UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

18-cr-204 (NGG)

UNITED STATES OF AMERICA

-against-

KEITH RANIERE,

Defendant.

MOTION FOR RELEASE ON BAIL

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Preliminary Statement

Through this case, the United States Government seeks to curtail the ways in which independent, smart, curious adults may legally search for happiness, fulfillment and meaning. By condemning DOS as a criminal enterprise and the teachings of Keith Raniere as fraudulent and criminal, the Department of Justice has made itself the morality police. The federal Government apparently does not approve of the way hundreds of women are searching for happiness, fulfillment and meaning in their lives and is now seeking to incarcerate a number of them as well as Raniere, whose ideas inspired this group. To accomplish this unimaginable result, the Government resorts to the Sex Trafficking statute, which, as shown below, does not apply to this conduct. The Government advances an adventuresome legal theory without precedent to assert the emotionally charged crime of "sex trafficking." While some may view certain elements of Raniere's teachings as bold, there are many others who have said, and one day will testify in this very courtroom, that these teachings improved their lives or gave their lives greater meaning. Keith Raniere will wage a vigorous and principled defense to these charges, and the Government's intolerant version of reality will be disproven.

For the time being, however, Raniere asks only to be released from prison so that he and his lawyers may wage this exhaustive and important fight. Accordingly, we request a prompt hearing at a time convenient to this Court and the Government to determine whether a combination of restrictive conditions exists that would permit Raniere, a United States citizen previously residing in Albany, New York, with no criminal record, to be released pending trial. Raniere's proposed conditions, including round-the-clock security as well as electronic monitoring will ensure no danger of his fleeing because he would be under constant guard.

Introduction and Legal Standard

Because Raniere is presumed to be innocent, the Supreme Court has observed that "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." United States v. Salerno, 481 U.S. 739, 755 (1987). As the Supreme Court recognizes, "the function of bail is limited." Stack v. Boyle, 342 U.S. 1, 4 (1954). The underling goal is securing the presence of the defendant rather than "the sum of bail." United States v. Nebbia, 357 F.2d 303, 304 (2d Cir. 1966). When deciding an issue of pretrial release, the Second Circuit has noted that "the court should bear in mind that it is only a limited group of offenders who should be denied bail pending trial." United States v. Shakur, 817 F.2d 189, 195 (2d Cir. 1987). Indeed, the Bail Reform Act requires that the Court impose "the least restrictive . . . condition, or combination of conditions, that will . . . reasonably assure the appearance of the person as required and the safety of the community." 18 U.S.C. § 3142(c)(1)(B). While there is a presumption of detention in sex trafficking cases, this presumption is rebuttable. The presumption imposes on the defendant a "burden of production," while the "burden of persuasion" remains with the government. United States v. Mercedes, 254 F.3d 433, 436 (2d Cir. 2001). Although this burden "is not heavy," the defendant must introduce some evidence contrary to the presumed fact. United States v. Rodriguez, 950 F.2d 85, 88 (2d Cir. 1991). A defendant can satisfy this burden by coming forward "with evidence that he does not pose a danger to the community or a risk of flight." Mercedes at 436. Even if the defendant presents some evidence satisfying his or her burden, "the presumption favoring detention does not disappear entirely, but remains a factor to be considered among those weighed by the district court." Id. In Jessup, the benchmark case defining this burden shift, the court explained:

> Since the presumption is but one factor among many, its continued consideration by the magistrate does not impose a burden of persuasion upon the defendant.

> And, since Congress seeks only consideration of the general drug offender/flight problem, the magistrate or judge may still conclude that what is true in general is not true in the particular case before him. He is free to do so, and to release the defendant, as long as the defendant has presented some evidence and the magistrate or some judge has evaluated all of the evidence with Congress's view of the general problem in mind.

United States v. Jessup, 757 F.2d 378, 384 (1st Cir. 1985).

As demonstrated below, the Government's Complaint and Detention Letter contain significant factual errors. As such, the Government has not met its burden of establishing by clear and convincing evidence that Raniere is a danger to the safety of the community or by a preponderance of the evidence that Raniere is a flight risk. Therefore, Raniere should be released.

Proposed Conditions of Release

While this memorandum paints a clearer picture of Keith Raniere justifying his release, in an abundance of caution, Raniere offers the following conditions that we respectfully submit are more than sufficient to ensure Raniere's appearance during this case and ameliorate any of the risks asserted by the Government:[1]

(1) A $10M bond signed by Raniere;

(2) Travel restricted to the Eastern and Southern Districts of New York;

(3) Surrendering of Raniere's passport, and an agreement not to secure new travel documents;

(4) Strict Pretrial Services supervision;

[1] Prior to submitting this motion to the Court, the proposed conditions were submitted to the Government to determine whether we could move on consent of the parties. However, as it indicated in court, the Government again stated that there are no conditions under which it will agree to Raniere's release. Accordingly, this very substantial package was rejected by the Government.

(5) Home detention with GPS monitoring at a residence selected by the security company called TorchStone, under the supervision of Mark Sullivan, former Director of the U.S. Secret Service with thirty-five years of federal law enforcement experience;

(6) Raniere's presence at this residence to be secured by TorchStone with the following provisions:

a. 24-hour armed guards;

b. Two guards per shift;

c. One supervisory security professional overseeing and scheduling the security detail;

d. Security both at the residence and accompanying Raniere whenever he leaves the residence pursuant to bail conditions;

e. TorchStone will provide a security vehicle with driver whenever Raniere must travel to counsel's office, court, or medical treatment (with prior notification to Pretrial Services); and

f. TorchStone will communicate with Pretrial Services, the Court and/or the Government in regard to any violation of any condition imposed by the Court;

(7) That while Raniere shall be granted access to a computer in order to review the discovery provided in this case and other case-related materials provided by his lawyers, he shall not be permitted internet access;

(8) That Raniere is permitted access to one telephone that will provided and approved by Pretrial Services to make and receive calls to and from phone numbers agreed to by counsel for Raniere and the Government (including the phone number of the mother of his child); and

(9) That Raniere will not directly or indirectly associate or have contact, outside the presence of his counsel, with his co-defendants, alleged co-conspirators, or any individual currently or formerly employed by or associated with Nxivm or any affiliated or constituent entity; however, this does not limit the defense attorneys and their investigators from conducting appropriate defense investigation, consistent with the protective order signed by the Court.

Summary

Keith Raniere is 57 years old. He grew up in Rockland County, New York, and attended college at Rennselear Polytechnic Institute ("RPI") in Troy, New York. He has lived and worked in the Capital region of Albany, New York, steadily over the past almost forty years. Aside from brief trips to Mexico and Fiji over the last several years, he has resided entirely in the United States and primarily in upstate New York.

In a word, Raniere is an ethicist. His ethical teachings, which have focused on raising the level of humanity within each person, have been a source of help and inspiration to thousands of people. He has been recognized by no less than the Dalai Lama.

The accomplishments of Raniere and others working with him are too numerous to recite here. Two of the more notable accomplishments include a film called "My Tourette's," an award-winning feature length movie about Tourette's syndrome and the use of teaching methods developed by Raniere and others to overcome debilitating symptoms of Tourette's and a successful peace movement in Mexico to curb drug cartel violence.

In 1998, Raniere and his business partner incorporated Executive Success Programs ("ESP") with the goal of helping people permanently improve and change their lives with reproducible technology. ESP consists of thousands of multi-hour "modules" and classes which help create the foundation necessary to acquire and build skills for success.

In 2003, Raniere and others founded Nxivm Corporation and have created other Raniere-inspired companies since that time. For example, one company—Jness—was founded in 2008 to promote the furtherance and empowerment of women throughout the world. Another Raniere-inspired company is Rainbow Cultural Garden, a child development program which promotes children's cultural, linguistic, emotional, psychical and problem-solving potential. Nxivm

Corporation exists to scientifically study education and technology to help its student's excel, thereby creating a rational and ethical world.

In 2015, a group called DOS or The Vow was created. DOS was inspired no doubt by Raniere's teachings but it is a group created by and for women. In addition, while Nxivm and DOS have similar curricula and many members in common, they are not structurally related. The Complaint seeks to connect Nxivm and DOS by alleging that "DOS masters recruited slaves mostly from within Nxivm's ranks." Complaint ¶ 15. This is misleading for several reasons. First, rather than being recruited, women joined DOS because they were genuinely interested in being part of a sisterhood of strong, independent women and in the benefits provided by a union of this type. Second, prospective members were not targeted. Rather, the possibility of joining DOS was offered as a way of coping with, and hopefully overcoming, basic challenges facing many people. Third, to the extent there is overlap between Nxivm and DOS memberships, this is because women who are friendly with each other due to Nxivm asked each other from time to time to join DOS.

As noted, DOS is a group of women connected by mutual commitment. As part of a woman's membership in DOS, her commitment is offered by agreement to provide "collateral." Complaint ¶ 15. The form of collateral was the individual choice of the woman, *i.e.*, what would be sufficient for that woman to view her voluntary membership in DOS as a meaningful life commitment. If a particular woman does not wish to provide collateral, she is absolutely free to choose to not join the group. She is also free to discuss the collateral with the woman bringing her into the group. However, there has never been an instance where a woman provided collateral against her will, or where she was compelled to join DOS against her will. Rather, every woman who provided collateral in connection with her admission into DOS did so knowingly, intelligently and with full knowledge and awareness of her actions.

Moreover, counsel is aware of no instance where the collateral of anyone was actually released as a punishment or for any other reason. The collateral is akin to "consideration" in a contract or as a form of commitment to one's membership in DOS. The view shared by many DOS members is that DOS is effective precisely because it requires a tangible commitment, and that the collateral is central to the personal commitment that makes DOS effective.

In a novel effort to fabricate the element of coercion as part of the sex trafficking count, the Government artificially links collateral to a requirement of sex with Keith Raniere. However, we expect that the Government has by now spoken with numerous women who have stated to the investigators and prosecutors that collateral was wholly unrelated to sex or an expectation of having sex with anyone, let alone Raniere.[2] The evidence is overwhelming that the collateral was a function of a woman's membership in and commitment to DOS, and nothing more.

Another feature of DOS membership – one on which the Government focuses – is the fact that several of the women in DOS chose to voluntarily brand themselves. There are several instances of women who joined DOS who chose not to be branded and were not. The decision of some DOS women to brand themselves was absolutely knowing and voluntary, and a product solely and exclusively of their free will. In fact, the woman being branded typically placed the stencil on her body where she wanted the brand to be located. The Government does not allege (because there are no such instances) of a woman branded against her will, nor of a woman branded who did not expect and voluntarily choose to be branded. Indeed, there are numerous

[2] The defendant requests that the Government turn over all such statements as soon as possible as Brady material.

examples of women who joined DOS who chose not to be, and were not, branded. Finally, while there may be instances of someone branded who later second-guessed or regretted her decision, the evidence will be clear that the decision was knowing, voluntary and based on free will at the time it was made. [3]

It is worth mentioning that members of a number of male fraternities and social groups regularly brand themselves to signify their membership. For example, Omega Psi Phi, an international fraternity dating back to 1911 with over 750 undergraduate and graduate chapters, has developed an unofficial practice where members voluntarily brand themselves to show dedication to the group. However, the Government rushes to judgment that women who similarly brand themselves must be victims, a notion that is anathema not only to the principles underlying the very creation of DOS, but also to the freedom of choice we are all afforded.

The Government's overarching premise is that DOS was created as a way of Raniere having access to women who were brought into DOS on an ongoing basis. This is absolutely false and will be soundly disproven through the testimony of the actual DOS members who will testify at the trial.

Arrest and Indictment

On March 26, 2018, Mexican police officials entered a residence in Mexico and forcefully seized Raniere. However, he was not arrested based on the U.S. arrest warrant. Rather, he was incarcerated in Mexico as a deportable U.S. person. Denied access to a lawyer and the ability to communicate with anyone, he was taken across the border into the United States without being presented to a Mexican court and in the absence of any legal process. After

[3] To the extent that one or more former DOS members have made public statements that this branding was not knowing and voluntary, such statements are provably false. The evidence is overwhelming and beyond contention that these brandings were knowing, voluntary and products of each woman's free will. Any statements to the contrary will be readily disproven.

he was brought to the United States, he was arrested on the instant arrest warrant. He has been held at the Metropolitan Detention Center in Brooklyn since April.

The Indictment charges Keith Raniere and Allison Mack with three counts: (1) Conspiracy to Commit Sex Trafficking, in violation of Title 18, United States Code, Section 1591(e)(2); (2) Sex Trafficking, in violation of Section 1591(a)(1); and (3) Conspiracy to Commit Forced Labor, in violation of Section 1589.

Raniere Should Be Released on Conditions Because He Is Not Danger to the Community or a Flight Risk

1. Raniere Is Not a Danger to the Community

The Government claims that the defendant is both a danger to the community and a risk of flight. See Dkt. No. 4: Government Detention Letter at 6. To bolster this contention, the Government states that "[a]ccording to confidential sources, the defendant had repeated sexual encounters with multiple teenage girls in the mid-to-late 1980s and early 1990s." Id. at 3. Raniere flatly denies this unsubstantiated and inflammatory statement relating to supposed events from three decades ago. Moreover, these allegations were investigated by law enforcement and Raniere was never charged. The Government also states that Raniere ordered the "long-term confinement" of a Nxivm member for an ethical breach. Id. However, the Government failed to inform the Court that this supposed "long-term confinement" was more akin to "grounding" than confinement, as it was in a bedroom of the woman's own home with the door unlocked and her family present.

There are no actual facts that this defendant, with no prior criminal record, is a danger to anyone. However, even if Raniere was a danger – and he clearly is not – the conditions proposed above would eliminate any potential danger that could otherwise exist. Therefore, in light of the proposed conditions of house arrest, electronic monitoring and armed security by an elite security team, Raniere is not in a position to pose a danger to the community and should be released.

2. Raniere Is Not a Risk of Flight

Raniere is likewise not a flight risk. He is a United States citizen who has lived in the United States and upstate New York his entire life. There is no basis to believe he will do anything but fight this case hard and will return to court each time to do so. As shown below, he has never evaded this, or any, investigation. On the contrary, in the Fall of 2017, when Raniere became aware of a potential investigation, he employed the former United States Attorney for the District of Massachusetts, Michael Sullivan, for legal representation. Inquiries were made to different prosecutorial offices including the New York State Attorney General and the United States Attorney's Office for the Northern District of New York (NDNY), where Nxivm and Raniere were located.

Raniere, through his counsel, was interested in sharing his side of the story with the NDNY. Mr. Sullivan, on Raniere's behalf, contacted the United States Attorney for the NDNY, Grant Jacquith, on or about March 15, 2018 and understood based on that call, that there was not a criminal investigation being conducted by the NDNY, nor did it appear that the NDNY was aware of a criminal investigation by another District. Mr. Sullivan understood the NDNY would attempt to determine if another District had opened a matter related to Raniere and if it had, would make that District aware of Mr. Sullivan's interest in speaking with them on behalf of Raniere. After a few days, Sullivan again contacted the NDNY, at least once and possibly twice, in an attempt to see if there was an open matter in order to provide the Government information that would dispute and undermine the assertions being made in the media. To this date, Mr.

Sullivan has not received a response from Mr. Jaquith or anyone in his office.[4] Having an attorney reach out to the United States Attorney is the antithesis of running, hiding or fleeing investigators.

In addition, the Government's repeated statements that Raniere fled to Mexico due to this investigation are patently false. Specifically, in the Government's Complaint against Raniere (see Dkt. No. 1 ¶ 34), their Detention Letter (see pp. 4, 6), and their May 23, 2018 Verified Complaint In Rem against third-party properties (see United States v. Real Property at 8 Hale Dr. et al., No. 18-CV-3041-SJ, Dkt. No. 1 ¶ 34 (E.D.N.Y. 2018)), the Government has continually argued that Raniere "fled" to Mexico to avoid the consequences of the investigation.

Specifically, in the Government's Complaint and Affidavit in Support of Raniere's arrest, Special Agent Michael Lever swore to the following facts:

> In or about October 2017, the New York Times published an article revealing the existence of DOS. Several weeks after that article was published and after the FBI began interviewing witnesses, Raniere flew to Mexico with an heiress "the "Heiress" who is a member of Nxivm's Executive Board and is a known financial backer of RANIERE and Nxivm. Prior to this trip, RANIERE had not flown out of the country since 2015, when he visited the Heiress's private island in Fiji. RANIERE is currently believed to be residing in Monterrey, Mexico, where Nxivm maintains a center, with a branded DOS slave.

Complaint ¶ 34. The nearly exact same paragraph is included in the In Rem action filed recently to seize third-party properties in Albany. See United States v. Real Property at 8 Hale Dr. et al., Dkt. No. 1 ¶ 34. Furthermore, the Government argues in several points in their Detention Letter that "[a]fter law enforcement began interviewing witnesses about the defendant's criminal conduct, he fled to Mexico where he was apprehended only after a month-and-a-half of active searching." Detention Letter at 6; see also id. at 4 ("Shortly after the government began

[4] Mr. Sullivan is available to either submit a declaration or testify should this Court have any question about his contacts with the Department of Justice.

interviewing witnesses and victims in November 2017, the defendant flew to Mexico."). The suggestion is clear: Keith Raniere went to Mexico because of an investigation and newspaper article.

These statements are inaccurate and are belied by documents and records in the Government's possession which they have overlooked and not provided to the Court. Contrary to paragraph 34 of the Complaint, Raniere had flown out of the country prior to his trip to Mexico in November 2017, and the circumstances surrounding his trip to Mexico were not to evade law enforcement's investigation. In fact, Raniere and the mother of his child were seeking to comply with United States law. The goal was not to travel south to Mexico, but rather north to Canada.

The mother of Raniere's child is a Mexican citizen, who most recently entered the United States on a B1/B2 visitor's visa on April 15, 2017. Pursuant to that visa, she was only authorized to remain in the United States until October 14, 2017. See Ex. 1: I-94 Form. The six-month duration of this stay in the United States is corroborated by the second date on the I-94 form of October 14, 2017. Id. This means that she was required to leave the United States no later than October 14, 2017 or be in violation of United States law. On advice of counsel, Raniere and the mother of his child were advised to arrange for her to leave the country. Wanting to be close to his home and business, Raniere and the mother of his child rented an Airbnb in Canada for the family to live in while they resolved the immigration issues. See Ex. 2: Airbnb Rental. However, when they attempted to enter Canada on October 13, 2017, Immigration, Refugees and Citizenship Canada ("Immigration Canada") denied them entry. With less than 24 hours to be in compliance with United States immigration law, on October 14, 2017, to comply with the visa, Raniere, the mother of his child and his child flew to San Diego and entered Mexico by crossing the San Ysidro port of entry. See Ex. 3: Raniere Flight to San Diego, CA; Ex. 4: Mother Flight to

San Diego, CA. As shown by both Raniere's passport (Ex. 5: Raniere passport stamps) and the mother of his child's passport (Ex. 6: Mother's passport stamps), they both entered Mexico on October 14, 2017. Therefore, documentary evidence conclusively shows that Raniere and the mother of his child left the United States on the precise date that her visa was to expire and that they did so to avoid any violation of United States law.

Additionally, their entry into Mexico was *prior to* the publication of The New York Times article "revealing the existence of DOS." Ironically, and contrary to the Government's flight theory due to The New York Times story, the day The New York Times published the article on DOS, Raniere flew back to Albany from Mexico. See Ex. 7: Raniere Flight to NY. His flight itinerary was sent to his Yahoo! email account, on which the Government has executed a search warrant, yet they have still represented in their multiple public filings that prior to November 2017, he had not flown out of the country since 2015—ignoring that Raniere had traveled to Mexico weeks earlier.

Raniere stayed in Albany until November 10, 2017 (several weeks after The New York Times published its article), to be at his former partner's home on November 7, 2017, the one year anniversary of her passing. Raniere's open return to his New York home for several weeks while under threat of prosecution and having his attorney communicate with the Justice Department militates against detention. After several weeks in Albany and the one-year anniversary of her death, Raniere flew back to Mexico to be with his child and the mother of his child. See Ex. 5: Raniere passport stamps; Ex. 9: Raniere flight to Mexico.

To support its flight theory, the Government asserts that Raniere "flew to Mexico" and "[f]inding the defendant was difficult because the defendant purposely concealed his location." Detention Letter at 4. This is demonstrably false. Documents in the Government's possession, and turned over to the defense in discovery, show that while in Mexico, Raniere filed documents in Saratoga County Surrogate's Court which identified by name and location the Mexican notary before whom he appeared. On December 20, 2017, Raniere appeared before Notario Publico[5] Jose Guillermo Meza Garcia to sign a document renouncing his role as executor of the estate of Pamela Anne Cafritz, his deceased long-time significant other.[6] See Ex. 8: Renunciation of Nominated Executor. The Notario indicated his name and address on the apostile. Id. Raniere's renunciation was filed as a public document in the Saratoga County Surrogate's Court and scanned into the court file on January 17, 2018. Raniere was not hiding in Mexico. He was openly appearing before a Mexican legal official and openly filing a document in the courts of New York. *The Government was in possession of this document*.

The exact timeline is set forth below:

Date	Event	Exhibit
April 15, 2017	Mother of Raniere's child admitted to the United States on a visa which expires on October 14, 2017.	1
October 13, 2017	Raniere, the mother of his child, his child, and one other drove to Canada to stay in a rented Airbnb, but Immigration Canada denied them entry.	2
October 14, 2017	The mother of Raniere's child's visa is set to expire at midnight; so she, Raniere, and the child fly to San Diego, to drive to Mexico.	3, 4, 5, 6
October 17, 2017	Raniere flies back to Albany, NY from Monterrey, Mexico.	7
October 17, 2017	The New York Times article is published. (Available online	n/a

[5] A notary public in Mexico, or Notario Publico, has greatly different role and position compared with an American notary. The Mexican notary must be an attorney and undergo specialized education and a rigorous test and to assume legal responsibilities beyond those of a notary public in the United States.

[6] Raniere was Pamela A. Cafritz' power of attorney and the nominated Executor of her estate. Raniere renounced his authority to manage the estate through this document. Ms. Cafritz' estate assets are to pass to a trust she created, although, as of this date, this has not yet occurred, pending certain legal work related to the trust. Nonetheless, Raniere has no control over the estate assets and will renounce his right to manage the trust, of which he is an alternate trustee and sole beneficiary. Defense counsel agrees to keep all interested parties updated as to the creation of the trust and the disposition of these assets.

	prior to publication.)	
November 7, 2017	On the one-year anniversary of Raniere's 20-year long partner's death, Raniere spends the day in the Clifton Park home they lived in to celebrate her life.	n/a
November 10, 2017	Raniere flies back to Monterrey to join his family and to celebrate the mother of his child's birthday.	5, 9
November 15, 2017	The mother of Raniere's child's birthday.	n/a
December 20, 2017	Raniere appears before Notario Publico Jose Guillermo Meza Garcia to sign a document renouncing his role as executor.	8
January 17, 2018	Raniere's renunciation was scanned into the Surrogate's Court file.	8
March 15, 2018	Raniere's attorney, former United States Attorney Michael Sullivan, contacts NDNY United States Attorney Grant Jaquith.	n/a

Accordingly, any suggestion that the timing of this visit to Mexico was due to the U.S. investigation or that Raniere was hiding in Mexico is provably false based on records maintained by the Government.

Another fact that makes flight far less plausible is that Raniere's case, as well as his image and his popularity make him instantly recognizable. It is well-known, and not disputed, that there is a group of critics of Nxivm and Raniere who located him in Mexico and took photographs of him and others. His activities in Mexico were reported on and photographed by detractors. Indeed, the members of Nxivm had, and continue to have, reason to be afraid of this group, which has utilized aggressive methods to intimidate Nxivm members and has engaged in significant criminal conduct.

On this point, it bears mentioning that if Raniere and others utilized different phones and email addresses on occasion, it was not to evade law enforcement but rather this well-organized anti-Nxivm group which has harassed Raniere and others for several years. Moreover, his attorney left a phone number with the Department of Justice on two occasions by which he could be reached.

3. The Government's Case Is Unsupported by the Facts

While the Government is using fearsome statutes with lengthy minimum sentences, its attempt to transform a volitional union of free-minded, educated, intelligent, willful, successful adult women into a helpless band of victims is baseless. With the exception of a few people,[7] the members of DOS will come to Court and will tell the truth, specifically that they are not victims of sex trafficking, or of anything else, and that the Government's allegations to the contrary are simply false.

Even viewing the purported conduct in a light most favorable to the prosecution, the allegations do not amount to a violation of Title 18, United States Code, Section 1591(a)(1), the title of which is "Sex trafficking of children or by force, fraud or coercion."

The statute reads as follows:

(a) Whoever knowingly –

> (1) in or affecting interstate or foreign commerce…recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person…knowing, or…in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act….
>
> (2) The term "coercion" means – (A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of law or legal process.
>
> (3) the term "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

[7] Among a few former-Nxivm-members-turned-critics who are speaking to the Government are a former DOS member who has secured a docu-series since Raniere was arrested, another who has launched a podcast, another who has secured a book deal and a fourth who is under Indictment in the Western District of New York.

> (4) the term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

The evidence in this case lacks two critical elements required by the statute. First, there is no evidence of force, threats of force, fraud, coercion or any combination. None of the women have stated, nor could truthfully state, that Raniere had sex with them against their will. This is not a case of non-consensual sexual conduct. Rather, the Government seems to be manufacturing a case where women feel compelled to remain in DOS because they voluntarily gave collateral when they joined. But, this is in essence a contract. Also, there is no evidence that the collateral has any connection whatsoever to sexual conduct. Instead, the collateral relates solely to that person's commitment to DOS. Therefore, there will be no evidence that there was ever any sexual conduct based on force, fraud or coercion.

Second, there is no evidence that anyone engaged in a commercial sex act, within the meaning of the statute. As noted, the element of "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person. The term used in the definition "anything of value" appears regularly in the criminal law. See 18 U.S.C. § 201 (bribery of federal officials and witnesses); 18 U.S.C. § 641 (theft of federal property); and 18 U.S.C. § 666 (bribery in relation to federally-funded programs). The term is generally understood to involve both tangible and intangible remuneration. United States v. Townsend, 630 F.3d 1003 (11th Cir. 2011); United States v. Fernandez, 272 F.3d 938 (7th Cir. 2010); United States v. Hines, 541 F.3d 833 (8th Cir. 2008); United States v. Zimmermann, 509 F.3d 920 (8th Cir. 2007).

However, to the extent that the Government's theory of remuneration in the instant case is the status of Raniere or of another person, the Government cites no precedent for such a theory. Plainly, this case does not involve prostitution in any regard. There is no allegation, nor could there be, that anyone in this case was involved in prostitution or anything remotely similar to it. While the Government may believe that the sex trafficking statute is sufficiently broad to cover this conduct, we are confident a jury will not share the Government's view.

Accordingly, while it is admittedly too early to litigate the merits of the Government's claims, the Government faces substantial legal and factual issues.

The Facts of This Case Require That Raniere Be Released

Given the fact that Raniere is a United States citizen without a criminal (or arrest) record who has lived and worked his life in New York State, he should be released under a traditional personal recognizance bond secured by property and co-signors subject to pretrial supervision. In other words, the defense should not have to resort to the extreme conditions set forth above involving, among other things, full house arrest with a GPS monitor and armed twenty-four hour guards. However, in order to ensure that the defendant is released, we are willing to do so.

A review of other cases where conditions similar to these had been proposed by the defense shows that Raniere should be released on the proposed conditions. Over the past ten years, there have been a number of noteworthy cases where conditions such as house arrest with security guards have been proposed. The ultimate decision as to whether the court releases the defendant based on these conditions turns on a number of factors all of which weigh in defendant's favor here. First, many of the decisions turn on the citizenship status of the defendant. Second, several turn on whether the offense conduct comprises threats to witnesses or charges of obstruction of justice. Third, several of the cases focus on whether the defendant lied to the court in regard to his financial resources or as to assets overseas. A review of several of the recent decisions in this area indicates that the current case is one where release on conditions should be granted.

1. United States v. Brooks, No. 06 Cr. 550 (JS) (E.D.N.Y. 2008)

The Honorable Joanne Seybert of this District allowed David Brooks to be released on rigorous conditions despite the fact that Brooks had bought a house in London the day the Indictment against him was filed, and despite meaningful attempts by Brooks to obstruct the investigation, including the removal of a number of computers allegedly used by Brooks to engage in the charged conduct. The measures taken by Brooks to flee, move millions of dollars overseas and obstruct justice are set forth in a letter from the Government dated October 30, 2007, attached hereto as Exhibit 10. Despite this conduct, Judge Seybert released Brooks on electronic monitoring with two guards, one of whom was armed.

2. United States v. Dreier, 596 F. Supp. 2d 831 (S.D.N.Y 2009)

The Honorable Jed S. Rakoff released Marc Dreier who was charged with a $400,000,000 fraud where "tens of millions of dollars were missing." See United States v. Dreier, 596 F. Supp. 2d 831, 833 (S.D.N.Y 2009). Significantly, Dreier was dishonest about recent travel, having falsely denied a trip to Turkey. Nonetheless, despite Dreier's falsehoods regarding travel, the "colossal criminality" of his fraud (id. at 1) and the missing money, the Court concluded that the proposed package – involving house arrest with security guards – sufficiently minimized any risk of flight. Reviewing the proposed conditions, the Court noted, "the most potentially efficacious, and controversial, is Dreier's proposal to have armed guards staying at his apartment at all times, authorized to prevent his leaving his apartment at any time except upon express prior Order of the Court." Id. at 5.

3. United States v. Madoff, 586 F. Supp. 2d 240 (S.D.N.Y. 2009)

As is well known, Bernard Madoff, in one of the largest fraud cases in this nation's history, was released on restrictive conditions including 24-hour security guards. Despite knowing he was facing a sentence of life in prison, and despite the fact that the case involved an unknown amount of missing funds, Madoff was trusted to return to court, and he did so. Significantly, the Government consented to the conditions. See United States v. Madoff, 586 F. Supp. 2d 240, 244.

4. People of the State of New York v. Strauss-Kahn, Dkt. No. 2011NY035773

While this was a New York State prosecution of the former head of the International Monetary Fund for allegations of raping an employee of a Manhattan hotel, the case is noteworthy for two reasons. First, the District Attorney's Office maintained initially that the case was overwhelming against the defendant - a statement also maintained by the prosecution here - only to conclude after further investigation that the charges were unfounded. Second, despite the defendant being a citizen of a country (France) that refused to extradite its own citizens, the massive wealth of the defendant's wife at the time, and the serious nature of the rape allegations, the Court released Mr. Strauss-Kahn under conditions including house arrest with armed guards.

5. United States v. Cilins, No. 13 Cr. 315 (WHP) (S.D.N.Y. 2013)

This case also involved a French citizen who was charged with three counts of witness tampering as well as obstructing justice and falsifying records in a federal investigation. In addition, the Honorable William H. Pauley concluded that Cilins had not been honest about his financial resources and that he omitted mentioning a bank account with over a $1,000,000. Due to the nature of the charges, the defendant's French citizenship and the defendant's lack of candor, the Court rejected the defendant's proposal. These three factors, which comprised the basis of the Court's decision, are each absent here. Accordingly, Cilins is readily distinguishable.

6. United States v. Valerio, 9 F. Supp. 3d 283 (E.D.N.Y. 2014)

The Honorable Joseph F. Bianco of this District denied release for a defendant charged with the actual production of child pornography involving two minors – a six-year-old child and a three-year-old child. The Court concluded that given the nature of the offense, specifically the actual production of child pornography involving these young children, the defendant was unable to rebut the statutory presumptions of dangerousness and flight. The Court noted that the defendant's inability to rebut the presumption was due, in part, to the fact that (i) the defendant had a prior conviction for "attempted forcible touching" of a woman's genitals at a water park on Long Island, (ii) the defendant had hidden cameras in the floor, ceiling and wall, and (iii) that the defendant stated he would kill himself. Accordingly, because of the specific facts of Valerio, it is distinct from the present case.[8]

7. United States v. Seng, No. 15 Cr. 706 (VSB) (S.D.N.Y. 2015)

The Honorable Vernon Broderick's decision in United States v. Ng Lap Seng, No. 15 Cr. 706 (S.D.N.Y.) fully supports Raniere's application here. Mr. Ng, a citizen of China worth $1.8 billion, was arrested on a complaint while boarding his private jet about the leave the United States. Despite this massive personal wealth, his access to private jets, the absence of any ties to the U.S. and that he was charged with a large-scale bribery of a United Nations Official, Mr. Ng was released on house arrest with 24-hour security guards. Moreover, Judge Broderick allowed Mr. Ng to remain out on these bail conditions even after Mr. Ng was convicted and awaiting sentence.

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[8] Although there is a rebuttable presumption of detention in Raniere's case, the proposed bail conditions adequately rebut this presumption.

8. United States v. Webb, No. 15 Cr. 252 (PKC) (E.D.N.Y. 2015)

In the 2015 FIFA bribery case, Judge Vera Scanlon of this District released defendant Jeffrey Webb, a citizen of the Cayman Islands who was extradited from Switzerland, on a $10 million bond with the condition, inter alia, that Mr. Webb pay for a private security service to "monitor the defendant's physical location and provide security 24 hours per day, 7 days per week." See United States. v. Webb, 15 Cr. 252 (PKC) Dkt. No. 40 at Attachment A, ¶ 6. Notably, as there is no docket entry for a bail hearing in that case, it appears that the U.S. Attorney's Office for the E.D.N.Y. agreed to this condition.

9. United States v. Zarrab, No. 15 Cr. 867 (RMB), 2016 WL 3681423 (S.D.N.Y. Jun. 16, 2016)

While the Honorable Richard Berman denied release for the dual Iranian/Turkish citizen Reza Zarrab in a massive Iranian sanctions prosecution, the facts of that case are distinct. First, as a citizen of Iran and Turkey, Mr. Zarrab could find refuge in either country, especially Iran. Second, it was believed that Zarrab had a close relationship with the Turkish President which made it virtually impossible for the U.S. to extradite him. Third, Zarrab had never previously set foot on U.S. soil.

10. A Review of These Cases Shows That Raniere Should Be Released

A comparison of these cases to the instant case indicates that Raniere should be released on appropriate conditions. First, Raniere is a United States citizen. Second, Raniere does not have wealth. As noted above, while Raniere did spend some time recently in Mexico, he did not flee there, as alleged by the Government. Also, when the United States wanted his appearance in Court, it arrested him in Mexico and took him across the border in a matter of hours. So, any concern that Raniere might flee to Mexico is eliminated by the fact that the U.S. authorities have full access to U.S. citizens residing in Mexico. Third, unlike some of the above cases, there is no allegation that Raniere has millions of dollars in overseas assets. Fourth, the instant case does not involve allegations of witness tampering or obstruction of justice. Accordingly, a review of other cases with similar proposals indicates that Raniere should be granted release on the conditions proposed.

Conclusion

For the reasons set forth above, we move this Court to release Raniere under the following conditions:

(1) A $10M bond signed by Raniere;

(2) Travel restricted to the Eastern and Southern Districts of New York;

(3) Surrendering of Raniere's passport, and an agreement not to secure new travel documents;

(4) Strict Pretrial Services supervision;

(5) Home detention with GPS monitoring at a residence selected by the security company called TorchStone, under the supervision of Mark Sullivan, former Director of the U.S. Secret Service with thirty-five years of federal law enforcement experience;

(6) Raniere's presence at this residence to be secured by TorchStone with the following provisions:

a. 24-hour armed guards;

b. Two guards per shift;

c. One supervisory security professional overseeing and scheduling the security detail;

d. Security both at the residence and accompanying Raniere whenever he leaves the residence pursuant to bail conditions;

e. TorchStone will provide a security vehicle with driver whenever Raniere must travel to counsel's office, court, or medical treatment (with prior notification to Pretrial Services); and

f. TorchStone will communicate with Pretrial Services, the Court and/or the Government in regard to any violation of any condition imposed by the Court;

(7) That while Raniere shall be granted access to a computer in order to review the discovery provided in this case and other case-related materials provided by his lawyers, he shall not be permitted internet access;

(8) That Raniere is permitted access to one telephone that will provided and approved by Pretrial Services to make and receive calls to and from phone numbers agreed to by counsel for Raniere and the Government (including the phone number of the mother of his child); and

(9) That Raniere will not directly or indirectly associate or have contact, outside the presence of his counsel, with his co-defendants, alleged co-conspirators, or any individual currently or formerly employed by or associated with Nxivm or any affiliated or constituent entity; however, this does not limit the defense attorneys and their investigators from conducting appropriate defense investigation, consistent with the protective order signed by the Court.

Respectfully submitted,

/s/
Marc Agnifilo, Of Counsel
Jacob Kaplan
Teny Geragos
Brafman & Associates, PC
767 Third Avenue
New York, NY 10017

/s/
Paul DerOhannesian II
Danielle R. Smith
DerOhannesian & DerOhannesian
677 Broadway – Ste. 707
Albany, NY 12207

cc: The Clerk of Court (by hand and email)
Counsel for the Government (via ECF and email)

EXHIBIT 1

Departure Number

[redacted]

Department of Homeland Security

CBP I-94 A (11/04)
Departure Record

DEPARTMENT OF HOMELAND SECURITY • U.S. CUSTOMS AND BORDER PROTECTION
ADMITTED
CHM
60
5147
APR 15 2017

B2
20025

Class
Until

Oct 14 2017

Family Name	
[redacted]	
First (Given) Name	Birth Date (Day Mo Yr)
[redacted]	[redacted] 83
Country of Citizenship	
MEXICO	

20170415 US VISIT 20170415 MULTIPLE

EXHIBIT 2

Airbnb, Inc.

Canceled: 61 nights in Montréal, Canada

Booked by **Clare Bronfman**
Friday, Oct 6, 2017

Cancellation
HMJ4YCX8HR

Check In
Oct 10, 2017

Check Out
Dec 10, 2017

Entire home/apt

Luxurious 2br apart-Old Montreal
[redacted]
Montréal, Québec H2Y 0A8
Canada

Hosted by [redacted]
Phone: [redacted]

4 Travelers on this trip

[redacted]

+ 1 more guest

Charges

$119.83 × 61 nights	$7309.62
Cleaning fees	$65.82
Service fee	$323.96
Original total	**$7699.40**
Cancellation refund	($2903.49)
New total	**$4795.91**

Payment

EXHIBIT 3

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

---------- Forwarded message ---------
From: Delta Air Lines <DeltaAirLines@e.delta.com>
Date: Sun, Oct 15, 2017 at 5:02 AM
Subject: Your Flight Receipt - KEITH A RANIERE 14OCT17
To: <[redacted]>

Thanks for choosing Delta. Your Flight is confirmed.

Hello, KEITH A

Your Trip Confirmation #: H2K6YQ

Sat, 14OCT	**DEPART**	**ARRIVE**
DELTA 2	NYC-KENNEDY	SAN DIEGO, CA
Main Cabin (Q)	7:30pm	10:37pm

RESTRICTED HAZARDOUS ITEMS

To ensure the safety of our customers and employees, Delta no longer accepts **hoverboards or any lithium battery powered self-balancing personal transportation devices** on board its aircraft. These items are prohibited as both carry-on and checked baggage.

Spare batteries for other devices, fuel cells, and e-cigarettes are permitted in carry-on baggage only. If your carry-on bag contains these items and is gate checked, **they must be removed and carried in the cabin**. Further information and specific guidelines regarding restricted items can be found here.

Passenger Info

NAME	FLIGHT	SEAT
KEITH A RANIERE	DELTA 2	29D

Visit delta.com or use the Fly Delta app to view, select or change your seat.
If you purchased a Delta Comfort+™ seat or a Trip Extra, please visit My Trips to access a receipt of your purchase.

Flight Receipt

Ticket #: 0062300477484

Place of Issue: Delta.com

Ticket Issue Date: 14OCT17

Ticket Expiration Date: 14OCT18

METHOD OF PAYMENT

AX***********[redacted]	**$531.20 USD**

CHARGES

Air Transportation Charges	
Base Fare	$480.93 USD
Taxes, Fees and Charges	
United States - September 11th Security Fee(Passenger Civil Aviation Security Service Fee) (AY)	$5.60 USD
United States - Transportation Tax (US)	$36.07 USD
United States - Passenger Facility Charge (XF)	$4.50 USD
United States - Flight Segment Tax (ZP)	$4.10 USD
TICKET AMOUNT	**$531.20 USD**

NONREF/PENALTY APPLIES

This ticket is non-refundable unless the original ticket was issued at a fully refundable fare. Some fares may not allow changes. If allowed, any change to your itinerary may require payment of a change fee and increased fare. Failure to appear for any flight without notice to Delta will result in cancellation of your remaining reservation.

Note: When using certain vouchers to purchase tickets, remaining credits may not be refunded. Additional charges and/or credits may apply.

Fare Details: JFK DL SAN480.93QA0NA0MP USD480.93END ZP JFK XF JFK4.5

Checked Bag Allowance

The fees below are based on your original ticket purchase. **If you qualify for free or discounted checked baggage,** this will be taken into account when you check in.

Sat 14 Oct 2017	DELTA: JFK SAN	
CARRY ON	FIRST	SECOND

FREE	25^{USD}	35^{USD}

Visit delta.com for details on baggage embargos that may apply to your itinerary.

Transportation of Hazardous Materials

Federal law forbids the carriage of hazardous materials aboard aircraft in your luggage or on your person. A violation can result in civil penalties. Examples include: Paints, aerosols, lighter fluid, fireworks, torch lighters, tear gases and compressed gas cartridges.

There are special exceptions for small quantities (up to 70 ounces total). For further information visit delta.com Restricted Items Section.

We have partnered with The Nature Conservancy to allow you to offset your carbon emissions from this trip. Go to delta.com/CO2 to calculate your CO2 emissions and learn more about offsetting.

Terms & Conditions

This ticket is non-refundable unless the original ticket was issued at a fully refundable fare. Some fares may not allow changes. If allowed, any change to your itinerary may require payment of a change fee and increased fare. Failure to appear for any flight without notice to Delta will result in cancellation of your remaining reservation.

Note: When using certain vouchers to purchase tickets, remaining credits may not be refunded. Additional charges and/or credits may apply.

†All SkyMiles® program rules apply. To review the rules, see Membership Guide & Program Rules. Taxes and fees for Award Travel are the responsibility of the passenger and must be paid at the time the ticket is booked. Award Travel seats are limited and may not be available on all flights or in all markets. Offers void where prohibited by law. Other restrictions may apply.

Checked Bag Allowance

*On Delta operated flights, you may carry on one bag and a small personal item at no charge.

Delta One™/First/Business Class weight allowance reverts to 50 lbs for all checked bags beyond regular free allowance.

At the time of check in with Delta, SkyMiles Medallion members, SkyTeam Elite & Elite Plus and active US Military personnel are eligible for fee waivers and other benefits. For more details, visit delta.com/baggage. Basic Cardmembers with a Gold, Platinum, or Reserve Delta SkyMiles Credit Card from American Express are eligible for the first bag fee waiver. More details on the program can be found at delta.com/firstbagfree.

A standard checked bag with Delta may be up to 50 lbs and 62 linear inches (per piece). Additional fees apply for oversize, overweight, and/or additional pieces of checked baggage. Please review Delta's baggage guidelines for details. Weight and size restrictions may vary when checking baggage on carriers other than Delta. Contact with the operating carrier for detailed checked baggage allowances. You must be checked in at the gate by the applicable check-in deadlines or your reservation may be cancelled. Please review Delta's check-in requirement guidelines for details. Check-in requirements vary by airline, so if your ticket includes travel on other airlines, please check with the operating carrier on your ticket.

Do you have comments about our service? Please email us to share them.

Conditions of Carriage

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Melissa Pomeroy | South Pacific Destination Specialist | Fiji and Tahiti

Email: [redacted] | [redacted]

Websites: www.Fijivacations.com | www.tahitianvacations.com

Mobile: [redacted] | **Skype:** [redacted]

CST#1002813

[redacted] [redacted]

[redacted] [redacted]

[redacted]

[redacted]

EXHIBIT 4

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

---------- Forwarded message ---------
From: Delta Air Lines <DeltaAirLines@e.delta.com>
Date: Sat, Oct 14, 2017 at 12:10 PM
Subject: Your Flight Receipt - [redacted] 14OCT17
To: <[redacted]>

Thanks for choosing Delta. Your Flight is confirmed.

Hello, [redacted]

Your Trip Confirmation #: H3C8C6

Sat, 14OCT	DEPART	ARRIVE
DELTA 2	NYC-KENNEDY	SAN DIEGO, CA

Main Cabin (Y)	7:30pm	10:37pm

RESTRICTED HAZARDOUS ITEMS

To ensure the safety of our customers and employees, Delta no longer accepts **hoverboards or any lithium battery powered self-balancing personal transportation devices** on board its aircraft. These items are prohibited as both carry-on and checked baggage.

Spare batteries for other devices, fuel cells, and e-cigarettes are permitted in carry-on baggage only. If your carry-on bag contains these items and is gate checked, **they must be removed and carried in the cabin**. Further information and specific guidelines regarding restricted items can be found here.

Passenger Info

NAME	FLIGHT	SEAT
[redacted]	DELTA 2	29B

Visit delta.com or use the Fly Delta app to view, select or change your seat.
If you purchased a Delta Comfort+™ seat or a Trip Extra, please visit My Trips to access a receipt of your purchase.

Flight Receipt

Ticket #: 0062300071692

Place of Issue: Delta.com

Ticket Issue Date: 14OCT17

Ticket Expiration Date: 14OCT18

METHOD OF PAYMENT

AX**********[redacted]	**$948.20 USD**

CHARGES

Air Transportation Charges

Base Fare	$868.84 USD

Taxes, Fees and Charges

United States - September 11th Security Fee(Passenger Civil Aviation Security Service Fee) (AY)	$5.60 USD
United States - Transportation Tax (US)	$65.16 USD
United States - Passenger Facility Charge (XF)	$4.50 USD
United States - Flight Segment Tax (ZP)	$4.10 USD
TICKET AMOUNT	**$948.20 USD**

NONREF/PENALTY APPLIES

This ticket is non-refundable unless the original ticket was issued at a fully refundable fare. Some fares may not allow changes. If allowed, any change to your itinerary may require payment of a change fee and increased fare. Failure to appear for any flight without notice to Delta will result in cancellation of your remaining reservation.

Note: When using certain vouchers to purchase tickets, remaining credits may not be refunded. Additional charges and/or credits may apply.

Fare Details: NYC DL SAN868.84YA0IA0FQ USD868.84END ZP JFK XF JFK4.5

Checked Bag Allowance

The fees below are based on your original ticket purchase. **If you qualify for free or discounted checked baggage,** this will be taken into account when you check in.

Sat 14 Oct 2017	DELTA: JFK SAN	
CARRY ON	FIRST	SECOND
FREE	$25 USD	$35 USD

Visit delta.com for details on baggage embargos that may apply to your itinerary.

Transportation of Hazardous Materials

Federal law forbids the carriage of hazardous materials aboard aircraft in your luggage or on your person. A violation can result in civil penalties. Examples include: Paints, aerosols, lighter fluid, fireworks, torch lighters, tear gases and compressed gas cartridges.

There are special exceptions for small quantities (up to 70 ounces total). For further information visit delta.com Restricted Items Section.

We have partnered with The Nature Conservancy to allow you to offset your carbon emissions from this trip. Go to delta.com/CO2 to calculate your CO2 emissions and learn more about offsetting.

Terms & Conditions

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Note: When using certain vouchers to purchase tickets, remaining credits may not be refunded. Additional charges and/or credits may apply.

†All SkyMiles® program rules apply. To review the rules, see Membership Guide & Program Rules. Taxes and fees for Award Travel are the responsibility of the passenger and must be paid at the time the ticket is booked. Award

Travel seats are limited and may not be available on all flights or in all markets. Offers void where prohibited by law. Other restrictions may apply.

Checked Bag Allowance

*On Delta operated flights, you may carry on one bag and a small personal item at no charge.

Delta One™/First/Business Class weight allowance reverts to 50 lbs for all checked bags beyond regular free allowance.

At the time of check in with Delta, SkyMiles Medallion members, SkyTeam Elite & Elite Plus and active US Military personnel are eligible for fee waivers and other benefits. For more details, visit delta.com/baggage. Basic Cardmembers with a Gold, Platinum, or Reserve Delta SkyMiles Credit Card from American Express are eligible for the first bag fee waiver. More details on the program can be found at delta.com/firstbagfree.

A standard checked bag with Delta may be up to 50 lbs and 62 linear inches (per piece). Additional fees apply for oversize, overweight, and/or additional pieces of checked baggage. Please review Delta's baggage guidelines for details. Weight and size restrictions may vary when checking baggage on carriers other than Delta. Contact with the operating carrier for detailed checked baggage allowances. You must be checked in at the gate by the applicable check-in deadlines or your reservation may be cancelled. Please review Delta's check-in requirement guidelines for details. Check-in requirements vary by airline, so if your ticket includes travel on other airlines, please check with the operating carrier on your ticket.

Do you have comments about our service? Please email us to share them.

Conditions of Carriage

--

Melissa Pomeroy | South Pacific Destination Specialist | Fiji and Tahiti

Email: [redacted] | [redacted]

Websites: www.Fijivacations.com | www.tahitianvacations.com

Mobile: [redacted] | **Skype:** [redacted]

CST#1002813

[redacted] [redacted]

[redacted] [redacted]

[redacted]

[redacted]

EXHIBIT 5

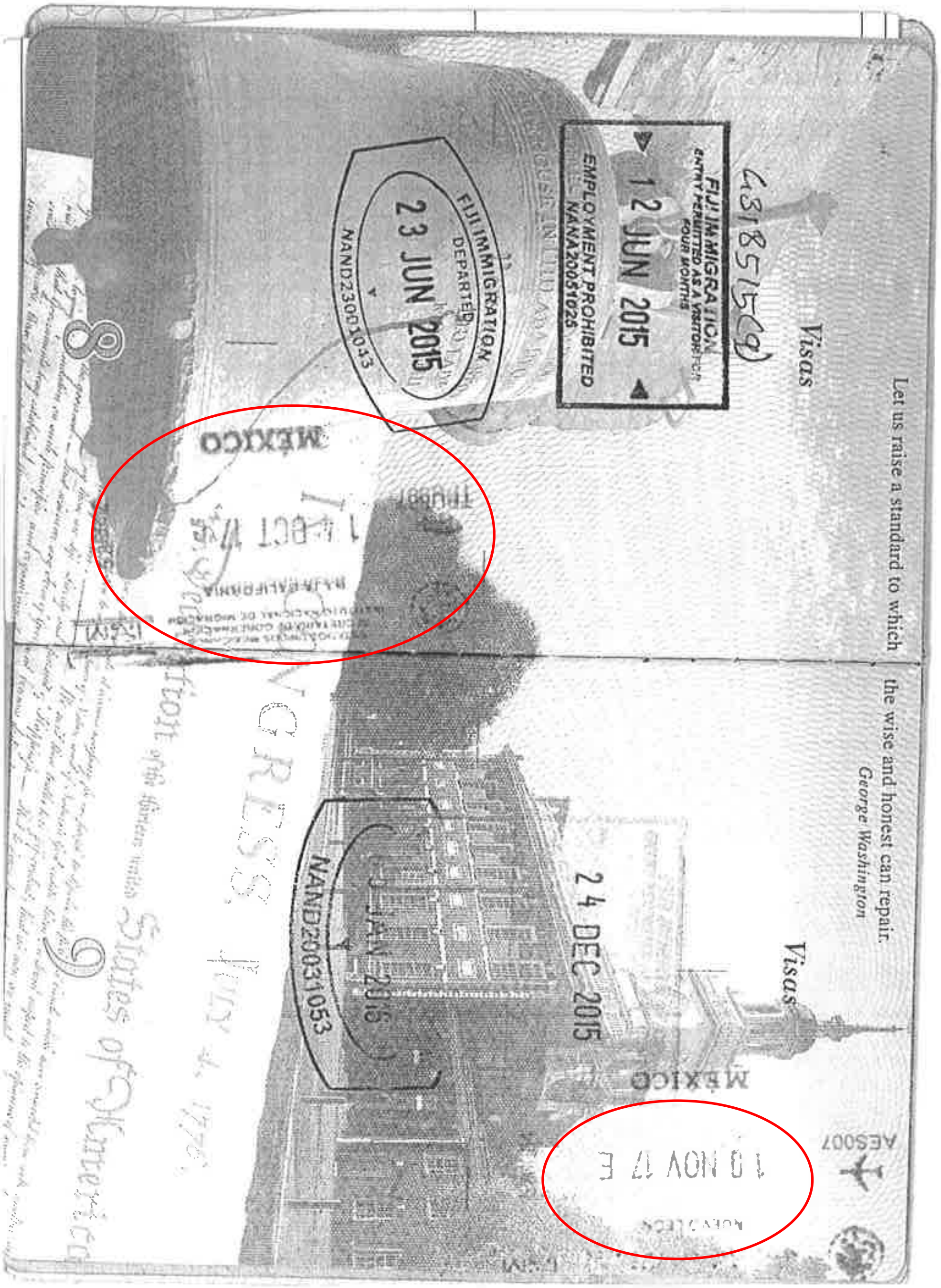
Visas
Let us raise a standard to which the wise and honest can repair.
George Washington
FIJI IMMIGRATION
12 JUN 2015
EMPLOYMENT PROHIBITED
FIJI IMMIGRATION
DEPARTED
23 JUN 2015
MÉXICO
24 DEC 2015
MÉXICO
AES007

EXHIBIT 6


536502
INM
ESTADOS UNIDOS MEXICANOS
SECRETARÍA DE GOBERNACIÓN
INSTITUTO NACIONAL DE MIGRACIÓN
BAJA CALIFORNIA
MÉXICO
TPU007
28
VISAS

EXHIBIT 7

[redacted]

[redacted]

[redacted]

[redacted]

---------- Forwarded message ----------
From: [redacted] <[redacted]>
Date: Mon, Oct 16, 2017 at 7:56 PM
Subject: Fwd: Your Flight Receipt - KEITH A RANIERE 17OCT17
To: Keith Raniere <keithraniere@yahoo.com>

Begin forwarded message:

> From: Melissa Pomeroy <[redacted]>
> Subject: Fwd: Your Flight Receipt - KEITH A RANIERE 17OCT17
> Date: October 16, 2017 at 3:16:34 PM EDT
> To: [redacted]>
>
> **Melissa Pomeroy | South Pacific Destination Specialist | Fiji and Tahiti**
>
> **Email:** [redacted] | [redacted]
>
> **Websites:** www.Fijivacations.com | www.tahitianvacations.com
>
> [redacted]
>
> CST#1002813

---------- Forwarded message ----------
From: **Delta Air Lines** <DeltaAirLines@e.delta.com>
Date: Mon, Oct 16, 2017 at 12:05 PM
Subject: Your Flight Receipt - KEITH A RANIERE 17OCT17
To: [redacted]

Thanks for choosing Delta. Your Flight is confirmed.

Hello, KEITH A

Your Trip Confirmation #: GYXJA9

Tue, 17OCT	DEPART	ARRIVE
DELTA 5594* First Class (I)	MONTERREY, MEXICO 1:30pm	ATLANTA 5:16pm
DELTA 1515 First Class (P)	ATLANTA 8:00pm	ALBANY, NY 10:20pm

*Flight 5594 Operated by EXPRESSJET DBA DELTA CONNECTION

RESTRICTED HAZARDOUS ITEMS

To ensure the safety of our customers and employees, Delta no longer accepts **hoverboards or any lithium battery powered self-balancing personal transportation devices** on board its aircraft. These items are prohibited as both carry-on and checked baggage.

Spare batteries for other devices, fuel cells, and e-cigarettes are permitted in carry-on baggage only. If your carry-on bag contains these items and is gate checked, **they must be removed and carried in the cabin**. Further information and specific guidelines regarding restricted items can be found here.

Passenger Info

NAME	FLIGHT	SEAT
KEITH A RANIERE	DELTA 5594	04D
	DELTA 1515	01D

Visit delta.com or use the Fly Delta app to view, select or change your seat.
If you purchased a Delta Comfort+™ seat or a Trip Extra, please visit My Trips to access a receipt of your purchase.

Flight Receipt

Ticket #: 0062300509053

Place of Issue: Delta.com

Ticket Issue Date: 16OCT17

Ticket Expiration Date: 16OCT18

METHOD OF PAYMENT

AX**********[redacted]	**$1408.75 USD**

CHARGES

Air Transportation Charges

Base Fare	$1269.00 USD

Taxes, Fees and Charges

United States - September 11th Security Fee(Passenger Civil Aviation Security Service Fee) (AY)	$5.60 USD
United States - Transportation Tax (US)	$18.00 USD
United States - Animal and Plant Health Inspection Service Fee (APHIS User Fee - Passengers (XA)	$3.96 USD
Mexico - Airport Departure Tax - TUA (XD)	$48.89 USD
Mexico - Transportation Tax - IVA (XO)	$50.80 USD
United States - Immigration and Naturalization Fee(Immigration User Fee) (XY)	$7.00 USD
United States - Custom User Fee (YC)	$5.50 USD
TICKET AMOUNT	**$1408.75 USD**

NONREF/VALID DL ONLY

This ticket is non-refundable unless the original ticket was issued at a fully refundable fare. Some fares may not allow changes. If allowed, any change to your itinerary may require payment of a change fee and increased fare. Failure to appear for any flight without notice to Delta will result in cancellation of your remaining reservation.

Note: When using certain vouchers to purchase tickets, remaining credits may not be refunded. Additional charges and/or credits may apply.

Fare Details: MTY DL X/ATL DL ALB1269.00BNNA0RMM/WNUP NUC1269.00END ROE1.00

Checked Bag Allowance

The fees below are based on your original ticket purchase. **If you qualify for free or discounted checked baggage,** this will be taken into account when you check in.

Tue 17 Oct 2017	DELTA: MTY ATL	
CARRY ON	FIRST	SECOND
FREE	FREE	FREE

Tue 17 Oct 2017	DELTA: ATL ALB	
CARRY ON	FIRST	SECOND
INCLUDED	INCLUDED	INCLUDED

Visit delta.com for details on baggage embargos that may apply to your itinerary.

Transportation of Hazardous Materials

Federal law forbids the carriage of hazardous materials aboard aircraft in your luggage or on your person. A violation can result in civil penalties. Examples include: Paints, aerosols, lighter fluid, fireworks, torch lighters, tear gases and compressed gas cartridges.

There are special exceptions for small quantities (up to 70 ounces total). For further information visit delta.com Restricted Items Section.

We have partnered with The Nature Conservancy to allow you to offset your carbon emissions from this trip. Go to delta.com/CO2 to calculate your CO2 emissions and learn more about offsetting.

Terms & Conditions

This ticket is non-refundable unless the original ticket was issued at a fully refundable fare. Some fares may not allow changes. If allowed, any change to your itinerary may require payment of a change fee and increased fare. Failure to appear for any flight without notice to Delta will result in cancellation of your remaining reservation.

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[redacted]

EXHIBIT 8

JAN 17 2018

SURROGATE'S COURT OF THE STATE OF NEW YORK

COUNTY OF SARATOGA

PROBATE PROCEEDING, Will of **PAMELA ANNE CAFRITZ,** **Deceased.**	**Renunciation of Nominated Executor and/or Trustee** **File Number** ________

JAN 17 2018

I, **Keith Raniere** residing at 8 Flintlock lane, nominated as an executor and/or trustee in the Last Will and Testament of Pamela Anne Cafritz, ("Decedent") dated April 18, 2016, (the "Will"), late of 21 Oregon drive in the County of Saratoga, New York, hereby renounce the appointment and all right and claim to letters testamentary and/or letters of trusteeship of and under the Will or to act as executor and/or trustee thereof.

I hereby waive the issuance and service of a citation in the above entitled matter, and consent that the Will dated April 18, 2016, a copy of which has been received by the undersigned, be forthwith admitted to probate. I hereby consent that Letters Testamentary issue to **Rosa Laura Junco** without the necessity of furnishing a bond. If a bond is furnished, I hereby waive and release all right to make any claim on the bond in any capacity whatsoever.

Keith Raniere

Keith Raniere

Dated: 12/20/17

STATE OF ~~NEW YORK~~ Jalisco)

COUNTY OF Guadalajara) ss.

On 12/20, 2017, before me personally appeared **Keith Raniere**, to me known and known to me to be the person described in and who executed the foregoing renunciation, and duly acknowledged the execution thereof.

____

Notary Public

Commission Expires: For life

(Affix Notary Stamp or Seal)

LIC JOSÉ GUILLERMO MEZA GARCÍA NOTARIO 138 ESTADOS UNIDOS MEXICANOS GUADALAJARA, JALISCO

Anthony L. Meola, Esq.
Schmeiser, Olsen & Watts, LLP
3 Manhattanville Road, Suite 105
Purchase, New York 10577

914-825-1039
ameola@iplawusa.com

SUBJECT TO PROTECTIVE ORDER

Tribunal Suplente del Estado de New York
Condado de Saratoga

Juicio testamentario, Testamento de
PAMELA ANNE CAFRITZ,
Finada.

Renuncia del Albacea
Designado y/o Fiduciario
Expediente No. __

El suscrito, **Keith Raniere**, con residencia en 3 Flintlock Lane designado como albacea y/o fiduciario en la Última Voluntad y Testamento de Pamela Anne Cafritz, ("Finanda") fechado el 18 de abril de 2016, (el "Testamento"), anteriormente) 21 Oregon Drive en el Condado de Saratoga, New York, por este medio renuncio a la designación y a todos los derechos y al ejercicio de la designación de albacea y/o designación de fiduciario de y conforme al Testamento o para actuar como albacea y/o fiduciario del mismo.

Por este medio renuncio a la expedición y a que se me cite mediante notificaciones en el asunto antes mencionado, y doy mi consentimiento para que el Testamento fechado el 18 de abril de 2016, cuya copia ha sido recibida por el suscrito, sea inmediatamente admitido en el juicio testamentario. Por este medio otorgo mi consentimiento para que se expida la designación de albacea a favor de **Rosa Laura Junco**, sin necesidad de que otorgue fianza alguna. En caso de que se otorgue una fianza, por este medio renuncio y la libero de cualquier derecho que yo tenga para presentar cualquier reclamación contra la fianza con cualquier carácter.

Una firma: Keith Raniere
Keith Raniere
Fechado: 20/12/2017

ESTADO DE ~~NEW YORK~~ Jalisco)
CONDADO DE Guadalajara) a saber,

El 20 de diciembre de 2017, ante mí compareció personalmente Keith Raniere, a quien conozco y quien sé que es la persona descrita y quien firmó la renuncia aquí contenida y reconoció ante mí que él firmó la misma.

____
Notario Público

Mi nombramiento vence: Nombramiento vitalicio

(Estampe aquí el Sello o timbre Notarial)

Lic. Anthony L. Meola.
Schmeiser, Olsen & Watts, LLP
3 Manhattanville Road, Suite 105
Purchase, New York 10577

914-825-1039
ameola@iplawusa.com

THIS DOCUMENT WAS TRANSLATED FROM SPANISH LANGUAGE INTO ENGLISH.
LO TRADUJE DEL IDIOMA ESPAÑOL AL INGLÉS.

Eloísa Bonales Herrera
Perito Traductor de los idiomas
Inglés-Español y viceversa
Folio No. 033
Vigencia: 01 de mayo 2017 - 30 de abril 2018
Autorizado por el Consejo de la Judicatura
del Estado de Jalisco

Eloísa Bonales Herrera
Perito Traductor de los idiomas
Inglés-Español y viceversa
Autorizado por el Supremo Tribunal
de Justicia del Estado de Jalisco

ELOÍSA BONALES HERRERA
e-mail: eloisabonales07@gmail.com mobile phone: +33 1148 9236

GUADALAJARA, JALISCO, MEXICO DECEMBER 20TH, 2017.
GUADALAJARA, JALISCO, MÉXICO DICIEMBRE 20 DE 2017.
EXPERT TRANSLATOR AUTHORIZED BY THE SUPREME COURT OF THE STATE WITH REGISTRATION NUMBER BHE131196-157; AND BY THE JUDICIAL COUNCIL OF THE STATE, WITH IDENTIFICATION CARD NUMBER 033.
PERITO TRADUCTOR AUTORIZADO POR EL SUPREMO TRIBUNAL DE JUSTICIA DEL ESTADO CON NÚMERO DE REGISTRO BHE131196-157; Y POR EL CONSEJO DE LA JUDICATURA DEL ESTADO, CREDE
NCIAL NÚMERO DE FOLIO 033.

LIC JOSÉ GUILLERMO MEZ
ESTADOS UNIDOS
GUADALAJA

THREE SEALS:

1) *ELOÍSA BONALES HERRERA. EXPERT TRANSLATOR. ENGLISH. SPANISH. SUPREME COURT OF JUSTICE IN THE STATE OF JALISCO.*
2) *ELOÍSA BONALES HERRERA. EXPERT TRANSLATOR IN ENGLISH LANGUAGE. EXPERT'S IDENTIFICATION NUMBER 508. TERM : MARCH 1ST, 2017 TO FEBRUARY 28TH, 2018. AUTHORIZED BY THE CITY COUNCIL OF GUADALAJARA, JALISCO.*
3) *ELOÍSA BONALES HERRERA. EXPERT TRANSLATOR. ENGLISH-SPANISH AND VICE VERSA. FOLIO 033. TERM: MAY 1ST, 2017 - APRIL 30TH, 2018. AUTHORIZED BY THE JUDICIAL COUNCIL OF THE STATE OF JALISCO.*

Perito traductor del idioma inglés
Clave asignada:508
Vigencia: 02 de marzo de 2017
28 de febrero de 2018
Autorizado por el Ayuntamiento de
Guadalajara,Jalisco

- - NUMBER FIFTY-FOUR (54). --
- - BOOK I FIRST. --
- - IN THE CITY OF GUADALAJARA, JALISCO ON DECEMBER TWENTIETH (20TH), TWO THOUSAND AND SEVENTEEN (2017), I **JOSE GUILLERMO MEZA GARCIA**, Esq., ACTING IN MY CAPACITY OF NOTARY PUBLIC NUMBER ONE HUNDRED AND THIRTY-SIX (136) OF THIS MUNICIPALITY OF GUADALAJARA, JALISCO.----------- ---

--CERTIFY --

- -That KEITH ALAN RANIERE, appeared before me and declared that he was born in New York, United States of America on August twenty-sixth (26th) one thousand nine hundred and sixty (1960). He is single. His address is 3 three Flintlock Lane Clifton Park, New York, United States of America; he identified himself with passport number four, eight, seven, eight, seven, four, five, two, three, (487874523) issued by the United States Department of State that I saw and gave back to the interested person, attaching a copy of it to the Book of Certifications with the corresponding number, and he ratified before me the content of the instrument within in each and all of its parts. I attest that the person who appeared before me has legal capacity, does not have any legal impediment and signed this certification. I have recorded this certification in my Book of Records of Certifications at 13:30 thirteen hours and thirty minutes on this day.----- I ATTEST.

KEITH ALAN RANIERE

JOSE GUILLERMO MEZA GARCIA, Esq.
NOTARY PUBLIC NUMBER ONE HUNDRED AND THIRTY-FOUR (134) OF GUADALAJARA, JALISCO

Hologram of the Colleges of Notaries of the State of Jalisco. –
A seal that says: National Coat of Arms. - United Mexican States. – JOSE GUILLERMO MEZA GARCIA, Esq., Notary Public No. 136. – Guadalajara, Jalisco.-

- - NUMERO 54 CINCUENTA Y CUATRO.--
- - LIBRO I PRIMERO.--

- - EN LA CIUDAD DE GUADALAJARA, JALISCO, A LOS 20 VEINTE DIAS DEL MES DE DICIEMBRE DEL 2017 DOS MIL DIECISIETE, YO, **JOSE GUILLERMO MEZA GARCIA**, NOTARIO PUBLICO NUMERO 136 CIENTO TREINTA Y SEIS DE ESTA MUNICIPALIDAD DE GUADALAJARA, JALISCO.-----------------------------

----------------------------- **CERTIFICO** ---------------------------------------

--- Que presente el señor: KEITH ALAN RANIERE, nacido en New York, Estados Unidos de América, el día 26 veintiséis de agosto de 1960 mil novecientos sesenta, soltero, con domicilio en la finca marcada con el número 3 tres de la calle Flintlock Lane Clifton Park, New York, Estados Unidos de América, mismo que se identifica con pasaporte número 487874523 cuatro, ocho, siete, ocho, siete, cuatro, cinco, dos, tres, expedido por la Secretaría de Estado de los Estados Unidos de América, documento que tengo a la vista y devuelvo al interesado, copia fotostática del mismo ya esta agregada con el número correspondiente del Libro de Certificaciones, ratificando ante mi presencia el contenido del presente escrito, en todas y cada una de sus partes, haciendo constar que el compareciente tiene capacidad y sin impedimentos legales, firmando el presente para constancia de lo que dejo tomada razón en mi Libro de Registro de certificaciones, siendo las 13.30 trece horas con treinta minutos del día de hoy.-- DOY FE.-----

Keith Raniere

KEITH ALAN RANIERE

DOCTOR EN DERECHO JOSE GUILLERMO MEZA GARCIA
NOTARIO PÚBLICO NÚMERO 136

JOSÉ GUILLERMO MEZA GARCIA NOTARIO 136 ESTADOS UNIDOS MEXICANOS GUADALAJARA, JALISCO

SUBJECTO TO PROTECTIVE ORDER

SGG/DC/JAL
10875/2017

MÉXICO

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. País: MÉXICO
(country/pays)

El presente documento público
(This public document/Le présent acte public)

2. ha sido firmado por: LICENCIADO JOSE GUILLERMO MEZA GARCIA
(has been signed by/a été signé par)

3. quien actúa en calidad de: NOTARIO PUBLICO TITULAR NUMERO 136 (CIENTO TREINTA Y SEIS) DE GUADALAJARA, JALISCO
(acting in the capacity of/agissant en qualité de)

4. y está revestido del sello/timbre de: LA NOTARIA NUMERO 136 GUADALAJARA, JAL.
(bears the seal/stamp of/est revêtu du sceau/timbre de)

Certificado
(Certified/Attesté)

5. en: GUADALAJARA, JALISCO.
(at/à)

6. el día: 20 DE DICIEMBRE DE 2017
(the/le)

7. por: DIRECTORA DE CERTIFICACIONES
(by/par)

8. No.: 10875/2017
(N°/sous n°)

9. Sello/timbre:
(Seal/stamp/Sceau/timbre)

10. Firma:
(Signature)
LAURA GRACIELA GÓMEZ GONZÁLEZ
DIRECTORA DE CERTIFICACIONES

Tipo de documento: CERTIFICACION DE FIRMA DE NOTARIOS
(Type of document/Type d'acte)

Nombre del titular: KEITH ALAN RANIERE
(Name of holder of document/Nom du titulaire)

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EXHIBIT 9

[redacted]

[redacted]

[redacted]

[redacted]

------- Original Message -------
On April 10, 2018 6:21 PM, Melissa Pomeroy <[redacted]> wrote:

Melissa Pomeroy | South Pacific Destination Specialist | Fiji and Tahiti

Email: [redacted] | [redacted]

Websites: www.Fijivacations.com | www.tahitianvacations.com

Mobile: [redacted]

CST#1002813

---------- Forwarded message ----------
From: **Delta Air Lines** <DeltaAirLines@e.delta.com>
Date: Thu, Nov 9, 2017 at 3:13 AM
Subject: It's Time To Check-In
To: [redacted]

Thanks for choosing Delta. Your Flight is confirmed.

Hello, CLARE BRONFMAN and KEITH A RANIERE SkyMiles® [redacted] >

Delta Confirmation #: HKBCI9

Your flight on Friday, November 10 is available for check-in.

Ready for your upcoming flight? Save time and check in online now whether you are traveling with or without baggage. And don't worry about reconfirming your flights, you're all set!

Friday, November 10	DEPART	ARRIVE	SEATS
Delta 2352	Albany, New York 6:12 am	Atlanta, Georgia 9:05 am	Seat
Delta 347	Atlanta, Georgia 10:20 am	Monterrey 12:30 pm	Seat

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Check out the weather in Monterrey.

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Terms Apply.

GIVE THE GIFT OF GO

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- Limits on our liability for personal injury or death of passengers, and for loss, damage of delay of goods and baggage.
- Claim restrictions including time periods within which you must file a claim or bring action against us.
- Our right to change terms of the contract.
- Check-in requirements and other rules established when we may refuse carriage.
- Our rights and limits of our liability for delay or failure to perform service including schedule change, substitution of alternative air carriers or aircraft, and rerouting.
- Our policy on overbooking flights, and your rights if we deny you boarding due to an oversold flight.

Advise To Passengers On Limitations Of Liability

For international travel to or from another country, airline liability is governed by the Montreal Convention or the Warsaw Convention. There are no financial limits for death or bodily injury, and the airline may make an advance payment to cover immediate economic needs. The airline's liability for passenger delay; and for loss, delay or damage to baggage may be limited by the Conventions. In case of, baggage, the liability limit is 1131 Special Drawing Rights (approximately US $1787) per passenger for international travel. The baggage limit is US $3,500 per ticketed passenger for US domestic travel. These baggage liability limitations apply unless you declare a higher valuation and pay additional charges at check-in. In case of international travel, any action in court to claim damages must be brought within two years from the date of the actual or scheduled arrival of the aircraft; and, in case of baggage claims, written notice to the carrier must be made within 7 days of the receipt of checked baggage in case of damage, and, in case of delay, within 21 days from the date on which it was placed at the disposal of the passenger. If your journey also involves carriage by other airlines, you should contact them for information on their limits of liability. See the notice with your tickets or consult your airline or travel agent for further information.

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EXHIBIT 10

U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

October 30, 2007

VIA ECF
The Honorable Joanna Seybert
United States District Judge
United States District Court
1034 Federal Plaza
Central Islip, New York 11722

Re: United States v. David H. Brooks and Sandra Hatfield
Case No. 06-CR-550(S-1)(JS)

Dear Judge Seybert:

At the October 25 Bail Hearing in this matter the Court requested that the defense specify a set of conditions they believe will guarantee that if released the defendant David H. Brooks will not flee. The Court also directed the government to present any additional obstruction allegations, particularly any activity surrounding the filing of the initial indictment in this case charging Sandra Hatfield and Dawn Schlegel. The government submits this letter in response to the Court's requests, and in opposition to the release proposal submitted by Brooks.

The following is a time line of relevant events surrounding the Hatfield/Schlegel Indictment:

The First Indictment is Filed

On Wednesday, August 16, 2006, the Grand Jury returned an indictment charging former DHB C.O.O. Sandra Hatfield and former DHB C.F.O. Dawn Schlegel with Conspiracy, Securities Fraud and Insider Trading. Several days earlier counsel for Hatfield and Schlegel had been advised that an indictment was anticipated, so that they could prepare their clients to surrender. On Thursday, August 17, 2006, the indictment was unsealed, Hatfield and Schlegel surrendered to the F.B.I., and they were arraigned and released on secured and co-signed bail bonds, with the consent of the government.

August 16, 2006 - The Day the Indictment is Filed: Brooks Buys a House in London

On Wednesday, August 16, 2006, David H. Brooks wired 750,060 British pounds (approximately $1.5 million U.S. dollars) to a bank in London from one of his 26 Goldman Sachs accounts. Brooks reported to Goldman Sachs that the purpose of the wire was to purchase a house in London.

August 17, 2006 - Brooks Continues to Wire Money to London

From August 17, 2006, through September 1, 2006, Brooks wired an additional 1.6 million British pounds, bringing the total wired to London in the two weeks after the indictment was filed to nearly $5 million in U.S. dollars.

August 18, 2006 - The Day After the Indictment is Unsealed: Brooks' Brother Jeffrey Removes Subpoenaed Computers From DHB Office

On Thursday, August 17, 2006, the date the initial indictment in this case was unsealed, DHB had the locks changed on its offices in Westbury. Although the company had moved its operations and most of its records to Florida, there were still DHB owned computers and some documents in the space. DHB placed notices on the door that anyone wishing access should contact the company, and provided a phone number to call.

On Friday, August 18, 2006, a locksmith acting at the direction of either David H. Brooks or Brooks' brother Jeffrey changed the locks at the DHB office.[1] Jeffrey Brooks then contacted an individual who had previously done computer related work for both DHB and David H. Brooks, and Jeffrey Brooks arranged for that person go to the DHB offices at Post Avenue in Westbury, New York. Once there, the individual met a TAP employee and, on instructions from her and Jeffrey Brooks, he dismantled and removed computer equipment, including a server

[1] In 1992 David H. Brooks and his brother Jeffrey were named as co-defendants in a lawsuit filed by the S.E.C. alleging that the two engaged in insider trading. The suit was settled through the payment of a $405,000 fine and the two brothers were barred from the securities industry for five years. Jeffrey Brooks was never employed by DHB.

used by David Brooks' company TAP, but which had been paid for with DHB funds, six desktop computers formerly used by DHB employees David H. Brooks, Dawn Schlegel, Teddy Tawil, and Marylou Segismundo, and TAP employees Eleanor Kaye, and Leslie Urban. Most of the desktop computers removed were paid for by DHB. Moreover, all DHB and TAP computer material had been subpoenaed by the Grand Jury in April 2006. DHB, Brooks himself, and Terry Brooks, as a representative of TAP, were served with subpoenas demanding production of the computer records or DHB and TAP. However, as of August 18, 2006, no computer material had been provided to the Grand Jury. The computers removed from DHB's offices were all brought to Brooks' nearby home at 20 Red Ground Road in Old Westbury.

Later that evening, well after business hours, a truck arrived at the DHB office and individuals acting at the direction of Jeffrey Brooks loaded the truck with boxes taken from the DHB offices. Building management called the police and DHB executives. The police and a DHB employee responded to the office, and observed what is believed to be the second load of boxes were being placed into the truck. At the direction of the police the boxes were returned to the office. The DHB employee then arranged to have the locks changed yet again.

The next day, Saturday, Jeffrey Brooks brought the computers that were taken from the DHB offices to an office building in Westbury, where the individual described above who helped remove the computers from DHB's offices met Jeffrey Brooks and set the computers up so that they would function at the new location.

<u>August 19, 2006</u> - <u>Brooks Attempts to Enlist His Pilot in Obstruction</u>

The day after his unsuccessful effort to have boxes whose contents are unknown removed from the DHB offices in Westbury, Brooks, who was in Florida, asked his pilot if he knew someone in New York who could go to the DHB office and remove all of the records maintained there related to the operation of the plane. The pilot declined to do so, and advised Brooks that he was resigning. Several days later, when the pilot told Brooks he was returning to the DHB office to pack up his paperwork, Brooks told him not to bother, that the documents had all been removed.

<u>August 23, 2006</u> - <u>One Week After the Indictment Brooks Wires $700,000 to Canada</u>

On Wednesday, August 23, 2006, David H. Brooks wired $700,000 in Canadian dollars (approximately $730,000 U.S.) to Canada. He reported to Goldman Sachs that it was for horse expenses.

August 24, 2007 - Brooks Attempts to Surreptitiously Move $10 Million Overseas

On Thursday, August 24, 2007, David H. Brooks wired $10 million dollars to a company called Premier Gem Corp. ("Premier Gem"). Brooks told Goldman Sachs the wires were for the purchase of a flawless diamond. Within four days Brooks told the proprietor of Premier Gem that he had changed his mind and no longer wanted the diamond. Brooks requested that, rather than returning the money to the accounts where it came from, the proprietor of Premier Gem wire the money to accounts Brooks designated overseas. The proprietor refused to do so.

August 25, 2006 - Brooks Moves His Family To England

On August 25, 2006, just over one week after the indictment charging Hatfield and Schlegel was unsealed, Brooks and his family flew to England, where they apparently own property. Brooks resided there for approximately 7 months, and his ex-wife, and two daughters continue to reside there.

August 29, 2006 - Brooks Begins to Wire $2 Million to Senegal

On August 29, 2006, David H. Brooks, who at this point was living in England, wired over $500,000 to a bank account in Senegal, a country which does not have an extradition treaty with the United States. On September 18, 2006 he wired another $500,000 to an account in the name of the same individual. Brooks continued to wire money to this person, both in Senegal and in England, and by August of this year the total amount wired to him overseas by Brooks exceeded $2.8 million. These wired funds were all proceeds of Brooks' insider trading in 2004.

September 21, 2006 - Brooks Begins the Process of Wiring Over $16 Million to Switzerland

On September 21, 2006, Brooks wired $50 million worth of insider trading proceeds into an account at Washington Mutual ("WAMU") from one of his accounts at Goldman Sachs. After spreading the money among over a dozen different WAMU accounts he controlled, Brooks moved over $16 million of it to Switzerland between October 4 and October 12, 2006. No further information regarding these funds is available, pending an MLAT request to Switzerland.

ADDITIONAL AREAS of CONCERN REGARDING BROOKS' FINANCES

In addition to the matters described above, Brooks has engaged in other financial transactions that heighten the concern about the risk that he will flee.

1. Brooks is believed to be in possession of over $6 million in Krugerrands, South African Gold coins.

2. Brooks apparently purchased a diamond for over $2 million in June, 2006.

3. In August 2007, Brooks wired approximately $1.3 to England.

4. Brooks has used insider trading proceeds to pay his attorneys and to fund the civil settlement he entered into in the class action lawsuit pending before this Court.

5. Brooks has over 75 active bank and trading accounts, and over the past two years he has moved funds through well over 100 accounts.

7. Brooks faces the likely reversal of $164 million in tax deductions, along with interest and fines, for his abuse of Charitable Trusts of which he is Trustee. See, Letter Re: CRATS, from IRS Fraud Specialist, attached hereto as Exhibit 1. Brooks also faces many millions of dollars of further tax liability, plus interest and fines, for his tax treatment of his DHB stock sales in 2003 and 2004.

8. Brooks has not filed income tax returns for 2005 or 2006 and has not made estimated payments likely to be remotely sufficient to cover his tax liability.

9. Brooks has not disclosed one fact about his assets. He has not disclosed his net worth, or the terms of his alleged divorce with respect to money and property distributions despite the fact that he proposes his ex-wife as a suretor. Consequently, the Court and the government are left to speculate about the whereabouts of Brooks' assets, the amount of Brooks' assets, and the reason for the massive and apparently inexplicable international movement of funds.

ADDITIONAL AREAS OF CONCERN REGARDING BROOKS' WILLINGNESS TO OBSTRUCT JUSTICE

In addition to the acts of obstruction which occurred at or near the filing of the initial indictment in this case, and are described above, the following are further examples of Brooks' willingness to obstruct justice:

1. Brooks is indicted for Obstruction of Justice and Lying to Auditors during the investigation of this case.

2. Brooks has demonstrated a pattern of seeking to influence investigations through threats, including the threats described in the government's bail letter of October 25, 2007. In addition to the incidents described in the October 25 letter, Brooks also threatened the lead partner of the accounting firm that audited DHB's 2005 financial statements. According to one witness who testified before the SEC, Brooks told him that if the partner was not careful Brooks would have "his friends" pay her a visit and she would "end up with cement blocks on her feet in the Atlantic Ocean.

3. Brooks has frequently referred to his relationship with organized crime figures to threaten persons with whom he had business or other disputes. The government has recently confirmed that Brooks sent Frank Lagano, a member of the Genovese crime family with whom Brooks had a relationship as described in our previous submission, to extort a businessman whom Brooks falsely claimed owed Brooks money and/or stock. Lagano confronted the victim at his office and told him that Brooks was a "crazy man" and that Brooks could not be controlled. Lagano advised the businessman, who knew Lagano to be involved with organized crime, to give Brooks what he wanted, otherwise his life would be in danger. The victim was understandably terrified and took steps to avoid being seen by Lagano again. He eventually paid Brooks $50,000.

4. Literally dozens of witnesses have expressed to the government that, based on Brooks' history of intimidation and threats, and on the behavior they have personally observed him engage in, they fear retaliation from Brooks. Several have requested police protection if their identities are disclosed. Indeed the government just recently received yet another report of such behavior from a former employee of Brooks. The email communication is attached hereto as Exhibit 2.

5. Brooks has lied under oath. The government is aware of two specific instances in which Brooks lied under oath in civil proceedings and is actively investigating several other allegations of obstructive conduct in connection with civil litigation.

6. Brooks remains in possession of subpoenaed grand jury materials, which he stole from DHB, including the TAP server, his own laptops, and the desktops taken the day after Schlegel and Hatfield were arrested.

BROOKS' BAIL PROPOSAL

Brooks has now proposed that he be released on a set of conditions that would include home detention in a Manhattan apartment, a $400 million bond co-signed by members of Brooks' family, secured by the assets seized by the government plus an additional $60 million, guards at the door of Brooks' apartment, and an electronic ankle bracelet. Because this proposal is woefully inadequate to address the extraordinary risk of flight present in this case, or the risk of obstruction described above as well as in the government's October 25, 2007 letter, Brooks' proposal should be rejected and the order of detention should be continued, with leave to renew.

As the government explained at the October 25, 2007, bail hearing, and as we reiterate here, David H. Brooks plainly presents a far greater risk of flight than the defendants in the recent case of United States v. Sabhnani, 493 F.3d 63, (2d Cir. 2007). For example, the Sabhnani defendants lived in a home in the Eastern District of New York, where they had resided for 25 years, along with their four children, three of whom were in school here. Brooks, on the other hand, recently lived in London and now lives alone in a rental apartment in Manhattan; two of his three children live overseas, while the third is in school in Florida. In addition, the evidence in this case and the potential sentence are far greater than that faced by the Sabhnani defendants. As noted previously, Brooks' likely guideline recommendation is life imprisonment, and proof of his unjust enrichment though fraud upon DHB is nearly undeniable. The Sabhnani defendants received income from overseas sources, but they were not alleged to have inexplicably sheltered assets in Swiss bank accounts or in countries which do not have an extradition treaty with the United States, as Brooks has done. Perhaps most importantly, the Sabhnani defendants were not alleged to be a risk to obstruct justice, whereas Brooks does indeed present such a risk, having a demonstrated history of obstruction. Finally, Brooks, unlike the Sabhnanis, has exhibited bizzare and troubling behavior in the recent past, including several inexplicable incidents involving attorneys and others while living in England, and his under psychiatric which includes what he concedes is an extraordinarily high dosage of psychiatric medication.

Nevertheless, Brooks proposes that the Court release him on conditions that do not remotely approach those the Second Circuit found adequate in Sabhnani. Without providing a single reason why his conditions should be less restrictive than those imposed in Sabhnani, Brooks suggests that unlike the Sabhnani defendants, he can be released:

- without divulging one iota of financial disclosure. Brooks does not even propose to provide his net worth or inform the Court of his overseas assets;
- without any restrictions or monitoring whatsoever on his use of telephones or other communications media such as computers;
- without any restraints on his ability to engage in financial transactions or transfer assets beyond those assets that are subject to forfeiture by the government;
- with access to his apartment by business and personal contacts who are not attorneys, including his brother who has assisted him in obstructing the investigation in this case;
- without random access to the home by pretrial services, and the security firm charged with guarding the defendant; and
- without alarm or video surveillance.

The only support Brooks offers for this proposal is a citation to a line from the Sabhnani opinion stating that "the more effectively a court can physically restrain these defendants, the less important it becomes to identify and restrain each and every asset over which the defendants may exercise some control in order to minimize the risk of flight." 493 F. 3d at 40-41. Remarkably, however, Brooks proposes less restraint than was imposed in Sabhnani, and no disclosure or restraint of assets, beyond those assets already restrained or those that would be subject to forfeiture. Such conditions are obviously unacceptable.

Brooks's argument in support of his proposal completely ignores the statement in Sabhnani which immediately precedes the language he relies upon. As the Sabhnani court concluded, "it is apparent that significant physical as well as financial restrictions are necessary to assure defendants' appearance at trial." 493 F.3d at 40. The government has explained previously, it is readily apparent that Brooks requires more stringent restrictions and monitoring, as well as greater financial disclosure than the Sabhnani defendants did. Brooks' deliberate efforts to secrete assets outside the United States, to convert assets into untraceable commodities such as diamonds or gold, and his use of a myriad of convoluted transactions conducted through nominee accounts all bespeak a far more nefarious pattern of conduct than the Sabnhanis' single suspicious transaction in the amount of $850,000. Moreover, as the court in Sabhnani pointed out, "the deterrent effect of any bond is necessarily a function of the totality of the defendant's assets." Id. at 39. The notion that an appropriate bond or the amount of that bond that must be secured by assets can be determined without asset disclosure is contrary to common sense and it defeats the concept of the deterrent effect of a secured bond. Here, for example, where the defendant proposes only to secure his bond with assets of his that the government could forfeit upon conviction, it is difficult to imagine why he would not "prefer to lose [a portion of] his financial assets rather than his freedom." Id. At 40.

Finally, Brooks' proposal fails completely to address the amelioration of the very real risk of obstruction his release would pose. While this case may not rise to the level of United States v. Orena, 986 F,2d 628 (2d Cir. 1993), in which the Second Circuit found that no conditions could protect the community from participants in a violent organized crime gang war, it is clear that the Court here must take some steps to insure that if released Brooks would not threaten, intimidate or otherwise tamper with witnesses. In addition, Brooks' release should be premised upon compliance with Grand Jury subpoenas and return of property wrongfully taken from DHB. Finally, Brooks cannot be permitted unmonitored contact with his brother Jeffrey, since Jeffrey has been an active participant in several of Brooks' acts of obstruction, Jeffrey has received some of the benefits of Brooks' fraud, and Jeffrey has a regulatory history of acting in concert with Brooks.

Conclusion

Unless or until Brooks proposes a realistic set of conditions which adequately address both the risk of flight and the risk of obstruction, a permanent order of detention is the only means to assure the Brooks will not flee, obstruct justice, or threaten witnesses.

Respectfully submitted,

BENTON J. CAMPBELL
United States Attorney

By: /s/
John G. Martin
Assistant U.S. Attorney

cc: Paul Shechtman

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

TAX EXEMPT AND GOVERNMENT ENTITIES

DATE: October 29, 2007

MEMORANDUM FOR: Mary L. Young, Internal Revenue Agent LMSB 1647

FROM: Lucy Acosta, Forensic Investigator/EO Fraud Specialist
TEGE: EO: FIU 7732

SUBJECT: Potential Adjustments
CRUTS/CRATS/CRTS – David Brooks

Gear to Gear/EIN 20-6093683 MFT 37 F5227 David Brooks Grantor/Trustee
Private Time Trust/EIN 20-6389739 MFT 37 F5227 David Brooks Grantor/Trustee

David Brooks signed as President on behalf of related corporations;
Pathfinder Trust /EIN 20-6389739 MFT 37 F5227/David Brooks Trustee
Like A Prayer Trust/EIN 20-6388370 MFT 37 F5227/ David Brooks Trustee
Magic Moments Trust/EIN 20-6383831 MFT 37 F5227/ David Brooks Trustee
Saving Lives Trust/EIN 20-6383831 MFT 37 F5227/ David Brooks Trustee
Showtime Trust/EIN 20-6383853 MFT 37 F5227/ David Brooks Trustee

The following are the potential issues identified with the Charitable Remainder Annuity Trusts created by David Brooks as Grantor and David Brooks as President on behalf of associated related corporations.

Tax Avoidance/Evasion Scheme – It appears the TP, David Brooks has set up these trusts for the sole purpose of tax avoidance/evasion and the trusts should be disregarded for tax purposes and treated as shams. The potential adjustment is approximately $164,324,408, based on the trust amounts provided.

The service should challenge this scheme under the following doctrines:

- Substance vs. Form – economic substance vs. tax avoidance/evasion
- Assignment of Income – tax gain/income on sale of assets to donor not the trust
- Trust qualifications -trust does not qualify under IRC section 664.

The grantors actions before and after setup of the trust clearly support this position. A more detailed discussion will follow as more evidence is reviewed. In alternative to the above stated position, the IRS can assess self dealing IRC 4941 taxes.

EXHIBIT 1

Martin, John (USANYE)

From: Nardoza, Robert (USANYE)
Sent: Tuesday, October 30, 2007 8:54 AM
To: Donoghue, Richard (USANYE); Komitee, Eric (USANYE); Casey, Sean (USANYE); Haran, Sean (USANYE); Martin, John (USANYE); McGinn, Denise (USANYE)
Subject: FW: David Brooks

fyi

-----Original Message-----
[redacted]
Sent: Tuesday, October 30, 2007 3:34 AM
To: Nardoza, Robert (USANYE)
Subject: David Brooks

Dear Mr. Nardoza,

I've been following the indictment and pending case of Mr. David Brooks very closely and I was happy to see that the government finally caught up to him. I have been waiting for this day for 12 years.

Please do not let David Brooks make bail. He will disappear or he WILL hurt someone. I know firsthand as I have seen his work personally.

I was the first person he hired back in 1995 for his company NDL that he bought out of bankruptcy down in Florida. It is where the former DHB is located in Pompano Beach. He threatened to kill me more than once in the 4 months I worked for him and after I left the company. In my first week on the job for him I also witnessed him try to stab a cab driver in Munich, Germany where I had to literally pull him off the cab driver and watched him pull a knife and threaten the head of one of our European Wholesalers at dinner, in Amsterdam right after the Munich incident.

You can not let this man get away or allow him to be released on bail or get away with everything that he has done. You are just scratching the surface of the things this despicable human being has done to other fine people.

Sincerely,
[redacted]

EXHIBIT 2