nxivm/ESP in the United
- 25 States.

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Weniger - direct - Penza
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- Were there -- within the e-mails that you -- I think 1 O 2 that's the end of your PowerPoint, but within the e-mails that you reviewed was there ever discussion of different levels of 3 information? 5 There were, yes. So Cannaprobe would send -- and we referenced to one at a certain point, but the banking 6 7 documents and the requests often were made for purposes or by 8 Kristin Keefe for level one or level two or level three or 9 level four information. I wasn't initially aware as to what 10 that was, but what it appeared is that, depending upon kind of the specificity and, I guess for lack of a better term, 11 12 intrusiveness of the requested information, the level -- the 13 levels would increase. I believe the price would also 14 increase, too. 15 MS. PENZA: Your Honor, at this time the Government 16 moves into evidence Government Exhibit 1822 without objection, 17 I believe. 18 MR. AGNIFILO: Correct.
- 19 THE COURT: 1822 is received in evidence.
- 20 (Government Exhibit 1822 received in evidence.)
- 21 (Exhibit published.)
- 22 BY MS. PENZA:
- 23 Q Special Agent Weniger, I'm showing you what's marked in
- 24 | evidence as Government Exhibit 1822. And it's a 22-page
- 25 | document. Are you familiar with this?

- 1 A Yes, I am.
- 2 Q And the final -- and this is a long e-mail chain?
- 3 A It is.
- 4 Q And who is this e-mail chain between?
- 5 A Kristin Keefe and the defendant.
- 6 Q And this e-mail chain, it begins on August 26, 2009?
- 7 A Yes.
- 8 Q And, so, the e-mail we looked at from Kristin Keefe to
- 9 | Emiliano saying, "Never to send the information to Keith,"
- 10 | that was on August 30, 2009?
- 11 A Correct.
- 12 Q So right in the middle of this chain?
- 13 A Yes.
- 14 Q Let's walk through some of this. So, starting --
- 15 | starting at the bottom of page 21 is there an e-mail from the
- 16 defendant to Kristin Keefe saying, "What's going on with
- 17 | Richard. Write back so I know you received this"?
- 18 A Yes.
- 19 Q And from your review of this chain, is it clear to you
- 20 | who Richard is?
- 21 A It appears to be Richard Marier from Cannaprobe.
- 22 | Q And then Kristin writes back, is that correct?
- 23 | A Yes.
- 24 | Q And then the defendant writes, "What did he say about the
- 25 | two-level explorations that came in, et cetera?

- 1 A Yes.
- 2 Q And this discussion of the two levels, two-level, is
- 3 | that -- is that what you were explaining before?
- 4 A Yes, correct.
- 5 Q And so there's different levels of how much information
- 6 | you're going to get or it appears?
- 7 A It appears so, yes.
- 8 Q And on August 26, 2009, does the subject line switch to
- 9 | Happy Birthday?
- 10 A It does, yes.
- 11 | Q Is that the defendant's birthday?
- 12 A Yes.
- 13 | Q From this chain, are you able to tell where the defendant
- 14 | and Kristin Keefe are?
- 15 A Yes, they're at Vanguard Week at a lake. I believe Lake
- 16 | George.
- 17 | Q We won't go through all of this. On August 26, 2009
- 18 I there's more back and forth and then she asks the defendant to
- 19 | call her and says, I have news from him on a related matter
- 20 and this is another what gives with Richard."
- 21 So that's in response to what gives with Richard
- 22 | from the defendant?
- 23 A Yes.
- 24 Q And the defendant writes back, I am not sure, but I will
- 25 | try. Kristin writes, It's not an emergency or anything, just

- interesting, possible helpful data from Rich about ourresort-hopping friend.
- Do you have a belief as to who the resort-hopping friend is?
- 5 A So, there was a belief amongst -- it appears that there
- 6 was a belief that Ms. -- that the defendant as well as others
- 7 | thought Kristin Snyder was still alive and that she was moving
- 8 | from place to place. I can't say for certain that that's who
- 9 they're referencing, but I do know that they sent private
- 10 | investigators to Key West and I believe Palm Springs in
- 11 | California.
- 12 Q And were there other --
- 13 A Looking for her under the --
- 14 Q And this reference to our resort-hopping friend, were
- 15 there ever codes used by the defendant and Kristin Keefe?
- 16 A In this e-mail in particular, it does appear to be a
- 17 | coded language, yes.
- 18 Q Kristin Keefe, here is another e-mail from the defendant,
- 19 What about the second level, which ones? Results?
- 20 A Yes.
- 21 | Q Okay. Skipping ahead to page 14 on August 27, 2009,
- 22 | there's a long e-mail from Kristin that starts at the bottom
- 23 of this page; is that right?
- 24 | A Yes.
- 25 | Q And so it says, "First, I got a little nervous for three

- 1 little reasons. First, Knoxwoods painters happened to be here 2 beginning the 27th and going through the week. Coincidence?
- 3 Do you have an understanding of what that meant?
- 4 A So, Knoxwoods is the development that the defendant as
- 5 | well as Kristin Keefe lived in at that time and, you know,
- 6 there's a Homeowners Association there. So I'm assuming that
- 7 | there was painting going on in the neighborhood and maybe it
- 8 appears to their particular kind of stretch of townhouses.
- 9 Q And it says, They are painting the windows so they can
- 10 | study everything in our house. They're doing 3 Flintlock too.
- 11 | They started this morning?
- 12 A Yes.
- 13 Q From your review of this case, can you describe any kind
- 14 of paranoia that seemed to exits?
- 15 A I think just this paragraph, and as we go even the
- 16 | following paragraphs, kind of reflect that there was a certain
- 17 | level of paranoia. There was also certain times during the
- 18 | investigation that we learned that when there were vehicles in
- 19 | Knoxwoods that were unfamiliar, oftentimes that would be
- 20 | reported to the defendant. And, again, what we're seeing here
- 21 | is kind of similar concern for people that were unknown in
- 22 | terms of them being in the community.
- 23 | Q The next paragraph talks about a strange man and a car
- 24 driving by?
- 25 A Yes.

- 1 Q And then she provides some information about her son with 2 the defendant: correct?
- 3 A Yes.
- 4 Q And then -- and here it says, Steve called me back and
- 5 wants to know where we are at. I was on the other line so
- 6 called him and haven't heard yet. I'm inclined to tell him we
- 7 | are considering his suggestions, but I am having a hard time
- 8 | reaching my people because of the communications limitations.
- 9 I spoke to Andy. Steve's trial will be over Friday through
- 10 | Monday. He has not heard back from Dones' alleged attorney
- 11 and has called him three times. I told him keep trying. We
- 12 | want confirmation on that before we respond to her.
- Do you know who Dones is?
- 14 A Susan Dones was a member of the Nxivm 9, a group of
- 15 | women -- a group of people that left Nxivm as a group that
- 16 included also Barbara Bouchey and others.
- 17 Q Coffey is prepared to meet with us post-trial to discuss
- 18 taking us to the state police?
- 19 A Yes.
- 20 Q Richard called me at 12:30. I was on both lines. It
- 21 | went to voicemail, but he wouldn't call unless he had data.
- 22 | I'm working on preparing for the O'Hara depo.
- Do you know what that means?
- 24 A I believe that it's in reference to a deposition that was
- 25 to occur that -- where Jeff O'Hara would be deposed in a civil

- 1 litigation.
- 2 Q And was that supposed to be happening right around this
- 3 time?
- 4 A It was.
- 5 Q And then it says, There's a charity called Sinai
- 6 Charities. Peter Skolnik is a very well-known attorney in
- 7 | some circles, although its Ross and his corps. that are his
- 8 | bread and butter at the end of the day, even if there are
- 9 efforts on behalf of certain charities in between.
- 10 Then: Rich says Pigeon will be calling me shortly
- 11 | with a layered opinion and Rich has interesting thoughts about
- 12 | Snyder's disappearance. He thinks she might have emigrated to
- 13 | another country/island country or at least inquired about
- 14 doing so.
- 15 I want to be clear that Alaska had found that she
- 16 was dead: correct?
- 17 A Yes.
- 18 | Q They determined she had committed suicide?
- 19 A Yes.
- 20 | Q And you said that the police file on Kristin Snyder was
- 21 | within Government Exhibit 204?
- 22 A At least a portion of it, yes.
- 23 | Q And this is from the defendant saying, Might be
- 24 | fascinating question to ask about --
- 25 This is the defendant to Kristin Keefe: Might be a

- 1 fascinating question to ask about conversations to Sinai to 2 see if smokes twitches.
- 3 Do you have an understanding of that?
- 4 A Not entirely, although if you look at the e-mail below,
- 5 | it's referencing Skolnik. Skolnik was an attorney that
- 6 | represented Mr. Ross in the litigation between Nxivm and Rick
- 7 Ross and, so, Skolnik is relevant in that regard. And kind of
- 8 | what the prior e-mails were suggesting was that Skolnik had
- 9 | some type of interface with Sinai charities and so it's not
- 10 entirely clear.
- 11 Q Okay. But Kristin says, I agree! And then the defendant
- 12 | responds, I'm getting worried. Any more news from R? And
- 13 | then Kristin says, Yes, sending hard copy of what mentioned
- 14 | today and I received verbal on Snyder?
- 15 A Yes.
- 16 Q And then the defendant responds, And Pigeon's song?
- 17 A Yes. I will say that that appears to be, you know,
- 18 | somewhat coded language in relation to Steve Pigeon, one of
- 19 the individuals that's found within the box.
- 20 | Q And she responded, Nothing specific about Pigeon's song?
- 21 | A Correct.
- 22 | Q And he says, "What about all the other stuff?
- 23 A Yes.
- 24 | Q And, so, here Kristin Keefe says, Little Richard has
- 25 | nothing new, but their temporary problem is over.

- This is on August 28th. The defendant responds, If
 R is leaving on Sunday, when/how will we get his products? We
 need them for V Week. What about the two-layer products he
 said he had from his distributor?
- 5 Does that again appear to be coded language?
- 6 A Yes, it does.
- Q About the same type of information that we've been discussing?
- 9 A Yes, the banking sweeps that they were -- they were 10 utilizing with Cannaprobe.
- 11 Q And there's more back and forth and then it says -- Keith 12 Raniere to Kristin Keefe: I don't know if you will get this.
 - Is it fair to say it looks like they may be having some cell service difficulties by the lake during this e-mail?
- 15 A Yes.

14

- 16 Q I don't know if you will get this. I looked at the R
 17 thingy on his two new quote creations, did not finish his
 18 second layer. No topping, but both have an explicit middle
 19 eastern feel. When are you back?
- 20 Do you have any understanding of what that is?
- A Not entirely. I do -- it does appear to be referencing kind of the lavering or the level of bank sweeps.
- 22 kind of the layering or the level of bank sweeps.

And again it seems to be in code?

24 A Yes.

Q

23

25 Q Okay. And Kristin writes: Yeah, I know I'm checking on

- 1 | the toppings. FYI, I reminded Richard yesterday to make us
- 2 only one layer dishes if the topping is different than the
- 3 layer; to do two layers only when the first topping is the
- 4 same. He's erred so far and cooked two layers each time no
- 5 | matter what. It's turning out pretty tasty. Maybe we should
- 6 stick to the two-layer, two-topping dish across the board.
- 7 I'll be back tonight. Want to meet?
- 8 And the defendant responds, Yes, although the middle
- 9 eastern recipes seem obvious. I might want to be sure of what
- 10 goes into each of the dishes. Maybe our Mexican chef will
- 11 | tell us.
- Did you have an understanding of who the Mexican
- 13 | chef was?
- 14 A What I suspect is that the Mexican chef is in relation to
- 15 the e-mails that we've already looked at in relation to
- 16 | Emiliano Salinas, Mr. Federico Pena and that kind of lead.
- 17 | Q And then Kristin says, Okay. I will confirm that recipe
- 18 | with R. I hear our Mexican chef will have some dishes ready
- 19 | today. If that's the case, I'll come back sooner.
- 20 Just -- I won't go through too much more of this,
- 21 | but from Kristin to Keith on August 29, 2009, I'm putting
- 22 | together additional docs on O'Hara and on my way to pick up
- 23 the O'Hara criminal presentation?
- 24 A Correct.

Q Page five, Keith is writing on -- the defendant is

- 1 | writing on August 29, 2009: Any more R? M? Kristin writes
- 2 back, "Nope, although expecting more from R." And then the
- 3 defendant writes back, "Cool. Is M going to tell us more
- 4 about his kidney beans and liver mix. Why can't he get that
- 5 published? If they come up with as good a recipe will we be
- 6 able to publish. Again, does this appear to be code?
- 7 A Yes, it does?
- 8 Q And you don't know exactly what this means?
- 9 A I don't, no.
- 10 Q Kristin writes, his supplier is out of town till Monday
- 11 and has been all week. I think if we have a better recipe we
- 12 can arrange to collaborate with his supplier directly?
- 13 A Yes.
- 14 | Q Okay. And this e-mail from Keith Raniere to Kristin
- 15 Keefe, I will tell you when I see you in Ohio. On another
- 16 | note, did you notice how little news coverage the deal thing
- 17 is getting?
- 18 Do you know what that's a reference to?
- 19 A Again, I don't -- I want to make clear I don't know
- 20 definitively what it's a reference to. I can tell you that
- 21 around this time Morris Sutton, who lived in the Deal, New
- 22 | Jersey area and we did find actually in the box as well an
- 23 | article in relation to the Sephardic community and arrests
- 24 | that had been made in that community.
- 25 THE COURT: Ms. Penza, I'm going to want to take a

1 break soon.

MS. PENZA: Yes, Your Honor. I'm finished with this document in one minute and I think that will be a perfect time, if that's okay.

THE COURT: That is fine.

BY MS. PENZA:

Q And, so, I'll skip ahead to the second page and looking here the defendant writes on August 31, 2009, Hey, what's going on with O'Hara, birthright, Bob, goodies for Mr. O'Hara, Mike, little R's kitchen, et cetera?

11 | A Yes.

Q Do you know what some of those things are or do you have a belief as to what some of those things are?

A Yes, O'Hara again is another reference to Joseph O'Hara and the litigation related to him. Birthright is also -- is a charity that's associated with Edgar Bronfman. Bob, I'm not entirely certain. Goodies for Mr. O'Hara, again it seems to be a reference to Joseph O'Hara. Little R's kitchen seems to be the quote unquote dishes, or levels of banking sweeps that were being conducted by Richard Marier and Cannaprobe, but I think what --

One of the things that was important from my review of this was it showed that the legal -- while Kristin Keefe was the head of the legal department in Nxivm, the actions that were being taken were communicated to the defendant by

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5048
                               Proceedings
    Kristin and being requested by the defendant.
1
 2
         And this just goes on for a little bit more back and
    forth?
 3
 4
    Α
         Yes.
5
              MS. PENZA: Your Honor, I think this would be a good
    point to take a break.
6
7
              THE COURT: All right. Let's take an afternoon
8
    break. All rise for the jury.
9
               (Jury exits.)
10
              (In open court.)
11
              THE COURT: How much more do you have for this
12
    witness?
13
              MS. PENZA: Your Honor, I still think approximately
    an hour, maybe a little bit more, but I will enter the rest of
14
15
    the exhibits and I will only show them if absolutely
16
    necessary.
17
              THE COURT: All right. And how long is your cross
18
    going to be? Just tell me.
19
              MR. AGNIFILO: I don't know because we still have
20
    another hour of direct. I'll try to get done by the end of
21
    the day.
22
              THE COURT: Well, it is not going to happen.
23
              MR. AGNIFILO: Well, it could, it could.
24
              THE COURT: It could?
25
              MR. AGNIFILO: Well, it probably won't, but I will
```

	Proceedings 5049
1	try. I know it would make the jury's life easier if I did.
2	Let me see what the hour of direct is like and then I'll do
3	what I can.
4	THE COURT: Otherwise, I will bring the jury in
5	tomorrow morning and we will just continue. So work your
6	magic.
7	MS. PENZA: Yes, Your Honor.
8	THE COURT: You may stand down.
9	(Witness stands down.)
10	THE COURT: Take your ten minutes.
11	(Recess taken.)
12	
13	(Continued on the following page.)
14	
15	
16	
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22	
23	
24	
25	

1 at most to need a half-hour tomorrow.

MR. AGNIFILO: I would imagine if Ms. Penza goes a half an hour I can probably finish around the time of the break. Maybe I'd go over a little past the break, but definitely finished by lunch.

THE COURT: And you would be resting tomorrow?

MS. PENZA: Yes, your Honor.

THE COURT: After this witness?

MS. PENZA: Yes, your Honor.

THE COURT: And then we have to -- at that point, we have to have a Rule 29.

MR. AGNIFILO: Yes, Judge.

THE COURT: And then you have to tell me whether you're putting on a case and whether the Defendant wishes to testify, as is his Constitutional right. We have a process to go through even if you don't put on a case.

So, I need the jury here until the middle of the day, is what we're saying. At least until noon, I would imagine.

MR. AGNIFILO: I would imagine somewhere around noon, I think that's right, but I think before lunch. I think we'll be done with the jury before lunch.

THE COURT: We'll work out the issue of lunch with the jury.

MR. AGNIFILO: And would the Court be open to the

25

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	Proceedings 5052
1	charge conference on Monday rather than tomorrow?
2	THE COURT: Yes, of course. I think that works out
3	fine.
4	MS. PENZA: Thank you very much.
5	THE COURT: What I'll do, can I e-mail the charge to
6	you?
7	MR. AGNIFILO: That would be great, Judge.
8	MS. PENZA: Yes, that would be great.
9	THE COURT: We'll e-mail it. It's ready in draft.
10	If we do this, I would appreciate it, since we have
11	so much extra time, that the parties, after they look at the
12	charge, if they can discuss possible modifications of the
13	charge to which they would agree, rather than raising
14	everything at the charge conference initially.
15	But where you can't agree, of course we'll discuss
16	it.
17	MR. AGNIFILO: What might make sense if we end up
18	getting the charge at some point later today and we'll have
19	some time after we let the jury out tomorrow
20	THE COURT: You're going to get it tonight.
21	MR. AGNIFILO: That's great, Judge.
22	MS. PENZA: Thank you.
23	MR. AGNIFILO: Perfect.
24	THE COURT: I will tell the jury that we're doing a
25	half-day tomorrow, they are off on Monday, and we'll have

want to be the one to speak last.

24

25

And, in fact, I would also point out that what I may

	Proceedings 5054
1	do it's a very long charge I may share the honors with
2	my law clerks and have them read parts of the charge, selected
3	portions of the charge, to the jury.
4	How many pages is it, 100?
5	THE LAW CLERK: 140.
6	THE COURT: 140 pages. So, it's a lot of talking.
7	So, depending on how I feel at the time, we'll make those I
8	just wanted to let you know about that. Judges do it all the
9	time, I know. We have some judges here in our courthouse who
10	do it. I've never done it before, but I think this is the
11	right case for it.
12	Anything else? Is there more?
13	Then I have a letter from the defense about an item
14	to put in the charge. You should discuss that among
15	yourselves.
16	MR. AGNIFILO: Very good. We will.
17	THE COURT: I have the letter dated June 9; have you
18	seen it?
19	MS. HAJJAR: Yes, with respect to the good faith
20	charge, your Honor?
21	THE COURT: Yes, exactly.
22	MS. HAJJAR: We've seen it.
23	THE COURT: You have something else?
24	I want to bring the jury back.
25	MS. PENZA: I just want to put exhibits on the

	Proceedings 5056
1	1005, 1822, 1214, 1491 through 96, 1427, 1429, 1433, 1443,
2	1455, 1456, 1457, 1435, 1445, 1480, 374, 373, 376, 1820, 1821,
3	1392, 1482, 1327, 1326, 1803, 1805, 1287, 1817, 1818, 671,
4	1828, 1801, 59, 9, and 38 so marked.)
5	THE COURT: Anything else?
6	MS. PENZA: I'm sorry, your Honor, one brief moment.
7	(Pause in proceedings.)
8	MS. PENZA: Your Honor, 1819, if I didn't read it
9	out, the Government moves in.
10	And then I'll check out one other thing, but I can
11	do it at the time.
12	THE COURT: I don't have it here. Okay. 1819.
13	MS. PENZA: It's on the top left under Forbes.
14	THE COURT: I see.
15	MS. GERAGOS: I don't think 1816 was read either,
16	which was an objection Mr. Agnifilo withdrew. It was the
17	Michele e-mail, if I remember correctly.
18	MS. PENZA: Yes I'm sorry.
19	THE COURT: All right. They will be added to that
20	list that you have provided. Thank you very much for the
21	help.
22	(Government Exhibits 1816 and 1819 so marked.)
23	MS. SMITH: You're very welcome.
24	THE COURT: Then we have a plan. What I will tell
25	the jurors is that we're going to have a half-day tomorrow,

patience. We've been trying to work out the schedule for the rest of the trial. Let me inform you as follows:

Tomorrow, we will have half a day of trial.

Hopefully, that will complete the period of testimony that
we've been having. And then you'll have lunch and that will
be it for the day.

On Monday, we will be busy here going over the draft charge as to the law. I'll be meeting with the lawyers for both sides to review the draft that I'm providing to the parties as to the jury charge, which I will give you later in the week. So, you won't be here on Monday.

Tuesday, we will have closing arguments. The Government will go first, then the defense will go, and then there will be rebuttal by the Government. That's the process. If it spills over into Wednesday morning, it just means that I'll start charging the jury a little later in the day on Wednesday.

I'll charge the jury as to the law on Wednesday, and you will retire to consider your verdict on Wednesday afternoon. And then your deliberations, obviously, will be secret.

That's the process that we have sketched out. Is it finalized? I think it's likely to occur that way. We've thought a lot about it and we very much appreciate the time that you're giving to this case. So, we wanted to tell you

Weniger - Direct - Penza 5059 1 what to anticipate for next week so that you can make your 2 plans accordingly. 3 So, that said, we're going to go until five, 4 Ms. Penza is examining the witness, and then most likely we'll 5 have the cross-examination tomorrow morning. As I understand it, this is the Government's last 6 7 witness. 8 MS. PENZA: Yes, your Honor. 9 THE COURT: All right. Let's go forward then. 10 I remind the witness he is still under oath. THE WITNESS: Yes, your Honor. 11 12 BY MS. PENZA: 13 Special Agent Weniger, there are some individuals -- we talked about various individuals when we went through 14 15 Government Exhibit 204 and through thebeacon, oakhaven 16 accounts. 17 One of those individuals was Toni Natalie; is that 18 right? 19 Yes. Α 20 Q And one was Barbara Bouchey? 21 Α Yes. 22 And we also talked about Kristin Keeffe. Q 23 Α We did, yes. 24 Do you know whether -- did Kristin Keeffe at some point leave the NXIVM community? 25

Weniger - Direct - Penza

- 1 A Yes. I believe it was approximately 2014.
- 2 Q I'm showing you what's in evidence as Government exhibit
- 3 374.
- 4 (Exhibit published to the jury.)
- 5 Q Do you see that document?
- 6 A I do.
- 7 Q And are you familiar with this e-mail?
- 8 A Yes.
- 9 Q And this is an e-mail from Ricardo M. Olmedo Gaxiola, and
- 10 the subject line is re Kristin Keeffe to Clare Bronfman; is
- 11 | that right?
- 12 A That's correct.
- 13 | Q Do you know who this person is, Ricardo?
- 14 A I believe he appeared on some of the kind of cease and
- 15 desist letters that we've seen in the case.
- 16 Q Do you understand him to be an attorney in Mexico?
- 17 A Yes.
- 18 | Q So, he has appeared in other places in this case?
- 19 A Yes.
- 20 | Q And this is an e-mail from Alejandro Betancourt -- I mean
- 21 | to Alejandro Betancourt.
- 22 Do you know who Alejandro Betancourt is?
- 23 A Yes. Alex Betancourt was -- I'm sorry.
- 24 Q Go on.
- 25 A He was kind of a senior member within NXIVM ESP.

- 1 Q So, this is to Alejandro Betancourt from Clare Bronfman
- 2 on May 29, 2017, and it says: Forward Kristin Keeffe.
- 3 And it says: Most recent I have on KK.
- 4 A Yes.
- 5 Q And there's a picture here?
- 6 A Yes.
- 7 Q Can you just -- do you have an understanding of what this
- 8 | type of picture is?
- 9 A It appears to be a surveillance photo, either taken -- it
- 10 appears to be taken with a video recording device and that's
- 11 | just a still frame.
- 12 Q Does it appear from this picture that she knows she's
- 13 being photographed?
- 14 A No.
- 15 Q It appears she does not?
- 16 A Correct.
- 17 | Q And this is on January -- the time on this photo is
- 18 | January 18, 2016?
- 19 A Yes.
- 20 Q So, this e-mail is May 29, 2017. I'm showing you -- and
- 21 | I think -- I'm sorry, you said she had left the community
- 22 | about three years prior; is that right?
- 23 A I think it was 2014, yes.
- 24 (Exhibit published to the jury.)
- 25 | Q Showing you what's in evidence as Government Exhibit 373,

Weniger - Direct - Penza

5062

1 this is an e-mail from Clare Bronfman to Ricardo Olmedo

- 2 | Gaxiola again?
- 3 A Yes.
- 4 Q It says: This is what she looked like about eight months
- 5 ago.
- 6 A Yes.
- 7 Q And this is forwarded then to Alejandro Betancourt, and
- 8 | it says: Forward, Barbara Bouchey. Most recent on BB.
- 9 A Correct.
- 10 Q Is this a picture of Barbara Bouchey?
- 11 A It is a picture of Barbara Bouchey.
- 12 Q At this point in time, in 2017, approximately how long
- 13 | had Barbara Bouchey been gone from the NXIVM community?
- 14 A I am not -- I think she left in 2009, if I'm correct.
- 15 I'm not certain, but I think it was 2009.
- 16 Q Quite a bit of time?
- 17 A Yes.
- 18 (Exhibit published to the jury.)
- 19 | Q I'm showing you what's in evidence as Government Exhibit
- 20 | 376. This is another e-mail from May 8, 2017?
- 21 | A Yes.
- 22 | Q And it's also from Clare Bronfman to Olmedo Gaxiola -- to
- 23 | Ricardo?
- 24 A Yes.
- 25 | Q And it says: This is from a few years ago. Her hair is

LAM OCR RPR

- 1 | naturally very dark.
- 2 And the subject line is: Toni Natalie.
- 3 A It is, yes.
- 4 | Q And there is an e-mail to Alejandro Betancourt from Clare
- 5 Bronfman, and it says: Forward, Toni Natalie. Most recent on
- 6 her. Her hair could be blonde or dark.
- 7 A Yes.
- 8 Q How long -- this is now May 8, 2017.
- 9 How long had it been since Toni Natalie had been
- 10 | with the Defendant?
- 11 A Approximately 20 years, almost 20 years.
- 12 Q During the course of your investigation, did you have
- 13 occasion to look into whether there had been any political
- 14 | contributions by members of NXIVM?
- 15 A Yes, I did.
- 16 Q Can you just explain why you did that?
- 17 A So, during the course of interviews with individuals in
- 18 | this case, we obtained information that there was kind of the
- 19 | bundling of campaign contributions, meaning that individuals
- 20 were making individual donations and being reimbursed for
- 21 | those individual donations for a larger holding. And, so, we
- 22 | located that and we did see evidence of that, yes.
- 23 Q And did you do that work yourself?
- 24 A Yes.
- 25 Q And is there something called the Federal Election

- 1 | Commission?
- 2 A Yes.

8

15

- 3 Q And can you just generally explain what that is?
- 4 A The Federal Election Commission tracks donations, so
- 5 | individual donations as well as group donations.

look as to who has donated and to whom.

- So, you can -- it has a searchable site that the anyone, myself or anyone in this room, could go to and take a
- 9 Q Without going into the details, what is your
 10 understanding about whether there are specific limits as to
- 11 how much someone can contribute to a campaign?
- 12 A There are individual campaign limitations or -- yes, 13 throughout.
- 14 Q So, I'm showing you what's in evidence as Government
- 16 (Exhibit published to the jury.)
- 17 Q Are you familiar with this document?
- 18 A Yes.

Exhibit 1482.

- 19 Q And first I'm going to turn to the last page of the
- 20 document, which is a screen shot. And it's a little difficult
- 21 to see, but maybe you can just explain the interface of the
- 22 | FEC website?
- 23 A So, you can provide search terms on the left-hand side
- 24 there and you can also then search individual names. So, the
- 25 individual donor names, on the left-hand side you see the

	Weniger - Direct - Penza 5065
1	names of people that have been searched, and then it also
2	reflects the campaign and/or candidate that the donation was
3	provided to.
4	
5	(Continued on the following page.)
6	
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25	

- 1 | EXAMINATION CONTINUES
- 2 BY MS. PENZA:
- 3 Q So this is where you would enter the -- it's called
- 4 | contributor name?
- 5 A Yes.
- 6 Q And so this was the results for those people that you
- 7 | entered?
- 8 A That's correct. Then also on the bottom left-hand side
- 9 | you can search a particular timeframe.
- 10 Q And is that something you did?
- 11 A Yes.
- 12 Q And so we'll just -- so the names that you searched here,
- 13 | Mark Vicente, Nancy Salzman, Clare Bronfman, Sara Bronfman,
- 14 | Pam Cafritz, Barbara Bouchey, Kristin Keeffe, Michelle
- 15 | Salzman, Sheryl Ose, Nina Cowell, Dazzle Ekblad, John
- 16 Bartolomei, Ben Myers and Rebecca Freeman?
- 17 A Yes.
- 18 | Q I think the jury is very familiar with some of these
- 19 | individuals, but who is Sheryl Ose?
- 20 A She was also a member of the NXIVM community for a time
- 21 period.
- 22 Q Nina Cowell?
- 23 A Same. She was part of the NXIVM nine that left, I
- 24 | believe, in 2009.
- 25 | Q John Bartolomei?

- 1 A Yes, John Bartolomei was an attorney that also had
- 2 dealings with NXIVM.
- 3 Q Dazzle Ekblad?
- 4 A She was a member of the NXIVM community for a period.
- 5 Q And Rebecca Freeman?
- 6 A Same.
- 8 | contribution from Clare Bronfman to Hillary Clinton for
- 9 | president on March 14th, 2017 [sic] and it's \$2,300?
- 10 A Yes.
- 11 | Q Once Ms. Bronfman, if we assume for the minute that that
- 12 | would be the maximum, would she be able to contribute another
- 13 | \$2300 in her own name directly?
- 14 A I don't believe so, no.
- 15 Q And so then there's Pam Cafritz, Hillary Clinton for
- 16 president, same receipt date and same amount?
- 17 A That's correct.
- 18 I do want to make one caveat. I think, and my
- 19 understanding is that in the primary that the individual
- 20 donation is limited in the primary, and then once the general
- 21 election comes, I think you can donate again. I'm not certain
- 22 on that, but that's my understanding.
- 23 Q Okay. But whatever time -- whatever point in time you
- 24 | are where there is a maximum donation, you can only make that
- 25 maximum donation once, is that --

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Weniger - direct - Penza
                                                                 5068
         Correct.
1
    Α
 2
          -- correct? Okay.
 3
               And then Rebecca Freeman, with the same amount?
 4
    Α
         Yes.
         Kristin Keeffe, same amount?
5
6
    Α
         Yes.
         Do you have an understanding from your review of e-mails
7
8
    and other documents in this case what Kristin Keeffe's
9
    finances were like?
         I believe that they were limited.
10
               (Exhibit published.)
11
12
    BY MS. PENZA:
13
         A few one for Sheryl Ose, but Michelle Salzman, March
14
    14th, 2007, $2,300?
15
    Α
         Yes.
16
         Nancy Salzman, same date, $2,300?
17
    Α
         Yes.
18
    Q
         And same campaign.
19
               And then there is a blank spot, there is a
20
    redaction. Is this because there was a different Ben Myers?
21
    Α
         Yes.
22
         And then John Bartolomei, this is now April 13th, 2007,
    there is a different date?
23
24
    Α
         Correct.
25
    Q
         And it's $2,300?
```

```
Weniger - direct - Penza
                                                                   5069
          Yes.
 1
    Α
 2
          Barbara Bouchey, $2,300?
    Q
 3
          Yes.
    Α
          Sara Bronfman?
 4
    Q
          Yes.
 5
    Α
 6
          Nina Cowell, $2,300?
    Q
 7
    Α
          Correct.
8
    Q
          Dazzle Ekblad, $2,300?
9
    Α
          Yes.
          Ben Myers, $2,300?
10
    Q
11
    Α
          Yes.
12
          And Mark Vicente, $2,300?
    Q
13
    Α
          That's right.
14
          And those are all on the same date as well?
    Q
15
    Α
          Yes.
16
    Q
         And the same campaign?
17
    Α
          Correct.
18
    Q
          This is the Ben Myers this --
19
    Α
          Yes.
          -- we're familiar with?
20
    Q
21
    Α
          That is correct, yes.
22
          All right, I am going to turn to some e-mails that are to
    Q
23
    or from the kunterre@nycap.rr.com account.
24
               Are you familiar with that account?
25
    Α
          I am, yes.
```

Weniger - direct - Penza

- 1 Q And whose account was that?
- 2 A That was -- the name is Karen Unterreiner, but the
- 3 account was utilized by the defendant.
- 4 Q So just showing you an e-mail that's in evidence,
- 5 | Government's Exhibit 1435, this is an e-mail from that account
- 6 to someone named Eric, and it says: Rereconnect. And it
- 7 | says: Hi, it's me, Keith Raniere. Is that right?
- 8 A Yes.
- 9 Q And then it says: It would be nice to here from you.
- 10 | Still at the same address, phone number and e-mail. This
- 11 | e-mail account is kunterre@ at nycap dot rr.com. Kunterre is
- 12 | a standard contraction of Karen Unterreiner, no funny jokes,
- 13 | at least said out loud. I don't know if we are on a
- 14 | love-and-wet-kisses basis. So regards, Keith?
- 15 A Correct.
- 16 Q And there were a number of other e-mails that made
- 17 | clear -- many other e-mails that made clear that this account
- 18 was the defendant's?
- 19 A Yes.
- 20 | Q Through the course of your investigation, did you review
- 21 | e-mails related to Clare Bronfman's relationship with her
- 22 | father?
- 23 A I did, yes.
- 24 | Q And can you just explain generally those e-mails and --
- 25 and what their nexus was to the defendant?

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Weniger - direct - Penza
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- 1 A In terms -- in terms of the e-mails, there was definitely
- 2 appeared to be a strained relationship in relation to Edgar
- 3 | Bronfman and Clare Bronfman. And the defendant's guidance and
- 4 | advice was frequently sought by -- by Clare Bronfman, in terms
- 5 of her relationship with her father.
- 6 Q Did the e-mails also -- did -- did the e-mails give you
- 7 any insight into the nature of Clare Bronfman's relationship
- 8 | with the defendant?
- 9 A Yes.
- 10 Q Okay, can you explain that?
- 11 A It appeared to be an intimate relationship based upon
- 12 | some of the things that were discussed.
- 13 Q Sexual?
- 14 | A Yes.
- 15 Q At times, at least?
- 16 A Yes.
- 17 | Q I am showing you what's in evidence as Government
- 18 | Exhibit 1427.
- 19 (Exhibit published.)
- 20 BY MS. PENZA:
- 21 | Q Okay, and this is an e-mail from clarewebb21@aol.com to
- 22 | the defendant?
- 23 A Yes.
- 24 Q And it says: Dear Keith. Thank you. So I've been
- 25 | thinking about your question. As I begin to open my eyes, I

- 1 | am recognizing the responsibility I hold in the position I am
- 2 in. When I combine that with the knowledge I have learned
- 3 | from you, I feel like I have this huge responsibility. I
- 4 | would like your help in fully understanding it and in the best
- 5 ways to go about using the position I am in to have a
- 6 forward-moving and positive effect in the world.
- 7 I am very unlearned in business and would love some
- 8 help in that area. I feel that my family is walking into some
- 9 very large business deals with their eyes closed and I do not
- 10 hold sufficient credibility, and certainly not the knowledge
- 11 to help. I would like you to teach and advise me in these
- 12 | areas and in exchange? Love, Clare.
- And this is sent on May 29th, 2003?
- 14 A Yes.
- 15 | Q And the defendant responds: A slave for eternity...?
- 16 A Yes.
- 17 | Q Read the end of your last correspondence below.
- 18 Actually, why me? What specifically do you want to achieve
- 19 through and by the end of this life? Love Keith.
- 20 A Correct.
- 21 | Q And would Clare Bronfman continue to remain loyal to the
- 22 | defendant?
- 23 | A Yes.
- 24 | Q I am showing you what's in evidence as Government
- 25 | Exhibit 1429.

1 (Exhibit published.)

- 2 BY MS. PENZA:
- 3 Q And this is an e-mail from Clare to the defendant.

4 I'm not sure where things are with my father and I.

5 Yes, he walked out. I acted impulsively and extremely

6 mindlessly. This is where my recognition of just how mindless

7 I can be came from.

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And then it says: I am seeing how I act in the world. I am also seeing the reality of how my father reacts, which I was unwilling to look at before. I will never know the extent of the damage I have caused to my father, myself, you, Nancy, the organization, or the world. I would really appreciate your help in starting to heal the damage. I would like to apologize.

And then it says -- the defendant responds?

A Yes.

Q And he says: With respect to the damage, any way I can help, I will. I think the healing must come from you and your father. I think for you, because of age, status and personality type, it is simpler. For your father because he is a world leader, it is much more complicated.

And then it goes on: Your father would need to come to term with how his postulates and actions in general relate to the rest of his life and position. Let me know what you think is appropriate to repair the damage from your position.

SAM OCR RMR CRR RPR

Weniger - direct - Penza

- 1 I will help you as much as I can. You may want to understand
- 2 | speaking with honor and thought objects better. Ask Michelle
- 3 or Nancy to help you better understand these things and how
- 4 | they relate to ethical breaches.
- 5 That's June 3rd, 2003?
- 6 A Yes.
- 7 Q And that's a few months before the Forbes article comes
- 8 out?
- 9 A That's right.
- 10 Q And so I am showing you what's in evidence as Government
- 11 | Exhibit 1433.
- 12 (Exhibit published.)
- 13 BY MS. PENZA:
- 14 Q And this is a forward from Clare to -- is
- 15 | Prefect@nxivm.com, whose e-mail address is that?
- 16 A Nancy Salzman.
- 17 Q It says: Subject forward: Letter, and it says: This is
- 18 | the latest and my proposed response?
- 19 A Yes.
- 20 | Q And does this e-mail attach a letter from Edgar Bronfman?
- 21 A It does.
- 22 Q So let's turn to that.
- 23 And so June 26th, 2003, this is from -- this is
- 24 | from -- Clare is saying this is from Edgar Bronfman?
- 25 A Yes. Would you like me to read it?

- 1 Q Sure, please.
- 2 A My dear Clare. I don't -- I don't know what you're up
- 3 to, but it's very destructive. I have a hunch that you think
- 4 | you are doing God's work in trying to get me back to,
- 5 quote/unquote, the course. Perhaps, from where you stand you
- 6 | are, but I have tried to tell you that I don't trust where
- 7 Nancy is coming from or where she's going as far as this
- 8 | family is concerned. I will not renew my studies with her,
- 9 | nor will I shill for her. There seems to be a conspiracy to
- 10 turn me away from Jan.
- 11 Q Can I just stop you for a second?
- 12 Who is Jan?
- 13 A His spouse.
- 14 Q Okay. Continue, please.
- 15 A That will not happen. She, like everyone else, is not
- 16 perfect, but our relationship is solid and even if someone as
- 17 | strong and willful, as well as capable, as Nancy tries to do
- 18 | it harm, we will not be sundered. My health is good. She
- 19 | watched -- she watched what I eat and encourages me to diet
- 20 without making a crusade of it. I am dieting successfully, as
- 21 | well as working out at the gym with Pete, the best trainer I
- 22 | ever encountered.
- I am busy absorbing all the interviews I did for my
- 24 book, which I hope will be as important as the subject, the
- 25 Jewish future. That's who I am and that's what I do. I care

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Weniger - direct - Penza
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    enormously about the Jewish future and I think it's in dire
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 2
    straights. I hope my book will make -- will help make a
 3
    difference.
 4
               I regret your inability to have a relationship.
                                                                 Ι
    nonetheless love you. Pops.
 5
6
    Q
         And this is -- this e-mail -- that -- the attachment to
7
    the first page that we looked at is actually a letter-EML, is
8
    that right?
9
    Α
         Right.
10
    Q
         So it actually attached the e-mail from Edgar Bronfman,
    and then the letter that was attached to that?
11
12
    Α
         Yes.
13
    Q
         Okay. So let's just look at that for one second.
14
               (Exhibit published.)
    BY MS. PENZA:
15
16
    Ŋ
         And it's from Y-E-H-I-E-L-M?
17
    Α
         Yes.
18
    Q
         I'm not sure I pronounced that right. Yehielm@aol.com?
19
         Correct.
    Α
20
    Q
         And it's June 26th, 2003 to clarewebb21@aol.com?
21
    Α
         Right.
22
         Subject line: Letter?
    Q
         Yes.
23
    Α
24
    Q
         And it says: I wrote this after we had our abysmal
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SAM OCR RMR CRR RPR

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conversation. Love, pops.

1 A Yes.

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- 2 Q And then turning back to the first page, Clare says:
- Dear Nancy. This is the latest and my proposed response.
- And then it says: Dear Dad. You say I'm not listening to you. Do you remember projection?

And then it goes on. Did you not tell me you were going to write to Nancy? Is it not normal that I ask? You never told me otherwise. I find it interesting how you persistently come up with ways to blame Nancy and punish Sara and I.

- 12 And then it goes on.
- So fair to say this was a draft letter Clare was writing?
- 15 A Correct, yes.
- Q And then it says -- so in this e-mail from Clare to
 Nancy, she says: Please let me know what you think. I am
 trying to be more inductive. Although I'm not even sure if I
 should respond. I'm really learning about love and all the
 meaning attached to it. I also want to thank you, Nancy. I
 would be a mess right now if it was not for your help.
- 22 Is that right?
- 23 | A Yes.
- Q Okay. And then Nancy forwards this e-mail to the defendant?

Weniger - direct - Penza 5078

- 1 A Yes.
- 2 Q And says: My darling Vanguard, I received this from
- 3 | Clare after no communication since her last visit.
- 4 For some period of time did Clare Bronfman live in
- 5 New York City --
- 6 A Yes.
- 7 Q -- before moving up to Albany full-time?
- 8 A Yes.
- 9 Q I'm at a loss. What do you think? Things here are good,
- 10 | lots of ups and downs in the mission. Love and kisses in all
- 11 | the right places. Your P.
- 12 A Correct.
- 13 | Q So Nancy is forwarding that that we saw to the defendant?
- 14 | A Yes.
- 15 | Q And were there a number of these communications where
- 16 there would be a forward to the defendant about Nancy's
- 17 | communications with Clare?
- 18 A Yes.
- 19 | Q Showing you what's in evidence as Government's
- 20 | Exhibit 1443. Again, from the Yehielm@aol.com. This is a
- 21 | forwarded message from Nancy to the defendant.
- 22 Is that right?
- 23 | A Yes.
- 24 Q And forward: IDB?
- 25 A Yes.

Weniger - direct - Penza

- 1 Q Is there a bank called Israeli Discount Bank?
- 2 A There is.
- 3 Q And it says -- and it's a forward, and it says: I got
- 4 this copy of the letter from Clare. What do you think? Love
- 5 and wet kisses, P.
- 6 And this is on June 27th, 2004.
- And then the message below is from Yehielm@aol.com

 to queserasera76@hotmail.com and clarewebb21@aol.com?
- 9 A Right.
- 10 Q Do you have an understanding of whose e-mail address that
- 11 | is?
- 12 A I'm uncertain, it potentially is Sara Bronfman.
- 13 | Q I had a meeting this morning with Matthew. Who is
- 14 | Matthew?
- 15 A Matthew Bronfman is -- is Clare's stepbrother, excuse me.
- 16 Brother, I believe a half-brother.
- 17 Q Okay.
- 18 And it says: Yesterday afternoon with the two of
- 19 you was very important to me. I have a few issues with
- 20 Albany, which we should discuss. For instance, this claim of
- 21 saving the world is extreme and not credible. The fact that
- 22 Nancy was set to borrow money from Clare at well below the
- 23 market still bothers me. A young woman died in Alaska and
- 24 | some people blame Nancy's diagnosis. I have no idea how much
- 25 money you've put into Albany, nor will I ask, but that too is

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a minor issue. Having the sessions go from 8:00 a.m. until
10:00 p.m. is extreme and it's what cults do to gain dominance
over their victims. A group led by two people who call
themselves Vanguard and Prefect certainly sounds like a cult.
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I'd like to get those issues cleared up and I hope I'm not expected to be an advocate. I have assumed a neutral position and I shall maintain it unless there is some reason for me not to. I'm not sure whether or not Nancy was aware of our meeting and whether or not she's guiding you in your relationship with me. That may sound harsh, but you do understand my unease or, at least, I hope you do. You have both written me ghastly letters. You both seem to be doing extremely well and I'm happy for you. Tons of love. Pops.

From your review of the e-mails, did you have an understanding about whether Nancy was guiding the relationship between Clare and her father?

- 17 A Yes, she was.
- 18 Q Yes, she was?
- 19 A Yes.

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- 20 | Q And so that was forwarded to the defendant?
- 21 A It was.
- 22 | Q And showing you what's in evidence as Government
- 23 | Exhibit 1455.
- 24 (Exhibit published.)
- 25 BY MS. PENZA:

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Weniger - direct - Penza
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- 1 Q Is this another example of an e-mail from Clare to the
- 2 defendant where she talks about -- where she talks about her
- 3 | father?
- 4 A Yes, it is.
- 5 Q Okay. And she says that she met with him?
- 6 A Yes.
- 7 Q And that's October 25th, 2005?
- 8 A Yes.
- 9 Q November 9th, 2005, an e-mail from Clare Bronfman to the 10 defendant.
- 11 (Exhibit published.)
- 12 BY MS. PENZA:
- Q And it says: Dear Keith. I was happy to see you last night. I'm excited to be on the team.
- 15 THE COURT: Just slow down a little.
- 16 MS. PENZA: Yes, Your Honor, I'm sorry.
- 17 Q I was a little emotional last night during the meeting
- 18 with the strategy team with regards to dad. I -- I feel -- I
- 19 | feel conflicted in seeing the data and thought object of him
- 20 being dad. I was thinking about it today and a recent
- 21 conversation we had and I think it represents an inner
- 22 | conflict in my struggle of might is right versus civilization.
- 23 | And it goes on.
- And so at this point in time, what is your
- 25 understanding about this -- this description of the meeting

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Weniger - direct - Penza
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- 1 | with the strategy team with regards to dad?
- 2 A As to who it consisted of, I'm sorry?
- 3 Q No, just generally.
- 4 A That there was -- there was group decision-making being
- 5 done in regards to Clare Bronfman's relationship with her
- 6 | father and her interactions with her father.
- 7 Q And this is November 9th, 2005?
- 8 A Correct.
- 9 Q And showing you Government Exhibit 1457, December 29th,
- 10 2005.
- 11 (Exhibit published.)
- 12 BY MS. PENZA:
- 13 | Q Is this another e-mail where Clare Bronfman is reporting
- 14 to her father -- reporting to the defendant regarding her
- 15 | father?
- 16 A Yes.
- 17 MS. PENZA: Your Honor, may I approach the witness?
- 18 THE COURT: Yes.
- 19 | Q Special Agent Weniger, I am showing you what are in
- 20 | evidence already as Government Exhibits 1491-R, 1492-R,
- 21 | 1493-R, 1494-R, 1495-R, as well as Government Exhibits 1214,
- 22 | 1491, 1492, 1493, 1494 and 1495.
- 23 Can you just take a look at those for a second?
- 24 A Certainly. (Witness complies.)
- 25 | Q And I am just going to ask you some questions about those

- 1 generally. I just wanted to show them all to you first.
- 2 Thank you.
- 3 A Thank you.
- 4 | Q Special Agent Weniger, the documents that were Government
- 5 Exhibits 1491-R through 1496-R, were those all admitted by
- 6 | Steve Herbits?
- 7 A They were.
- 8 Q You were present for his testimony?
- 9 A Yes.
- 10 Q And can you just generally describe kind of how those
- 11 | exhibits relate to Government Exhibits 1214 and then 1491,
- 12 | 1492 -- 1491 through 1496?
- 13 A They're interactions between -- generally the vast
- 14 | majority of those e-mails were interactions between
- 15 Mr. Herbits and Clare Bronfman, and then also oftentimes
- 16 | including or being forwarded then to the defendant for
- 17 | purposes of guidance.
- 18 Q Okay. So the e-mails that were redacted, that were shown
- 19 to Mr. Herbits, those included the back-and-forth between --
- 20 | between Clare Bronfman and Mr. Herbits, is that right?
- 21 A Generally, yes.
- 22 | Q And then if we look at the other documents, so Government
- 23 | Exhibit 1214 I don't think we introduced a redacted version
- 24 | with Mr. Herbits, but if you look at the e-mail we start in
- 25 | November 2008. This is the e-mail. It starts November 2008

and it's Clare Bronfman to Steve Herbits:

Steve, I'm confused. I was under the impression that dad had asked you to come in and help resolve this situation, that he wanted to help us turn things around and confided in you to do so. If you do not want to or feel that you are not able to, just tell me and I can find someone who is able to.

And then we looked at -- we did look at this e-mail before, typical friend or enemy. And then it continues from Mr. Herbits.

And then this was the e-mail we had looked at from Clare Bronfman to Mr. Herbits saying: Steve, I apologize if I have offended you any way -- in any way, and then it goes on. I certainly do not consider you a puppet and your feeling this way points only to my misuse of your help. There is evidence on a lot of things and you are correct, there is someone involved in a different way. Your observations were very astute. We also have evidence of clear prejudice, wrongdoing and intent to destroy NXIVM's reputation by a different party.

The times union has written many front-page stories all supporting those who have damaged us with their criminal acts. They have failed to seek any of the facts, even to the point that they have published Hochman's work without his permission.

Who is Hochman?

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Weniger - direct - Penza
                                                                 5085
         Dr. Hochman has been discussed in prior testimony and
 1
 2
    wrote a critical report in relation to NXIVM.
 3
               (Continued on the following page.)
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SAM OCR RMR CRR RPR

- 1 BY MS. PENZA: (Continuing.)
- 2 Q And published several articles with false evidence and
- 3 | then refused to meet with or interview the company's
- 4 president. The owner of this entity is George Hearst.
- Is George Hearst one of the individuals whose purported banking information was in Government Exhibit 204?
- 7 A That's correct, yes.
- 8 Q I'm sure you recollect the situation back in the '70s with Patty Hearst. In the case brought against her, she defended herself through accusations of brainwashing.
- 11 Who's Patty Hearst?
- 12 A Just as explained.

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- Q As any person who values their intelligence is aware brainwashing implies a lack of free will and has been scientifically debunked. Then it goes on: I do believe that if Hearst were to understand we do not brainwash people, we teach tools of logic and critical thinking, things might be different. I do know that Bill Clinton in his last day in office pardoned Patty. He might be able to help.
- And then, As it relates to the funding of Rick Ross, I do not need to know who is doing what. I just want this to stop. I'm sorry if I mistakenly attempted to direct you. I also believe you can rapidly facilitate the proper indictment and conviction of Rick Ross and Joseph O'Hara?
- 25 A Yes.

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Weniger - direct - Penza
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- 1 Q And then, Mr. Herbitz responds, Including a detective
- 2 with no leads is blind. You guys have everything to gain and
- 3 | a lot to lose done badly. Others are not so at risk.
- 4 Then is this an example of Clare Bronfman sending to
- 5 the defendant an example of a response?
- 6 A Yes.
- 7 Q So she's sending a draft?
- 8 A That's correct, yes.
- 9 Q And the other e-mails, let's look quickly, she would be
- 10 | forwarding those e-mails to the defendant in some instances?
- 11 A Yes.
- 12 Q I'm sorry. That was Government Exhibit 1491 that I just
- 13 showed?
- 14 A It was.
- 15 | Q I'm going to show you what's in evidence as Government
- 16 | Exhibit 1480.
- 17 (Exhibit published.)
- 18 | Q And this is an e-mail from Clare Bronfman to Loreta Garza
- 19 | with the subject line Docs; is that right?
- 20 A Yes.
- 21 Q And it has two attachments?
- 22 | A Yes.
- 23 Q And one is an Excel sheet and then there's another
- 24 | attachment?
- 25 A Yes.

- I'm going to go to the other attachment. And is this 1 Q 2 letter written from Clare?
- 3 It appears to be, yes.

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- 4 O Okay. Would you read it, please?
- 5 Hola, Ale. Okay, here is a link to the head of Sure. the Department of Justice, the link being http://en --6
- 7 Q You don't have to read the link.
- 8 Current position held by Eric Holder. This is clearly the best connection and best process. However, I 10 believe there are other options. There is also the head of the department of each state or region in each state. A lot 12 of the time they need quote, unquote jurisdiction. However, I 13 believe with the right connections we can create jurisdiction 14 and make things happen. Our case affects so many people from 15 all over the world. It is not hard to find jurisdiction if 16 they are not trying to use it as an excuse to not prosecute. 17 So other options are Southern District of New York or Northern 18 which is not so easy. This guy is lazy and prejudiced but, 19 again, with the right relationship... and, again, the link to 20 the Northern District of New York.

These are two, but if someone has a relationship with someone of this position, we can figure things out... also there are politicians who put them into power who if they tell them to jump, they say how high, so there are options like those. Also, good to know our opposition is Steve

- 1 Herbits who is very close to Clinton, D'Amato and the Jewish
- 2 | mafia. His power, which predominantly was acquired from my
- 3 | father is not to be taken for granted. This is why we are
- 4 | where we are. He and his connections are Goliath. Let me
- 5 know if you need more. Thank you. Love, Cx.
- 6 | Q In your review of e-mails does Clare Bronfman often sign
- 7 | things as Cx?
- 8 A Yes.
- 9 Q And do you know who Ale is?
- 10 A I do not.
- 11 | Q But it's being forwarded by Loreta Garza?
- 12 A Yes.
- 13 | Q Do you know what Loreta Garza's position was in Mexico?
- 14 A Loreta Garza was responsible for Rainbow Cultural Gardens
- 15 and she also owned -- was one of the higher-ranking members of
- 16 the organization. She was also a member of DOS.
- 17 | Q Would she also have connections within Mexico as far
- 18 as --
- 19 A Oh, yes. Loreta Garza comes from a family that is very
- 20 | well-connected in terms of the media, the media industry in
- 21 | Mexico.
- 22 | Q Okay. And, so here if they are trying -- if they are
- 23 | not -- so, first of all, let me just start with this idea of
- 24 jurisdiction. Can you explain that a little bit?
- 25 A I mean, it's in quotes so when you say explain, I think

- 1 | it -- there's an idea that jurisdiction can essentially be --
- 2 | the sense I'm getting from this is that jurisdiction can be
- 3 | made wherever it needs to be made.
- 4 Q Just generally looking at these things, references to the
- 5 Attorney General, the Southern District of New York, is that
- 6 the U.S. Attorneys Office's counterpart in Manhattan?
- 7 A Yes.
- 8 Q You work with them sometimes?
- 9 A Yes.
- 10 Q And then the Northern District of New York, that would be
- 11 | our counterpart up in the Northern District of New York?
- 12 A Yes, which covers Albany.
- 13 Q Sir, are these references to prosecutor's offices?
- 14 | A Yes.
- 15 | Q So, in general, what is your sense of this e-mail?
- 16 A It's just -- it's -- it seems to be an idea or kind of a
- 17 | concept as to how enemies of Nxivm can be prosecuted, how they
- 18 can find ways to prosecute enemies.
- 19 | Q And in your understanding and review of this case, was
- 20 | there -- were there attempts to have various critics or people
- 21 | who were perceived as enemies indicted criminally?
- 22 | A Yes.
- 23 | Q I'm going to switch topics and ask you some questions
- 24 about some of the documents related to DOS. If that's okay?
- 25 A Certainly.

Weniger - direct - Penza

- 1 MS. PENZA: Your Honor, may I approach Special Agent
- 2 Weniger?
- THE COURT: Yes you may.
- 4 (Counsel approaches.)
- 5 BY MS. PENZA:
- 6 Q Special Agent Weniger, I'm showing you what's in evidence
- 7 as Government Exhibit 1327. Are you familiar with that
- 8 | document?
- 9 A I am, yes.
- 10 Q Okay. And it's hefty. I wanted to bring it over to you.
- 11 And is this an e-mail -- I'll go back to the podium. Give me
- 12 one second, please.
- And what is this document? Can you just explain
- 14 | very generally what this is?
- 15 A Sure. It's the DOS book that we've heard a bit about in
- 16 terms of being drafted by the first line of DOS.
- 17 Q And, so, we went through a lot of the DOS book during
- 18 | Lauren Salzman's testimony; is that right?
- 19 A We did, yes.
- 20 Q And, so, this is -- on this cover e-mail on January 13,
- 21 | 2017 Rosa Laura Junco -- could you remind us who Rosa Laura
- 22 | Junco is?
- 23 | A Rosa Laura Junco is a first-line DOS slave and also
- 24 | master of a number of women.
- 25 Q And she sends to the defendant, Find below the eight

Weniger - direct - Penza

- 1 chapters each in a separate document for easy access. Thank
- 2 | you for this opportunity, XO.
- 3 A Yes.
- 4 Q And there are eight chapters that are attached to this
- 5 | document?
- 6 A Yes.
- 7 Q And this document is sent from the defendant's Yahoo
- 8 | account to keithraniere@protonmail.com; is that right?
- 9 A That's correct.
- 10 Q Can you explain what Protonmail is?
- 11 A Protonmail is -- it's a highly secure e-mail service and
- 12 | it's located outside of the U.S. So it's difficult for U.S.
- 13 | law enforcement and other countries' law enforcements to
- 14 acquire.
- 15 Q Around this time, November 25, 2017, were you -- were you
- 16 trying to determine where the defendant's location was?
- 17 A At that time?
- 18 Q Yes.
- 19 A Yes, we were.
- 20 Q And that would continue for several months?
- 21 A Correct.
- 22 | Q During that time did you attempt to -- what types of
- 23 | things did you do to try to locate him?
- 24 A We did a number of things. First, we were looking on the
- 25 | phone records and things of that nature. We were also looking

- 1 | for -- at one point we attempted to get his own e-mails and
- 2 | see if there was an up-to-date use. And then we looked at
- 3 other people's phone records to see if there was other contact
- 4 with the defendant. We noticed at a certain point he began to
- 5 | stop using his normal electronic means as well as his
- 6 telephone number.
- 7 Q And did that make it more difficult for you to locate
- 8 him?
- 9 A It did.
- 10 Q And so you were able to -- if you contact Yahoo, is there
- 11 | information -- typically if somebody is using a Yahoo account,
- 12 | that could help law enforcement figure out where their
- 13 | location is?
- 14 A Yes, yes.
- 15 | Q Now Protonmail, when someone is using Protonmail is law
- 16 | enforcement able to get information from Protonmail?
- 17 | A No, generally not.
- 18 Q Do you know where they're located?
- 19 A I want to say Sweden, but I'm under oath. I'm not
- 20 | certain of that.
- 21 | Q Okay. But not -- typical process doesn't work?
- 22 | A Correct.
- 23 Q And, so, around this time, November 25, 2017, was there
- 24 | something going on with -- was there a pattern between the
- 25 defendant's Yahoo account and this Protonmail account?

- 1 A Yes. He seemed to forward a large number of his e-mails
- 2 | from the Yahoo account to the Proton account and when I say a
- 3 | large amount, the vast majority of the e-mails that he sent
- 4 were sensitive in nature, either related to DOS or otherwise.
- 5 Q Showing you what's in evidence as Government Exhibit
- 6 1326, this is an e-mail. Again this is an e-mail that starts
- 7 | from Rosa Laura Junco and on October 15, 2016; is that right?
- 8 A Yes.
- 9 Q And then again is this another one of these e-mails where
- 10 | we see it being forwarded from Keith Raniere at Yahoo.com to
- 11 | Keith Raniere at protonmail.com in November of 2017?
- 12 A Yes.
- 13 Q And the e-mail from Rosa Laura Junco says, Find attached
- 14 | the document promised. The letter S stands for what you can
- 15 | imagine!! What did the S stand for?
- 16 A S was typically used for -- S was used for slave and M
- 17 | was used for master.
- 18 Q And this is a document describing something called The
- 19 | Game?
- 20 A Yes.
- 21 | Q We have heard testimony about The Game before?
- 22 A We have, yes.
- 23 | Q And, so at the bottom there's different levels about The
- 24 | Game; is that right?
- 25 A There are, yes.

- 1 Q And I just one to look at some of these levels. This
- 2 | says, Psychological profile, collateral obtained, personal
- 3 | ethics/life issue questions answered?
- 4 A Correct.
- 5 Q And then there's Level 5, Vulnerability profile.
- 6 | Collateral obtained: Dare questionnaires, answered
- 7 | vulnerability, testing their boundaries, rules indoctrination,
- 8 | their willingness to be vulnerable?
- 9 A Yes.
- 10 Q And then at the bottom this says, Measurement of
- 11 | collateral; is that right?
- 12 A It does, yes.
- 13 Q It says, Collateral can be assessed and measured in the
- 14 | following scales. Areas: A collateral is submitted affecting
- 15 a specific area or areas. The more areas are affected, the
- 16 stronger it is. Each area affected is worth five points;
- 17 work, family, social credibility, important people affected,
- 18 assets, wealth, possessions, rights.
- 19 And then there's, Proof of authenticity. How much
- 20 can we prove the collateral is authentic? This determines how
- 21 | much the collateral is actionable.
- 22 Right?
- 23 A That's what it says, yes.
- 24 Q And then it says, To strengthen a collateral, review how
- 25 you can take it to higher levels based on the below. Level 1,

- 1 | electronic information, typed information. Level 2,
- 2 | information with a signature, information in their own
- 3 | handwriting, photo. Level 3, information notarized, audio
- 4 | stating the information. Level 4, legal document including
- 5 | checks, titles, et cetera or video"?
- 6 A Yes.
- 7 Q And then, Depth of collateral. How much would revealing
- 8 | the collateral affect their life? For final measurement of
- 9 collateral, add the above points --
- 10 So each of those things have a level of points; is
- 11 | that right?
- 12 A Yes.
- 13 | Q And multiply as follows: Becomes an inconvenience the,
- 14 | numbers of points times .5. Loses an important comfort,
- 15 | number of points, times 1. Affects by limiting options
- 16 temporary, number points times 2. Affects by limiting options
- 17 permanently, number of points times 3. Affects freedom and
- 18 | all experience of self, number of points times 4?
- 19 A Yes.
- 20 Q Showing what's in evidence as Government Exhibit 1803, is
- 21 this a series of e-mails between -- again, is this an e-mail
- 22 | from Keith Raniere at Yahoo.com to a Protonmail account?
- 23 A Yes.
- 24 | Q To karateairlinehen@protonmail.com?
- 25 A Right.

- 1 Q And that was a Protonmail account that the defendant
- 2 uses?
- 3 A We believe so, yes.
- 4 Q And this is an e-mail sent on March 4, 2016 to the
- 5 defendant?
- 6 A Correct.
- 7 Q And it says, Source payments? Hey you, I am so sorry to
- 8 | bug you but I have not been paid --
- 9 Sorry, this is from Allison Mack to the defendant?
- 10 A That's right, yes.
- 11 Q And it says: Hey you. I'm so sorry to bug you but I
- 12 | have not been paid as a head trainer for The Source since last
- 13 | year and I'm struggling a little with income. Clare says she
- 14 cannot approve the payments until you review them. Is there
- 15 some way you can review them sooner than later? I know you
- 16 are slammed, so if there is any way that I can help make this
- 17 | simpler, please let me know. I will try to figure out how to
- 18 be more streamlined with this too. I love you master XO, A.
- 19 And the defendant responds, Yes. Any news on India?
- 20 And I think we've heard a lot of testimony that
- 21 India was one of Allison Mack's slaves?
- 22 A Yes, she was.
- 23 Q And, so, the defendant -- the defendant is responding to
- 24 | Allison Mack's e-mail about The Source money with this
- 25 question: Any news on India?

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- 1 A Yes.
- 2 Q And Allison Mack writes back, She is here with me now
- 3 | working on changing her flight?
- 4 A Correct.
- 5 Q And then Allison writes back, she has changed her flight.
- 6 Is really emotional as money is tight, but totally see the
- 7 | value in what the lesson is and how it is moving her ahead.
- 8 | She sees how this relates to her whole life. It is good. She
- 9 | should reach out to you re meeting again to complete the
- 10 assignment. XO, A?
- 11 A Correct.
- 12 | Q And so that e-mail was on March 4th?
- 13 A Yes, of 2016.
- 14 Q And then this is -- this is another -- showing you
- 15 | Government Exhibit 1805.
- 16 (Exhibit published.)
- 17 | Q This is another one of those forwards to Protonmail in
- 18 | November of 2017?
- 19 A Yes.
- 20 Q And just skipping ahead to the middle part. It says, Got
- 21 | in touch with Steve Heyworth's assistant.
- Do you know who Steve Heyworth is?
- 23 A Yes.
- 24 Q Who was Steve Heyworth?
- 25 A I believe he was an individual that was contacted by the

- 1 | first line for the purposes of looking for branding and
- 2 | branding information or, like, a seminar on branding, but also
- 3 to actually conduct branding.
- 4 Q And then there is a statement, As well I've been thinking
- 5 lots about, quote, The Program. I am so looking forward to
- 6 getting started. Is there something I can do to move it
- 7 | ahead? And then here is an e-mail from the defendant. And he
- 8 | says, "Does India know to complete her, she needs to take all
- 9 of her clothes off while I am clothed, pose in the most
- 10 | revealing way and have me take a picture of her with her phone
- 11 to be immediately sent to you as proof?
- 12 A Yes.
- 13 | Q And Allison Mack response, Wahoo, with a smiley face?
- 14 A Yes.
- 15 | Q And that was one day before the e-mail about India
- 16 changing her flights?
- 17 A Correct.
- 18 | Q Showing you what's in evidence as Government Exhibit
- 19 | 1287, are you familiar with this document?
- 20 A Yes.
- 21 | Q Okay. And, so, fair to say there is -- it starts with a
- 22 | back and forth between Nicole and Allison -- and Allison Mack?
- 23 | A Yes.
- 24 | Q And turning here, on October -- so on October 20th
- 25 | Allison forwards the back and forth to -- sorry, let me just

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    show you this. On October 20, 2016 Allison forwards the chain
1
 2
    to the defendant and writes: I am not sure what to do?
         Yes.
 3
    Α
 4
    Q
         And then the defendant writes back, what aren't you sure
         What are your options? What bothers you the most?
5
6
    Α
         Yes.
7
    Q
         Okay. And Allison -- and this is -- and Allison writes
8
    back on October 21, 2016 at 11:40 a.m.?
9
    Α
         She does.
10
    Q
         October 21, 2016, where -- you were present for Nicole's
11
    testimony?
12
    Α
         I was.
13
         Okay. Where does October 21st fit in?
         I believe this is -- this is where -- is this the meeting
14
15
    in -- I'm not quite sure, to be honest with you. I think this
16
    is the meeting where she's met in New York City by Allison
17
    Mack.
18
               (Continued on the following page.)
19
20
21
22
23
24
25
```

- 1 BY MS. PENZA (Continuing):
- 2 Q October 21, 2016?

- 3 A I'm not quite certain.
- 4 Q So, can you read this e-mail, please?
 - A I don't know how to help her see the value of what we are doing when she seems so committed to not. I feel I have to force her into believing this is good, all the while she is screaming and yelling how much it is not.

It bothers me that she is stilling working with another life coach. I didn't know she was doing this until she mentioned her, quote/unquote, coach in the letter, and, yet, it doesn't feel okay for me to tell her she can't do that.

Her tantrums are working on me and I don't know how to make it better, as part of me wants to let her go, she seems so unhappy, like we are killing her dreams, her spirit, her life. It is rough and her need to believe this is true makes it seem unresolvable. She seems like she refuses to change her perspective. I don't know what to do about that.

I question my approach with her. I feel like maybe if I was more integrated, more loving, more present, more attentive she wouldn't feel this way. My impulse is to just give her more of what she wants, but I know this isn't good either.

Options: One, spend more time with her. Connect

1 | with her hourly to check in and make sure she is okay.

Two, be more hard on her, more force. Tell her to leave her coach, stop complaining, give her a challenging task she has to do in order to break her.

Three, command her to move here. Bring her close so I can keep a better eye on her and work with her more directly/intimately.

Four, let her out of The Vow. Let her go completely.

Five, back off all together. Don't let her out of Vow but let her struggle without chasing her and see how she does.

Six, be honest with her re my experience of her struggle and how it effects her and me and you. Teach her the effects of her behavior in a loving/nonpunishing way so she can see what she is doing and, hopefully, be inspired to change it herself.

Are there things I am not seeing?

Thank you for your guidance in this, M. She is a toughy.

XO, A.

Q Showing you what's in evidence as Government Exhibit 1816.

(Exhibit published to the jury.)

Q Is this an e-mail change between Michele and Allison?

- 1 A Yes.
- 2 Q This is November 19, 2016?
- 3 A Yes.
- 4 Q And it says -- why don't I read the first part and then
- 5 | you can read the second part?
- 6 A Before we move forward, I apologize, if we could go back
- 7 | to the last e-mail. I just want to check a date, because you
- 8 had asked me a question...
- 9 Q I did ask you a question.
- 10 A You did.
- 11 | Q Are you recollecting when this was?
- 12 A It's shortly -- I am not, actually. My apologies.
- 13 Q Special Agent Weniger, do you remember when Nicole had
- 14 | the table assignment?
- 15 A Yes, I'm sorry. This is right immediately -- I believe
- 16 this is immediately -- no, I'm not recollecting. My
- 17 apologies.
- 18 Q Okay. So, we'll go back to 1816, Michele to Allison
- 19 | Mack.
- 20 Hi, M. I forgot two things from my list that I
- 21 already submitted. Here's the update for mine. Already
- 22 | submitted -- what you have -- sexual child abuse accusation,
- 23 | there are two of those; child abuse/statutory rape letter;
- 24 | flash drive with nude photos and sex tape; and a notarized
- 25 | letter turning over an inheritance to my dad's house in

- 1 | Sheffield.
- 2 Is that where the Berkshires house was?
- 3 A Yes, correct.
- 4 Q Nude photos of myself and a sexual video of me.
- 5 A Yes.
- 6 Q And then created but not yet submitted -- I'll just go
- 7 | over -- a letter to someone saying I got pregnant, cheated on
- 8 him and ended up having an abortion; a video of me to my
- 9 | mother, telling her that my dad sexually abused me as a child.
- 10 It goes on.
- 11 And then at the bottom, it says: And from Souki.
- 12 Who was Souki in relation to Michele?
- 13 A Souki was Michele's slave.
- 14 | Q And this has things that she submitted?
- 15 A Correct.
- 16 Q And there are certain letters, there's a renunciation of
- 17 | inheritance, there is another letter about sexual abuse.
- 18 A Correct.
- 19 | Q And it goes on, and then at the bottom, Michele writes:
- 20 | I told her she still owes me five more pieces in addition to
- 21 | what has not been submitted and then there will be another
- 22 | piece that needs to be submitted in December.
- 23 | A Yes.
- 24 (Exhibit published to the jury.)
- 25 | Q Showing you what's in evidence as Government 1817, can

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- 1 | you read this e-mail and explain the from and to?
- 2 A Sure. This e-mail is from Allison Mack, the date is
- 3 November 23, 2016, and it is to her -- all of her slaves, her
- 4 direct slaves. The subject is: Assignments.
- Note: When you submit your monthly collateral to
- 6 me, you will upload it to a Dropbox file I just shared with
- 7 | you called, quote, collateral. You will label it in a file
- 8 | which includes your initials and the date submitted, e.g.,
- 9 | I011.27.16. You will tell me right when you have uploaded the
- 10 | file. I will then go into the file and download the data on
- 11 to a secure external drive. Please do not send anything in
- 12 any other form, e-mail, or format.
- 13 Copy?
- 14 X0, A.
- 15 Q That's Allison sending it to all four of her slaves?
- 16 A Correct.
- 17 Q So, that was November 23, 2016?
- 18 A Yes.
- 19 (Exhibit published to the jury.)
- 20 | Q Showing you what's in evidence as Government Exhibit
- 21 | 1818, this is on November 24, 2016?
- 22 | A Yes.
- 23 | Q Here, is Allison requesting certain questions about
- 24 | collateral?
- 25 A Correct.

- 1 Q Asks to list the collateral, a description of the
- 2 | collateral, who has the collateral, what area of your life is
- 3 effected. And this list, work, family, social credibility,
- 4 | important people effects, assets, rights, other, were those
- 5 | similar to what we saw in the game e-mail?
- 6 A Yes. Also, number six as well.
- 7 Q Number six, can you explain that?
- 8 A Proof of authenticity in terms of level.
- 9 Level 1: A, electronic info; B, typed.
- 10 Level 2: A, photo; B, signed; C, in your own
- 11 | handwriting.
- 12 Level 3: A, notarized; B, audio recording.
- Level 4: A, legal document; B, video.
- 14 And then number seven, depth of effect: Creates an
- 15 | inconvenience; loses an important comfort; temporarily limits
- 16 options; D, permanently limits options E, damages freedom an
- 17 | all experience of self.
- We saw that as well in the game e-mail.
- 19 Q And then it says: I need this information before
- 20 | tomorrow at 7:00 p.m.
- 21 A Yes.
- 22 | Q Closing doors, making commitments, building trust. Let's
- 23 get strong. XO, A.
- 24 A Yes.
- 25 Q So, this is sent on November 24, 2016?

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Weniger - Direct - Penza
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         Yes.
1
    Α
 2
          That's a little more than a month after Rosa Laura Junco
 3
    sent the game document to the Defendant; is that right?
 4
    Α
         That's right.
5
               MS. PENZA: May I just have one moment, please?
               THE COURT:
                           Yes.
6
7
               (Pause in proceedings.)
8
               (Exhibit published to the jury.)
9
    Q
         Showing you what's in evidence as Government Exhibit
10
    1801, is this another one of the e-mails forwarded from the
    Defendant to his protonmail account?
11
12
    Α
         Yes.
13
         Who is this an e-mail chain between?
14
         This is an e-mail chain between Valerie, who is a DOS
15
    slave, and Keith Raniere.
16
         Can you just remind us how Valerie fits in in the chain?
17
         She's in Allison Mack's line.
    Α
    Q
18
         Do you remember who her master --
         What's that?
19
20
         I'm going to show you what's in evidence as Defense
    Exhibit 941.
21
22
               (Exhibit published to the jury.)
23
    Α
         Yes.
24
    Q
          Is Valerie in that picture?
25
         Yes, she is.
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Weniger - Direct - Penza

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- 1 Q Can you just circle on your screen who she is?
- 2 A Sure.
- 3 Q Not working?
- 4 Is this her?
- 5 A Correct.
- 6 Q And, so, this is an e-mail chain between the Defendant
- 7 | and Valerie?
- 8 A Yes.
- 9 Q Starting on March 4, 2017, the Defendant says: Instead
- 10 of your having to rearrange your schedule, maybe we can walk
- 11 on Sunday later, after the intensive if you like. I'm not
- 12 | absolutely sure I'll be available, but it is likely.
- 13 A Yes.
- 14 | Q Valerie writes: Yes, I would love to walk with you.
- 15 Just in case you need to reach me quicker, here's my number.
- 16 A Yes.
- 17 | Q The Defendant responds: Where are you staying?
- 18 She says: Checking in about tonight. Do you have
- 19 | an idea of time?
- 20 A Yes.
- 21 | Q The Defendant responds: Are you available at all hours
- 22 of the night? I suspect I will be up all night and I often
- 23 | walk in the middle of the night and early morning.
- 24 A Yes.
- 25 | Q And then it goes on. And then reading here, can you read

LAM OCR RPR

- 1 | Valerie's e-mail on March 5, 2017?
- 2 A Heading to get some sleep. Setting my alarm for
- 3 4:00 a.m. I will check my e-mail then. Not sure how to
- 4 | coordinate specific meeting place, but I am at India's. And
- 5 | if you set a time in this response, at 4:00 a.m. I will check
- 6 and I will be outside ready at the time you give. Here is my
- 7 | number again. If you want to meet in the middle of the night,
- 8 I'm a light sleeper so a text will wake me and I will come
- 9 | meet. Signed, Valerie.
- 10 Q How did the Defendant respond?
- 11 A I'll text you and meet you outside; likely, more around
- 12 4:15 a.m. or later.
- 13 (Exhibit published to the jury.)
- 14 Q Showing you what's in evidence as Government Exhibit
- 15 | 1267, can you explain what this is?
- 16 A Yes. This is a e-mail from Rosa Laura Junco to Keith
- 17 | Raniere, the Defendant, on September 10, 2015. And it reads:
- 18 | Find below the schedule and costs of the program I propose.
- 19 It's in relation to the girls school that Rosa Laura
- 20 Junco was starting.
- 21 | Q Can you explain what this is?
- 22 A This appears to be the schedule that she was proposing.
- 23 It includes the names Lauris and Carlotta's schedule.
- 24 Q Do you know who they are?
- 25 A I'm familiar with Lauris. I believe Lauris is Rosa Laura

- 1 Junco's daughter.
- 2 Q Do you know how old she is?
- 3 A Presently, I'm not sure, but she's a teenager.
- 4 Q She's a teenager and a teenager on September 10, 2015?
- 5 A Yes.
- 6 Q Not 18 yet?
- 7 A Not 18 yet.
- 8 (Exhibit published to the jury.)
- 9 Q Showing you what's in evidence as Government Exhibit
- 10 | 1325, this is another e-mail that the Defendant forwarded to
- 11 himself on November 25, 2017?
- 12 A Yes.
- 13 | Q To one of his two protonmail accounts that we've looked
- 14 | at?
- 15 A Yes.
- 16 Q And it forwards an e-mail from October 4, 2015, from Rosa
- 17 Laura Junco?
- 18 A Yes.
- 19 Q Can you read this e-mail, please?
- 20 A Yes.
- 21 Hello, M. I fear I may be affecting Lauris and your
- 22 possibility for success. I used to easily feel inspired and
- 23 | alive. I feel now crippled to operate my daily life. I am
- 24 being a crappy SL.
- 25 | Q Can you tell what "SL" is an abbreviation for?

A Slave.

I can't find the inspiration to become uplifting, regaining some hope.

What triggered this state has been experiencing the complexity of your life and commitments and knowing intuitively that it will only get more complex and complicated. I love you and have enough of a conscience to want only what's best for you and serve you. I don't want to add more to your burdens.

Wanting anything from you automatically makes me a burden, so I can't allow that. Part of me feels love, but the other part of me feels neglected, doomed to miss out. I should know better than to want petty things.

I humbly share this because it may be affecting

Lauris, keeping her away from you. If I don't experience my

commitment to you joyfully, I cannot genuinely projectively

want that for my daughter, and she probably feels that.

Personally, I feel it's a phase that I will outgrow, but we

don't have time. I have failed to overcome it and I want your

thoughts before I do more damage.

I am 100 percent clear that you are what I want for my daughter and, obviously, for myself.

I am sorry for my shortcomings. Frown face. RL.

Q Special Agent Weniger, in the course of your investigation, did you review various items that indicated

- 1 whether or not the members of the first line were sexually
- 2 | involved with the Defendant?
- 3 A Yes.
- 4 Q And can you just explain?
- 5 A Yes. So, we were able to -- during the course of our
- 6 investigation, we were able to review e-mails and
- 7 | correspondence, and, also, just photographs that were
- 8 exchanged between the first-line DOS slaves and the Defendant.
- 9 And they were sexually -- suggestive of a sexual relationship.
- 10 (Exhibit published to the jury.)
- 11 | Q Showing you what's in evidence as Government Exhibit
- 12 | 1828, this is, again, an e-mail forwarded from a protonmail
- 13 | account, from one of his protonmail accounts?
- 14 | A Yes.
- 15 | Q And it's a forward from Allison Mack on March 4, 2016?
- 16 A Correct.
- 17 Q I won't ask you the date where it goes in relation to
- 18 Nicole, but maybe we can talk about that in the morning.
- 19 Here, it says: I wanted to reach out to you both
- 20 and thank you for this morning.
- 21 | A Yes.
- 22 | Q I arrived home and looked at myself in the mirror, and
- 23 | what I saw was such beauty and grace. I am new to this, to
- 24 | being with more than one person, to exploring and
- 25 | experimenting with my body and others in a free and open way,

- 1 to sharing and releasing and relaxing and enjoying.
- 2 A Yes.
- 3 Q The level of vulnerability is high and I feel nervous and
- 4 insecure.
- 5 A Yes.
- 6 Q And then just skipping -- were you able to tell from this
- 7 | e-mail who Allison sent this to other than the Defendant?
- 8 A I believe Daniela Padilla.
- 9 Q And at the bottom, it says: I love that I smell like a
- 10 mixture of you both.
- 11 A Yes.
- 12 Q So, at least as of March 4, 2016, does this show
- 13 | something about Allison's Mack's sexual relationship with the
- 14 | Defendant?
- 15 A Correct, yes.
- 16 MS. PENZA: Your Honor, may I have the Elmo?
- 17 Maybe I can ask everyone to move their screens and
- 18 | just have the Elmo for the parties and the jury.
- 19 (Exhibit published to the jury.)
- 20 | Q Special Agent Weniger, I'm showing you what's in evidence
- 21 as Government Exhibit 671.
- 22 Can you describe what this picture is?
- 23 A Yes. This would be what was termed a "family photograph"
- 24 | that was -- were typically conducted at the beginning of
- 25 | meetings amongst the DOS first line.

- 1 Q And the does the Government have family photographs other
- 2 than of the first line in its possession?
- 3 A Yes.
- 4 Q Of other than the first line?
- 5 A I'm sorry.
- 6 Q Does the Government have family photographs of any other
- 7 of the circles, other than the first line?
- 8 A No, but we are aware that others did conduct family
- 9 photographs.
- 10 Q And is this, what is described as a, quote, family
- 11 | photograph, how does this compare to what has been described
- 12 | as a family photograph for lower ranking slaves?
- 13 A It's consistent.
- 14 | Q Can you just describe who everyone is and just generally
- 15 | what they look like?
- 16 A Sure. So, beginning on the left-hand side of the photo
- 17 | is Daniela Padilla, after her is Loretta Garza, Allison Mack,
- 18 | Monica Duran, Nicki Clyne, and Rosa Laura Junco.
- 19 From the first line, there do appear to be two
- 20 | individuals missing, one being Camila and the second being
- 21 | Lauren Salzman.
- 22 | Q And was this photo dated November 2016?
- 23 A Yes. So, it predated the involvement of Lauren Salzman.
- 24 | Q So, Lauren Salzman was not yet a first-line DOS slave?
- 25 A Correct.

- 1 Q I know there are black bars covering here, but, in
- 2 general, would it be fair to describe all of the individuals
- 3 | as having a fair amount of pubic hair showing?
- 4 A Yes.
- 5 (Exhibit published to the jury.)
- 6 Q One last topic. Showing you what's in evidence as
- 7 Government Exhibit 669, are you familiar with this document?
- 8 A Yes.
- 9 Q Fair to say that as of when you became involved in this
- 10 case, in October 2017, that this was on a NXIVM website?
- 11 A Yes.
- 12 | Q And this is a biography of the Defendant?
- 13 A It is.
- 14 Q I want to bring you to right here. Can you read starting
- 15 | with the second paragraph starting here?
- 16 A Sure.
- 17 Keith Raniere entered Rensselaer Polytechnic
- 18 Institute, RPI, at age 16. From his first semester onward, he
- 19 | began taking Ph.D.-level mathematics courses, ultimately
- 20 | taking most of the graduate level physics and mathematics
- 21 | courses available at the time. Upon graduating, he became
- 22 | RPI's first triple major, earning degrees in mathematics,
- 23 | biology, and physics, with minors in philosophy and psychology
- 24 and an expertise in computer science.
- 25 (Exhibit published to the jury.)

- 1 Q And we'll look at this a little bit more in the morning,
- 2 | but showing you what's in evidence as Government Exhibit 670
- 3 | and turning to the second page, can you tell me what this
- 4 document is?
- 5 A Sure. This is Mr. Raniere's transcript from RPI.
- 6 Q And, again, we'll go over it a little bit more tomorrow
- 7 because we're getting to the end of the day, but is this
- 8 Mr. Raniere's final GPA?
- 9 A Yes, it is.
- 10 Q Can you read what it was?
- 11 A 2.26.

16

17

18

19

20

21

22

23

24

- MS. PENZA: Your Honor, I think this would be a good place to end for the day.
- 14 THE COURT: All right.
 - Members of the jury, we're going to adjourn for the day and we're going to return again tomorrow morning at 9:30 and we'll have half-day of testimony.
 - I remind you that it's important that you follow my instruction that you not discuss the case with anybody; not your family, friends, business associates, and not your fellow jurors.
 - Also, you must not read, listen to, watch, or access any accounts of this case on any form of media, such as newspaper, TV, radio, podcast, or the internet, or research or seek outside information about any aspect of the case.

And do not communicate with anyone about the case on your phone, whether through e-mail, text messaging, or any other means, by any blog or website or by way of any social media, including Facebook, Twitter, Instagram, YouTube, or other similar sites.

Also, remember you should not consider anything you

Also, remember you should not consider anything you may have read or heard about the case outside of this courtroom previously, whether you read it before or during jury selection or the trial, and do not visit any of the locations identified during the course of the jury selection and trial.

If you are taking notes, please leave them in the jury deliberation room. We'll see you tomorrow morning at 9:30. Thank you for your attention.

All rise for the jury.

(Jury exits.)

18 (Continued on the following page.)

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5118
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    (Continuing.)
1
 2
               (In open court - jury not present.)
 3
              THE COURT: All right, Special Agent, you may step
 4
    down.
5
              THE WITNESS: Thank you, sir.
               (Witness steps down.)
6
7
              THE COURT: Anything else from the Government for
8
    tonight?
9
              MS. HAJJAR: No, Your Honor.
10
              THE COURT: Anything else from the defense?
11
              MR. AGNIFILO: Nothing from us, Your Honor.
12
              MS. GERAGOS: Just one thing, Your Honor.
13
              THE COURT: Everyone in the back may be seated.
14
              MS. GERAGOS: Ms. Penza read from Government
    Exhibit --
15
16
              THE COURT: I'm sorry.
17
              MS. GERAGOS: Ms. Penza read from Government
18
    Exhibit 1325, but we didn't admit that one before.
19
    just --
20
              MS. PENZA: Oh, I'm sorry.
21
              THE COURT: But you didn't --
22
              MS. GERAGOS: She didn't admit it before.
23
              THE COURT: Is there an objection?
24
              MS. GERAGOS: No, we consented.
25
              MR. AGNIFILO: No.
```

```
Proceedings
                                                                5119
1
                          Oh, thank you, Your Honor.
              MS. PENZA:
                                                       So the
 2
    Government moves 1325 into evidence.
 3
                          Right. 1325 is receives in evidence.
              THE COURT:
 4
               (Government's Exhibit 1325 was received in
    evidence.)
5
6
              THE COURT: And I will get an updated list of all of
7
    the exhibits tomorrow morning, which I am very much looking
8
    forward to. It is now on two pages, single-spaced.
9
              MS. SMITH:
                          Yes, it is getting long.
              THE COURT: All right. Anything else?
10
11
              MS. PENZA: No, Your Honor. Thank you.
12
              THE COURT: See you tomorrow morning.
13
              Thank you, everybody.
14
               (The defendant exited the courtroom.)
15
               (Judge NICHOLAS G. GARAUFIS exited the courtroom.)
16
17
       (Matter adjourned to Friday, June 14, 2019 at 9:30 a.m.)
18
19
                                0000000
20
21
22
23
24
25
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