APPENDIX

Appendix A – Summary Order of the United States Court of Appeals for the Second Circuit, dated December 9, 2022

20-3520-cr (L)
United States v. Rainere

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to a summary order filed on or after January 1,2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this Court's Local Rule 32.1.1. When citing a summary order in a document filed with this Court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel,

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 9th day of December, two thousand twenty-two

PRESENT: GUIDO CALABRESI,
JOSE A. GABRANES,
RICHARD J. SULLIVAN,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

20-3520-cr (L);
20-3789-cr (Con)

KEITH RANIERE, also known as Vanguard, and CLARE BRONFMAN,

Defendants - Appellants,

ALLISON MACK, KATHY RUSSELL, LAUREN SALZMAN, and NANCY SALZMAN, also known as Prefect,

Defendants - Appellants,

ALLISON MACK, KATHY RUSSELL, LAUREN SALZMAN, and NANCY SALZMAN, also known as Prefect,

Defendants.

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* The Clerk of Court is directed to amend the caption as set forth above.

For APPELLEE: TANYA HAJJAR**,**

Assistant United States Attorney (Kevin Trowel, Assistant United States Attorney, *on the brief), for* Breon Peace, United States Attorney, Eastern District

of New York, Brooklyn, NY.

FOR DEFENDANT-APPELLANT RANIERE: JOSEPH M. TULLY, Tully & Weiss Attorneys at Law, Martinez, CA (Jennifer Bonjean, Bonjean Law Group, PLLC, New York, NY, *on the brief*).

FOR DEFENDANT-APPELLANT BRONFMAN: RONALD S. SULLIVAN, JR., Ronald Sullivan Law PLLC, Washington, DC (Daniel R. Koffmann, Quinn Emanuel Urquhart, & Sullivan, LLP, New York, NY, on the brief.

Appeal from judgments, entered October 7, 2020, and October 30, 2020, by the United States District Court for the Eastern District of New York (Nicholas G. Garaufis, *Judge)*

UPON DUE CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the October 7, 2020 and October 30, 2020 judgments of the District Court be and hereby are **AFFIRMED**.

On March 13, 2019, a federal grand jury returned a Second Superseding Indictment ("Indictment") charging Defendant Keith Raniere with, inter alia, racketeering, sex trafficking, and a forced-labor conspiracy involving multiple victims.

The Indictment also charged Defendant Clare Bronfman and others with a number of related crimes.

The Government alleged that Raniere was the founder of a self-styled executive coaching and self-help organization called NXTVM, and that Bronfman served on NXTVM's executive board. It further alleged that Raniere maintained a rotating group of female NXTVM members with whom he had sexual relationships. These women were barred from both having sexual relationships with anyone but Raniere and disclosing their relationship with Raniere to others.

As alleged, members of Raniere's "inner circle" would recruit vulnerable members of NXTVM to a secret society called "DOS," an acronym for "Dominus Obsequious Sororium," a phrase that roughly translates to "Lord/Master of the Obedient Female Companions." DOS was run as a pyramid organization, with Raniere on the top, followed by first-line "masters," and then "slaves." Apart from Ranieri, all other DOS members were women. DOS "masters" would recruit "slaves" to the organization, who were required to deposit "collateral" to show their commitment to the organization in the form of, inter alia, sexually explicit photographs and videos depicting the slaves in compromising positions, letters accusing loved ones of wrongdoing, and credit card authorizations. DOS "masters" would give their "slaves" assignments, which included uncompensated labor like buying groceries, cleaning, and organizing. DOS "masters" would also give their "slaves" assignments to engage in sexual acts with Raniere.

DOS "slaves" who failed to comply with their "masters'" assignments risked the release of their "collateral."

Following a six-week jury trial, Raniere was convicted on all counts submitted to the jury.[1] He now raises various challenges to his convictions. Separately, Bronfman—who pleaded guilty to two counts prior to the commencement of Raniere's trial—brings a challenge to the procedural reasonableness of the District Court's imposition of an 81-month sentence for her crimes.

We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal. Raniere's appeal as it concerns his convictions for sex trafficking, attempted sex trafficking, and sex trafficking conspiracy, in violation of 18 U.S.C. § 1591—including both his

[1] We refer to the counts as they appear on the verdict sheet: racketeering conspiracy (Count 1); racketeering (Count 2); forced labor conspiracy (Count 3); wire fraud conspiracy (Count 4); sex trafficking conspiracy (Count 5); sex trafficking of Nicole (Count 6); and attempted sex trafficking of Jay (Count 7). The jury found that the Government had proved all of the racketeering acts alleged on the verdict sheet: conspiracy to commit identity theft — Ashana Chenoa (Act 1A); conspiracy to unlawfully possess identification document (Act IB); sexual exploitation of a child on November 2, 2005 — Camila (Act 2); sexual exploitation of a child on November 24, 2005 — Camila (Act 3); possession of child pornography (Act 4); conspiracy to commit identity theft (Act 5A); identity theft —James Loperfido (Act 5B); identity theft — Edgar Bronfman (Act 5Q; conspiracy to alter records for use in an official proceeding (Act 6); conspiracy to commit identity theft — Marianna (Act 7); trafficking for labor and services — Daniela (Act 8A); document servitude — Daniela (Act 8B); extortion (Act 9); sex trafficking — Nicole (Act 10A); forced labor — Nicole (Act 10B); and conspiracy to commit identity theft - Pamela Cafritz (Act 11).

challenges to the relevant jury instructions and his sufficiency-of-the-evidence arguments— is addressed in an opinion entered this same day. We write separately here to address Raniere's remaining claims as well as Bronfman's appeal, and address each in turn.

I. RANIERE'S APPEAL

A. Sufficiencv-of-the-Evidence Challenges

Raniere first argues that insufficient evidence was presented to the jury to sustain his convictions for various counts. Where, as here, claims of insufficiency are preserved below, we review those claims *de novo. United States v. Capers,* 20 F.4th 105,113 (2d Cir. 2021). A defendant challenging the sufficiency of the evidence at trial "face[s] a heavy burden because we must sustain the jury's verdict if, crediting every inference that could have been drawn in the government's favor and viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* (cleaned up). "A court may enter a judgment of acquittal only if the evidence that the defendant committed the crime alleged is nonexistent or so meager that no reasonable jury could find guilt beyond a reasonable doubt." *Id.* (quoting *United States v. Atilla,* 966 F.3d 118,128 (2d Cir. 2020)).

We address Raniere's numerous sufficiency claims below

a. Forced Labor and Forced Labor Conspiracy, in Violation of 18 U.S.C. § 1589 (Count 3 and Racketeering Act 10B)

In challenging the sufficiency of the evidence on the forced labor conspiracy charge (Count 3) and the racketeering act of forced labor of Nicole (Act 10B)[2], Raniere argues (1) that the "acts of service" that Nicole conducted for Allison Mack were "isolated personal favors and kind gestures" that do not rise to the definition of "labor or services" used in the statute, 18 U.S.C. § 1589; and (2) that Nicole had "knowingly consented to these types of activities as part of her membership in DOS." Raniere's Br. 33. We find neither argument convincing.

As to the first argument—that Nicole's "acts of service" do not rise to the level of "labor or services" as that term is used in Section 1589—we begin by looking to the "ordinary meaning" of the statutory phrase "labor or services." *United States v. Marcus,* 628 F.3d 36, 44 (2d Cir. 2010). Labor includes the "expenditure of physical or mental effort especially when fatiguing, difficult, or compulsory." *Id.* at 44 n.10 (quoting Merriam-Webster's Third New International Dictionary Unabridged (2002)). Here, evidence presented to the jury showed that DOS "slaves" were coerced into providing uncompensated work by the threat of the release of their "collateral." In particular, the Government offered evidence at trial that Nicole provided uncompensated work for

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[2] The District Court ordered that during trial, certain witnesses only be referred to by first name or pseudonym. We address the propriety of the District Court's order *post.*

Mack, including transcribing tapes and reviewing articles. **[Gov. App'x 786.]** Thus, we conclude that "the plain meaning of the forced labor statute unambiguously applies to [Raniere's] conduct." *Id.* at 45.

The second argument—that Nicole had consented to the labor—is also unconvincing. "The fact that [Nicole's] enslavement arose from her initial participation in consensual [DOS] activities does not require" us to infer, much less conclude, that Nicole consented to all of the labor she subsequently undertook. *See id.* At trial, the Government presented evidence that Nicole was required to produce "collateral," including in the form of sexually explicit videos of herself, letters in which she falsely accused her father of sexual abuse, and credit card authorization forms, which she feared would be released if she failed to comply with Mack's directives. **[Gov. App'x 738—40.]** Upon review of the record, we conclude that the jury was presented with ample evidence showing that Nicole's labor was nonconsensual. There is therefore no basis for overturning the forced labor or forced labor conspiracy convictions.

b. <u>Sexual Exploitation of a Child, in Violation of 18 U.S.C. § 2251 (Racketeering Acts 2 and 3)</u>

Raniere argues that the Government failed to prove the racketeering acts of child exploitation of Camila (Racketeering Acts 2 and 3), principally pointing to the fact that Camila did not testify at trial. Raniere argues that, at most, his possession of explicit photographs dated November 2, 2005 and

November 24, 2005 shows that he was guilty of mere *possession* of child pornography. He argues that no evidence was presented specifically showing that he "employ[ed], use[d], persuade[d], induce[d], entice[d], or coerce[d]" Camila to engage in sexually explicit conduct, in violation of 18 U.S.C. § 2251. *See* Raniere's Br. 36—37.

We do not agree. Even without Camila's testimony, the jury was presented with ample evidence showing that Raniere began sexually abusing Camila in September 2005. *See, e.g.,* Gov. App'x 710-1—10-4,1171,1268 (emails and text messages between Camila and Raniere referring to the beginning of their sexual relationship as around September 2005); Gov. App'x 416—17 (testimony from Daniela that she had spoken to Raniere about his sexual relationship with Camila at some point before the fall of 2006). Moreover, the jury was shown messages between Camila and Raniere specifically referencing Raniere's creation and possession of the November 2005 photographs. *See, eg,* Gov. App'x 1173. And the electronic folder containing the photographs of Camila also contained nude photographs of other women with whom Raniere had a contemporaneous sexual relationship. In sum, the jury was presented with sufficient evidence to conclude beyond a reasonable doubt that Raniere was guilty of sexually exploiting Camila.

c. <u>Conspiracy to Alter Records for Use in an Official Proceeding, in Violation of 18 U.S.C. § 1512(c)(1) (Racketeering Act 6)</u>

Next, Raniere argues that the Government did

not prove the existence of a conspiracy to alter records for use in an official proceeding (Act 6). He concedes that the Government offered evidence that Mark Vincente, one of Raniere's alleged co-conspirators, altered or arranged for the alteration of certain video tapes—which were produced in discovery as part of a federal civil action, *NXIVUM Corp., etal., v. Ross Institute, etal.,* No. 06-CV-1051 (D.N.J.)—at Raniere's direction. Raniere's Br. 40. But he argues that the Government did not provide sufficient evidence to prove that Vicente acted with the requisite intent. We disagree.

For the Government "to satisfy the element of intent," it "must show a 'nexus' between the defendant's act and the judicial proceedings; that is, there must be 'a relationship in time, causation, or logic' such that the act has 'the natural and probable effect of interfering with the due administration of justice.'" *United States v. Desposito,* 704 F.3d 221, 230 (2d Cir. 2013) (quoting *United States v. Aguilar,* 515 U.S. 593, 599—600 (1995)). At trial, Vincente testified that he knew the deleted content of the tapes would have been damaging to NXTVM in an ongoing "legal action" and that he understood the alteration of the videos to be "illegal." Gov. App'x 178—79,182. The jury was thus presented with sufficient evidence to conclude that the intent element was satisfied.

d. <u>Identity Theft Conspiracy, in Violation of 18 U.S.C. § 1028 (Racketeering Act 11)</u>

Raniere also challenges the sufficiency of the Government's evidence as to Racketeering Act 11, which charged Raniere with conspiring to commit

identity theft in connection with tax evasion, in violation of 18 U.S.C. § 1028(a)(7) and 1028(f). In particular, the Government charged Raniere with using the credit card of Pamela Cafritz—his long-term partner who had since died—in order to evade his tax obligations. **[Gov. App'x 17.]** Raniere argues that the Government offered no evidence that he had a substantial tax debt or that he ever failed to pay his taxes, as required to prove a substantial violation of the tax evasion statute. Raniere's Br. 43—44; *see also United States v. Litmk,* 678 F.3d 208, 215 (2d Cir. 2012) (listing elements of a substantive violation of 26 U.S.C. § 7201).

Raniere misapprehends the import of the identity theft statute. Section 1028 prohibits "knowingly... us[ing], without lawful authority, a means of identification of another person with the *intent to commit,* or *to aid or abet,* or *in connection with,* any unlawful activity that constitutes a violation of Federal law …." 18 U.S.C. § 1028(a)(7) (emphasis added). As the District Court explained in its jury instructions, "the Government does not need to prove that [Raniere] or a coconspirator actually committed tax evasion." Jury Charge at 108, *United States v. Mack,* No. 18-CR- 204 (NGG) (E.D.N.Y. June 18, 2019), ECF No. 728. Upon review of the record, we conclude that the Government offered sufficient evidence from which the jury was able to conclude that Raniere entered into a conspiracy to use Cafritz's credit card with the intent to commit, or to aid or abet, or in connection with, tax evasion.[3]

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[3] To the extent Raniere also contends that there was not sufficient evidence for the jury to find that he acted without lawful authority when using Cafritz's credit card because he was

e. Racketeering and Racketeering Conspiracy, in Violation of 18 U.S.C. § 1962(c) (Counts 1 and 2)

Finally, Raniere argues that his conviction for a racketeering conspiracy (Count 1) and substantive racketeering (Count 2) cannot be sustained because (1) there was insufficient evidence that Raniere's "inner circle" constituted an enterprise for RICO purposes and (2) the Government failed to demonstrate a "pattern" of related racketeering activities as opposed to isolated and sporadic offenses. Raniere's Br. 15—16. We are not convinced by either argument.

The RICO statute prohibits persons "employed by or associated with any enterprise ... to conduct or participate ... in the conduct of such enterprise's affairs through a pattern of racketeering activity …." 18 U.S.C. § 1962(c).

Raniere first argues that there was insufficient evidence that Raniere's "inner circle" was an "enterprise" for RICO purposes. In particular, he argues that the "inner circle" did not share a "common purpose" other than a vague commitment and loyalty to Raniere. Raniere's Br. 47—48. But the Indictment alleges that the purpose of the enterprise was "to promote [Raniere] ... *and* to recruit new members into the Pyramid Organizations *[i.e.,* NXTVM and DOS]," whereby existing members of the

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the executor and sole beneficiary of Cafritz's estate, *see* Raniere Br. 42, we are unpersuaded. Raniere does not present a developed argument explaining why being the executor and beneficiary of an estate gives one lawful authority to use a deceased person's credit card.

enterprise "expected to receive financial opportunities and personal benefits, including increased power and status within the Enterprise." Gov. App'x 2—3, ^[4 (emphasis added). The Government presented evidence at trial that members of the enterprise recruited members into Raniere's organizations and received such benefits. **[*See, e.g.,* Gov. App'x 198.]**

To the extent that Raniere objects to the informal nature of the "inner circle's" membership, *see, e.g.,* Raniere's Br. 49 (arguing that the inner circle "was nothing more than a hodgepodge of people from a wider community"), the Supreme Court has rejected the argument that RICO enterprises must have formal membership or structural requirements, instead emphasizing the "breadth of the 'enterprise' concept in RICO." *Boyle v. United States,* 556 U.S. 938, 948—49 (2009); *see also* 18 U.S.C. § 1961(4) (defining enterprise as including "any... group of individuals associated in fact although not a legal entity"); *United States v. Uppolito,* 543 F.3d 25, 49 (2d Cir. 2008) ("An 'individuals associated in fact' enterprise, 18 U.S.C. § 1961(4), may continue to exist even though it undergoes changes in membership."). Upon review of the record, we are satisfied that the evidence presented at trial established that the "inner circle" was an enterprise for purposes of the RICO statute.

Next, Raniere argues that the Government failed to establish a "pattern of racketeering activity" as that term is used in Section 1962(c). The statute requires that there be "at least two acts of racketeering activity" within ten years. 18 U.S.C. § 1961(5). "[C]riminal conduct forms a pattern of

racketeering activity under RICO when it 'embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.'" *United States v. Daidone,* 471 F.3d 371, 375 (2d Cir. 2006) (quoting *H.J. Inc. v. Nw. Bell Tel. Co.,* 492 U.S. 229, 240 (1989)). Relatedness includes both horizontal relatedness—that the predicate acts are related to each other—and vertical relatedness—that the predicate acts are related to the enterprise. *Id.* "[B]oth the vertical and horizontal relationships are generally satisfied by linking each predicate act to the enterprise." *Id.* at 376.

Here, the evidence presented at trial permitted the conclusion that the eleven predicate acts listed in the Indictment were linked to the enterprise. In arguing otherwise, Raniere arbitrarily groups the eleven predicate acts into three sub-groups: (1) the DOS Acts (Acts 9 and 10); (2) the sexual exploitation and possession of child pornography of Camila (Acts 2, 3, and 4); and (3) non- DOS Acts (Acts 1, 5, 6, 7, 8, and 11). Raniere's Br. 55—63. But this grouping does not defeat the conclusion that each of these acts was linked to the enterprise. *See United States v. Burden,* 600 F.3d 204, 216 (2d Cir. 2010) ("Horizontal relatedness requires that the racketeering predicate acts be related to each other. However, that relationship need not be direct; an indirect relationship created by the relationship of each act to the enterprise will suffice." (citing *United States v. Polanco,* 145 F.3d 536, 541 (2d Cir. 1998))). In sum, we find that there was sufficient evidence presented

at trial to sustain Raniere's RICO convictions.

B. Rule 403 Challenges

Raniere next challenges the District Court's decision to allow the introduction of three categories of evidence: (1) communications between Raniere and Camila; (2) evidence that Camila, Daniela, and Marianna had abortions after being impregnated by Raniere; and (3) photographs of women's genitalia taken by Raniere. **[Raniere's Br. 64.]** He argues that these materials should have been excluded as unduly prejudicial under Federal Rule of Evidence 403. We disagree.

Rule 403 allows a court to "exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." We have frequently noted that we review a district court's balancing under Rule 403 for abuse of discretion. *See, e.g., United States v. Poloui^y,* 564 F.3d 142,152 (2d Cir. 2009). "The 'decision to admit or exclude evidence will not be overturned unless we conclude that the court acted arbitrarily or irrationally.'" *Id.* (quoting *United States v. Thai,* 29 F.3d 785, 813 (2d Cir. 1994)).

a. Communications Between Raniere and Camila

Raniere first challenges the admission of WhatsApp messages between Raniere and Camila, which he argues were of minimal probative value,

contained "gratuitous sexually-graphic conversations," and portrayed Raniere as "manipulative, controlling^] and emotionally abusive." Raniere's Br. 68, 71. But as Raniere himself acknowledges, the communications are "relevant to support the [GJovernment's claim that [Raniere] began a sexual relationship with Camila when she was 15 years old and that [he] was the architect of DOS." *Id.* at 71 (citation omitted). These communications were highly probative of Raniere's relationship with Camila, whom the Government argued was both a victim of Raniere's child exploitation and a "slave" in DOS. Accordingly, the District Court's decision to admit these communications was far from "arbitrarfy] or irrational[]." *Polouisgi,* 564 F.3d at 152 (quoting *Thai,* 29 F.3d at 813).[4]

b. **Abortion Evidence**

Raniere next challenges the District Court's decision to admit evidence—in the form of testimony, medical records, and ultrasound images—that Daniela, Camila, and Marianna had obtained abortions, arguing that such evidence was prejudicial, cumulative, and minimally probative. Raniere's Br. 74. But the abortion material was probative of Raniere's sexual relationship with Camila when she was a minor and to show that Cafritz—who was a

[4] The Government argues that Raniere's objections to the WhatsApp messages were not raised below and should therefore be evaluated for plain error only. We need not decide whether or not Raniere's objections were preserved because, even if they were, we conclude that the District Court did not abuse its discretion in admitting the evidence.

member of the charged enterprise and helped procure the abortions—facilitated the abuse of Camila and Daniela. We see no error in the District Court's decision to admit the abortion evidence.

c. Photographs of Women's Genitalia

Finally, Raniere challenges the District Court's decision to admit 167 photographs of women's genitalia recovered from a hard drive also containing explicit images of Camila taken when she was a minor. He argues that the evidence was cumulative and highly prejudicial. Raniere's Br. 78. But elsewhere, Raniere argues that the existence of explicit images of Camila on the hard drive is not sufficient to establish that it was Raniere who took the photographs of Camila. *See id.* at 35. Thus, even he must concede that the "timeframe in which the ... photos w[ere] taken shed[s] some light on the question of whether [Raniere] was responsible for taking the Camila photos." *Id.* at 77. The existence of the photographs of other women's genitalia—women with whom Raniere had a contemporaneous sexual relationship—was probative of whether Raniere had taken the photographs of Camila and whether he had had a sexual relationship with her while she was a minor. The District Court did not err in deciding to admit the evidence.

C. Other Trial-Related Challenges

Raniere also raises two separate challenges concerning trial orders. We address each below.

a. Prohibition on the Use of Full Names

Prior to the commencement of trial, upon motion by the Government, the District Court ordered that "testifying victims" were to be identified by "a nickname, first name, or pseudonym only" and that "non-testifying DOS victims" were to be "referred to solely by first name or nickname" during trial. Memorandum & Order at 40, *Mack,* No. 18-CR-204 (May 6, 2019), ECF No. 622. Raniere argues that this decision violated his rights under the Confrontation Clause of the Sixth Amendment and his due process rights under the Fifth Amendment. **[Raniere's Br. 85—86.]** We disagree.

A defendant's constitutional right to confront witnesses includes the right to "ask the witness who he is and where he lives," because, "when the credibility of a witness is in issue," these questions are "the very starting point in 'exposing falsehood and bringing out the truth' through cross-examination." *Smith v. State of Illinois,* 390 U.S. 129,131 (1968) (quoting *Pointer v. Texas,* 380 U.S. 400, 404 (1965)); *see also Alford v. United States,* 282 U.S. 687, 689 (1931). The Second Circuit has explained that there are "two central interests" safeguarded by *Smith* and *Alford.* "First, the defense needs testimony as to a witness' [identity] on cross-examination so that the defense can obtain this information which may be helpful in investigating the witness out of court or in further crossexamination." *United States v. Marti,* 421 F.2d 1263,1266 (2d Cir. 1970). "Second, the defense may need the witness to reveal his address [or other identifying information] in court because knowledge of the [identifying information] by the jury

might be important to its deliberations as to the witness' credibility or his knowledgeability." *Id.*

That said, a district court's decision to limit the scope of cross-examination is reviewed for abuse of discretion. *United States v. White,* 692 F.3d 235, 244 (2d Cir. 2012). Trial judges have "wide latitude ... to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant." *Delaware v. Van Arsdall,* 475 U.S. 673, 679 (1986). And "[e]ven if a reviewing court finds error, a new trial is not required if the error was harmless." *White,* 692 F.3d at 244.

Here, in granting the Government's request to prohibit the use of full names, the District Court reasoned that requiring victims to provide their names in public "could chill their willingness to testify, for fear of having their personal histories publicized." Memorandum & Order at 32, *Mack,* No. 18-CR-204 (May 6, 2019), ECF No. 622. It also found that Raniere failed to present a particularized need for the witnesses' last names to be disclosed, since he already knew the identity of the individuals and could articulate no reason why disclosing last names would help the jury assess the witnesses' credibility. As for Raniere's contention that the withholding of the witnesses' last names bolstered their credibility by effectively endorsing their status as victims, the District Court correctly addressed this concern with an appropriate jury instruction. *Id.* at 32—34.[5] Under

[5] During trial, the District Court instructed the jury that it should "not make any inferences as to the defendant's guilt or

these circumstances, where neither of *Mortis* two "central interests" are implicated, the District Court's decision was justified, and we see no error in it. 421 F.2d at 1266; *see also Marcus,* 628 F.3d at 45 n.12 (rejecting a similar challenge to a lower court's "decision permitting two of the Government's witnesses to testify using only their first names" on due process grounds).

b. Termination of Cross-Examination

Raniere also argues that the District Court's improperly terminated Lauren Salzman's crossexamination, again allegedly violating his Sixth Amendment right to confront his accuser and his Fifth Amendment right to due process. We conclude that—even assuming the District Court erred in its termination of the cross-examination—any such error was harmless.

During the lengthy cross-examination of Lauren Salzman—a cooperating Government witness who had previously pleaded guilty to racketeering charges—the District Court ordered that the cross-examination end, saying in front of the jury: "[t]hat's it. We are done." Gov. App'x 396. After the jury was excused, defense counsel objected and the District Court explained that counsel had gone "way over the line," and that he "kept coming back" to a line of questions concerning whether Lauren Salzman had actually had the requisite mental state to have

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non-guilt from the fact that certain last names are being withheld from [the jury] and the public." Gov. App'x 112; *see also United States v. IVichherg,* 5 F.4th 233, 244 (2d Cir. 2021) ("We presume that juries follow limiting instructions.") (cleaned up).

committed the crimes to which she had pleaded guilty. *Id.* The District Court explained that it would not tolerate "someone hav[ing] a nervous breakdown on the witness stand," noted that Lauren Salzman was "a broken person," and expressed concern over Lauren Salzman's "composure." *Id.* at 396—97.

Here, any arguable error was harmless. Raniere vaguely asserts that he was precluded from crossing Lauren Salzman on a range of topics, including: (1) the impact of her potential jail term on her decision to cooperate; (2) "certain other facts" she learned in discovery that caused her to change her view of Raniere and DOS; (3) "certain specific portions" of recordings she heard of meetings between Raniere and other DOS members; and (4) "other aspects" of her plea agreement and her cooperation. Raniere's Br. 81. But Raniere fails to provide any further detail about these potential questions or explain how the inability to address them—after an already lengthy crossexamination that included many questions on related topics—deprived him of his ability to test the veracity of Lauren Salzman's testimony. *See, e.g., United States v. Stewart,* 433 F.3d 273, 313 (2d Cir. 2006).

Furthermore, after the District Court terminated counsel's cross-examination of Lauren Salzman and at the close of the Government's case-in-chief, the Government stated—and Raniere's counsel confirmed—that the Government had "offered to the defense to make any of its witnesses available" to testify at Raniere's case-in-chief, "including Lauren Salzman," and that Raniere had not elected to avail himself of that opportunity and declined to put on a

case. Gov. App'x 976. Under these particular circumstances, we conclude Raniere "suffered no harm" from the District Court's prior decision to cut off Lauren Salzman's cross-examination. *Cf. United States v. Barbarino,* 612 F. App'x 624, 627 (2d Cir. 2015) (summary order) (concluding that any error in limiting defendant's cross examination of a witness was harmless where "[t]he Government offered to make [the witness] available for further cross-examination by telephone" and "Barbarino has not identified other questions he was prevented from asking on cross-examination").

II. BRONFMAN'S APPEAL

On April 19, 2019, Bronfman pleaded guilty to two counts: (1) conspiracy to conceal, harbor, and shield from detection one or more aliens for financial gain, in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I) and (a)(l)(B)(i); and (2) unlawful transfer and use of a means of identification of another person with the intent to commit and in connection with attempted tax evasion, in violation of 18 U.S.C. § 1028(a)(7), 1028(b)(1)(D), and 1028(c)(3)(A). At sentencing, the District Court determined that the applicable advisory Guidelines sentencing range was 21 to 27 months' imprisonment and imposed a sentence of, *inter alia,* 81 months' imprisonment. Bronfman now argues that the District Court committed procedural error.

We review a district court's imposition of a sentence under a "deferential abuse-of-discretion standard." *United States v. Cavera,* 550 F.3d 180,189 (2d Cir. 2008) (en banc) (quoting *Gall v. United*

States, 552 U.S. 38, 41 (2007)); *see also In re Sims,* 534 F.3d 117,132 (2d Cir. 2008) (describing the abuse-of-discretion standard). The imposition of a sentence outside of the advisory Guidelines range does not alter the standard of review. *Gall,* 552 U.S. at 49. At root, we evaluate the sentence imposed for "reasonableness," a concept which includes "the procedures used to arrive at the sentence (procedural reasonableness) ...." *United States v. Broxmejer,* 699 F.3d 265, 278 (2d Cir. 2012). Procedural error includes "failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence." *Gall,* 552 U.S. at 51.

Bronfman principally argues that the District Court committed procedural error by relying on a "clearly erroneous finding"—namely that Bronfman was aware of, or willfully blind to, Raniere's abuses in DOS. Bronfman's Br. 22. We disagree. The District Court explicitly stated that it "agree [d] with Ms. Bronfman that the available evidence does not establish that she was aware of DOS prior to June 2017[6] or that she directly or knowingly funded DOS or other sex trafficking activities." Sp. App'x 104. It acknowledged, however, that her "crimes were not committed in a vacuum." *Id.* And it found "most troubling" that when, in 2017, Bronfman was

[6] The District Court concluded that, at the latest, Bronfman learned of the existence of DOS in June 2017, when she received emails from former DOS "slaves" who asked her to return or destroy their digital "collateral." Sp. App'x 104. No party disputes this fact.

"confronted with information about DOS ... she doubled down on her support of Raniere and pursued her now familiar practice of attacking his critics." *Id.* at 118—19. The District Court referred to a December 2017 public statement that Bronfman released in which "she falsely characterized DOS as a 'sorority' that 'truly benefited the lives of its members.'" *Id.* at 122—23. And it discussed Bronfman's contribution of $13.8 million to an irrevocable trust to pay for the legal fees of Raniere and her other co-defendants. *Id.* at 124. It is in this context that the District Court stated that Bronfman had a "pattern of willful blindness when it comes to Raniere and his activities," and that although Bronfman may not have known of DOS before 2017, "she did not want to know either." *Id.* at 125—26. A full reading of the District Court's lengthy statement (which covers thirty pages of the transcript) shows that it was primarily concerned with Bronfman's actions *after* she found out about DOS in June 2017, including her reinvigorated support of Raniere.

Bronfman also argues that the District Court ignored disparities between her sentence and the sentences imposed on her co-defendants—Mack, Lauren Salzman, and Kathy Russell—in violation of 18 U.S.C. § 3553(a)(6). Section 3553(a)(6) requires a district court to consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." But as we have made clear, while "[SJection 3553(a)(6) requires a district court to consider nationwide sentence disparities," it "does not require a district court to consider disparities between co-defendants." *United States v. Ghailani,* 733 F.3d

29, 55 (2d Cir. 2013) (quoting *United States v. Frias,* 521 F.3d 229, 236 (2d Cir. 2008)). In any event, Bronfman's conduct—before and after her indictment—readily distinguishes her from Mack, Salzman, and Russell, two of whom cooperated with the Government and received sentencing reductions pursuant to 18 U.S.C. § 3553(e).

Finally, Bronfman argues that even compared to defendants nationwide, her 81-month sentence was excessive. She points to certain statistics showing that of 27 defendants convicted of both 8 U.S.C. § 1324 and 18 U.S.C. § 1028 offenses nationwide, none received an above-Guidelines sentence. Bronfman's Br. 27. She has filed a motion to supplement the record with the reports she relied on in arriving at that conclusion, ECF No. 183, and that motion is hereby GRANTED. Even so, as the District Court pointed out, "the context of Ms. Bronfman's criminal conduct places her in an [| all together different category from other defendants convicted of the same offenses." Sp. App'x 129. Upon review of the record, including the material contained in ECF No. 183 and its supporting documents, we find that the District Court acted well within its discretion in arriving at its conclusion.

III. CONCLUSION

To summarize:

(1) Bronfman's motion to supplement the record, ECF No. 183, is hereby **GRANTED.**

(2) Having considered all of Bronfman's remaining arguments and found them to be

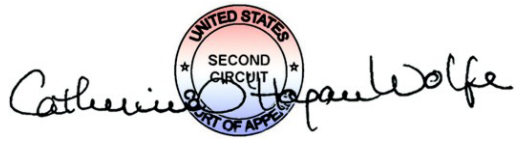
without merit, for the foregoing reasons, we **AFFIRM** the October 7, 2020 judgment of the District Court.

(3) Having considered all of Raniere's remaining arguments and found them to be without merit, for the foregoing reasons, and for the reasons explained in our opinion also entered today—affirming the District Court's judgment of conviction entered on October 30, 2020 as it concerns the sex trafficking conspiracy (Count 5), the sex trafficking of Nicole (Count 6), the attempted sex trafficking of Jay (Count 7), and the racketeering act of sex trafficking of Nicole (Act 10A)—we **AFFIRM** all other portions of the October 30, 2020 judgment of the District Court, including, but not limited to, the racketeering conspiracy (Count 1), the racketeering (Count 2), the sexual exploitation of a child — Camila (Acts 2 and 3), the conspiracy to alter records for use in an official proceeding (Act 6), the forced labor of Nicole (Act 10B), the conspiracy to commit identity theft of Pamela Cafritz (Act 11), and the forced labor conspiracy (Count 3).

For the Court:

Catherine O'Hagan Wolfe,

Clerk of Court



Appendix B – Judgment of the United States District Court for the Eastern District of New York, dated October 30, 2020

AO 2458{Rev. 09/19) Judgment in a Criminal Case
Sheet I

UNITED STATES DISTRICT COURT
Eastern District of New York

JUDGMENT IN A CRIMINAL CASE

UNITED STATES OF AMERICA)
)
v.)
)
KEITH RANIERE)
)
)
)

Case Number:
CR 18-0204 (S-2) (NGG)

USM Number:
57005-177

Marc A. Agnifilo, Esq.
Defendant's Attorney

THE DEFENDANT:

X was found guilty by jury verdict on Counts 1, 2, 6, 7, 8, 9 & 10 of the Superseding Indictment (S-2)

□ Pleaded nolo ocontendero to count(s)_____

Which was accepted by the court.

□ was found guilty on count(s) _____

After a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense
SEE PAGE 2 OF JUDGMENT	

Offense Ended	Count

The Defendant is sentenced as provided in page 2 through 11 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

X Any underlying Indictment is dismissed by motion of the United States.

X Count 3, 4, 5 & 11 of the Superseding Indictment (S-2) are dismissed by motion of the United States before trial.

□ Count(s) _____ □ is □ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address untill all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 27, 2020

Date of Imposition of Judgment

Signature of Judge

Nicholas G. Garaufis, U.S.D.J.

Name and Title of Judge

October 30, 2020

Date

DEFENDANT: KEITH RANIERE
CASE NUMBER: CR 18-0204 (S-2) (NGG)

ADDITIONAL COUNTS OF CONVICTION

Offense:

Count 1:

RACKETEERING CONSPIRACY

18 U.S.C. §1962(d), 18 U.S.C. §1963(a)

Not more than life imprisonment/$250,000 fine

(Class A Felony)

Count 2:

RACKETEERING

18 U.S.C. §1962(c), 18 U.S.C. §1963(a)

Not more than life imprisonment/$250,000 fine
(Class A Felony)

Count 6:

FORCED LABOR CONSPIRACY

18 U.S.C. §1594(b)

Not more than 20 years imprisonment/$250,000 fine (Class C Felony)

Count 7:

WIRE FRAUD CONSPIRACY

18 u.s.c.§1349, 18 u.s.c.§1343

Not more than 20 years imprisonment/$250,000 fine (Class C Felony)

Count 8:

SEX TRAFFICKING CONSPIRACY

18 U.S.C. §1594(c), 18 U.S.C. §1591(b)(l)

15 years to life imprisonment/$250,000 fine

(Class A Felony)

Count 9:

SEX TRAFFICKING OF JANE DOE *5*

18 U.S.C. §159l(a)(l), 18 U.S.C. §159l(b)(l)

15 years to life imprisonment/$250,000 fine

(Class A Felony)

Count 10:

ATTEMPTED SEX TRAFFICKING OF

JANE DOE 8

18 U.S.C. §1594(a), 18 U.S.C. §159l(b)(l)

15 years to life imprisonment/$250,000 fine
(Class A Felony)

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total tenn of: SEE PAGE 4 OF JUDGMENT.

□ The Court makes the following recommendations to the Bureau of Prisons:

X The defendant is remanded to the custody of the United States Marshal.

□ The defendant shall surrender to the United States Marshal for this district:

□ at _____ □ a.m. □ p.m. on _____

□ as notified by the United States Marshal.

□ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

□ before 2 p.m. on _____

□ as notified by the United States Marshal.

□ as notified by the Probation or Pretrial services office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ _____ at _____, with a certified copy of this judgment.

_____

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

ADDITIONAL IMPRISONMENT TERMS

FORTY (40) YEARS (480 MONTHS) (CAG) ON COUNT ONE (I) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONCURRENTLY WITH THE SENTENCE ON COUNT 2 AND CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

FORTY (40) YEARS (480 MONTHS) (CAG) ON COUNT TWO (2) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONCURRENTLY WITH THE SENTENCE IMPOSED ON COUNT l AND CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

TWENTY (20) YEARS (240 MONTHS) (CAG) ON COUNT SIX (6) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

TWENTY (20) YEARS (240 MONTHS) (CAG) ON COUNT SEVEN (7) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

FORTY (40) YEARS (480 MONTHS) (CAG) ON COUNT EIGHT (8) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONCURRENTLY WITH THE SENTENCES IMPOSED ON COUNTS 9 AND l0, AND CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

FORTY (40) YEARS (480) MONTHS (CAG) ON COUNT NINE (9) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONCURRENTLY WITH THE SENTENCES ON COUNTS 8 AND l 0, AND CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED;

FORTY (40) YEARS (480) MONTHS (CAG) ON COUNT TEN (IO) OF THE SUPERSEDING INDICTMENT (S-2) TO BE SERVED CONCURRENTLY WITH THE SENTENCES ON COUNTS 8 AND 9, AND CONSECUTIVELY WITH ALL OTHER SENTENCES IMPOSED.

TO SUMMARIZE, THIS IS A CUMULATIVE SENTENCE OF 120 YEARS (CAG).

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

SUPER VISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: FIVE (5) YEARS ON COUNT ONE {l) OF THE SUPERSEDING INDICTMENT (S-2). FIVE (5) YEARS ON COUNT TWO (2) OF THE SUPERSEDING INDICTMENT (S-2). THREE (3) YEARS ON COUNT SIX (6) OF THE SUPERSEDING INDICTMENT (S-2). THREE (3) YEARS ON COUNT SEVEN (7) OF THE SUPERSEDING INDICTMENT (S-2). A LIFETIME TERM ON COUNT EIGHT (8) OF THE SUPERSEDING INDICTMENT (S-2). A LIFETIME TERM ON COUNT NINE (9) OF THE SUPERSEDING INDICTMENT {S-2). A LIFETIME TERM ON COUNT TEN (10) OF THE SUPERSEDING INDICTMENT {S-2). ALL TERMS OF SUPERVISED RELEASE TO BE SERVED CONCURRENTLY WITH ONE ANOTHER.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   □ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. □ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. □ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. □ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.)* as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. □ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

STANDARD CONDITIONS OF SUPERVISON

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep infonned, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting pennission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.

5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must pennit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted ofa felony, you must not knowingly communicate or interact with that person without first getting the pennission of the probation officer.

9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or lasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or infonnant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further infonnation regarding these conditions, see *Overview of Probation and Supervised Release Conditions,* available at: www.uscourts.gov.

Defendant's Signature

Date

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

SPECIAL CONDITIONS OF SUPERVISION

#1. The defendant shall comply with any applicable state and/or federal sex offender registration requirements, as instructed by the probation officer, the Bureau of Prisons, or any state offender registration agency in the state where he resides, works, or is a student;

#2. The defendant shall participate in a mental health treatment program, which may include participation in a treatment program for sexual disorders, as approved by the U.S. Probation Department. The defendant shall contribute to the cost of such services rendered and/or any psychotropic medications prescribed to the degree he is reasonably able, and shall cooperate in securing any applicable third-party payment. The defendant shall disclose all financial information and documents to the Probation Department to assess his ability to pay. As part of the treatment program for sexual disorders, the defendant shall participate in polygraph examinations to obtain information necessary for risk management and correctional treatment;

#3. The defendant shall not associate with or have any contact with convicted sex offenders unless in a therapeutic setting and with the permission of the U.S. Probation Department;

#4. The defendant shall not associate with children under the age of 18, unless a responsible adult is present and he has prior approval from the Probation Department. Prior approval does not apply to contacts which are not known in advance by the defendant where children are accompanied by a parent or guardian or for incidental contacts in a public setting. Any such non-pre-approved contacts with children must be reported to the Probation Department as soon as practicable, but no later than 12 hours. Upon commencing supervision, the defendant shall provide to the Probation Department the identity and contact information regarding any family members or friends with children under the age of 18, whom the defendant expects to have routine contact with, so that the parents or guardians of these children may be contacted and the Probation Department can approve routine family and social interactions such as holidays and other family gatherings where such children are present and supervised by parents or guardians without individual approval of each event;

#5. If the defendant cohabitates with an individual who has residential custody of minor children, the defendant will inform that other party of his prior criminal history concerning his sex offense. Moreover, he will notify the party of his prohibition

of associating with any child(ren) under the age of 18, unless a responsible adult is present;

#6. The defendant shall submit his person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(l)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner;

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

SPECIAL CONDITIONS OF SUPERVISION

#7. The defendant is not to use a computer, Internet capable device, or similar electronic device to access pornography of any kind. The term "pornography" shall include images or video of adults or minors engaged in "sexually explicit conduct" as that term is defined in Title 18, U.S.C. § 2256(2). The defendant shall also not use a computer, Internet capable device or similar electronic device to view images of naked children. The defendant shall not use his computer to view pornography or images of naked children stored on related computer media, such as CDs or DVDs, and shall not communicate via his computer with any individual or group who promotes the sexual abuse of children. The defendant shall also cooperate with the U.S. Probation Department's Computer and Internet Monitoring program. Cooperation shall include, but not be limited to, identifying computer systems, Internet capable devices, and/or similar electronic devices the defendant has access to, and allowing the installation of monitoring software/hardware on said devices, at the defendant's expense. The defendant shall inform all parties that access a monitored computer, or similar electronic device, that the device is subject

to search and monitoring. The defendant may be limited to possessing only one personal Internet capable device, to facilitate the Probation Department's ability to effectively monitor his/her Internet related activities. The defendant shall also permit random examinations of said computer systems, Internet capable devices, similar electronic devices, and related computer media, such as CDs, under his control.

#8. The defendant shall report to the Probation Department any and all electronic communications service accounts (as defined in 18 U.S.C. § 2510(15)) used for user communications, dissemination and/or storage of digital media files (i.e. audio, video, images). This includes, but is not limited to, email accounts, social media accounts, and cloud storage accounts. The defendant shall provide each account identifier and password, and shall report the creation of new accounts, changes in identifiers and/or passwords, transfer, suspension and/or deletion of any account within 5 days of such action. Failure to provide accurate account information may be grounds for revocation of release. The defendant shall permit the Probation Department to access and search any account(s) using the defendant's credentials pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the account(s) to be searched contains evidence of this violation. Failure to submit to such a search may be grounds for revocation of release.

#9. Upon request, the defendant shall provide the U.S. Probation Department with full disclosure of his financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, the defendant is prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge and approval of the U.S. Probation Department. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income and expenses. The defendant shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Department access to his financial information and records;

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

SPECIAL CONDITIONS OF SUPERVISION

#10. The defendant shall not have contact with any of the named victims of his offenses. This means that he shall not attempt to meet in person, communicate by letter, telephone, or through a third party, without the knowledge and permission of the Probation Department;

#11. The defendant shall not associate in person, through mail, electronic mail or telephone with any individual with an affiliation to Executive Success Programs, Nxivm, DOS or any other Nxivm-affiliated organizations; nor shall the defendant frequent any establishment, or other locale where these groups may meet pursuant, but not limited to, a prohibition list provided by the U.S. Probation Department;

#12. The defendant shall comply with the fine payment order;

#13. The defendant shall comply with the attached Order of Forfeiture.

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Restitution	Fees
TOTALs	$700.00	$TBD	$1,750,000.00

Forfeiture Money Judgment	JVTA Assessment
$ N/A	$ 15,000.00

□ The determination of restitution is deferred until _____ An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

□ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order of percentage payment column below. However pursuant to 18 U.S.C. §3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***
Restitution Ordered	Priority of Percentage

TOTALS $ _____ $_____

□ Restitution amount ordered pursuant to plea agreement $ _____

□ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(i). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

□ The Court determined that the defendant does not have the ability to pay interest and it is ordered that:

□ the interest requirement is waived for the

□ fine □ restitution.

□ the interest requirement for the

□ fine □ restitution is modified as follows

* Amy, Vicky and Andy Child pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: KEITH RANIERE

CASE NUMBER: CR 18-0204 (S-2) (NGG)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A. X Special Assessment of $700.00 due immediately, balance due

□ not later than _____ or

□ In accordance with □ C, □ D, □ E or □ F below, or

B. □ □ □ D, or □ F below) or

X Fine payment of $1m750m000.00 due immediately.

C □ _____(_____ over a period of _____*(e.g. months or years)*, to commence _____ *(e.g. 30 or 60 days)* after the date of this judgment: or

D. □ Payment in equal _____ *(e.g. weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g. months or years)*, to commence _____ *(e.g. 30 or 60 days)* after release from imprisonment to a term of supervision; or

E.

X. JVTA assessment of %15,000.00

F. X Order of Restitution to be determined

An Order of Restitution must be submitted within 90 days from October 27, 2020.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility program, are made to the clerk of the court.

□ Joint and Several
Case Number
Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several Amount

Corresponding Payee if appropriate

□ The defendant shall pay the cost of prosecution.
□ The defendant shall pay the following court cost(s):
□ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties and (10) costs, including cost of prosecution and court costs.

BDM:KKO
F. #2017R01840

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

-against-

ORDER OF FORFEITURE

18-CR-204
(S-2) (NGG)

KEITH RANIERE,

Defendant.

----------X

WHEREAS, on or about June 19, 2019, Keith Raniere, also known as "Vanguard," "Grandmaster," and "Master" (the "defendant"), was convicted after a jury trial of Counts One, Two, and Six through Ten, of the above-captioned Superseding Indictment, charging violations of 18 U.S.C. §§ 1349, 159l(a)(l), 1594(a), 1594(b), 1594(c), 1962(c), and l 962(d); and

WHEREAS, the Court has determined that pursuant to18 U.S.C. § 1963(a), the defendant shall forfeit: (a) any interest the defendant acquired or maintained in violation of 18 U.S.C. § 1962; (b) any interest in, security of, claim against or property or contractual right of any kind affording a source of

influence over any enterprise which the defendant has established, operated, controlled, conducted or participated in the conduct of, in violation of 18 U.S.C. § 1962; (c) any property constituting, or derived from, any proceeds which the defendant obtained, directly or indirectly, from racketeering activity in violation of 18 U.S.C.

§ 1962; and/or (d) substitute assets, pursuant to 18 U.S.C. § 1963(m), which shall be reduced to a forfeiture money judgment (the "Forfeiture Money Judgment").

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The defendant shall forfeit to the United States the Forfeiture Money Judgment, pursuant to 18 U.S.C. §§ 1963(a) and 1963(m).

2. This Order of Forfeiture ("Order") is entered pursuant to Fed. R. Crim. P. 32.2(b)(2)(c), and will be amended pursuant to Fed. R. Crim. P. 32.2(e)(l) when the amount of the Forfeiture Money Judgment has been calculated.

3. All payments made towards the Forfeiture Money Judgment shall be made by a money order, or certified and/or official bank check, payable to U.S. Marshals Service with the criminal docket number noted on the face of the check. The defendant shall cause said payment(s) to be sent by overnight mail delivery to Assistant United States Attorney Karin K. Orenstein, United States Attorney's Office, Eastern District of New York, 271-A Cadman Plaza East, Brooklyn, New York 11201, with the criminal docket number noted on

the face of the instrument. The Forfeiture Money Judgment shall become due and owing in full thirty (30) days after any amendment of this Order pursuant to Rule 32.2(e)(l) (the "Due Date").

4. If the defendant fails to pay any portion of the Forfeiture Money Judgment on or before the Due Date, the defendant shall forfeit any other property of his up to the value of the outstanding balance, pursuant to 18 U.S.C. § 1963(m).

5. Upon entry of this Order, the United States Attorney General or his designee is authorized to conduct any proper discovery in accordance with Fed. R. Crim. P. 32.2(b)(3) and (c). The United States alone shall hold title to the monies paid by the defendant to satisfy the Forfeiture Money Judgment following the Court's entry of the judgment of conviction.

6. The defendant shall fully assist the government in effectuating the payment of the Forfeiture Money Judgment.

7. The entry and payment of the Forfeiture Money Judgment is not to be considered a payment of a fine, penalty, restitution loss amount or a payment of any income taxes that may be due, and shall survive bankruptcy.

8. Pursuant to Fed. R. C rim. P. 32.2(b)(4)(A) and (B), this Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment of conviction. This Order shall become the Final Order of Forfeiture, pursuant to Fed.R. Crim. P.32.2(c)(2) and (e)(l). At that time, the monies and/or properties paid

toward the Forfeiture Money Judgment shall be forfeited to the United States for disposition in accordance with the law.

9. This Order shall be binding upon the defendant and the successors, administrators, heirs, assigns and transferees of the defendant, and shall survive the bankruptcy of any of them.

10. This Order shall be final and binding only upon the Court's "so ordering" of the Order.

11. The Court shall retain jurisdiction over this action to enforce compliance with the terms of this Order and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated : Brooklyn, New York

October 24, 2020

SO ORDERED:

HONORABLE NICHOLAS G. GRAUFIS

UNITED STATES DISTRICT JUDGE

EASTERN DISTRICT OF NEW YORK

Appendix C – Mistrial Application, dated May 23, 2019

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STUART GOLD

MAY 23, 2019

VIA ECF
The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Keith Raniere, 18 Cr. 204 (NGG)

Dear Judge Garaufis:

By this letter, the defendant Keith Raniere moves for a mistrial due to the Court's abrupt termination of cooperating witness Lauren Salzman's testimony in the middle of her answer and terminating defense counsel's cross-examination without warning. Ms. Salzman, a critical government

cooperating witness who has pleaded guilty to Racketeering and Racketeering Conspiracy, testified on direct examination for in excess of two full days.

After less than five hours of cross-examination, the record is as follows:

Mr. Agnifilo: When you were in DOS, before anybody was arrested, were you doing things intentionally to break the law?

Ms. Hajjar: Objection.

The Court: That requires a legal conclusion.

Mr. Agnifilo: Was it your intention to hurt people or to help people?

Ms. Hajjar: Objection.

Mr. Agnifilo: What was your intention when you were in DOS?

The Court: You may answer.

Ms. Salzman: My intention was to prove to Keith that I was not so far below the ethical standard that he holds that I was - - I don't even know how far below I am. I was trying to prove my self-worth, and salvage this string of a hope of what I thought my relationship might some day be, and I put it above everything else; I put it above my friends and I put it above other people, helping them in their

best interest. That's what I did when I was in DOS.

The Court: Okay, that's it. We are done.

Mr. Agnifilo: Okay Judge. Thank you.

The Court: You are done.

Mr. Agnifilo: I know. I am done.

The Court: No, I said you're done

Mr. Agnifilo: I know. I am.

The Court: So you can sit down.

The government indicated it had no redirect and the witness was excused. (Tr. 2264-2265.)

As the record shows, the Court permitted the witness to answer the question about what her intention was while she was in DOS. After the witness started giving her answer to that question and just after the witness referred to helping people in their best interest, the Court not only terminated the witness' answer, it terminated the entire cross-examination. This was done without any warning and was done specifically after the Court stated that the witness could indeed answer the question posed.

After the jury was discharged for the day and the witness excused, the Court stated of the witness: "this is a broken person, as far as I can tell. And whether she's telling the truth, whether the jury believes her, I think it is absolutely necessary that

there be a certain level of consideration for someone's condition." (Tr. 2268.) The Court continued, "I had a crisis here. And not in my courtroom." (Id.)

The Court's actions strike at the heart of a fair trial. Indeed, "[i]n almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." Goldberg v. Kelly, 397 U.S. 254 (1970). The jury must pass on the credibility of this critical *cooperating* witness. Central to that consideration is whether the witness genuinely believed that she was harming people, as opposed to helping people, through her actions in DOS. The jury is absolutely within its right to conclude that a cooperating witness pleaded guilty for reasons other than, or in addition to, her actual guilt. This is especially true where, as here, the government touts the cooperating witness' guilty plea as being truthful and consistent with the government's view that Raniere is guilty of the same crimes. The defense is under no obligation to merely accept this view of the facts. Indeed, defense counsel is well within his rights and legal obligation to shake the government's position on these issues, to show that perhaps the witness is not guilty of certain crimes and that the witness has pleaded guilty and cooperated against the defendant for personal reasons or for reasons unrelated to her actual guilt. See United States v. Lynn, 856 F.2d 430, 432 (1st Cir. 1988) (because bias is always relevant as discrediting the witness and affecting the weight of the witness' testimony, a defendant is entitled to explore a witness' motivation for testifying).

Moreover, the Court should not have saved the cooperating witness from herself or her own answers, in violation of Raniere's Sixth Amendment right. The Sixth Amendment guarantees that a criminal defendant "shall enjoy the right . . . to be confronted with the witnesses against him." U.S. Const., Amend VI. That right of confrontation is a "bedrock procedural guarantee;" Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354 (2004); and includes the "fundamental right" to cross-examine government witnesses. Pointer v. Texas, 380 U.S. 400, 404-05 (1965). See also Chambers v. Mississippi, 410 U.S. 284, 294-95 (1973).

The Confrontation Clause guarantees not merely the formal opportunity to cross-examine, but the opportunity for *effective* cross-examination. See Delaware v. Van Arsdall, 475 U.S. 673, 679 (1986) (the Confrontation Clause is violated where "[a] reasonable jury might have received a significantly different impression of [the witness's] credibility had [] counsel been permitted to pursue his proposed line of cross-examination"); United States v. Desoto, 950 F.2d 626, 629 (10th Cir. 1991). Cross-examination "is essential to a fair trial" and should be given the "largest possible scope," with cooperating witnesses. See United States v. Hall, 653 F.2d 1002, 1008 (5th Cir. 1981); United States v. Harris, 501 F.2d 1, 9 (9th Cir. 1974). Thus, "a defendant should be afforded the opportunity to present facts which, if believed, could lead to the conclusion that a witness who has testified against him either favored the prosecution or was hostile to the defendant." United States v. Haggett, 438 F.2d 96, 399 (2d Cir. 1971). The Supreme Court has declared that the "denial or significant *diminution*" of the right to cross-examine calls into

question the "integrity of the fact- finding process." Chambers, 410 U.S. at 295 (emphasis added). Further, "[w]ide latitude should be allowed . . . when a government witness in a criminal case is being cross-examined by the defendant." United States v. Pedroza, 750 F.2d 187, 195-95 (2nd Cir. 1984) citing United States v. Masino, 275 F.2d 129, 132 (2nd Cir. 1960).

This is a critical cooperating witness. The government—who undoubtedly views her as a co-conspirator and not a victim—solicited and finalized her cooperation. The government then chose to put this witness on the witness stand in a very serious case where the possibility of life in prison is in the balance. If this witness is indeed "damaged," that is not the fault of the defendant who is, after all, seeking to demonstrate her lack of credibility. The jury must be able to see this witness for whatever she is—good, bad or indifferent—without the Court saving her by stopping her mid-testimony and ordering the defendant to ask her no more questions. This deprived Raniere the ability to confront Ms. Salzman effectively and elicit evidence which was favorable to his defense. See Gordon v. United States, 344 U.S. 414, 423 (1953) (trial judge's discretion "cannot be expanded to justify a curtailment which keeps from the jury relevant and important facts bearing on the trustworthiness of crucial testimony.")

Our view and the view we were trying to share with the jury was that Ms. Salzman's difficulty with answering these questions was due to the fact that because she truly believed DOS was a positive influence on her and others (prior to seeing the discovery and undergoing the change in perspective to

which she admitted) she was struggling to identify how exactly she broke the law given her outlook at the time she engaged in these actions. While her actions may or may not take on a different dimension in hindsight, her actions at the time were not intended to be hurtful. By stopping this examination and preventing wholesale the defendant's ability to develop this theme - which was at the core of the defendant's opening statement and was developed through other witness' at this trial - the Court impermissibly intervened into the facts, prevented the development of a central line of cross-examination and then scolded counsel sternly in front of the jury, all in the interest of minimizing the emotional upset of a cooperating witness.

While the Court's concern for the cooperating witness as a person is admirable in the abstract, the Court could have done many things short of announcing the end of cross-examination sternly and without warning. The Court could have, for instance, given the witness a break or adjourned for the day. But the Court opted to cause the jury to believe unfairly that defense counsel had done something wrong to a witness in a case with highly sensitive issues and to fully terminate a critical cross-examination without any notice or warning whatsoever.

Due to the Court stopping the cross-examination, counsel was not permitted to question the witness about several areas covered during her direct examination. This includes (1) the impact of her potential jail term on her decision to cooperate, (2) certain other facts she learned in discovery that caused her to view Raniere and DOS differently than

she had previously, (3) certain specific portions of the tape recordings she heard of meetings between Raniere and other DOS members, and (4) other aspects of her plea agreement and her cooperation. As a result, the jury is left with only the prosecution's version of these topics, which have not been covered in cross- examination.

Finally, for the Court to chastise counsel by repeatedly directing him to end his cross-examination and to sit down, where the Court had specifically ruled that the witness could answer the question is patently unfair. Counsel has been fair and appropriate to every witness called by the government and whatever good will counsel has endeavored to engender in the minds of the jury is now forever lost. There is no coming back from this. The damage is done. The witness' cross-examination has been ended. Counsel has been dressed down in front of the jury. There is no remedy.

We move for a mistrial.

Respectfully submitted,

Marc A. Agnifilo, Esq.,
Of Counsel
Teny R. Geragos, Esq.

cc: Counsel for the government (via ECF)