

Computer Scientist Loveall II, this conclusion is faulty. Exhibit C, Loveall Decl. ¶¶ 17-18.

But in any event, the digital evidence underlying this purported “finding” was known to Raniere at the time of trial. Indeed, it was undisputed at trial that the metadata associated with at least some of the files had various anomalies, including a “creation date” in 2003, a “modified” date in 2005, and an “accessed” date in 2010, and Raniere’s counsel cross-examined FBI CART Senior Forensic Examiner Booth at length regarding these and other characteristics of the electronic data.⁵ See, e.g., Exhibit B-012-019.

Raniere was also aware at the time of trial that law enforcement agents had
NOTE: Access without a write blocker means the data was altered.

accessed the camera card of the Canon EOS 20D camera without a write blocker on September 19, 2018, and Raniere’s trial counsel cross-examined Senior Forensic Examiner Booth regarding that access.⁶ See Exhibit B-020-021 (testimony acknowledging that the camera card had been accessed while in the custody of the FBI on September 19, 2018). Examiner Booth testified, on cross-examination, that the camera card had been accessed “while it was in the possession of the FBI.” Exhibit B-020. Raniere’s trial counsel, however, did not raise the issue with the Court or the government and made no attempt to question any law enforcement agents regarding the access, including the case agent who

⁵ The child pornography images on the Western Digital Hard Drive were recovered by law enforcement over a decade after they were created, and were discovered on a computer drive onto which a Dell computer had apparently been backed up. The government put forth no evidence at trial regarding the way in which the images had been copied onto the Western Digital Hard Drive. **NOTE: There is no photo tech in the chain of custody**

⁶ This access was not the result of law enforcement “tampering,” as Raniere’s motion claims. Rather, having no reason to believe that the metadata of the contents of the Canon EOS 20D camera card had any evidentiary value, law enforcement agents directed that a photograph technician copy the photographs from the camera card in order to provide the photographs more expeditiously to defense counsel. Shortly thereafter, on September 25, 2018, the government provided Raniere with copies of the photographs from the camera.