

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 KEITH RANIERE,

7 Defendant.

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8 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
9 BEFORE THE HONORABLE NICHOLAS G. GARAUFI
10 UNITED STATES SENIOR DISTRICT JUDGE
11 BEFORE A JURY

12 APPEARANCES

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25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

1 (In open court; Jury not present.)

2 THE COURT: Please be seated.

3 We need a sidebar.

4 (Continued on the next page.)

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1 (In open court; jury not present.)

2 THE COURT: For the record, appearances please.

3 MS. PENZA: Moira Penza, Tanya Hajjar and Mark Lesko
4 for the United States. Good morning, Your Honor. Also at
5 counsel table is Special Agent Michael Weniger with the FBI.

6 MR. AGNIFILO: Good morning, Your Honor. Mark
7 Agnifilo, Teny Geragos, Paul DerOhannesian and Danielle Smith
8 for Keith Raniere, who is here this morning.

9 THE COURT: Very good. Let's call in the jury.

10 (Jury enters courtroom.)

11 THE COURT: All right, please be seated everyone.
12 Good morning, members of the jury.

13 THE JURY: Good morning.

14 THE COURT: Members of the jury, this morning the
15 Court was advised by Alternate Juror Number Three that she's
16 not feeling well and won't be able to come in today. I've
17 consulted with the attorneys and we think that we should
18 adjourn for the day and then return tomorrow. The juror,
19 Alternate Number Three, indicated that she thought she would
20 feel better tomorrow and so the parties and I have concluded
21 that it is best to take the day and resume tomorrow morning.

22 Let me remind you that it is extremely important
23 that you follow my instruction that you do not discuss the
24 case with anyone, not your family, friends or business
25 associates and not your fellow jurors.

1 In addition, you must not read, listen to, watch or
2 access any accounts of this case on any form of media such as
3 newspapers, TV, radio, podcasts or the Internet, nor research
4 or seek outside information on any aspect of the case.

5 Please do not communicate with anyone about the case
6 on your phone, whether through email, text messaging or any
7 other means, through any blog or website or by way of any
8 social media, including Facebook, Twitter, Instagram, YouTube
9 or other similar sites.

10 You must not consider anything you may have read or
11 heard about the case outside of this courtroom whether you
12 read it before or during jury selection or during the trial.

13 Do not attempt any independent research or
14 investigation about the case and do not visit any of the
15 locations identified on the questionnaire or discussed during
16 the course of jury selection or during the trial.

17 And we understand that this is a slight delay and
18 everyone will make every effort to be as efficient as possible
19 as we proceed with the case and we appreciate your patience
20 and we'll see you tomorrow morning at 9:30.

21 All rise for the jury.

22 (Jury exits courtroom.)

23 THE COURT: All right, please be seated. Do we have
24 some issues to discuss or do you want to take a break and then
25 come back in a few minutes? Is there something the parties

1 want to discuss among each other before you meet with me?

2 MR. AGNIFILO: I think that's most helpful.

3 THE COURT: Well, how much time do you think you
4 need for this discussion?

5 MR. AGNIFILO: Ten minutes.

6 THE COURT: All right. Let's just resume at 10:30.

7 All right?

8 MR. AGNIFILO: Yes.

9 MS. PENZA: Thank you, Your Honor.

10 (Recess.)

11 (Continued on the next page.)

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1 THE COURT: All right. Please be seated.

2 Thank you. Okay.

3 MS. PENZA: Yes, Your Honor.

4 The government seeks -- excuse me. The government
5 is seeking to put in through Investigator Fontanelli a few
6 categories of materials, which I've now shared -- we haven't
7 actually been able to resume discussions --

8 MR. AGNIFILO: We're objecting to the admissibility
9 without -- through Task Force Officer Fontanelli.

10 MS. PENZA: Okay, so I'll explain to Your Honor.

11 So one category of material relates to materials
12 that were recovered from Nancy Salzman's residence at 3 Oregon
13 Trail, when a search warrant was executed on that home the day
14 after the defendant's arrest.

15 At that time, a number of things were recovered,
16 including various electronic devices, over half a million
17 dollars in cash, and other materials.

18 THE COURT: From the home?

19 MS. PENZA: From the home.

20 And I will say that the home -- the home served both
21 as Nancy Salzman's residence, but there were also a number of
22 other NXIVM-related materials in her basement.

23 In the basement, one of the things that was found
24 was a box, a plastic box. And inside the -- inside the box,
25 were a number of file folders which the government

1 characterizes certainly as financial dossiers almost on a
2 number of people who the government has been describing in our
3 enterprise motion and otherwise as enemies of NXIVM. This
4 includes Edgar Bronfman --

5 THE COURT: Senior?

6 MS. PENZA: Yes, Your Honor.

7 THE COURT: The father of Clare Bronfman.

8 MS. PENZA: Correct, Your Honor.

9 THE COURT: Go ahead.

10 MS. PENZA: Other people who are aligned with Edgar
11 Bronfman or close associates with Ross, who has been mentioned
12 numerous times in the case. Numerous reporters. The
13 defendant and NXIVM's own lawyers. Federal judges who were
14 overseeing cases.

15 And what it has within these folders are documents
16 listing the bank accounts, supposed bank accounts of these
17 individuals that were acquired from a -- a firm.

18 And so the government seeks to introduce this not
19 for its truth but as evidence of the enterprise and as
20 evidence of the means and methods by which this organization
21 operated, including gathering this type of information on its
22 enemies.

23 Similarly, the information that is in that box,
24 which we want to introduce in full, having been recovered from
25 the president of NXIVM's home, there are separately two email

1 accounts. One of them is The Beacon, The Beacon 2009, I
2 believe, and OakHaven.haven.

3 THE COURT: Okay?

4 MS. PENZA: Oak Haven.

5 THE COURT: Oak Haven.

6 MS. PENZA: Oak Haven. I'm not sure of the exact
7 email address off the top of my head, but there's two buckets
8 of email accounts.

9 And the government is seeking to introduce those
10 email accounts in full. One of the email accounts has under a
11 hundred pages of documents; one of the email accounts has
12 about 500 pages of documents.

13 The government's position is that these email
14 accounts are entirely criminal and demonstrates the nature of
15 the enterprise.

16 So one of the email accounts appears to have been
17 created by Emiliano Salinas, who the government alleges is a
18 coconspirator. One of email accounts is created by Kristin
19 Keefe, who the government also alleges is a coconspirator.

20 In certain of those emails, the defendant is copied,
21 certainly not all of them; certain of them Nancy Salzman is
22 copied. But what these email as a whole demonstrate is
23 this -- this covert mission to gather these types of
24 financial -- this type of financial information on individuals
25 who they believed were enemies of NXIVM.

1 And there's a lot of back and forth, including
2 running -- running certain wire transactions to see if the
3 accounts were really active, et cetera. And so the government
4 is seeking to put those in in their entirety.

5 At this point there is no -- we have not reached an
6 agreement on authenticity, as to whether there will be a
7 stipulation. If the government needs to, we will certainly
8 call custodians to authenticate the results of the search
9 warrant returns, but at this point in time we are talking
10 about admissibility.

11 And the government contends that both for those
12 email accounts, and for this box that we found in Nancy
13 Salzman's house, that we are not offering it for its truth,
14 we're not offering it to prove that, in fact, these federal
15 judges have these bank accounts, what we're offering it to
16 prove is the way in which this operation -- in which this
17 enterprise operated, and the means and method of the
18 enterprise.

19 THE COURT: So the materials in the box were, in
20 part, financial records of federal judges?

21 MS. PENZA: Financial records of federal judges,
22 politicians, including some of the ones we've heard of.
23 Political operatives, including Steve Pigeon and Roger Stone.
24 All -- many of their lawyers, many of their -- many of
25 their --

1 THE COURT: Whose lawyers?

2 MS. PENZA: NXIVM's own lawyers they ran to make
3 sure -- I assume, to make sure that --

4 THE COURT: Well, don't assume.

5 MS. PENZA: I think --

6 THE COURT: Their lawyers?

7 MS. PENZA: Their own lawyers.

8 THE COURT: In other words, they did -- they
9 investigated, allegedly, their own lawyers.

10 MS. PENZA: They investigated their own lawyers.
11 They investigated Edgar Bronfman. They investigated World
12 Jewish Congress. They investigated Rick Ross and his related
13 entities. They investigated the Albany Times Union. They
14 investigated a whole host of people who are critical to this
15 case. Tony Natalie, who is -- et cetera.

16 THE COURT: And the judges that they investigated,
17 not to put a finer point on it, were judges who had cases
18 involving NXIVM or NXIVM-related cases?

19 MS. PENZA: Yes, Your Honor.

20 In fact, one of the cases that is at the heart of
21 the video-altering allegation here, one of the magistrate
22 judges on that case is one of the people who they
23 investigated.

24 And there is correspondence and documents throughout
25 the case indicating that they felt that that judge was not

1 aligned with them somehow and they were trying to see if she
2 was being bought off by someone.

3 THE COURT: So if it's not -- if these materials are
4 not being offered for the truth of the statements, what's the
5 objection from the defense?

6 MR. AGNIFILO: The objection is that this is
7 something Kristin Keeffe did, largely, not exclusively, on her
8 own. They want to call Kristin Keeffe, and I can
9 cross-examine Kristin Keeffe and get to the bottom of it.

10 One of the things that the prosecutor didn't point
11 out to Your Honor is none of these bank records are real.
12 Canaprobe was running a fraud on Kristin Keeffe. So in other
13 words --

14 THE COURT: Who's running a fraud?

15 MR. AGNIFILO: Canaprobe. Canaprobe is the company
16 that Kristin Keeffe was using to ostensibly do this work.

17 Canaprobe didn't do any of it. Canaprobe didn't
18 investigate any judges. Canaprobe didn't investigate their
19 own lawyers. Canaprobe sent false documents to Kristin Keeffe
20 and then collected hundreds of thousands of dollars in fees.

21 Now, if you don't -- without Kristin Keeffe, the
22 jury wouldn't know any of this. And the jury wouldn't know
23 any of the context of this.

24 So what they're trying to do, they're trying to
25 bring in a mountain of controversial, very nuanced, very

1 difficult evidence without calling the witness who actually
2 did all this. And so I have an objection on several fronts.

3 One, they should call Kristin Keeffe and put all
4 this stuff in through her. That's the witness who did it.
5 There's no doubt about it. And also the stuff in these boxes,
6 is Kristin Keeffe's own notes. She has handwritten notes
7 about her plans to do these things. How are they going to put
8 that in front of a jury and not explain it?

9 It's hearsay. It's to do lists. It's Kristin
10 Keeffe's to do list. These are the things I'm gonna do. Who
11 am I going to question if this comes into evidence?

12 This is not the kind of evidence that can just be
13 dumped into a jury's lap.

14 THE COURT: All right. Thank you.

15 Yes?

16 MS. PENZA: Your Honor, it is -- it is not hearsay.
17 We are not offering it for its truth, and so the idea --

18 THE COURT: Well, it was in Nancy Salzman's --

19 MS. PENZA: It's Nancy Salzman's house. Keith
20 Ranieri is on emails in the box on the email accounts. It's
21 in the president of NXIVM's house. Clare Bronfman is on
22 emails.

23 I mean this idea that -- that it somehow should not
24 be admitted without Kristin Keeffe being called is nonsense.
25 We do this all the time.

1 Mr. Agnifilio is free to make all of the arguments
2 that he wants to make about Kristin Keeffe. He can call
3 Kristin Keeffe. He can make all of those argument, if he
4 wants as to -- as to the documents, but it has nothing to do
5 with their admissibility.

6 They were found in Nancy Salzman's house. He can
7 make his arguments about that and whether -- and that all goes
8 to weight, not to admissibility.

9 MR. AGNIFILO: There's no hearsay exception about
10 where a document is found.

11 MS. PENZA: It's not for its truth.

12 THE COURT: Stop.

13 MR. AGNIFILO: A document is either hearsay or it
14 has a hearsay exception. There's no hearsay exception.

15 Let me give Your Honor an example. And there's
16 dozens of examples. There's hundreds of these examples.

17 I'm looking at an email from someone named Federico
18 Valenzuela Pena. I have no idea who that is. It's to
19 Emiliano Salinas. It has nothing to do with Keith Raniere.

20 And in this email, he talks about Rick Ross. And
21 then he talks about the Branch Davidians and the Waco siege.

22 I can't -- that has no business being at this trial.
23 And -- and the dangerous thing with this wholesale admission
24 of notes, of emails, of all these different manner and means
25 of evidence, all because it's recovered from a box in Nancy

1 Salzman's house is, A, we didn't know until 1:00 this morning
2 they were in the middle of all this stuff. So that's probably
3 one.

4 Second, it has to be done on an individualized
5 basis. I mean that's why it's done when you have a witness on
6 the stand, you say: Here's an email. And you give a copy to
7 the defendant. Or it's from someone who's a coconspirator.
8 And that's the normal course.

9 What they're trying to do is basically take a dump
10 truck and back it up into the courtroom, into the jury box and
11 dump a lot of various information, all of which is problematic
12 under the rules of evidence in one form or another, either
13 because it's -- they're not admissions of the defendant,
14 they're not coconspirator statements, and they're trying to
15 find a way to not call Kristin Keeffe.

16 And the significance, the reason they don't want to
17 call Kristin Keeffe is because -- and they've interviewed her.
18 They said we can call her. We've never spoken her. They've
19 spoken to her, I don't know, 20 times, and they don't want to
20 call her.

21 They're making a judgment decision not to call her
22 because they're afraid of the cross, and maybe they should be.
23 And so what they're trying to do is they're trying to bring in
24 all of her work product, all the different things that she was
25 trying without me being able to cross-examine her.

1 So we want a witness. If this stuff is going to
2 come in, make them call a witness.

3 MS. PENZA: Your Honor, Mr. Fontanelli is the
4 witness. He's going to testify that this box of materials was
5 recovered from Nancy Salzman's house.

6 These emails were recovered from a search warrant on
7 this -- on this email account. That is all that is necessary
8 for admissibility. And then Mr. Agnifilio can say, you don't
9 know who actually wrote these blah, blah. He can do all that.

10 But Mr. Agnifilio is also -- Mr. Agnifilio is the
11 one who's afraid of Kristin Keeffe, because the defendant
12 tortured her, and so that is -- that's why he hasn't spoken to
13 her.

14 THE COURT: What about the materials concerning the
15 financial background of Edgar Bronfman, Sr. and other
16 individuals who were both allegedly, quote, enemies of NXIVM.
17 Why shouldn't that come in, not for the truth of the matter
18 asserted? Wouldn't that, you know, the research that was done
19 that was sitting in the basement of Nancy Salzman's home, half
20 a million dollars in cash?

21 Why shouldn't that come in, not for the truth of the
22 matter asserted, but in order to prove the enterprise? What
23 about that?

24 MR. AGNIFILO: Who's going to explain to the jury
25 that Canaprobe was running a fraud on Kristin Keeffe?

1 I mean Canaprobe -- no one's -- they're not calling
2 anyone from Canaprobe, as far as I can tell. And they're not
3 calling Kristin Keeffe, which is what this shows.

4 So who's going to actually tell the jury what's
5 going on? And that's what we have eyewitnesses for who are
6 alive and well and able to testify. And that's the -- there's
7 only one answer, in my opinion, to this problem.

8 They call a witness, and the witness puts in the
9 product of that witness' work. The witness talks about what
10 that witness did. That witness -- why did this witness -- why
11 did Kristin Keeffe take a look at this person or not.

12 And what we are not -- what's missing from the
13 factual record is going to be the fact that none of this is --
14 is true. None of this is valid.

15 Canaprobe was running a fraud. I mean they didn't
16 actually check on anybody; you know, so we don't know where
17 Canaprobe got these names.

18 Canaprobe could have been very easily feeding it
19 from, hey, Kristin, we should take a look at this. Yeah,
20 that's a great idea.

21 How can we not explore that?

22 MS. PENZA: Your Honor.

23 THE COURT: Yes.

24 MS. PENZA: This is a total red herring. The fact
25 that Canaprobe, whether it turns out that what they were

1 actually providing them were fraudulent documents, that is
2 completely irrelevant.

3 The fact of the matter is no legitimate private
4 investigative firm was willing to obtain bank records on
5 individuals. And so they laid down with dogs and maybe they
6 got flees, and maybe they got defrauded, but that is totally
7 irrelevant, and that's the exact point, we're not offering it
8 for its truth. It does not matter whether these were actually
9 Edgar Bronfman's bank accounts.

10 And contrary to Mr. Agnifilio's point, what you see
11 in these email chains and in emails that are in the boxes, in
12 the same box, is that there were efforts by coconspirators,
13 including Kristin Keeffe, including Emiliano Salinas,
14 including being directed by the defendant as to who the
15 individual would be who were targeted.

16 And of course these are not made up individuals,
17 they're the same individuals we've been hearing about already
18 through this trial and we're going to hear a lot more about.

19 MR. AGNIFILO: My concern, Judge, is there are a lot
20 of factual assumptions being made and -- and I think it's --
21 it's significant.

22 And when they actually have a live available witness
23 that they are making the choice not to call so that they can
24 basically take chances with the rules of evidence to try to
25 get this stuff in, in this old style fashion at the last

1 minute, I just don't think that's -- it puts all of us in a
2 dangerous position because we're forced to make very
3 difficulty decisions on the fly. It shouldn't be done this
4 way.

5 And I object to Task Force Officer Fontanelli. Just
6 because he found a box that has documents or references to the
7 email accounts. That's not an exception to the hearsay rule.
8 And you know --

9 THE COURT: It's not being offered for the truth.
10 The hearsay rule -- you know, the hearsay rule.

11 MR. AGNIFILO: It's being offered for the truth
12 that -- it's being offered for the assumption that because
13 person X was -- you know, that Canaprobe got calls, records on
14 person X that somehow, somehow this comes back to my client or
15 someone else wanting that done. Without a witness, that's a
16 heck of an assumption.

17 THE COURT: Well, you've got cross-examination of
18 the witness and, you know, you can -- you can put that to the
19 witness.

20 MR. AGNIFILO: But, Judge, Task Force Officer
21 Fontanelli, what do I know, I found a box in the basement. I
22 don't know who these people are.

23 THE COURT: In which basement?

24 MR. AGNIFILO: But the fact that it's a box in Nancy
25 Salzman's basement --

1 THE COURT: Well, I mean that it's in the basement
2 of the president of the organization. You know, the jury can
3 just as easily determine that, well, it was in her basement
4 and she was keeping records there and half a million dollars
5 in cash, you don't -- you know, if it's not yours, you don't
6 keep it there.

7 I mean, I'm not saying this is true, I'm just saying
8 you can cross-examine her on it.

9 Let me think about it. Let me see the documents.

10 MS. PENZA: Yes, Your Honor.

11 And I would just like to note for the record that
12 these materials were provided to the defense in discovery.
13 Back in October, we made clear in our enterprise motion that
14 these types of documents were going to be key to our case in
15 chief. And yesterday when I spoke to Ms. Geragos about what
16 we were intending to put in, we did say we were putting this
17 is in.

18 So although I'm not exactly -- maybe they didn't
19 have a marked copy with an exhibit sticker until 1:00 in the
20 morning, but they knew we were seeking to introduce this.

21 MR. AGNIFILO: We knew for the first time yesterday
22 afternoon that they were looking to put these into evidence,
23 and at 1:00 this morning, we saw exactly specifically what it
24 was.

25 THE COURT: Okay, I get everybody.

1 Well, anything else?

2 MS. PENZA: No, Your Honor, we can bring -- do you
3 want to actually see the physical box? We can bring it in
4 this afternoon for you.

5 THE COURT: Sure. Just bring it here and I'll look
6 at it in the robing room.

7 MS. PENZA: Yes, Your Honor.

8 THE COURT: And stay so I can give it back to you.

9 MS. PENZA: Yes, Your Honor.

10 MR. AGNIFILO: Suggestion?

11 THE COURT: Suggestion?

12 MR. AGNIFILO: Yes.

13 Rather than -- I think we need to brief this, and I
14 think Your Honor needs to actually see some of the documents.

15 This is important. And once the jury hears this,
16 all this stuff -- there is nobody I can cross-examine because
17 they are not calling Kristin Keeffe, or else we wouldn't be
18 doing this exercise now.

19 And if -- I think we should call -- this -- the
20 48-hour thing certainly doesn't work when you get a dump of
21 emails at 1:00 in the morning.

22 So I don't know why we have to call Task Force
23 Officer Fontanelli as the next witness, given the fact that we
24 just got all these materials.

25 THE COURT: You don't have to call him. They are

1 going to call him.

2 You can't control when they call their witness.

3 MR. AGNIFILO: But I can say, Your Honor, this is --
4 this is an important legal issue. For us to do this on the
5 fly should not happen. And it's happened because they told us
6 yesterday for the first time they were doing this, and they
7 gave us the information at 1:00 this morning.

8 That is no environment, in my opinion, for the
9 making of important, binding, critical legal decisions in a
10 huge case.

11 THE COURT: But you had these material a long time
12 ago in discovery; didn't you?

13 MR. AGNIFILO: But that doesn't mean that they're
14 going to be put in through a task force officer. I think they
15 were going to put on Kristin Keeffe.

16 MS. PENZA: Kristin Keeffe has been out of the
17 community for years. These were found in Nancy Salzman's
18 basement in 2017. The idea that you are making that
19 assumption is ludicrous.

20 MR. AGNIFILO: They're her notes. They're her
21 notes. Never in a million years --

22 MS. PENZA: NXIVM --

23 THE COURT: One at a time.

24 MR. AGNIFILO: Just because her notes were in a box
25 that somehow there's a hearsay exception for

1 if-they're-in-a-box-of-the-president-of-the-company hearsay
2 exception, there is no hearsay exception then.

3 And if they were going to call Kristin Keeffe, there
4 would be no objection, they would come right into evidence for
5 a lot of these things, but they don't want to call her, and so
6 they're trying to back door at the last minute and it puts us
7 in a difficult position.

8 So my request is, what I'm saying, we're not ready
9 to do this as the next witness. This information came too
10 late in the game. We got it 1:00 in the morning and -- and I
11 am asking for a reasonable amount of time to brief the issue,
12 to show Your Honor some of the stuff that we're talking about,
13 so that we don't have to do this in a rushed fashion.

14 THE COURT: I said I would look at it.

15 MR. AGNIFILO: Okay.

16 MS. PENZA: We'll provide --

17 THE COURT: And I'll sit there with the rules of
18 evidence on the desk and I'll think about it.

19 MR. AGNIFILO: Very good.

20 MS. PENZA: I will note, Your Honor, currently there
21 are some flags on -- in the box that were --

22 THE COURT: Flags?

23 MS. PENZA: Little Post-it flags that we were using
24 to prepare the direct examination of Investigator Fontanelli,
25 so we would seek to keep those on and not have to remove them,

1 if that's okay.

2 MR. AGNIFILO: I don't want you to mess up the
3 direct examination, I wouldn't want the flags removed. That's
4 fine, Judge. Whatever. Flags is fine.

5 MS. PENZA: I just wanted it on the record.

6 THE COURT: Well...

7 MS. PENZA: There it is.

8 THE COURT: There it is.

9 MS. PENZA: There is one more -- since you're
10 reviewing the stuff.

11 THE COURT: Sure, I've got all day now, so go ahead.

12 MS. PENZA: There's a very limited subset of emails
13 that the government is seeking to put into evidence that were
14 recovered from Nancy Salzman's laptop.

15 They are -- there are two emails that included
16 invoices from Kristin Keeffe. I think they have all indicia
17 of reliability. They lay out seeking reimbursement for
18 various things.

19 THE COURT: What was her role at the time,
20 allegedly?

21 MS. PENZA: She was called the, quote, legal
22 liaison.

23 THE COURT: Was she a lawyer?

24 MS. PENZA: She was not.

25 THE COURT: There are a lot of legal people who

1 weren't lawyers in this case.

2 MS. PENZA: She had the role basically before Clare
3 Bronfman did.

4 THE COURT: Oh, I see. The head of the legal
5 committee?

6 MS. PENZA: Uh-huh.

7 THE COURT: Or the legal office, or whatever it was.

8 MS. PENZA: Whatever it was.

9 But she was also a member, she -- as we say, she's a
10 member of the inner circle. She has a child with the
11 defendant.

12 THE COURT: When did she allegedly leave the
13 organization?

14 MS. PENZA: 2014, Your Honor.

15 THE COURT: Yes, and?

16 MS. PENZA: And so within these -- so there's those
17 emails, and then I believe there is a one-off email with Nancy
18 Salzman and another woman that we believe is -- is an email
19 that shows what we have been describing to the Court through
20 our witnesses of the back and forth between Nancy Salzman and
21 other members of the enterprise and other women with whom the
22 defendant had a sexual relationship or other relationships
23 within NXIVM where there's a lot of guilting, et cetera that
24 we've alleged as some of the means and methods of our
25 enterprise.

1 And then there's a few different examples of Jness
2 curriculum. Where Nancy Salzman is on the curriculum, Your
3 Honor has already ruled regarding the admissibility of various
4 teachings of the defendant and of the community, and so
5 that's -- that's really the entirety of it. I think it's
6 about ten emails and its attachments.

7 MR. AGNIFILO: My position is they're hearsay,
8 Judge, without exception.

9 The one that I'm thinking of, one of the ones that
10 Ms. Penza just referenced is from a woman who's not alleged to
11 be a coconspirator to Nancy Salzman, and basically just
12 describes to Nancy something -- this woman is reciting
13 something that went on in her life under the guise of it being
14 tribute or not tribute, and it's just hearsay.

15 I mean it -- if it's not being offered for the
16 truth, I don't know what it is being offered for. It's not a
17 coconspirator statement, it doesn't go or come from my client,
18 and they're just trying to get hearsay in in these roundabout
19 ways, but our objection is that it's hearsay without an
20 exception.

21 MS. PENZA: Your Honor, it's not hearsay. It's not
22 being offered for its truth. Whatever this woman believed her
23 issues were or whatever had happened, that is certainly not
24 the point of why we're putting it in.

25 It is an email chain. There are responses from

1 Nancy Salzman, and it is offered for this pattern of
2 communication between members of the enterprise and people
3 who, we allege, were victimized in some way by the enterprise,
4 and the way that the enterprise worked in order to groom
5 individuals and recruit individuals and keep individuals
6 enrolled within the enterprise, not for the truth of any of
7 this individual's statements.

8 Certainly as to the Jness teaching, certainly do not
9 believe in the truth of those. And that is not what we're
10 offering them for.

11 MR. AGNIFILO: Your Honor, we'll take a look at
12 them. My position is that they're all hearsay and not
13 admissible.

14 MS. PENZA: So we'll provide those to Your Honor as
15 well.

16 Should we bring them to chambers?

17 THE COURT: All right. When?

18 MS. PENZA: Half an hour?

19 THE COURT: That's fine.

20 All right.

21 Anything else for this morning?

22 MR. AGNIFILO: No, Your Honor.

23 MS. PENZA: Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 All right. See you tomorrow morning at 9:30.

1 Why don't you come at 9:00.

2 MR. AGNIFILO: 9:00.

3 THE COURT: And if there is anything left to do at
4 that point, we can do it. Okay, thank you.

5 MS. PENZA: Thank you, Your Honor.

6

7 * * * * *

8 (Proceedings adjourned at 11:10 a.m. to resume on
9 May 15, 2019 at 9:00 a.m.)

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