

20-3520-cr(L), 20-3789-cr(CON)

United States Court of Appeals for the Second Circuit

UNITED STATES OF AMERICA,

Appellee,

– v. –

ALLISON MACK, KATHY RUSSELL, LAUREN SALZMAN,
NANCY SALZMAN, AKA Perfect,

Defendants,

KEITH RANIERE, AKA Vanguard, CLARE BRONFMAN,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

BRIEF FOR DEFENDANT-APPELLANT CLARE BRONFMAN

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PRELIMINARY STATEMENT

This Court should vacate Appellant Clare Bronfman's 81-month prison sentence—which is triple the Guidelines range maximum—because it is procedurally unreasonable.

This case arises out of an investigation into an organization known as DOS. According to the government, DOS was a secret group that extorted vulnerable women. The government alleged that Keith Raniere presided over DOS as the “grandmaster” and commanded a number of “slaves” to, for example, provide him with graphic photographs of their vaginas, submit to his sexual advances, and recruit additional women to serve as their own “slaves.” The key tactic Mr. Raniere and other DOS “masters” allegedly employed was to collect “collateral”—such as nude photographs, fabricated confessions of embarrassing or criminal conduct, false accusations of similar conduct made against family members, or the deed to a house—which DOS “masters” used to extort their “slaves” in much the same way Mr. Raniere allegedly had done to them.

Appellant Clare Bronfman was *not* a member of DOS and knew *nothing* about it until the broader public became aware of it shortly before Mr. Raniere's arrest. The evidence was unrebutted that DOS members, at Mr. Raniere's specific instruction, concealed DOS from Ms. Bronfman and ensured she never learned of it. Although she sat on the executive board of NXIVM, a self-help group that Mr.

Raniere founded, and saw Mr. Raniere as an important mentor, the evidence—including 813 exhibits received in evidence at Mr. Raniere’s trial, 5,752 pages of transcript from that trial, and countless interviews conducted by the government—confirm that Ms. Bronfman knew nothing whatsoever of DOS. She did not plead guilty to anything related to DOS. Instead, Ms. Bronfman pleaded guilty to harboring an alien for financial gain, in violation of 8 U.S.C. § 1324, and identity theft, in violation of 18 U.S.C. § 1028. The former involved making false statements on a visa application for someone who wanted to move to Albany, New York to be part of the NXIVM community, and the latter involved arranging to pay the monthly balances of a credit card in the name of a deceased person, knowing the charges were made for the benefit of someone else. Clare Bronfman’s crimes had nothing to do with DOS, and neither did she.

Yet in sentencing her, the district court (Garaufis, J.) imposed a sentence three times greater than the upper end of the Sentencing Guidelines range, and almost two years longer than what the government had requested, based on its finding that Ms. Bronfman was willfully blind to the conduct associated with DOS and thus bore culpability for the harms it caused. But there is no factual basis from which the district court legitimately could conclude that Ms. Bronfman was willfully blind to DOS. The district court rested its willful-blindness theory on the apparent basis of two findings: Ms. Bronfman (1) failed to renounce Mr. Raniere

after the allegations against DOS became public; and (2) exhibited willful blindness to unrelated conduct in different circumstances. From this it concluded that Ms. Bronfman was willfully blind to DOS all along. That is a non sequitur. The district court erred in sentencing Ms. Bronfman on the basis of this logical fallacy.

The sentencing proceeding itself was defective too. When the district court articulated its misguided willful-blindness theory at the end of the sentencing hearing, it was the first time anybody had raised that concept in Ms. Bronfman's case. Neither the government nor the Probation Department had argued willful blindness, nor had the district court suggested that it was considering that theory. Ms. Bronfman thus had no notice or adequate opportunity to rebut that finding even though it proved central to the district court's justification for tripling the Guidelines range and locking Ms. Bronfman away for nearly seven years.

This denial of fair process was even more unreasonable given that Ms. Bronfman repeatedly requested a hearing to present evidence of her mental state. That request followed the allegation in the presentence report that she had "used her wealth to support" her codefendants' crimes, including those related to DOS, and that she shared in efforts to "secure and recruit immigration status for non-citizens so they could ... become sexual partners for Mr. Raniere." These suggestions were outrageous and demonstrably false. Ms. Bronfman sought a

hearing at which she would be able to show that she had no culpable mental state regarding DOS or her codefendants' alleged conduct. The district court denied that request and, as became clear at the sentencing hearing, apparently believed it could skirt the issue by declining to find that Ms. Bronfman "knew" about DOS, while still punishing her for being willfully blind to it. In doing so, the district court whipsawed Ms. Bronfman: it denied her a hearing on the issue of her mental state and then made a finding about her mental state that neither the Probation Department nor the government had advanced. The upshot is that Ms. Bronfman had no adequate opportunity to be heard on the key finding underlying the district court's draconian sentence. That is improper.

The district court offered a handful of other justifications for punishing Ms. Bronfman for DOS, but they fare even worse. For example, the court asserted that, by failing to pay what she had promised to the unauthorized immigrant who was the victim of Ms. Bronfman's immigration offense, known as Jane Doe 12, Ms. Bronfman somehow primed Jane Doe 12 to become a DOS slave. The district court also suggested that, because Ms. Bronfman participated in supposedly retaliatory and abusive litigation tactics aimed at detractors of NXIVM and Mr. Raniere, she contributed to a culture that "gave rise to the darkest and most horrific crimes that Raniere and others committed." These reasons, and the others the district court offered, are unsupportable. They would not suffice to find Ms.

Bronfman liable in a negligence suit, much less justify a nearly seven-year prison sentence, three times the Guidelines range.

This excessive sentence rests on misconceived reasoning, unsupported findings, and strained logic. Underlying all of it is the district court's false yet abiding premise that Ms. Bronfman was responsible for the alleged conduct of Keith Raniere and others in DOS. She wasn't. Having pleaded guilty and accepted responsibility for two felonies, she was entitled to be sentenced based on *her* history and characteristics and *her* conduct—not her codefendants'. The district court's failure to put aside its disgust for Mr. Raniere and sentence Ms. Bronfman for what *she* did was unreasonable. This Court should vacate and remand for resentencing.

STATEMENT OF APPELLATE JURISDICTION

The district court's order is appealable under 18 U.S.C. § 3742(a).¹

STATEMENT OF THE ISSUE

Whether the district court committed procedural error when it (1) denied Ms. Bronfman's request for a hearing regarding disputed facts relevant to sentencing; (2) based its sentence on a theory of culpability Ms. Bronfman had no notice of or adequate opportunity to contest; (3) made clearly erroneous and internally inconsistent findings at sentencing regarding issues on which Ms. Bronfman had

¹ Unless otherwise indicated, this brief omits from quotations and citations all internal quotation marks, alterations, footnotes, and citations.

requested a hearing; and (4) on the basis of those clearly erroneous findings, imposed a sentence that included 81 months' imprisonment, which was three times greater than the upper end of the sentencing range provided by the United States Sentencing Guidelines and nearly two years longer than what the government had requested.

STATEMENT OF THE CASE

A. Ms. Bronfman's Guilty Plea

Ms. Bronfman was arrested on July 24, 2018, four months after codefendant Keith Raniere was apprehended in Mexico and extradited to the United States. (PSR ¶¶104, 107.) Ms. Bronfman moved to sever her trial from Mr. Raniere's on January 10 and March 21, 2019 due to the unfair prejudice inherent in a trial involving shocking allegations of sex trafficking and worse that had nothing whatsoever to do with the charges against her. As a result of the denial of that motion, Ms. Bronfman pleaded guilty pursuant to an agreement with the government to one count of conspiracy to harbor aliens for financial gain, in violation of 8 U.S.C. § 1324, and one count of fraudulent use of identification, in violation of 18 U.S.C. § 1028. The conduct underlying these offenses involved (1) assisting an individual, known as Jane Doe 12, who was not a U.S. citizen and did not have immigration status within the United States, to live and work in the United States; and (2) arranging to pay credit card bills for a card in the name of a

deceased person, knowing that the charges on the card were made for the benefit of someone else. (A55.) Nothing in the government's charges, Ms. Bronfman's plea agreement with the government, or her allocution suggested she had anything to do with the sensational and inflammatory allegations against Mr. Raniere and members of DOS.

B. Ms. Bronfman's Background

Clare Bronfman was born in 1979 to Georgiana Havers and Edgar Bronfman, Sr., who was the president, treasurer, and CEO of the Seagram distilled beverage company and president of the World Jewish Congress. Her parents' marriage was tumultuous and ultimately short-lived. When the marriage ended in 1981, Georgiana moved to England with Ms. Bronfman and Ms. Bronfman's sister, Sara. After a two-year hiatus, Edgar Sr. and Georgiana remarried each other, but the couple did not live together and divorced again in 1986. (PSR ¶150.)

At this young age, notwithstanding the material comforts that her family's wealth provided, Ms. Bronfman had none of the emotional security and support that a family can provide. (A157, A276.) Ms. Bronfman's mother was rarely present in her life and instead spent a considerable portion of Ms. Bronfman's childhood living in Kenya. Ms. Bronfman's father remained in the United States. (PSR ¶¶150–51.) She was raised instead by a “revolving door of nannies,” who were often “grossly under qualified, too young, intoxicated, or otherwise

unsuited.” (A158, A278.) The lack of stability and emotional support during her formative years left her vulnerable (PSR ¶¶152–53), and ultimately had an outsize impact on her emotional security, trust in others, and ability to form and maintain relationships (PSR ¶158).

C. The Sense Of Purpose And Community Ms. Bronfman Found In NXIVM’s Self-Improvement Courses

NXIVM filled a void in Ms. Bronfman’s life. NXIVM (pronounced NEK-see-uhm) was an umbrella organization that provided a range of self-help programs (*see generally* A63–73), and although each program had its own specific focus and nuance, the overarching mission was to enable people to develop a set of moral principles to guide their lives. For example, the Ethicist was a program designed to “help people in essence figure out how to become ethical, moral, how to be the most ethical person they could,” and a “lot of the training was basically first trying to figure out what were your ethics and how to improve them.” (A65.) Common themes across NXIVM’s various curricula included “overcoming one’s emotionality, you know, using one’s logic, being less attached to other people or other things.” (A73.)

Keith Raniere was the creator and philosophical driving force behind NXIVM’s programs. (A61.) Along with codefendant Nancy Salzman, Mr. Raniere developed seminars, literature, and other educational materials designed to enable people to put his insights into practice. Over time, NXIVM opened centers

across North and Central America where people could attend classes and create local NXIVM communities similar to what existed outside Albany, New York, where Mr. Ranieri was based.

NXIVM's programs attracted a number of wealthy and high-profile participants. (A244.) The Dalai Lama even visited Albany to participate in a NXIVM-sponsored event. (A72.) Many NXIVM participants took up part- or full-time residence outside Albany to be closer to Mr. Ranieri and the heart of the NXIVM community. (A268–69, A271, A280, A282.)

Ms. Bronfman took her first NXIVM course in 2003 and quickly became devoted to the work NXIVM did. Like thousands of others who attended NXIVM courses, the executive success programs, ethical teachings, and overall design for living that NXIVM provided became an important part of her life and social development. NXIVM helped Ms. Bronfman to discover that she was not alone in her insecurities, and she felt she could be herself in the company of NXIVM members without fear of rejection. The community and education of NXIVM helped transform a young person gripped by self-loathing and fear of the world into a woman who felt comfortable in her own skin, purposeful, and fulfilled. (PSR ¶178.)

A major part of Ms. Bronfman's transformation came from her relationship with Keith Ranieri. Until she met Mr. Ranieri, Ms. Bronfman's wealth and family

history had filled her with shame, inadequacy, and fear, but Mr. Raniere helped her to learn about business and finance. He supported and encouraged her to grow businesses outside of NXIVM and to seek outside experts to guide her. Mr. Raniere became one of the few people Ms. Bronfman felt she could confide in, and over time, the most important person in her life. (A262.)

Consistent with her dedication to NXIVM and her prodigious work ethic, Mr. Raniere and other NXIVM leaders quickly promoted her within the organization. In 2009, Ms. Bronfman was invited to join the organization's executive board. (PSR ¶16.) Excited about the opportunity to contribute to something from which she believed she had received so much, Ms. Bronfman poured herself into the position. She sought to provide structure that would enable NXIVM to thrive long-term by implementing corporate policies and procedures, seeking to establish accountability and oversight, and focusing on the critical behind-the-scenes tasks necessary to making a large organization run. (A163.)

D. DOS

DOS was something completely different. It “had nothing to do with Nxivm.” (PSR ¶79; *see also* A114 (Nicole) (Q: “Did [codefendant Allison Mack] say anything about whether this organization had anything to do with NXIVM?” A: “She said it did not have anything to do with NXIVM.”).) According to the government, DOS was a group that Mr. Raniere created in order to act out his

sexual fantasies, which encompassed—and were accomplished by—blackmailing women into providing him nude photographs, engaging in other demeaning tasks, and ultimately submitting to his sexual advances. Whereas NXIVM’s programs were heavily advertised and open to the public, DOS was secret and its membership strictly limited. And whereas Clare Bronfman was closely involved in NXIVM and served in its leadership, the government concedes that she knew nothing whatsoever about DOS until the rest of world began to learn about it in 2017.

E. The DOS Participants’ Efforts To Keep Their Conduct A Secret From Ms. Bronfman

Ms. Bronfman was shocked as she came to learn of the allegations against Mr. Raniere and other DOS members. She had no inkling of DOS or the alleged conduct. This was by design. Members of DOS were required to keep the existence of the group and their participation in it a secret. (A79 (L. Salzman) (“The group was secret and we concealed that Keith was [] the founder of the group, was member of the group, and participated in any way in the group.”).) And while some of Mr. Raniere’s closest female companions became members of DOS, he prohibited DOS members from recruiting Ms. Bronfman into the organization. As one senior DOS member testified at Mr. Raniere’s trial:

Q: “Did you have discussions about recruitment of other slaves in these meeting with the DOS first line?”

A: “Yes.”

...

Q: “Were any prospects rejected?”

A: “Some.”

Q: “Can you give us some examples?”

A: “Audrey wanted to enroll Siobhan and I discussed it with Keith, and he said he wasn’t sure that that was a good idea. Clare’s name was raised a bunch and he wanted to keep that separate.”

Q: “Clare Bronfman?”

A: “Yes.”

(A85 (L. Salzman); *see also* SPA57–58 (B. Bouchey) (“Clare, do you realize that they lied to you? ... [F]rom the day you walked through the door, Keith pitted us against you. He knowingly directed us to lie to you, conspire to conceal things. You thought you were in the inner circle. You were six layers out, because that’s what we wanted you to think.”); A275 (“Clare had absolutely no knowledge of DOS, much less any involvement.”).) The government has conceded that members of DOS did not “disclose[] their membership in DOS to [Ms. Bronfman].” (A286.)

Efforts to conceal DOS intensified after information about it began to come out, as Mr. Raniere “directed that we were not going to tell anybody about his involvement, it was going to be secret, that he didn’t know anything about it, that he wasn’t associated with it, that the brand was not his initials and he gave several

options for how we could address the concerns that were being raised.” (A90 (L. Salzman).) Mr. Raniere and other DOS leaders made numerous statements to news reporters, investigators, and members of the NXIVM community denying the allegations. (See, e.g., A95 (L. Salzman) (“I lied to everybody. I lied to the entire community about it. I lied to the media about it, I lied to everybody about it.”); A99 (L. Salzman) (describing a public address Mr. Raniere made: “He said he wasn’t affiliated with DOS, that he had very little knowledge about it”); A107 (L. Salzman) (describing written public statement from Mr. Raniere: “It contained statements that he was not affiliated with the sorority, that he had little knowledge of it and that we had done a thorough review by ex-law enforcement and forensic psychologists and others, and that they had found that the women of the sorority were thriving and doing better, that this was an overall really good thing.”).)

F. The District Court’s Denial Of Ms. Bronfman’s Request For A Fatico Hearing

At sentencing, the overarching issue in dispute was whether Ms. Bronfman bore culpability for DOS’s conduct. The dispute first materialized with several allegations in the presentence report, which claimed that Ms. Bronfman “used her wealth to support” her codefendants’ crimes, including DOS, and that she shared in efforts to “recruit and secure immigration status for non-citizens so they could ... become sexual partners for Raniere.” (PSR ¶¶16, 21.) The government’s sentencing submission echoed the presentence report’s false and unfair innuendo.

The government’s claim, reiterated throughout its sentencing submission, was that Ms. Bronfman “used her extraordinary wealth and social status to fund and promote a criminal enterprise led by her co-defendant Keith Raniere.” (A226; *see also* A227 (“Through her unwavering support of Raniere, financial and otherwise, Bronfman enabled him to perpetrate his crimes.”).) The government further insinuated that Ms. Bronfman’s financial support went directly to DOS. (*See* A228 (“Bronfman’s claim that she did not provide financial support for DOS ... makes little sense. Bronfman funded Raniere in all of his endeavors, without question or limitation.”).)

These allegations were inflammatory, improper, and completely false. The record was undisputed that Ms. Bronfman “did not know about DOS.” (A123.) Accordingly, she requested an evidentiary hearing under *United States v. Fatico*, 579 F.2d 707 (2d Cir. 1978), in order to establish her lack of knowledge about, involvement in, and funding of DOS and its members’ activities. (*See* A117–19.) The district court made clear that Ms. Bronfman would be required to testify at any hearing if one were to occur:

- “[I]f we have a Fatico hearing ... I’ll also expect Ms. Bronfman to testify for herself” (A125);
- “[Y]ou just can’t cross examine the government’s witnesses in a Fatico hearing without having witnesses of your own, beginning with the defendant who’s the most important witness as to these activities” (*id.*);

- “[I]f we do have a hearing on that subject I would expect that ... I will need to hear from Ms. Bronfman ... You can bring witnesses but -- if we end up there, but if we do end up there I’m going to need to hear from Ms. Bronfman as well” (A127–28);
- “You’re not going to slip through the hearing process by just bringing along people who knew Ms. Bronfman, that just won’t work” (A128.)

The district court ultimately denied Ms. Bronfman’s request shortly before sentencing and after she had filed her sentencing memorandum. (SPA1–5.)

G. The District Court’s Sentence And Statement Of Reasons

The sentencing proceeding began with the district court’s calculation of Ms. Bronfman’s Sentencing Guidelines range. The government and the Probation Department had argued for a three-level enhancement under Section 2L1.1(b)(2)(A) on the basis that the immigration offense involved at least six unauthorized immigrants. Ms. Bronfman argued that enhancement was inapplicable, and the district court agreed, stating “[b]ecause the charged conduct to which Ms. Bronfman pleaded encompassed only one victim, Jane Doe 12, I will not apply the enhancement as set forth in Sentencing Guideline 2L1.1(b)(2)(A).” (SPA10–13.) The district court also rejected the Probation Department’s argument that a leadership enhancement was warranted under Section 3B1.1 because it found that “Jane Doe 12 [was] a victim of the offense of conviction rather than a co-participant in the offense.” (SPA13.) Ultimately, the district court arrived at a

total offense level of 16 and criminal history category of I, which yielded a sentencing range of 21 to 27 months. (SPA14–15); U.S.S.G. § 5A.

The district court then heard extensive testimony from victims of Mr. Raniere and other members of DOS. For example, Jane Doe 14, a DOS “slave,” testified about being recruited into DOS and being “groomed for Keith Raniere.” (SPA24–25 (Jane Doe 14).) Barbara Bouchey described being “smeared by Keith Raniere” after leaving NXIVM and the financial and professional effect that has had on her life. (SPA51 (B. Bouchey).) Kristin Keeffe spoke about the son she had with Mr. Raniere and the great lengths Mr. Raniere went to keep their child a secret. (See SPA60 (K. Keeffe) (“Keith had me convinced that Edgar Bronfman, Clare’s father, would harm [our son] if he found out Keith was his father.”).)

Of the nine witnesses who testified at Ms. Bronfman’s sentencing, eight had no connection to Ms. Bronfman’s offense conduct. The only one who did was Jane Doe 12, whose testimony at sentencing discussed being “hired to work as a management consultant” for NXIVM and affiliated programs, getting her “visa and [] contract signed by Ms. [] Bronfman,” but “never receiv[ing]” her promised salary. (SPA26–27 (Jane Doe 12).)

Following the testimony, arguments from counsel, and a statement from Ms. Bronfman, the district court imposed sentence. In doing so, the district court claimed that, while it did “not find that Ms. Bronfman knowingly funded a sex

cult” (SPA118), Ms. Bronfman nevertheless bore culpability for Mr. Raniere’s and other DOS members’ alleged conduct because she was “willfully blind” to it. The district court reached this conclusion on the basis of two findings: (1) Ms. Bronfman’s response when “the existence of DOS started to become known within the larger Nxivm community” was to “double[] down on her support of Raniere and pursue[] her now familiar practice of attacking his critics” (SPA118–19); and (2) “Ms. Bronfman seems to have a pattern of willful blindness when it comes to Raniere and his activities” (SPA124–26). As specific examples of this perceived “pattern of willful blindness,” the district court cited to a comment Ms. Bronfman made in 2008 in seeking to convince authorities to bring criminal charges against an “enemy” of Mr. Raniere: “I don’t need to know who is funding the efforts [of the perceived enemy], how you stop that from continuing. In fact, I don’t want to know. It just needs to be done and quickly.” (SPA125.) The district court stated further:

I also find it relevant that Ms. Bronfman’s allegiance to Raniere shines through again and again. She has paid his legal fees and to this day, maintains that he “greatly changed her life for the better.” That is consistent with both her actions as described above and from what others have said about [her].

(*Id.*) Based on these findings, the district court concluded that “while she might not have known about DOS before receiving the collateral e-mails in September

2017, I [] find it clear that in her own words, she did not want to know either.”
(SPA126.)

While Ms. Bronfman’s ostensible willful blindness was the primary justification the district court offered for a sentence three times the Guidelines range, and nearly two years longer than what the government had argued for, it briefly articulated three additional grounds. The first of these was that Ms. Bronfman’s conduct in misleading Jane Doe 12 about the payment she would receive somehow made Jane Doe 12 more susceptible to being victimized by DOS. Although Jane Doe 12 herself never so much as hinted at this theory, the district court concluded:

Jane Doe 12 was eventually recruited into DOS, Raniere’s secret society in which she was pressured into giving up [“collateral”] and becoming a [“slave”]. I am not suggesting that Ms. Bronfman had a direct role in Jane Doe 12’s recruitment into DOS or even if she was aware of it. The evidence before me does not support such a proposition. But I do find that the kind of pressure and mistreatment that Jane Doe 12 was subjected to by Ms. Bronfman put her in a very vulnerable state, the kind of state that could make a person more susceptible to be recruited into an organization like DOS.

(SPA109.)

The second additional basis the district court offered was that Ms. Bronfman contributed to a culture in the NXIVM community that Mr. Raniere exploited to create DOS. The court stated:

This culture of stifling and threatening dissenters, a culture that Ms. Bronfman clearly participated in and perpetuated, is the same culture that gave rise to the darkest and most horrific crimes that Raniere and others committed. This was one of the mechanisms by which Raniere exerted and retained power over his victims. And even if Ms. Bronfman did not knowingly facilitate Raniere's worst crimes, as a general matter she was his accomplice in the effort to intimidate and silence detractors, using her wealth and privilege as a sword on Raniere's and NXIVM'S behalf.

(SPA115.)

Finally, regarding Ms. Bronfman's identity theft offense, the district court found that the "preponderance of the evidence available to me does not suggest what her specific intentions were in authorizing expenditures of a deceased woman's money" (SPA112.) Yet the court saw fit to sentence Ms. Bronfman to nearly seven years' imprisonment because:

Ms. Bronfman's conduct in committing this offense helped to facilitate those efforts on Raniere's part, regardless of whether or not that is what Ms. Bronfman understood herself to be doing. This crime, like the crime in Count One, was committed within a larger context of more serious crimes and alarming behavior by Ms. Bronfman's codefendants and was consistent with the hallmarks and aims of that behavior. That does not necessarily mean that Ms. Bronfman shared in those aims, but it is still a relevant context and I can take it into consideration.

(*Id.*)

Based on these findings, the district court decided that a sentence “greater than the upper limit of [the] Guidelines [was] warranted.” (SPA131.) The court imposed a prison sentence of 81 months, “which is three times the high end of the Guidelines range,” a fine of \$500,000 (the statutory maximum), forfeiture of \$6 million, restitution of \$96,605.25, three years of supervised release, and a mandatory special assessment of \$200. (*Id.*)

Ms. Bronfman now appeals the district court’s sentence.

STANDARD OF REVIEW

This Court reviews sentences for procedural reasonableness under a “deferential abuse-of-discretion standard.” *United States v. Singh*, 877 F.3d 107, 115 (2d Cir. 2017); *United States v. Dorvee*, 616 F.3d 174, 179 (2d Cir. 2010). A sentence is procedurally unreasonable if the district court commits a significant procedural error, such as “failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence—including an explanation for any deviation from the Guidelines range.” *Dorvee*, 616 F.3d at 179; *United States v. Pugh*, 945 F.3d 9, 27 (2d Cir. 2019) (vacating and remanding where district court’s explanation was inadequate). The sentencing court must “state in open court the reasons for its imposition of [a] particular sentence,” and where the sentence is above the Guidelines range, it must further describe “the specific reason” for the sentence imposed “with specificity.”

18 U.S.C. § 3553(c). The sentencing court’s “statement of reasons must at least explain—in enough detail to allow a reviewing court, the defendant, his or her counsel, and members of the public to understand—why the considerations used as justifications for the sentence are sufficiently compelling or present to the degree necessary to support the sentence imposed.” *United States v. Sindima*, 488 F.3d 81, 86 (2d Cir. 2007).

In reviewing a variance from the Guidelines range, this Court considers whether the variance has a reasoned basis, taking into account both “the degree of variance” and “the extent of a deviation from the Guidelines.” *United States v. Stewart*, 590 F.3d 93, 135 (2d Cir. 2009). “A major departure should be supported by a more significant justification than a minor one.” *United States v. Cavera*, 550 F.3d 180, 193 (2d Cir. 2008) (en banc). This Court assesses whether any particular factor used in imposing a sentence, “as explained by the district court, can bear the weight assigned it under the totality of circumstances in the case.” *Id.* at 191.

SUMMARY OF ARGUMENT

1. The district court’s extraordinary upward variance from Ms. Bronfman’s Sentencing Guidelines range requires this Court to apply a heightened standard of scrutiny to the reasons the district court gave for the sentence. By any measure, a prison sentence three times the upper end of the Guidelines range

grossly exceeds the norm both within the Second Circuit and across the country. In these circumstances, this Court should examine carefully the district court's proffered justifications and vacate and remand for resentencing where, as here, the justification is not "sufficient to support the magnitude of the variance." *Singh*, 877 F.3d at 117.

2. The primary basis the district court offered for tripling the Guidelines range was its unsupported, illogical, and clearly erroneous finding that Ms. Bronfman was willfully blind to the conduct alleged against Mr. Raniere and others in DOS. The district court based its finding on (1) Ms. Bronfman's reaction after DOS became public shortly before Mr. Raniere's arrest and (2) what the court perceived as a historical pattern of willful blindness that Ms. Bronfman had exhibited in other circumstances. These factors do not add up to willful blindness because they do nothing to establish that Ms. Bronfman realized it was highly probable that Mr. Raniere was engaging in the conduct the government has alleged but refrained from confirming so that she could deny knowledge of it. The district court's finding rested on a supposition that Ms. Bronfman *would have* turned a blind eye *if* she had been on notice of DOS, but that cannot substitute for evidence that she *actually was* on notice, in real time, and refrained from confirming. And the reason the district court could not identify any such evidence is because the record demonstrated exactly the opposite. DOS participants kept the existence of

the group and their activities a secret from Ms. Bronfman, including by lying to the investigator Ms. Bronfman hired to look into the allegations when they became public. The district court's willful-blindness finding was clearly erroneous, and the extraordinary sentence it imposed based on that finding was procedurally unreasonable.

3. This erroneous finding followed directly from the erroneous procedure the district court employed. When the district court announced its willful-blindness rationale for tripling the Guidelines range, it was the first time anyone had raised that theory of culpability with respect to Ms. Bronfman. Neither the government nor the Probation Department had suggested that Ms. Bronfman bore culpability for DOS because she was willfully blind to it. Having sprung this theory on Ms. Bronfman only after she filed her sentencing submission, made oral arguments, and personally addressed the court, the district court gave her no notice or fair opportunity to address the key basis for its extraordinary upward variance. This is improper.

4. The district court's eleventh-hour invocation of a mental-state theory no one had advocated was particularly unreasonable because the court had denied Ms. Bronfman's repeated requests for an evidentiary hearing to rebut the suggestion that she had a culpable mental state regarding DOS. While neither the government nor the Probation Department had argued willful blindness, both had

suggested that Ms. Bronfman bore culpability for Mr. Raniere's and other DOS members' alleged crimes because she "participated in efforts to recruit and secure immigration status for non-citizens so that they could ... become sexual partners for Raniere" and her "unwavering support of Mr. Raniere ... enabled him to perpetrate his crimes." These allegations were outrageous and demonstrably false. Ms. Bronfman implored the district court to hold a hearing so she could demonstrate that she knew nothing of DOS, did nothing to support it, and could not in any way be said to bear culpability for it. In declining to hold a hearing, the district court denied Ms. Bronfman an adequate opportunity to put on evidence of her mental state, and then it sentenced her based on a finding about her mental state that she indisputably would have rebutted at the hearing. Having afforded Ms. Bronfman no adequate opportunity to show that she did not bear culpability for DOS, it was procedurally unreasonable for the district court to punish her based on DOS.

5. The district court's statement of reasons suffers from still other procedural errors. Its analysis of the Sentencing Guidelines contradicts in multiple respects the justifications it offered for imposing a sentence three times the upper end of the Guidelines range. In particular, the district court found that Ms. Bronfman was willfully blind to DOS members' alleged sex trafficking, but it failed to apply Guidelines enhancements for "intentionally or recklessly creating a

substantial risk of death or serious bodily injury to another person,” which includes criminal sexual abuse. U.S.S.G. § 2L1.1(b)(6), (b)(7), cmt. n.4. These findings are irreconcilable. Similarly, the district court rejected the government’s and Probation Department’s requested enhancement for harboring six or more unauthorized immigrants, but then it appeared to enhance Ms. Bronfman’s sentence based on a finding that she harbored six or more unauthorized immigrants. And it gave Ms. Bronfman credit for acceptance of responsibility under Section 3E1.1 but then rebuked her for failing to demonstrate remorse. The resulting incoherence of the district court’s statement of reasons further demonstrates that the sentence is procedurally unreasonable.

6. Finally, the district court made passing reference to a few additional justifications for imposing a sentence three times the Guidelines range, but even if they could withstand scrutiny, the myriad problems with the primary willful-blindness justification still require vacatur and remand for resentencing. The additional justifications are meritless in any event. The record is clear that Ms. Bronfman does not bear culpability that is cognizable at sentencing for priming Jane Doe 12 to be recruited into DOS, for contributing to a culture that “gave rise” to DOS, or for facilitating any “more serious crimes and alarming behavior by” her codefendants. The district court’s brief reference to these theories cannot salvage the extraordinary sentence it imposed on Ms. Bronfman.

ARGUMENT

I. THIS COURT MUST CAREFULLY SCRUTINIZE THE DISTRICT COURT’S EXPLANATION FOR A SENTENCE THREE TIMES THE UPPER END OF THE GUIDELINES RANGE.

A. Ms. Bronfman’s Sentence Vastly Exceeds Objective Benchmarks.

In sentencing Clare Bronfman to nearly seven years in prison, the district court not only went far outside the U.S. Sentencing Guidelines range, it also vastly exceeded the sentences typically imposed on defendants convicted of similar crimes. The district court explicitly pegged its sentence to the Guidelines range, stating that it was imposing a “prison sentence of 81 months ... which is three times the high end of the Guidelines range.” (SPA131.) For people like Ms. Bronfman in criminal history category I, the Guidelines provide for an 81-month sentence when their offense level is 27 or 28. That means that 81 months would be within the Guidelines range for a first-time offender who, for example:

- attempted a second-degree murder, *see* § 2A2.1(a)(2) (offense level 27);
- distributed 500 images of sexual abuse of an infant or toddler, *see* § 2G2.2(a)(2), (b)(4), (b)(7)(C) (offense level 28);
- organized and led a prison riot that created a substantial risk of death and involved physically restraining victims, *see* §§ 2P1.3(a)(1), 3A1.3, 3B1.1(a) (offense level 28); or
- committed a premeditated assault with an ice pick that caused a life-threatening injury, *see* § 2A2.2(a), (b)(1), (b)(2)(B), (b)(3)(C) (offense level 27).

By contrast, at Ms. Bronfman's offense level (16), even if she were a career criminal who fell in criminal history category VI, an 81-month sentence still would exceed the applicable Guidelines range by more than 40 percent. U.S.S.G. § 5A (offense level 16 and criminal history category VI yields range of 46 to 57 months).

Eighty-one months is also excessive compared to other non-cooperator defendants convicted of the same statutes as Ms. Bronfman and who have minimal or no criminal history. According to the U.S. Sentencing Commission's database of federal sentences, *see* 28 U.S.C. § 994(w), in the time since the Sentencing Guidelines ceased to be mandatory until September 30, 2019, there have been 27 defendants who (1) were sentenced for violating both 8 U.S.C. § 1324 and 18 U.S.C. § 1028; (2) did not receive a downward departure under Section 5K1.1; and (3) were in criminal history category I. Of those defendants—many of whom had total offense levels higher than Ms. Bronfman—the average length of imprisonment imposed was approximately 33 months, and not a single one received a prison sentence above the Guidelines range. *See* U.S. Sentencing Comm'n, Commission Datafiles, available at <https://www.ussc.gov/research/datafiles/commission-datafiles#NaN>.

Ms. Bronfman's sentence is an outlier even among all cases in which district courts have varied upward from the Guidelines range. Of the more than 1 million

sentences in the Sentencing Commission’s database since the Guidelines became advisory, only 1.4 percent of defendants in criminal history category I have received a sentence above the Guidelines range. *Id.* And of these rare cases, the sentence imposed exceeded the upper end of the Guidelines range by an average of just 17.7 months. *Id.* Among the 210 such cases within the Second Circuit, the average difference was 22.5 months. *Id.* The difference in Ms. Bronfman’s case was 54 months.

By any measure, the district court imposed a sentence of uncommon severity on Ms. Bronfman.

B. Significant Variances Demand Close Appellate Scrutiny.

This Court should carefully examine the district court’s reasons for Ms. Bronfman’s sentence because 81 months is such a significant variance from the Guidelines range. The greater the variance, the better the justification required from the district court. *Cavera*, 550 F.3d at 193 (“major departure from the Guidelines should be supported by a more significant justification than a minor one”). “This requirement is not an empty formality.” *United States v. Seabrook*, 968 F.3d 224, 235 (2d Cir. 2020). It permits this Court to determine whether any particular factor used in imposing a sentence, “as explained by the district court, can bear the weight assigned it under the totality of circumstances in the case.” *Cavera*, 550 F.3d at 191; *see also United States v. Jones*, 531 F.3d 163, 172

(2d Cir. 2008) (“[T]he more a sentence varies from the Guidelines range, the less obvious it may be to a reviewing court why the district court concluded that such a variance was necessary to comply with § 3553(a).”). This Court must be able to determine—after considering “the context of the Sentencing Commission’s statistics” and other factors—that “the justification offered by the district court is sufficient to support the magnitude of the variance.” *Singh*, 877 F.3d at 117.

As explained further below, the district court’s statement of reasons for imposing a sentence three times the upper end of the Guidelines range, and almost two years longer than what the government had argued for, cannot stand up to scrutiny.

II. THE DISTRICT COURT’S CORE FINDING THAT MS. BRONFMAN WAS WILLFULLY BLIND RESTED ON MULTIPLE PROCEDURAL ERRORS.

A. The District Court Misapplied The Standard For Willful Blindness.

The primary justification the district court offered for its extraordinary 81-month sentence—that Ms. Bronfman was “willfully blind” to Mr. Raniere’s and other DOS participants’ conduct—does not stand up to even the most cursory review. The district court advanced two apparent bases for its finding that Ms. Bronfman “did not want to know” about DOS and that her ignorance was “willful and cultivated” (SPA126–27), both of which are deficient. The district court first asserted that, while it purported “not [to] find that Ms. Bronfman knowingly

funded a sex cult[,]” it found Ms. Bronfman’s response when “the existence of DOS started to become known within the larger Nxivm community” was to “double[] down on her support of Raniere and pursue[] her now familiar practice of attacking his critics.” (SPA 118–19.) The district court’s second purported basis for its willful-blindness finding was that “Ms. Bronfman seems to have a pattern of willful blindness when it comes to Raniere and his activities.” (SPA124–25.) As specific examples of this perceived “pattern of willful blindness,” the district court cited to a comment Ms. Bronfman made in 2008 in seeking to convince authorities to bring criminal charges against an “enemy” of Mr. Raniere: “I don’t need to know who is funding the efforts, how you stop that from continuing. In fact, I don’t want to know. It just needs to be done and quickly.” (SPA125.) The district court stated further:

I also find it relevant that Ms. Bronfman’s allegiance to Raniere shines through again and again. She has paid his legal fees and to this day, maintains that he ‘greatly changed her life for the better.’ That is consistent with both her actions as described above and from what others have said about [her].

(*Id.*) Based on these findings, the district court concluded that “while she might not have known about DOS before receiving the collateral e-mails in September 2017, I [] find it clear that in her own words, she did not want to know either.” (SPA126.) As explained below, these findings do not add up to willful blindness.

1. *Willful blindness requires awareness in real time of a high probability of the existence of a given fact.*

The concept of willful blindness permits the government to establish that a person has knowledge of a particular fact when she:

is aware of a high probability of its existence, and consciously and intentionally avoided confirming that fact. Knowledge may be proven in this manner if, but only if, the person suspects the fact, realized its high probability, but refrained from obtaining the final confirmation because [she] wanted to be able to deny knowledge.

United States v. Kozeny, 667 F.3d 122, 132 (2d Cir. 2011); *see also* Leonard B. Sand, et al., *Modern Federal Jury Instructions—Criminal*, ¶ 3A.01, at 3A–2 (2020) (knowledge may be established if “the defendant’s ignorance was solely and entirely the result of[] a conscious purpose to avoid learning the truth”; if “the defendant was aware of a high probability [of the fact in question] and [] the defendant acted with deliberate disregard of the facts, you may find that the defendant acted knowingly.”); *United States v. Lange*, 834 F.3d 58, 77 n.8 (2d Cir. 2016) (approving conscious-avoidance instruction that was “identical in substance” to instruction contained in Sand).

This Court’s precedent thus makes clear that the key predicate for finding that a person was willfully blind to a given fact is that the person was aware, at the time she acted, of a high probability of the existence of that fact and, upon learning of that high probability, “refrained from obtaining the final confirmation because

[s]he wanted to be able to deny knowledge,” or otherwise “acted with deliberate disregard” of the suspicions. *See Kozeny*, 667 F.3d at 132; Sand ¶ 3A.01, at 3A–2.

2. ***What Ms. Bronfman learned after-the-fact is irrelevant.***

This question of timing is critical because the district court failed to identify a single fact at any point prior to the public revelation of DOS that could have put Ms. Bronfman on notice of it. The earliest evidence of Ms. Bronfman’s awareness to which the district court cited was an email forwarded in June 2017 to a group of people including Ms. Bronfman that discussed the existence of DOS and its alleged conduct. (SPA119.) The district court then claimed that it did “not base Ms. Bronfman’s sentence on the assumption that she knew about DOS prior to receiving these emails,” but that Ms. Bronfman’s “doubl[ing] down on her support for Raniere” *after* receiving the emails somehow suggests she was willfully blind all along: “[W]hile she might not have known about DOS before receiving the collateral e-mails in September 2017, I [] find it clear that in her own words, she did not want to know either.” (SPA120, SPA126.) But the district court’s inference about how Ms. Bronfman *would have* reacted *if* she had received notice of DOS cannot substitute for evidence that she *actually did* receive such notice.

It is no surprise that the district court could not identify any evidence that Ms. Bronfman was on notice of DOS, because the evidence demonstrated exactly the opposite. As one high-level DOS member testified at Mr. Raniere’s trial,

“[t]he group was secret and we concealed that Keith was -- was the founder of the group, was a member of the group, and participated in any way in the group.” (A79 (L. Salzman).) The concealment intensified after information about DOS began to become public, as Mr. Raniere “directed that we were not going to tell anybody about his involvement, it was going to be secret, that he didn’t know anything about it, that he wasn’t associated with it, that the brand was not his initials and he gave several options for how we could address the concerns that were being raised[.]” (A90 (L. Salzman).) Mr. Raniere and other DOS leaders made numerous statements to news reporters, investigators, and members of the NXIVM community denying the allegations. (See, e.g., A95 (L. Salzman) (“I lied to everybody. I lied to the entire community about it. I lied to the media about it, I lied to everybody about it.”); A99 (L. Salzman) (describing public address Mr. Raniere gave: “He said he wasn’t affiliated with DOS, that he had very little knowledge about it”); A107 (L. Salzman) (describing public statement from Mr. Raniere: “It contained statements that he was not affiliated with the sorority, that he had little knowledge of it and that we had done a thorough review by ex-law enforcement and forensic psychologists and others, and that they had found that the women of the sorority were thriving and doing better, that this was an overall really good thing.”).)

Mr. Raniere also specifically instructed DOS members not to discuss their activities with Ms. Bronfman or to try to recruit her into DOS:

Q: “Did you have discussions about recruitment of other slaves in these meeting with the DOS first line?”

A: “Yes.”

...

Q: “Were any prospects rejected?”

A: “Some.”

Q: “Can you give us some examples?”

A: “Audrey wanted to enroll Siobhan and I discussed it with Keith, and he said he wasn’t sure that that was a good idea. Clare’s name was raised a bunch and he wanted to keep that separate.”

Q: “Clare Bronfman?”

A: “Yes.”

(A85 (L. Salzman).)

Efforts to conceal DOS from Ms. Bronfman continued even after information about it began to become public. In the summer of 2017, Ms. Bronfman hired a private investigator to look into the allegations that had been made. (A166–67.) But the DOS members whom Ms. Bronfman’s investigator interviewed steadfastly denied the allegations. As Lauren Salzman testified at Mr. Raniere’s trial:

[W]e misrepresented and lied about all the same things that I've been testifying for the last two days that we lied about.

...

I told them the same thing that I told everybody else, that the brand wasn't Keith's initials, that Keith wasn't involved. I represented it similar to Jness [a NXIVM-affiliated program designed for women] that he had come up with the tools and the curriculum and given us permission to use them but was not involved in the inner workings of anything and had little knowledge of what we were doing.

I said that Rosa Laura was my master not Keith. Test of Abraham, you know, that seduction assignments were never meant to be carried out, they were all just dares, that the women had come up with the idea for branding and that Keith -- the -- the -- Keith's initials were only in there as an afterthought as a tribute and not meant to be interpreted that way at all.

...

I provided them with the compiled materials, at least one of them I provide[d] a compilation of the materials that represented examples of positivity and consent but leaving out anything that showed the opposite. And some of those pictures, as I testified yesterday, were pictures where the girls were instructed to look happy and like they wanted to be doing that.

(A105-06 (L. Salzman).)

This record dispels any suggestion that Ms. Bronfman knew about the criminal conduct alleged against members of DOS and chose to look away. Far

from blinding herself to DOS, Ms. Bronfman investigated it. The fact that members of DOS obstructed her efforts is not Ms. Bronfman's fault.

To the extent the government would point to Lauren Salzman's double-hearsay testimony at Mr. Raniere's trial that "I asked Keith what [Ms. Bronfman] knew [about DOS] and he told me that she didn't want to know anything she didn't need to know" (A108), that testimony is a red herring for three reasons. First, it ignores the considerable efforts to which Ms. Bronfman went to investigate DOS, including retaining an investigator at her own expense. Second, it takes the comment completely out of context. Had the district court afforded Ms. Bronfman an evidentiary hearing, *see infra* 42–45, it would have understood that Ms. Bronfman had expressed that she did not want to see any of the "collateral" DOS members had provided or any other confidential materials, which she understood was, in some cases, deeply personal. And third, even assuming the worst about this comment, an inference of willful blindness still would suffer from the same timing mismatch described above—how Ms. Bronfman reacted to information she learned after-the-fact is not proof that she was aware of it beforehand.

There was no evidence that Ms. Bronfman was privy to any information that could have put her on notice of a "high probability" that members of DOS had engaged in the conduct the government has alleged. A person cannot be willfully

blind under these circumstances. *See Kozeny*, 667 F.3d at 132. The district court’s finding to the contrary was error.

3. *Ms. Bronfman’s ostensible history of willful blindness is irrelevant.*

The district court’s second purported justification—Ms. Bronfman’s supposed “pattern of willful blindness”—fails for similar reasons. How Ms. Bronfman reacted when faced with facts suggesting Mr. Raniere engaged in wholly separate and categorically distinct conduct has nothing at all to do with the key factual question of whether she was aware of, but disregarded, that there was a high probability that members of DOS were engaged in the conduct the government has alleged. Her willingness to look past, for example, Mr. Raniere’s retaliation against his detractors cannot substitute for evidence that Ms. Bronfman was on notice of, but consciously and intentionally avoided confirming, the conduct alleged against DOS members. To the extent the former has any relevance to the latter, it would serve as a deeply implausible propensity inference about what Ms. Bronfman likely would have done *if* she had been aware of a high probability of the existence of DOS. Such an inference would be entitled to virtually no weight, because it is not reasonable to infer that a person’s past willingness to look past comparatively minor misconduct means that she would willfully blind herself to a sex-trafficking conspiracy.

And in any event, such an inference, without more, could not establish that Ms. Bronfman had *actual* awareness of a high probability of such a conspiracy—the legal requirement for willful blindness. Here, all of the actual evidence shows just the opposite. As explained above at 11–13, 32–36, the only evidence in the record—despite dozens of witness interviews, approximately 12 terabytes of data, and a six-week trial at which 21 witnesses testified and 813 exhibits were received in evidence—is that she did *not* have such an awareness, by deliberate design of Mr. Raniere and other members of DOS.

* * *

The district court’s conclusion that Ms. Bronfman was willfully blind to DOS finds no support in the record. As articulated by the district court, it found Ms. Bronfman “did not want to know” about DOS before she received any information that would have put her on notice of its existence. (SPA126.) The theory of willful blindness does not apply in these circumstances. *Kozeny*, 667 F.3d at 132; Sand ¶ 3A.01, at 3A–2. Imposing a grossly disproportionate 81-month prison sentence based on erroneous findings and an inapplicable legal theory is unreasonable. *See Singh*, 877 F.3d at 118–19 (“A variance such as that imposed here—some three times the high end of the [Guidelines] range—must be based on an accurate reading of the record.”); *United States v. Delacruz*, 862 F.3d 163, 179 (2d Cir. 2017) (“A district court necessarily abuses its discretion if it

bases its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence.”).

Nor was it proper for the district court to punish Ms. Bronfman for harm attributable to DOS based on its surmise that Ms. Bronfman would have “consciously and intentionally avoided confirming” the truth about DOS had she learned something about it. Neither Section 3553(a) nor the Due Process Clause permit district courts to enhance a defendant’s sentence based on such speculation. *See, e.g., United States v. Stokes*, 750 F.3d 767, 771–72 (8th Cir. 2014) (finding plain error and vacating sentence where district court stated that “[t]he fact that you’re not working for the past ten years tells me you were making your money selling drugs, probably,” and appeared to enhance sentence based on this conclusion); *United States v. Cossey*, 632 F.3d 82, 87–89 (2d Cir. 2011) (finding plain error and vacating sentence where sentencing court’s finding about reason for defendant’s conduct was based on speculation about genetics); *Dorvee*, 616 F.3d at 183–84 (sentencing court’s “apparent assumption” about the defendant’s likely conduct was “unsupported by the record evidence” and therefore improper).

B. The District Court Did Not Give Ms. Bronfman A Fair Opportunity To Rebut Its Legal And Factual Conclusions.

1. *The district court did not give any notice that it was considering a mental-state theory that the government had not advanced.*

When the district court sprung its willful-blindness theory at the end of Ms. Bronfman’s sentencing proceeding—long after the parties’ submissions had been filed, after both sides had argued, and after Ms. Bronfman had addressed the court—it was the first time anyone had raised that concept. Neither the government, the Probation Department, nor the district court had suggested that Ms. Bronfman bore culpability for Mr. Raniere’s alleged conduct because she was willfully blind to it. By waiting until the last minute to raise willful blindness, the district court denied Ms. Bronfman notice and an adequate opportunity to be heard regarding the key issue at her sentencing.

Although judges need not give notice that they intend to impose upward variances, they nevertheless, “in all cases[,] should make sure that the information provided to the parties in advance of the hearing, and in the hearing itself, has given them an adequate opportunity to confront and debate the relevant issues.” *Irizarry v. United States*, 553 U.S. 708, 715 (2008); *see, e.g., United States v. Coppenger*, 775 F.3d 799, 804 (6th Cir. 2015) (vacating sentence where district court relied on unforeseeable basis for upward variance: “*Irizarry* left open the possibility of relief when a party demonstrates that the facts or issues on which the

district court relied to impose a variance came as a surprise and that his or her presentation to the court was prejudiced by the surprise.”). The “Due Process Clause [] require[s] that a defendant not be sentenced on the basis of materially untrue assumptions or misinformation, and that he have an opportunity to respond to material allegations that he disputes, in order that the court not sentence him in reliance on misinformation.” *Delacruz*, 862 F.3d at 175. Here, the district court based an excessive, nearly seven-year sentence on a theory of culpability Ms. Bronfman had no fair chance to address.

The district court’s eleventh-hour, *sua sponte* invocation of willful blindness improperly deprived Ms. Bronfman of notice and an adequate opportunity to address the essential premise of the court’s excessive sentence. Especially given the magnitude of the variance from both the Guidelines range and the government’s recommended sentence, the district court’s conduct was procedurally unreasonable. *See, e.g., United States v. Fleming*, 894 F.3d 764, 768–70 (6th Cir. 2018) (procedural error where district court imposed sentence twice the Guidelines range based on factors not raised in presentence report nor parties’ sentencing submissions); *United States v. Millan-Isaac*, 749 F.3d 57, 71 (1st Cir. 2014) (“The consideration of such new information is particularly concerning here given the court’s subsequent announcement that it would sentence [the defendant] to ... a

period of incarceration more than twice as long the government’s recommended sentence.”).

2. *The district court did not give Ms. Bronfman a reasonable opportunity to present evidence of her mental state.*

The willful-blindness finding is particularly egregious because the district court specifically denied Ms. Bronfman’s request to present evidence of her mental state. Defendants are entitled to due process throughout sentencing. *United States v. Pugliese*, 805 F.2d 1117, 1122 (2d Cir. 1986). When a dispute exists about any factor important to the determination of sentence, the district court must ensure that the defendant has an adequate opportunity to present relevant information. *Id.*; see also U.S.S.G. § 6A1.3(a) (“When any factor important to the sentencing determination is reasonably in dispute, the parties shall be given an adequate opportunity to present information to the court regarding that factor.”); Fed. R. Crim. P. 32(i)(1) (“At sentencing, the court: ... must allow the parties’ attorneys to comment on ... matters relating to an appropriate sentence.”).

Written sentencing submissions often will be sufficient for this purpose, but in certain cases, such as this one, an evidentiary hearing is the only reliable way to resolve the dispute. See, e.g., *United States v. Roberts*, 14 F.3d 502, 521 (10th Cir. 1993) (remanding because district court did not hold evidentiary hearing to address objections to drug quantity determination or make findings of fact regarding quantity); *United States v. Cifuentes*, 863 F.2d 1149, 1155 (3d Cir. 1988)

(“[W]here, as here, the disputed information is important to the fashioning of an appropriate sentence, the court, if it relies on it, should grant a[n evidentiary] hearing[.]”). While this Court has held there is no *per se* right to a full-blown evidentiary hearing under the Due Process Clause or the Sentencing Guidelines, it has recognized that where the presentence report “contains a material factual assertion that the defendant disputes and that the sentencing court wishes to accept, some kind of hearing for the presentation of—and challenge to—evidence is required ... by principles of due process.” *Delacruz*, 862 F.3d at 175–76. Here, this Court need not decide the constitutional question of whether “principles of due process” required a hearing in this case, because the district court’s refusal to hold an evidentiary hearing and subsequent invocation of the doctrine of willful blindness was procedurally unreasonable.

The insinuation in the presentence report that Ms. Bronfman bore responsibility that was cognizable at her sentencing for Mr. Raniere’s conduct was the key point with which Ms. Bronfman took issue. (See A117 (objecting to allegations in presentence report that Ms. Bronfman “used her wealth to support” Mr. Raniere’s and other DOS members’ alleged crimes and “participated in efforts to recruit and secure immigration status for non-citizens so that they could ... become sexual partners for Raniere”).) When the government echoed that theme in its sentencing submission, it became clear that both the Probation Department

and the government were seriously misinformed about the key issue of what Ms. Bronfman knew about DOS and when she knew it.

At the hearing, Ms. Bronfman would have shown that she had no inkling whatsoever about DOS until the rest of the world began to learn about it. She would have called DOS members who would have confirmed that they deliberately concealed it from her, at Mr. Raniere's insistence. She would have presented evidence that illustrated her role within NXIVM and relationship with Mr. Raniere and provided insight as to why Mr. Raniere went to such lengths to ensure that she never learned about DOS. She would have demonstrated her efforts to investigate what she heard about DOS as it became public and the ways in which that investigation was stymied. And given the district court's insistence that her agreement to testify was a precondition to holding a hearing, *see supra* 14–15, Ms. Bronfman would have taken the stand and been subject to examination by the government and the district court. The evidence at the hearing would have dispelled any suggestion that she had a culpable mental state regarding Mr. Raniere's and other DOS members' conduct.

But instead of affording Ms. Bronfman an opportunity to be heard, the district court cast a line for a bait-and-switch. It declined to hold a hearing ostensibly because it determined that “an evidentiary hearing will [not] provide additional clarity as to factual disputes relevant to the court's determination of her

sentence, given the opportunity already provided to her to make both written and oral arguments to the court.” (SPA3.) Then at sentencing, it imposed a sentence three times the Guidelines range based on a finding that Ms. Bronfman had a culpable mental state and thus bore responsibility for DOS and its associated harms. *See supra* 16–18, 29–39. Having denied Ms. Bronfman an adequate opportunity to demonstrate why she was not culpable for any harm caused by DOS, it was procedurally unreasonable for the district court to punish her for harm caused by DOS.

C. The District Court’s Willful-Blindness Finding Was Irreconcilable With Its Guidelines Calculation.

The district court committed further procedural error because its calculation of Ms. Bronfman’s Sentencing Guidelines range contradicts the willful-blindness justification that it offered for the extraordinary upward variance. Remand for resentencing is appropriate where a district court’s statement of reasons contains this kind of incoherence. *See, e.g., Singh*, 877 F.3d at 119 (remanding where district court applied acceptance-of-responsibility reduction under Section 3E1.1 but then appeared to question the sincerity of defendant’s remorse in imposing upward variance); *United States v. Higdon*, 531 F.3d 561, 564 (7th Cir. 2008) (remanding where district court “thought the complexity of the fraud required an out-of-guidelines sentence” but did not apply the sophisticated-means enhancement under Section 2B1.1(b)(9)(C)); *United States v. Gardner*,

255 F. App'x 475, 476–77 (11th Cir. 2007) (non-precedential opinion) (remanding where district court imposed upward variance based on finding that defendant, who pleaded guilty to misprision of a felony, was a “critical participant” in underlying conduct, but declined to impose aggravating-role enhancement under Section 3B1.1).² Here, the district court’s statement of reasons contains at least three such inconsistencies.

First, the district court imposed an upward variance based in large part on its finding that Ms. Bronfman was willfully blind to the conduct related to DOS, but it failed to apply enhancements under Section 2L1.1(b)(6) and (b)(7) that logically follow from that finding. Subsection (b)(6) applies when “the offense involved intentionally or recklessly creating a substantial risk of death or serious bodily injury to another person,” and subsection (b)(7) applies if any death or bodily injury actually occurs. U.S.S.G. § 2L1.1(b)(6)–(7). “[S]erious bodily injury” includes “conduct constituting criminal sexual abuse.” *Id.*, cmt. n.4. The Guidelines thus encompass the precise consideration that the district court

² Neither Ms. Bronfman nor the government has appealed the district court’s Sentencing Guidelines analysis. As a result, to the extent this Court vacates and remands for resentencing, its mandate should not permit the district court to revisit its calculation of the Guidelines range and instead should be limited to correcting the procedural errors at issue in this appeal. *See, e.g., United States v. Malki*, 718 F.3d 178, 182–83 (2d Cir. 2013) (remand for “sentencing error” did not permit *de novo* re-sentencing and application of additional Guidelines enhancement that the government did not seek at initial sentencing nor challenge on appeal).

identified as a basis for varying from the Guidelines, even as it declined to apply the Guidelines enhancement directly on point.

The same kind of incoherence occurred in *United States v. Higdon*, 531 F.3d 561 (7th Cir. 2008). In that case, the district court imposed a 60-month sentence on a defendant after calculating the sentencing range as 18 to 24 months. The Court of Appeals reversed, in part because:

The judge thought the complexity of the fraud required an out-of-guidelines sentence. But complexity (“sophisticated means”) is a guidelines factor, U.S.S.G. § 2B1.1(b)(9)(C), and neither the government, the probation service, *nor the judge* suggested adjusting the guidelines range to take account of the sophistication of the means employed by the defendant to commit the fraud.

Id. at 564. Likewise here, the district court asserted that a sentence three times the Guidelines range was necessary because it found that Ms. Bronfman was willfully blind to the harm suffered by the unauthorized immigrant she harbored, but it failed to apply the relevant Guidelines enhancement that would follow from that finding. Nor did it offer any explanation why Section 2L1.1(b)(6) and (b)(7) do not adequately account for the severity of the conduct in this case. This is improper. *Id.*

Second, and related, in calculating Ms. Bronfman’s Guidelines range, the district court stated that it “decline[d] to consider” that Ms. Bronfman allegedly “participated in conspiracies to conceal and harbor five additional noncitizens.”

(SPA12–13.) The reason the district court gave was “[b]ecause the charged conduct to which Ms. Bronfman pleaded encompassed only one victim, Jane Doe 12.” (SPA13.) As a result, it did not apply the enhancement under Section 2L1.1(b)(2)(A). (SPA12.) In doing so, the district court overruled the recommendation of both the Probation Department and the government. (SPA11–12.) Nevertheless, the court punished Ms. Bronfman in part because it found that she had a “pattern” of immigration offenses, apparently relying on the same conduct discussed in the presentence report that it had rejected for purposes of calculating the Guidelines range. (SPA109–06.)

Third, the district court found that Ms. Bronfman had accepted responsibility for purposes of calculating her Guidelines range (SPA14–15) but later found that “to this day, she has not clearly apologized for [declining to renounce Mr. Ranieri], admitted her actions were harmful, or conceded that her loyalty was misplaced,” which it considered “highly relevant to the application of the Section 3553(a) factors” (SPA124). A two-level reduction in a defendant’s offense level is available under Section 3E1.1 where she “clearly demonstrates acceptance of responsibility for [her] offense.” U.S.S.G. § 3E1.1. “A defendant who enters a guilty plea is not entitled to an adjustment under this section as a matter of right.” *Id.*, cmt. n.3. Here, the district court failed to articulate the basis for applying

Section 3E1.1, which makes its later criticism of Ms. Bronfman's ostensible lack of remorse, and resulting enhancement of her sentence, even more puzzling.

This Court faced a similar scenario in *United States v. Singh*, 877 F.3d 107 (2d Cir. 2017). *Singh* was an illegal reentry case in which the district court questioned the sincerity of the defendant's acceptance of responsibility in part because he stated that he reentered the country because he feared for his life, which the district court interpreted as an "attempt to avoid responsibility for the crime." *Id.* at 113. Notwithstanding its reluctance, the district court stated that it "did not 'want to create an appeal point' and granted [the defendant] the acceptance points, but noted that it would consider the acceptance of responsibility issues 'under 3553(a).'" *Id.* at 119. The district court then proceeded to impose a 60-month sentence even though the Guidelines range was 15 to 21 months. The district court's comments left this Court with the impression that the district court credited the defendant's acceptance of responsibility for purposes of the Guidelines analysis but then imposed an upward variance because it did not credit it for purposes of the Section 3553(a) analysis. *Id.*

So too here, the district court found in Ms. Bronfman's favor in applying the acceptance-of-responsibility reduction, only to contradict that finding, and significantly enhance her sentence, in conducting its Section 3553(a) analysis. This discrepancy further illustrates the unreasonableness of the district court's

sentence. Moreover, even aside from the resulting inconsistency, punishing Ms. Bronfman for failing to renounce Mr. Raniere is improper because it is tantamount to enhancing her sentence for refusing to cooperate, which “is impossible to reconcile with [this Court’s] precedents.” *United States v. Rivera*, 201 F.3d 99, 102 & n.1 (2d Cir. 1999); *see also United States v. Burgos*, 276 F.3d 1284, 1290 (11th Cir. 2001) (“[W]e cannot perceive any legitimate purpose to justify a district court ... to take into account whether or not [the defendant] cooperated with the government in the case against her husband.”).

There is no way to square the district court’s Guidelines analysis with its statement of reasons for imposing an extraordinary upward variance. As in *Singh*, the district court apparently “did not want to create an appeal point” regarding the Guidelines, so it sought instead to camouflage its consideration of these issues in its discussion of the Section 3553(a) factors. In doing so, it compounded the myriad procedural errors that, taken together, render Ms. Bronfman’s sentence procedurally unreasonable.

III. THE DISTRICT COURT’S OTHER CURSORY GROUNDS FOR THE SENTENCE ARE INSUFFICIENT TO UPHOLD IT.

While willful blindness was the primary justification the district court appeared to offer for punishing Ms. Bronfman for crimes that she knew nothing about and played no part in, the district court perfunctorily set out a few variants on that concept, none of which stands up to scrutiny. These additional

considerations cannot salvage the sentence in light of the pervasive problems with the district court's primary willful-blindness justification. "Because the district court's improper extraneous comments were interwoven with its consideration of the Section 3553(a) factors, [this Court has] no way of knowing how, if at all, these extraneous considerations influenced [the] sentence." *United States v. Robinson*, 829 F.3d 878, 881 (7th Cir. 2016); *see also Cossey*, 632 F.3d at 87–89 (vacating sentence where district court placed primary emphasis on clearly erroneous findings even though it "touched upon" other factors); *United States v. Faustin*, 600 F. App'x 814, 815 (2d Cir. 2015) (summary order) (vacating sentence where "a significant factual misunderstanding" was "one justification" for sentence above the Guidelines range and above the government's recommendation).

In any event, the additional grounds the district court advanced are meritless. They include that (1) by failing to pay her a higher salary, Ms. Bronfman primed Jane Doe 12 to become a victim of DOS; (2) Ms. Bronfman contributed to a culture in the NXIVM community that Mr. Raniere exploited to create DOS; and (3) without Ms. Bronfman's financial support of Mr. Raniere's endeavors, he would not have been able to carry out his crimes. These purported justifications are inconsistent both with the record before the district court and with bedrock principles of criminal law and just punishment. They do not justify a sentence three times the Guidelines range.

A. Ms. Bronfman Is Not Responsible For The Alleged Harms Mr. Raniere And Others Visited Upon Jane Doe 12.

The district court made passing reference to Jane Doe 12, who was the unauthorized immigrant underlying Ms. Bronfman’s conviction under 8 U.S.C. § 1324, as supposed justification for Ms. Bronfman’s excessive sentence. The government’s theory of Ms. Bronfman’s visa fraud was that Ms. Bronfman submitted a letter in support of Jane Doe 12’s visa application that identified Ms. Bronfman as a “Manager” of the NXIVM-affiliated company Jane Doe 12 worked for and that said that Jane Doe 12 would be paid “as an independent contractor at the rate of \$3,600.00 monthly.” (PSR ¶¶34–38.) In fact, however, Ms. Bronfman did not pay Jane Doe 12 any significant amount of money, despite Jane Doe 12’s efforts to grow the company and to support NXIVM and affiliated programs. (*Id.*) In declining to pay Jane Doe 12, Ms. Bronfman offered a variety of justifications that laid blame on Jane Doe 12’s purported failure to achieve certain milestones of personal growth and the impact that had on her work performance. (*Id.*) Ultimately, while living in the NXIVM community outside Albany, Jane Doe 12 was recruited into DOS and provided nude photographs, cut her daily caloric intake to 500 to 800 calories, and was pressured—but declined—to be branded and to end a romantic relationship so she could be available to Mr. Raniere. (PSR at pp. 31–34.)

At sentencing, the district court laid blame on Ms. Bronfman for Jane Doe 12's recruitment into DOS:

Jane Doe 12 was eventually recruited into DOS, Raniere's secret society in which she was pressured into giving up ["collateral"] and becoming a ["slave"]. I am not suggesting that Ms. Bronfman had a direct role in Jane Doe 12's recruitment into DOS or even if she was aware of it. The evidence before me does not support such a proposition. But I do find that the kind of pressure and mistreatment that Jane Doe 12 was subjected to by Ms. Bronfman put her in a very vulnerable state, the kind of state that could make a person more susceptible to be recruited into an organization like DOS.

(SPA109.)

This reasoning is unfounded. It was not remotely foreseeable that the sort of financial and personal pressure on Jane Doe 12 that resulted from Ms. Bronfman's conduct would result in Jane Doe 12's recruitment into DOS—an organization of which Ms. Bronfman was completely unaware. These facts do not amount to negligence, much less justify nearly seven years in prison. *See Raldiris v. Enlarged City Sch. Dist. of Middletown*, 118 N.Y.S.3d 696, 701 (2d Dep't 2020) ("Proximate cause will not be found where a party merely furnishes the condition or occasion for the occurrence of the event but is not one of its causes."); *Becker v. Poling Transp. Corp.*, 356 F.3d 381, 392 (2d Cir. 2004) (if an intervening act "is extraordinary under the circumstances, not foreseeable in the normal course of

events, or independent of or far removed from the defendants’ conduct, it may well be a superseding act which breaks the causal nexus”).

Under the district court’s reasoning, Ms. Bronfman would bear culpability if an Albany-based drunk driver crashed into Jane Doe 12’s car, because if it were not for Ms. Bronfman’s false statements in Jane Doe 12’s visa application, Jane Doe 12 would have been nowhere near Albany. In its desperation to justify sentencing Ms. Bronfman for Mr. Ranieri’s and DOS’s alleged conduct, the district court effectively adopted a strict-liability standard for imposing punishment. Punishing Ms. Bronfman based on harm Jane Doe 12 suffered as a result of DOS is unreasonable. *See, e.g., Robinson*, 829 F.3d at 880 (it is “inappropriate to blame [a defendant] for issues ... that only tangentially relate to his underlying conduct”); *cf. United States v. Godding*, 405 F.3d 125, 126–27 (2d Cir. 2005) (suggestion that harm caused by conduct other than defendant’s was relevant to defendant’s sentencing was “most troubl[ing]” and “would lead [the Court] to question the reasonableness of a non-guidelines sentence”).

B. Nor Do Ms. Bronfman’s Efforts To Counter NXIVM’s Critics Make Her Culpable Of “The Darkest And Most Horrific Crimes That Ranieri And Others Committed.”

The district court employed similarly flawed reasoning in concluding that Ms. Bronfman had enabled Mr. Ranieri to create DOS. Ms. Bronfman does not dispute that she instructed attorneys to respond to critics of NXIVM and Mr.

Raniere, including, when merited, by pursuing legal action. (See SPA113–18.)

But these allegations do not permit the conclusion the district court sought to draw from them:

This culture of stifling and threatening dissenters, a culture that Ms. Bronfman clearly participated in and perpetuated, is the same culture that gave rise to the darkest and most horrific crimes that Raniere and others committed. This was one of the mechanisms by which Raniere exerted and retained power over his victims. And even if Ms. Bronfman did not knowingly facilitate Raniere’s worst crimes, as a general matter she was his accomplice in the effort to intimidate and silence detractors, using her wealth and privilege as a sword on Raniere’s and NXIVM’S behalf.

(SPA115.)

At the outset, “participat[ing] in and perpetuat[ing]” a “culture of stifling and threatening dissenters” has *nothing* to do with harboring unauthorized immigrants or identity theft, the crimes of which Ms. Bronfman was convicted, nor just punishment for those crimes. This entire discussion was a non sequitur. There was no place for it in an explanation of Ms. Bronfman’s sentence. *See, e.g., Burgos*, 276 F.3d at 1290–91 (vacating sentence within Guidelines range where sentencing court imposed additional prison time because defendant had refused to cooperate against her husband); *United States v. Figueroa*, 622 F.3d 739, 741 (7th Cir. 2010) (vacating sentence where district court made “extraneous ... comments during the sentencing hearing,” that “cast doubt on the validity of the

sentence”); *United States v. Velasquez Velasquez*, 524 F.3d 1248, 1253–54 (11th Cir. 2008) (vacating sentence where district court imposed longer prison term based in part on its belief that defendant should have been detained in parallel immigration proceeding); *cf. Pugh*, 945 F.3d at 27 (vacating sentencing where district court’s comments that defendant had made a “choice between standing up for or betraying the United States ... relate[d] to [his] guilt rather than to an appropriate sentence” and thus did “not provide a basis for understanding why the particular sentence was imposed”).

But more fundamentally, it was not a “culture of stifling and threatening dissenters” that “gave rise to the darkest and most horrific crimes that Raniere and others committed.” It was Keith Raniere, Allison Mack, Lauren Salzman, and other members of DOS that “gave rise” to what the government alleged in this case. The evidence was undisputed that Clare Bronfman knew nothing about and played no role in DOS. *See supra* 11–13, 32–36. There simply is no cognizable causal relationship between, on the one hand, Ms. Bronfman’s participation in pursuing critics of NXIVM through entirely lawful means and, on the other, sex trafficking. *See, e.g., United States v. Roberson*, 474 F.3d 432, 436 (7th Cir. 2007) (vacating sentence where justifications for variance “too attenuated”); *cf. Bank of Am. Corp. v. City of Miami, Fla.*, 137 S. Ct. 1296, 1305 (2017) (it is a “well established principle of [the common] law that in all cases of loss, we are to

attribute it to the proximate cause, and not to any remote cause”); *Hemi Group, LLC v. City of New York*, 559 U.S. 1, 9 (2010) (“[P]roximate cause ... requires some direct relation between the injury asserted and the injurious conduct alleged. A link that is too remote, purely contingent, or indirect is insufficient.”).

C. The District Court’s Findings Regarding Ms. Bronfman’s Mental State With Respect To Mr. Raniere’s Income Tax Evasion Are Inconsistent With Its Apparent Conclusion That She Bears Culpability For That Conduct.

The district court’s discussion of the identity theft count is problematic too. The court stated that there was no basis to find that Ms. Bronfman intended to assist Mr. Raniere in evading taxes or “minimiz[ing] money that was in his name.” (SPA112; *see also id.* (“[T]he preponderance of the evidence available to me does not suggest what her specific intentions were in authorizing expenditures of a deceased woman’s money”).) Yet the district court saw fit to sentence Ms. Bronfman to nearly seven years’ imprisonment because:

Ms. Bronfman’s conduct in committing this offense helped to facilitate those efforts on Raniere’s part, regardless of whether or not that is what Ms. Bronfman understood herself to be doing. This crime, like the crime in Count One, was committed within a larger context of more serious crimes and alarming behavior by Ms. Bronfman’s codefendants and was consistent with the hallmarks and aims of that behavior. That does not necessarily mean that Ms. Bronfman shared in those aims, but it is still a relevant context and I can take it into consideration.

(*Id.*) This reasoning is antithetical to well settled principles of criminal liability. The district court’s conclusion that there was no basis to find that Ms. Bronfman “understood herself to be” facilitating Mr. Raniere’s efforts, nor that she “shared in [his] aims,” precludes imposing criminal liability on her based on Mr. Raniere’s conduct. *See, e.g., Rosemond v. United States*, 572 U.S. 65, 76 (2014) (“To aid and abet a crime, a defendant must not just in some sort associate himself with the venture, but also participate in it as in something that he wishes to bring about and seek by his action to make it succeed.”). Based on the district court’s findings, it could not punish her as an aider-and-abettor of Mr. Raniere’s “more serious crimes,” but in sentencing her to three times the upper end of the Guidelines range, that is plainly what it did. This is improper. *Cf. Rehaif v. United States*, 139 S. Ct. 2191, 2196 (2019) (“Scienter requirements advance [the] basic principle of criminal law by helping to separate those who understand the wrongful nature of their act from those who do not.”).

CONCLUSION

The Court should vacate Ms. Bronfman's sentence and remand for resentencing.

Dated: New York, New York
March 3, 2021

Respectfully submitted,

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UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 20-3520

Caption: *United States v. Bronfman*

**CERTIFICATE OF COMPLIANCE WITH RULE 28.1(e) OR 32(a)
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I certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a) and Local Rule 32.1(a). This brief is written in Times New Roman, a proportionally spaced font, has a typeface of 14 points, and contains 13,703 words (as counted by Microsoft Word 2013), excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

/s/ Daniel R. Koffmann
Daniel R. Koffmann

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SPECIAL APPENDIX

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
UNITED STATES,

MEMORANDUM & ORDER
18-CR-204 (NGG)

-against-

CLARE BRONFMAN,

Defendant.

NICHOLAS G. GARAUFIS, United States District Judge.

In advance of her sentencing hearing, Defendant Clare Bronfman, seeking to challenge certain relevant uncharged conduct set forth in her presentence investigation report (“PSR”), moves for an evidentiary hearing pursuant to *United States v. Fatico*, 579 F.2d 707 (2d Cir. 1978). (See Aug. 13, 2020 Letter re: *Fatico* Hg. (“Def. Letter”) (Dkt. 912).) The Government opposes Defendant’s motion, arguing that an evidentiary hearing is not warranted. (Aug. 14, 2020 Gov’t Letter re: *Fatico* Hg. (“Gov’t Letter”) (Dkt. 913).) For the reasons stated below, the court finds that Ms. Bronfman has not identified any factual disputes for which a *Fatico* hearing is required, and Ms. Bronfman’s motion is therefore DENIED.

I. LEGAL STANDARD

18 U.S.C. § 3553(a) instructs district courts to consider, among other things, “the history and characteristics of the defendant” when formulating an appropriate sentence. The purpose of this requirement is to “ensure[] that the punishment will suit not merely the offense, but the individual defendant.” *Pepper v. United States*, 562 U.S. 476, 488 (2011).¹ The scope of this inquiry is “largely unlimited as to the kind of information [the

¹ When quoting case law, except as otherwise noted, all citations and internal quotation marks are omitted, and all alterations are adopted.

district court] may consider, and it is free to consider evidence of uncharged crimes, dropped counts of an indictment, and criminal activity resulting in an acquittal in determining sentence.” *United States v. Bennett*, 839 F.3d 153, 161 n.5 (2d Cir. 2016). Such uncharged conduct, or any other conduct otherwise relevant to sentencing but not encompassed by the crimes of conviction, must be proven only by a preponderance of the evidence, with the court resolving any factual disputes. *See, e.g., United States v. Juwa*, 508 F.3d 694, 701 (2d Cir. 2007) (“[T]he evidentiary standard at sentencing is more relaxed than at trial, and the burden of proof on the government is a preponderance of the evidence.”). “A sentencing court is not bound by the rules of evidence that would pertain at trial and is not limited to admissible evidence in making its sentencing determination.” *United States v. Chang*, 59 F. App’x 361, 363 (2d Cir. 2003) (summary order).

In resolving factual disputes relevant to sentencing, courts in this circuit may, in appropriate circumstances, conduct a *Fatico* hearing, at which the prosecution and the defense introduce evidence that each contends is relevant to sentencing. *See United States v. Lohan*, 945 F.2d 1214, 1216 (2d Cir. 1991) (citing *United States v. Fatico*, 603 F.2d 1053 (2d Cir. 1979)). The decision as to whether to hold a *Fatico* hearing is committed to the discretion of the district court, which is “not required, either by the Due Process clause or the federal Sentencing Guidelines, to hold a full-blown evidentiary hearing in resolving sentencing disputes.” *United States v. Litwok*, 611 F. App’x 12, 16 (2d Cir. 2015) (summary order). Instead, the district court need only “afford the defendant some opportunity to rebut the Government’s allegations.” *Id.*

II. DISCUSSION

Ms. Bronfman argues that a *Fatico* hearing is necessary because the PSR makes various “sweeping, unsupported, and unsupportable claims” regarding her knowledge about, and role in, the illegal activities of her co-defendants, including Keith Raniere, who was convicted following a six-week jury trial of racketeering, racketeering conspiracy, wire fraud conspiracy, forced labor conspiracy, sex trafficking conspiracy, and two counts of sex trafficking. (See Def. Letter at 1-3; see also *id.* at 1 (arguing a *Fatico* hearing is needed to prevent the court from sentencing the Defendant “on the basis of unfounded innuendo and ungrounded inference”). Accordingly, Ms. Bronfman asserts that an evidentiary hearing is necessary to demonstrate her lack of knowledge about, involvement in, and funding of Raniere’s illegal activities. (*Id.* at 1-3.)

Having reviewed the parties’ submissions, however, the court finds that Ms. Bronfman has not put forward a compelling reason for the court to hold a *Fatico* hearing. (See Def. Sentencing Mem. (Dkt. 915); Gov’t Sentencing Mem. (Dkt. 922); Def. Reply to Gov’t Sentencing Mem. (Dkt. 927); Gov’t Reply Letter re: *Fatico* Hg. (Dkt. 928).) “No defendant is entitled, as of right, to a *Fatico* hearing to resolve disputed sentencing issues.” *United States v. Faibish*, No. 12-cr-265 (ENV), 2015 WL 4637013, at *1 (E.D.N.Y. Aug. 3, 2015). The court has already provided Ms. Bronfman an opportunity to comment on the PSR in her sentencing submissions, see Fed. R. Crim. Pro. 32(i)(1)(C), and Ms. Bronfman’s counsel will be given the opportunity to make further arguments orally at the sentencing hearing. Nothing in Ms. Bronfman’s letter or sentencing submissions suggests that an evidentiary hearing will provide additional clarity as to factual disputes relevant to the court’s determination of her sentence, given the opportunity already provided to her to make both written and oral arguments to the court. See *United States v. Cacace*, 796 F.3d 176, 191 (2d

Cir. 2015) (“a district court need not hold an evidentiary hearing to resolve sentencing disputes, as long as the defendant is afforded some opportunity to rebut the Government’s allegations”); *see also* U.S.S.G. § 6A1.3, Application Note (explaining that while “the court must ensure that the parties have an adequate opportunity to present relevant information” regarding sentencing disputes, “[w]ritten statements of counsel or affidavits of witnesses may be adequate under many circumstances”).²

Accordingly, the court finds that a *Fatico* hearing is unnecessary and defers judgment on the factual disputes raised in the parties’ submissions, which will be decided based on those submissions and any arguments the parties make at sentencing.

² Ms. Bronfman’s letter also raises the concern that, because she pleaded guilty before Raniere’s trial, she “had no advocate at Mr. Raniere’s trial to challenge claims made about her,” and that the trial left “the impression that her role was something far worse than it was.” (Def. Letter at 2.) While Ms. Bronfman is free to register her disagreement with testimony elicited at Mr. Raniere’s trial, the Second Circuit has repeatedly held that a sentencing court is entitled to rely on information “gleaned from a trial in which the person to be sentenced was neither a defendant nor represented by counsel.” *Cacace*, 796 F.3d at 191 (2d Cir. 2015). In addition, the fact that a defendant did not have the opportunity to cross-examine witnesses at a trial in which she was not a party is of no moment, because “the Supreme Court and [the Second Circuit] . . . have consistently held that the right to confrontation does not apply to the sentencing context.” *United States v. Martinez*, 413 F.3d 239, 242 (2d Cir. 2004).

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III. CONCLUSION

For the reasons stated above, Ms. Bronfman's (Dkt. 912) motion for a *Fatico* hearing is denied.

SO ORDERED.

Dated: Brooklyn, New York
September 24, 2020

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----X

3 UNITED STATES OF AMERICA 18 CR 204 (NGG)

4 versus U. S. COURTHOUSE
225 Cadman Plaza East
Brooklyn, New York

5 CLARE BRONFMAN,

6 DEFENDANT. September 30th, 2020
-----X 11:00 a. m.

7 TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE NICHOLAS GARAUFIS
8 UNITED STATES DISTRICT JUDGE

9 APPEARANCES

10 Representing the Government:

11 SETH DUCHARME
UNITED STATES ATTORNEY
12 EASTERN DISTRICT OF NEW YORK
271 CADMAN PLAZA EAST
13 BROOKLYN, NEW YORK 11201
BY: TANYA HIJJAR, ESQ.
14 MARK LESKO, ESQ.

15 Representing the Defendant:

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18 TUCKER LEVIN, PLLC
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19 New York, New York 10169
BY: DUNCAN LEVIN, ESQ.

20 ALSO PRESENT: SPECIAL AGENT MICHAEL WENIGER, FBI
21 ANGELICA DANIZ, USPO

22 Reported by:
LISA SCHMID, CCR, RMR
23 OFFICIAL COURT REPORTER
225 Cadman Plaza East, Room N377
24 Brooklyn, New York 11201
Proceedings recorded by mechanical stenography. Transcript
25 produced by Computer-Aided Transcription.

1 THE COURT: Please be seated.

2 COURTROOM DEPUTY: Criminal Cause for Sentencing,
3 United States versus Bronfman.

4 Counsel, just state your appearances.

5 MS. HAJJAR: Good morning, Your Honor.

6 Tanya Hajjar and Mark Lesko for the Government, and
7 we're joined by Special Agent Mike Weniger of the Federal
8 Bureau of Investigation.

9 THE COURT: Yes. Good morning.

10 MR. SULLIVAN: Good morning, Your Honor.

11 Ronald Sullivan and Duncan Levin here on behalf of
12 Ms. Clare Bronfman, who is present.

13 THE COURT: Good morning.

14 MR. SULLIVAN: Good morning.

15 THE COURT: Good morning, Ms. Bronfman.

16 MR. LEVIN: Good morning, Your Honor.

17 THE COURT: Please be seated.

18 Before we begin with the proceedings, let me say
19 that we have made every effort, as you can tell, to establish
20 some protocols and maintain protocols for social distancing,
21 wearing masks, and attempting to use this particular courtroom
22 in a way that will minimize any risk to the participants, to
23 the court staff, to the members of the public, members of the
24 press. And we have established two overflow courtrooms across
25 the hall and we are maintaining social distancing in those

1 locations as well and we're also using the cafeteria seating
2 area and maintaining social distancing there and the use of
3 masks. So we are doing everything that we can, in view of the
4 defendant's wish to conduct this sentencing in person, in the
5 courthouse.

6 And I'd like to thank our staff, in particular, our
7 district executive and our clerk of court, and the entire
8 staff for arranging this in a way that would be protective of
9 everyone's good health and well-being.

10 So, let's proceed with the sentencing.

11 The first step to be taken is for the Court to
12 identify the sentencing materials, and I'll go over the
13 sentencing materials.

14 Oh, and at some point, we will take -- we will take
15 a break at some point along the way at around lunchtime, I
16 think, for about half an hour and at other times when the
17 parties believe that we should take a break. In other words,
18 if you need a break, let me know, because this sentencing is
19 going to take a good deal of time to complete; and I'm more
20 than willing to take a break as required.

21 So, counsel, do let me know.

22 The sentencing materials the Court has reviewed for
23 Ms. Bronfman's sentencing include a Pre-sentence Investigation
24 Report, dated December 13th, 2019; an addendum to the
25 Pre-sentence Report, dated March 24th, 2020; defendant's

1 sentencing memorandum and character letters ascribing to the
2 defendant's good character, which were submitted on
3 August 28th of 2020; the Government's sentencing memorandum,
4 dated September 14th, 2020; defendant's replied memorandum,
5 dated September 22nd, 2020; and a letter from the defense with
6 attachments of September 28th, 2020.

7 Let me just double-check something.

8 There was a -- the defense filed objections to the
9 Pre-sentence Report. I'm looking for the probation officer.

10 MS. DANIZ: I'm right here, Your Honor.

11 THE COURT: Oh, good morning. Could you just state
12 your appearance?

13 MS. DANIZ: Sure. Angelica Daniz from United States
14 Probation.

15 THE COURT: And when was the -- that was before your
16 amendment to the Pre-sentence Report, because it responded to
17 the -- it responded to the defense objections?

18 MS. DANIZ: Correct, Your Honor.

19 MS. HAJJAR: Your Honor, it was dated February 10th,
20 2020, prior to the addendum.

21 MS. DANIZ: Thank you.

22 THE COURT: All right. So, the Court also took that
23 into account.

24 So, is there anything else that is part of the
25 actual sentencing cache of materials?

1 MR. LEVIN: No, Your Honor.

2 MS. HAJJAR: Not from the Government, Your Honor.

3 THE COURT: All right. At this point the Court will
4 go over the calculation of the offense level and guidelines
5 range. Before I do, are there other objections to the
6 Pre-sentence Investigation Report as it was amended by the
7 Probation Department?

8 I'll hear from the defense about that.

9 MR. SULLIVAN: Thank you, Your Honor.

10 Everything we have outlined in writing already.

11 THE COURT: All right. Thank you.

12 MR. SULLIVAN: Very well.

13 THE COURT: And the Court has considered all of the
14 objections which have not otherwise been granted, and it
15 affirms the report as amended.

16 And you have your objection.

17 MR. SULLIVAN: Very well, Your Honor.

18 THE COURT: Thank you. Thank you, sir.

19 Okay. I'm going to go over the calculation of the
20 Guidelines.

21 The Probation Department recommends that I calculate
22 the total offense level for Ms. Bronfman as a 17.

23 Ms. Bronfman challenges two aspects of the Probation
24 Department's suggested calculation. First, she argues that a
25 three-level increase pursuant to Sentencing Guidelines Section

1 2L1.1(b) (2) (A) is not warranted because the offense of
2 conviction on Count 1 did not, quote, involve the smuggling,
3 transporting, or harboring of six or more unlawful aliens, end
4 quote. Second, she argues that a two-level increase pursuant
5 to Sentencing Guideline Section 3B1.1(c) is not warranted
6 because her role in the offense of conviction on Count 1 was
7 not as, quote, an organizer, leader, manager, or supervisor in
8 criminal activity, end quote. Ms. Bronfman suggests that the
9 total correct offense level is a 16.

10 The Government agrees with Ms. Bronfman that the
11 two-level enhancement for holding a leadership role is not
12 warranted, but agrees with the Probation Department that a
13 three-level enhancement for participation in the smuggling of
14 six similar aliens is appropriate. And so the only issue is
15 on that second element, which would increase the calculation.

16 Is there anything that has not been stated in your
17 submissions that the Court should take into account now?
18 Anything further on that?

19 MR. LEVIN: No, Your Honor. The only objection that
20 is outstanding is that one three-level enhancement.

21 THE COURT: Okay. All right. Thank you.

22 The Government agrees with Ms. Bronfman that the
23 two-level enhancement for holding a leadership role is not
24 warranted, but agrees with the Probation Department that a
25 three-level enhancement for participation in the smuggling of

1 six or more aliens is appropriate.

2 And I agree with Ms. Bronfman that the total offense
3 level is a 16, but for the following reasons: Under Count 1,
4 Ms. Bronfman pleaded guilty to conspiracy to conceal and
5 harbor illegal aliens for financial gain. Sentencing
6 Guidelines 2L1.1(a)(3) provides that the base offense level
7 for this offense of conviction is 12.

8 At issue is whether I should apply either or both of
9 the two possible enhancements to the base offense level, a
10 three-level enhancement under Sentencing Guideline
11 2L1.1(b)(2)(A) or a two-level enhancement under Sentencing
12 Guideline 3B1.1(c).

13 I decline to apply the three-level enhancement for
14 smuggling or harboring six or more aliens.

15 Ms. Bronfman pleaded guilty to the offense of
16 conviction in Count 1 based on charged conduct concerning Jane
17 Doe 12. As the Probation Department described in the PSR,
18 evidence presented at the trial of Ms. Bronfman's
19 co-defendant, Keith Raniere, suggested that Ms. Bronfman also
20 participated in conspiracies to conceal and harbor five
21 additional noncitizens.

22 While the law is clear that the Court may consider
23 this evidence in determining a defendant's sentence, see
24 United States v. Cacace, C-A-C-A-C-E, 796 F 3d, 176, Second
25 Circuit, 2015.

1 I decline to consider it for the narrow issue of
2 determining whether to apply this particular offense level
3 enhancement under the Guidelines. Because the charged conduct
4 to which Ms. Bronfman pleaded encompassed only one victim,
5 Jane Doe 12, I will not apply the enhancement as set forth in
6 Sentencing Guideline 2L1.1(b)(2)(A). I also declined to apply
7 the two-level enhancement under 3B1.1(c) on the theory that
8 Ms. Bronfman acted in a leadership, manager, or a supervisory
9 role.

10 Section 3B1.1(c) of the Guidelines indicate that
11 this enhancement applies when the defendant was, quote, the
12 organizer, leader, manager, or supervisor of one or more other
13 participants, end quote, in the offense of conviction.

14 The commentary to the guidelines specifies:
15 "Noncitizens who are smuggled, transported, or harbored by the
16 defendant are, quote, not considered participants, end quote,
17 for purposes of this enhancement, unless they play an active
18 role in the smuggling, transporting, or harboring of
19 additional noncitizens."

20 I agree with the Government's characterization of
21 Jane Doe 12 as a victim of the offense of conviction rather
22 than a co-participant in the offense. Accordingly, I find
23 that Ms. Bronfman did not have a supervisory role in the
24 commission of this offense, insofar that she did not manage or
25 direct the conduct of other participants in the conspiracy to

1 conceal and harbor Jane Doe 12. I, therefore, find that the
2 adjusted offense level on Count 1 is 12.

3 Moving on to Count 2, under Count 2, Ms. Bronfman
4 pleaded guilty to fraudulent use of identification. Ms.
5 Bronfman, the Government, and the Probation Department are all
6 in agreement regarding the calculation of the offense level on
7 Count 2; and I agree with your reading of the guidelines.

8 Subject to Sentencing Guidelines 2B1.1(a)(2), the
9 base offense level for this offense is six. An eight-level
10 enhancement applies because the loss amount exceeds \$95,000.
11 An additional two-level enhancement applies because a
12 substantial part of the fraudulent scheme was committed from
13 outside the United States. I, therefore, find that the
14 adjusted offense level for Count 2 is 16.

15 We have two counts of conviction, one with an
16 adjusted offense level of 12 and the other with an adjusted
17 offense level of 16. According to Section 3D1.4 of the
18 guidelines, which addresses multiple counts of conviction, I
19 must take the highest offense level and increase it by two
20 levels based on the unit calculations under this provision.

21 The highest adjusted offense level is 16, and a
22 two-level increase yields a subtotal of 18. Because Ms.
23 Bronfman pleaded guilty, she is entitled to a two-level
24 reduction for acceptance of responsibility. A two-level
25 reduction from 18 leaves us with a total offense level of 16.

1 Having determined the total offense level, I will
2 now calculate the Guidelines range.

3 Ms. Bronfman's Criminal History Category is 1, and
4 her total offense level is 16. Using the Guidelines table, I
5 calculate the applicable guidelines range as 21 to 27 months
6 in the custody of the Attorney General.

7 Is there any comment?

8 MS. HAJJAR: Not from the Government.

9 Thank you, Your Honor.

10 MR. LEVIN: Not from the defense.

11 Thank you, Your Honor.

12 THE COURT: All right. So just to review the
13 calculations, in Count 1, the base offense level is a 12; and
14 adjusted offense level is, therefore, 12. On Count 2, the
15 base offense level is a six, with eight levels added for the
16 specific offense characteristic and two levels added for --
17 because a substantial part of the fraudulent scheme was
18 committed from outside the United States, for a total adjusted
19 offense level of 16. And once we use the multiple-count
20 adjustment, the combined adjusted offense level is an 18, less
21 two levels for acceptance of responsibility.

22 The Pre-sentence Investigation Report should be
23 revised to reflect those changes.

24 MS. DANIZ: Yes, Your Honor.

25 THE COURT: Thank you very much.

1 Okay. The next step in sentencing is to hear from
2 victims who wish to speak and, while there may be victims here
3 who are not going to speak in person, there are three victims
4 who have recorded their victim statements and we will now
5 hear -- we will hear from them first by video transmission.

6 Now, with regard, though, to those victims who wish
7 to speak in person -- we have one of those individuals who's
8 not yet arrived. We're going to go on and hear from everyone
9 else.

10 And you'll let me know when the other victim
11 arrives, please.

12 MS. HAJJAR: Yes, Your Honor.

13 THE COURT: So as to those who wish to speak in
14 person, I'm limiting you to ten minutes per person.
15 Mr. Reccoppa, my courtroom deputy, has a timer which he will
16 use. At the end of nine minutes, if the victim is still
17 speaking, you will hear a sound and at the end of ten minutes,
18 you will hear two sounds, I think, at which point please just
19 finish your sentence, and your statement will be completed.
20 And we have a court reporter who will take everything down.

21 The first video is of Sarah Edmondson.

22 MS. EDMONDSON: Hi there. My name is Sarah
23 Edmondson, and I have known Clare Bronfman for the entire 12
24 years that I was involved in NXVIM. I'm here today because I
25 want to reiterate something that's very important.

1 When I came forward with what had happened to me,
2 Clare did not call me, as you may expect a friend or a
3 compatriot in a so-called humanitarian organization might.
4 Instead, she flew to Vancouver and used her connections and
5 her resources and her Bronfman name to work with the VPD, the
6 Vancouver Police Department, to try to get me arrested on
7 completely trumped-up charges.

8 This was probably one of the most scary moments of
9 my entire life. Thank God it was proven very quickly that
10 this was complete made up. And the \$12,000 it cost me to hire
11 a criminal defense lawyer to protect myself is one thing, but
12 the stress and the trauma that that did to me and my entire
13 family is irreparable.

14 Never mind on top of that, the lies that she told
15 the community, people who came to our wedding, that I was a
16 thief, that I was a criminal, people who still to this day do
17 not talk to me because they believe those lies.

18 The thing that concerns me the most is that at this
19 point, as far as I know, Clare Bronfman does not renounce
20 Keith Raniere and the fact that she thinks that he is a good
21 man and is still willing to vouch for him.

22 I'm always going to be looking over my shoulder, if
23 that's the case, because as soon as she gets out prison, she
24 will use her money to continue to attack people, to continue
25 to use her money as a weapon.

1 Keith and Clare, neither of these people are
2 humanitarians. If Clare was truly a humanitarian as she
3 claimed to be, she would be looking to see how all of these
4 women, all of the victims, how their stories were true,
5 instead of trying to attack them and destroy them.

6 Please keep in mind that if Clare Bronfman had her
7 way that I would be in prison right now, that I would be in
8 prison and that my children would not have a mother with them
9 to raise them. That's what would happen if Clare Bronfman had
10 her way. Please keep this in mind.

11 Thank you very much for your time.

12 THE COURT: All right. The next video presentation
13 will be Ivy Nevares.

14 MS. NEVARES: Your Honor, my name is Ivy Nevares.
15 Thank you for providing this space for me to share this
16 statement I've prepared for Clare Bronfman's sentencing
17 hearing.

18 Clare came to ESP at the height of her privilege,
19 but sorely lacking as a woman in her early 20s, uneducated,
20 socially inept, insecure, and practically friendless. When I
21 met her, she was timid, but she was kind. No one would ever
22 guess she was an heiress to the ^Seagrams fortune, not by the
23 way she looked or interacted with others.

24 Like many of us, Keith Raniere exploited her
25 vulnerabilities, yet because of her wealth, he took her for a

1 much longer ride, giving her another position, illegitimate
2 status, and inclusion in a select group she so desperately
3 craved but hardly deserved. She never earned the power she
4 was given, not by title, skill, or performance, and in return,
5 she used her power to abuse others, especially those of us in
6 Raniere's, quote, inner circle.

7 I would like to address her directly for a few
8 moments.

9 Clare, after all the evidence, after countless
10 victims whom you considered amongst your friends, how can you
11 remain loyal to your Vanguard? No matter how hard you try,
12 you cannot be principled if the person you follow is a
13 sociopath and a convicted criminal.

14 Your Honor, when Raniere raised Clare to power in
15 2009, she began using her position to exploit me through
16 indentured servitude. As soon as Clare supplanted Nancy
17 Salzman as NXIVM's de factor decision-maker on the executive
18 board, Clare lowered my pay, removed what insignificant
19 privileges the company afforded me, and raised my rent, all
20 punishments for my supposed ethical breach against Raniere.
21 In truth, she punished me for disobeying him. Salzman would
22 later tell me Clare did these things of her own volition.

23 Twice she caused me to go into financial debt,
24 together with Raniere, Salzman, and Kathy Russell. She
25 subjected me to forced labor as soon as she was given the

1 chance. She also participated in the myriad of lies told to
2 me to keep me from defecting.

3 My starting salary with ESP was \$36,000 a year.
4 This was back in 2002. By the time I stopped working for the
5 company in early 2017, I never earned more than \$48,000 a
6 year. I was NXIVM's hardest-working employee, always filling
7 two or more roles at once and sometimes working up to 20 hours
8 a day, yet I was provided no benefits, no health insurance, no
9 401K, no workers' comp, nothing. The only so-called benefit
10 was a 5-dollar credit per hour worked that could only apply
11 towards EPS's curriculum. Instead of recognizing Ranieri's
12 and others' abuses against me and righting them, Clare enacted
13 her own with exceptional cruelty.

14 She had me teach two intensive trainings at her Fiji
15 resort, where students paid \$20,000 each, yet she didn't pay
16 me a cent for the work that I performed. I had to pay over
17 \$5,000 out-of-pocket to even be able to teach the second
18 training because she refused to take care of my travel and
19 immigration expenses. This happened after she threatened to
20 have another person teach the curriculum that had taken me
21 years to write and develop. It's important to note she
22 leveraged that entire situation before I was fully recovered
23 from an emergency shoulder surgery that I, of course, paid for
24 out-of-pocket.

25 This is how she treated NXIVM's most loyal workers:

1 Demanding, underpaying, or not paying at all. But when it
2 came time to put down hundreds and hundreds of thousands of
3 dollars for lawsuits and PR firms, Clare would do so without a
4 second thought.

5 One of the most cruel and reckless things she ever
6 did was hire me to care for a woman who I later learned had
7 suffered a psychotic break during JNESS training that Clare
8 was attending at the time. She also tasked the now-former
9 Dr. Brandon Porter to care for her. She, Ranieri, and Salzman
10 were frightened that if that woman was taken to the hospital,
11 it would implicate the company in wrongdoing, and that was not
12 the first case.

13 I took 12-hour night shifts for a week, caring for
14 this women. I still remember running across a field after she
15 suddenly took off in the middle of the night. I thrashed
16 through two feet of snow, screaming into the phone as I asked
17 Salzman what to do, horrified of the possibility that she
18 might kill herself and others by running into traffic.

19 Clare risked Porter losing his medical license by
20 not taking her to a hospital. She risked this woman's life by
21 not allowing her to be cared for by trained professionals.
22 She risked my life by putting me in an impossible situation,
23 knowing I needed the money.

24 While payment for these services is a most trivial
25 point by comparison, it demonstrates her callousness and

1 punitive nature. She paid me the going rate for babysitting a
2 child, \$12 an hour. I protested then, citing my measly
3 17-an-hour wage as a minimum standard, but she refused to pay
4 the difference because of my so-called ethical breach.

5 Your Honor, Clare could have led the company toward
6 just rule. She had the power and she had the chance. She
7 could have done so much good. Instead, she and her sister,
8 Sara became Ranieri's primary enablers. I'm not alone in my
9 belief that without their money, he could have never harmed as
10 many people as he did. Clare claims that she did not bankroll
11 Ranieri or his organizations, that she did not know what was
12 going on behind the scenes, and that she bears no
13 responsibility in what he did.

14 Again, I would like to address her.

15 Clare, you paid millions of dollars to him. Even if
16 you never asked what he did with it, you're still responsible
17 for exponentially amplifying his abuses. You were and are the
18 propellant to his unyielding fire. Not knowing doesn't
19 relieve us of responsibility. Remember that? So why do you
20 refuse to see your part in all of these damages?

21 In addition to exploiting many of us and
22 facilitating Ranieri's trafficking of women, she has crippled
23 helpless others through vindictive litigiousness. She even
24 sacrificed her relationship with her beloved father. I ask
25 Clare: Would he be proud of you, knowing that you are going

1 to prison for following the very monster he was trying to
2 protect you from?

3 I would like the Court to know I see no indication
4 that Clare has any remorse about what she's done, not her
5 guilty plea, not her funding Ranieri's defense and cohorts,
6 not the letter to the Court, nor her recent filings claiming
7 she has been unjustly targeted because of her wealth. If I
8 may, again, address her.

9 Clare, you are being held accountable for your
10 crimes. Sylvie wasn't your only victim. I'm one of them, as
11 are a number of women whom I spoke with and heard their direct
12 account of how you exploited them until the government forced
13 you to stop.

14 The fact that you want to persuade the Court and the
15 public to think otherwise demonstrates you have no remorse
16 whatsoever over what you've done, over what you're still
17 doing, and over what you will continue to do if you keep
18 supporting and funding Ranieri.

19 In our last face-to-face before I left Albany in
20 2018, I asked Clare point-blank, "Clare, you've spent your
21 entire life and resources defending Ranieri. Are you willing
22 to spend the rest of your life defending him?" Not a moment
23 had passed before she turned and said, "Absolutely."

24 When I read her last court filing, where her lawyers
25 adamantly urged the Court to prohibit other victims from

1 speaking at this hearing, I took it as a statement of a woman
2 who refuses at all costs to see and hear the extent of the
3 damage she has done.

4 Your Honor, all of Raniere's organizations preyed
5 upon well-intentioned people, begging them with promises of
6 success and mobility. He hasn't stopped. He will not stop.
7 Clare's money will simply amplify the harm Raniere and she can
8 do together. For this reason, I not only consider her a
9 menace to me and her other perceived enemies, but to society
10 at large.

11 I would like to address Clare one final time.

12 Raniere often said the most sacred and valuable
13 thing you have in the world is time, because that is the only
14 thing that can never be replaced. Clare, I hope during the
15 years you sit in prison, you reflect on this. Your minutes,
16 hours, and days are only a fraction of what you, Raniere, and
17 his women stole from me.

18 THE COURT: Okay. Jane Doe 14. Jane Doe 14?

19 JANE DOE 14: I am very grateful to have the
20 opportunity to be heard. I hope you understand that I would
21 like to be referred to as Jane Doe, because even though she is
22 being sentenced, I am still afraid of retaliation by Clare
23 Bronfman and Keith Raniere.

24 I was recruited into DOS and groomed for Keith
25 Raniere; and both my experience and what I know now from all

1 the information that has become public, I believe Clare
2 Bronfman played a role in that.

3 Throughout the ten years that I actively
4 participated in NXIVM, Clare's influence was a turn-in for me
5 to believe that I was in an honorable and good place. She
6 convinced me that the organization was an important
7 humanitarian management, and I was convinced to believe in and
8 fully commit to what I now know to have been a lie.

9 Clare invited me personally to Wakaya Island in
10 Fiji, telling me that it was Keith's desire to have me
11 participate in a training there, and that it was a big honor
12 for me to receive such an invitation. She said that it was
13 unusual for Keith to specifically ask for someone to be there,
14 which I now know also to be a lie.

15 But this strategy played out over and over again.
16 She invited me a second time to Wakaya Island, but this time
17 supposedly as a member of an exclusive private lifetime VIP
18 Club of friends who shared common visions and values, but that
19 was way beyond my financial ability because I had already
20 spent most of my resources in what was supposed to be my
21 personal growth.

22 Clare also persuaded me to economically sponsor
23 different projects of Keith, to give video testimony or to
24 take trainings to attend V-Week, which I did for nine years in
25 a row. The last V-Week before Keith was arrested, I paid for

1 fully in advance, and when it was clear that things were
2 falling apart and I would not be attending, Clare firmly
3 refused to give me a refund. She pretended to be my friend
4 for a long time, when all along, I was just being manipulated
5 and groomed for Keith.

6 Clare says she has nothing to do with any of that,
7 but I don't believe her. Why else would she have put so much
8 time and effort into persuading me to do things for Keith and
9 to be in places for Keith? I thought Clare was my friend, and
10 even though the toughest part by far was my DOS/Keith
11 experience, it is devastating to find out that all those years
12 of my life and all my money was spent serving a bogus and
13 criminal organization.

14 Thank you for giving me this time to speak.

15 THE COURT: All right. Jane Doe, in person. Jane
16 Doe 12?

17 JANE DOE 12: I came to work in EXO/ESO because I
18 believed in the mission.

19 THE COURT: And just speak slowly, please.

20 JANE DOE 12: Yes. I came to work in EXO/ESO
21 because I believed in the mission. I thought I was hired for
22 my special skills, but, sadly, I found out that I was one of
23 many who will be misled.

24 I was hired to work as a management consultant for
25 EXO/ESO, LLC, in October, 2015. I got my TN visa and my

1 contract signed by Ms. Clare Bronfman, which stated that I
2 would be compensated as an independent contractor at the rate
3 of \$3,600 a month. During my time in EXO/ESO, I never
4 received my salary because my visa was seen as a privilege,
5 and I needed to earn that privilege by some unknown internal
6 metric that was not stated in our work agreement. My
7 expectation to receive my payment was portrayed as "entitled."
8 I never understood how my visa needed to be earned if I
9 already had it when I was hired to perform the job that I was
10 doing. So I was encouraged to find different jobs with the
11 people in this commune so I could pay for my basic expenses
12 like housing, transportation, and food, et cetera.

13 It was a different dynamic than the one I was used
14 to, where you provide the service and you get paid for it.
15 The argument was that NXIVM bills companies in a different
16 way, an ethical way. I believed it, and I continue to agree
17 under that scheme. It was burdensome to achieve goals because
18 every proposal, idea, or initially was tied to a personal
19 growth plan. So reaching the work objectives could delay and
20 never became the priority, which is one reason -- which is one
21 reason why the company needed didn't move forward nor succeed.

22 It was the personal issues that got in the way. So
23 it became more important to fix the personal issues than to
24 move the company forward as a business. The destruction of
25 personal issues didn't allow us to focus a hundred percent on

1 the developing the company. And because there were no
2 salesmen in EXO/ESO, there was no money to get paid. So I was
3 told that why should I feel entitled to receive my payment if
4 the company wasn't succeeding. This was a fast look that they
5 kept making.

6 No matter how much we were pushed, it was never
7 enough. Instead, we wound up overworked, burned out, with low
8 self-esteem and no income.

9 Ms. Bronfman also mentioned that Keith wanted to
10 work with me in the right to enrollment for EXO/ESO. He was
11 the creator of all the companies, the smartest man in the
12 world, and many more amazing titles and, of course, naturally,
13 I wanted to learn from the best, but that never happened.
14 When you get hired as an immigrant to work in a company with
15 which your visa is contingent on and it is your only way to
16 make money by law, how was I supposed to survive safely
17 without making any money?

18 I have many, many questions that I will ask, but the
19 one that I can't get out of my head is: Why did you lie to
20 me? If you were not planning to pay my salary or if I was not
21 the person who you wanted to hire, why did you lie? I
22 believed you. I believed in the company, and its mission. I
23 had no idea what was going on behind the curtains. Knowing
24 that you didn't have any intention to uphold my contract broke
25 my heart. Mostly, it was a low blow.

1 In ESP, we have our mission statement by saying we
2 will help to make the world a better place to live. I still
3 cannot understand this incongruency.

4 I can spell. I know my accent is difficult.

5 I want to mention that in December, 2017, Ms.
6 Bronfman released a statement, a public statement,
7 characterizing DOS as a sorority, stating that it has truly
8 benefited the lives of its members and those so frail. I find
9 no fault in a group of women or men for that matter, freely
10 taking of all loyalty and friendship, with no other to feel
11 safe, while pushing back against their fears that have stifled
12 their personal and professional growth.

13 Clare, I must say from personal experience that I
14 was part of that group; and not in anyway was my life
15 benefited from it, nor did I feel free.

16 The naked posts, the horrible tasks, and pressure to
17 count calories were all overwhelming. I didn't feel like a
18 friendship; and instead of pushing against my fears, it was
19 exactly the opposite. When I was told by my master that I
20 needed to tell Keith Raniere about my sexual encounters with
21 my boyfriend, now my husband, the last thing that I felt was
22 safety or personal growth. I grew not because but in spite of
23 that man's emotional and financial abuse.

24 Lastly, I take responsibility for not seeing the red
25 flags sooner. It cost me in many areas including money,

1 emotionally, my self-esteem, and time. However, that doesn't
2 excuse them from the abuse and manipulation and injustice.

3 I hope this case empowers people to learn to say no
4 when they don't feel like something is correct. I hope I can
5 learn from these that if it doesn't feel right, saying no
6 doesn't make me less and I don't have to betray my values to
7 accommodate others if I don't feel it's right and I hope
8 people can see it sooner, so they can stop abuse.

9 Thank you for your time.

10 THE COURT: Thank you.

11 (Continued on the next page.)
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1 (Continuing.)

2 THE COURT: Toni Natalie.

3 MS. NATALIE: Good morning, your Honor.

4 If not for a chosen few, the money, the power
5 inherent in the Bronfman name, this criminal enterprise would
6 never have existed. Clare Bronfman was a pivotal part of
7 trying to destroy my life. If not for her, I would not be
8 standing in this courtroom today.

9 I'd like to introduce myself to Clare as we never
10 formally met. Clare, my name is Toni Natalie, otherwise known
11 within Nxivm as a suppressive, someone that needed to be
12 destroyed, as testified to in this very courthouse.

13 I was not part of Nxivm. I'm not involved in any
14 capacity with you and any of your businesses, yet I and my
15 family felt the weight of your power for almost two decades.

16 As I stand here I say I never met Clare. And the
17 last time I spoke to Keith Raniere, her Vanguard, is when I
18 fled Albany in 1999 with Nancy Salzman by his side the last
19 words set to me were: The next time I see you, you'll be dead
20 or in jail.

21 He was half right, only he was the one in jail.

22 The relentless litigation did not end until multiple
23 arrests. And would have not never been possible without the
24 funding Clare has admittedly provided.

25 In the fall of 2014 I lost both my paren. My Mom

1 died on October 17. She was the strongest person I've ever
2 known, losing two children in her lifetime, dying from
3 pancreatic cancer, fearing are we going to jail on false
4 charges or being sued for millions, both brought and funded by
5 Clare Bronfman.

6 Before she passed she looked at me and said: Toni,
7 you're not crazy, don't make them think you are. I'll always
8 be with you.

9 My Dad died 21 days after losing my Mom. Our
10 conversation was about Keith, the cult, the power, the
11 Bronfman money, the relentless pursuit of me. And how with
12 their unlimited funds would we ever stop them.

13 Even the end of their lives they were still being
14 controlled by this cult, supported by Clare Bronfman.

15 On February 27, 2015, I was indicted on four false
16 felony counts of computer trespassing. And I was alone. The
17 insurance money from their death was the only way I could
18 afford to hire a former federal prosecutor, William Dreyer,
19 for a second time. Bill could not be bought off, bribed off,
20 or scared off but that didn't stop them. They had a lot of
21 money to prove their ethics.

22 I'm trying to keep myself together as I write this,
23 as it seems like for the hundredth time, but you never see it
24 coming. Every time you think it's over, there it is, that
25 crack in the plate. You're triggered. They are back again

1 with a different name or different spin, but with the same
2 goal, destruction in the name of humanity. Same play book,
3 different players, as seen in the latest move, make justice
4 blind. Like a Freudian slip, make justice blind, something
5 you've attempted to do with your relentless litigation against
6 anyone who spoke out against your organization or your
7 Vanguard.

8 My litigation started in 1999 with an
9 eight-and-a-half year battle in bankruptcy court. The judge
10 granting my discharge in 2003 wrote: This matter smacks of
11 jilted fellow's attempt at revenge retaliation from his former
12 girlfriend with many attempts of tripping her up along with
13 the way.

14 Influenced and financed by Clare, the litigation
15 continued until 2008. Appeals going all the way up to the
16 U.S. Court of Appeals for the Second District.

17 In 2003 I spoke to Forbes and your father, Edgar
18 Bronfman, Sr., desperate to expose the dangers of this cult.
19 Get your girls out, I told him.

20 Clare knowingly used terror by litigation to try to
21 silence Nxivm's perceived enemy. My name was also in the box
22 found in Nancy Salzman basement.

23 In 2005 a knock on the door by the FBI. A dossier
24 created by Nxivm made its way into the FBI's office. With the
25 help of my parents, we hired a local Albany attorney. In 2006

1 an invoice from 2005, a retainer for 10,000-plus to conduct a
2 discreet confidential investigation on me and my family, Juval
3 Aviv, former officer in the Mossad, Israeli's equivalent to
4 the CIA, the same organization hired to go after cult expert
5 Rick Ross.

6 In 2007 a 20-page dossier was sent to a reporter by
7 Nxivm. 260 counts of my criminal violation. He had never
8 seen anything like that before, and suggested I sue for
9 defamation. I thanked him. And once again prayed you would
10 go away, knowing I could never win against Nxivm's high-paid
11 hired guns that were trying to, quote, control the legal
12 system and now the media.

13 In 2007 a letter from an Albany attorney saying take
14 a big breath they want to move forward with the charges. A
15 trial will cost \$150,000-plus. And you should take a plea
16 deal, possibly a short stint in a federal prison, or at best
17 home confinement and a fine but I'd be able to work.

18 Hadn't I put my parents through enough? They lost
19 their home in Saratoga and so much more. With my Mom's
20 support, we declined. And as a suggestion we hired Bill
21 Dreyer. In my meeting with Bill he said to me, you don't look
22 like Genghis Kahn. Not even the math adds up, and this has
23 political written all over it, who did you piss off.

24 Bill understood the underlining influence within the
25 organization. It had been made public that Nxivm hired Roger

1 Stone to assist them. I followed his guidance, held my
2 breath, and waited for my time to be up at least this time.

3 In 2007 it was stated on camera that Nxivm had
4 scorched earth policue pursuing their enemies. I wasn't just
5 scorched; I was incinerated.

6 In 2010 someone claiming to an FBI agent showed up
7 at my work. A group of nine women left Nxivm and they were
8 desperate to scare and silence everyone.

9 Notwithstanding was the legal pursuit of my mother,
10 going as far as buying a creditors position in her bankruptcy.

11 And my brother, a brother who I lost on March 12,
12 2009, to an apparent suicide, according to the autopsy. My
13 brother was in communications with Keith, as explained to me
14 in heart-wrenching detail. John was desperate to stop the
15 ongoing litigation that was destroying our family, pulling us
16 apart. I don't believe my brother woke up that day and
17 decided to take his own life. I believe people who died, deal
18 with this type of relentless pursuit do things to ease the
19 pain, you drink, you take drugs, you over medicate, you stop
20 caring for yourself as you should. Nxivm teaches in one of
21 their modules that suicide is honorable if you're not bringing
22 value to your family.

23 Clare claims she never participated with illegal
24 activities. This is not true. What is true was she never
25 charged with any of her illegal activities until now. And

1 why, the question better answered by the district that let
2 this cult run rampant for decades.

3 In 2012 I was invited to Mexico by a reporter, a
4 free trip, to discuss his story. I declined.

5 In October of 2013 my home was raided, searched for
6 anything Nxivm or Keith Raniere related. The police I had
7 been giving information to about illegal activities, including
8 under age girls and the girls from Mexico, were now at my home
9 for a warrant for me. This was followed by civil suit for
10 millions.

11 September 2015, a civil case, the civil case was
12 thrown out. Judge Kahn's ruling stated: Ms. Bronfman, a
13 member of Nxivm's executive board, acknowledged during an
14 unrelated bankruptcy more than two years before the lawsuit
15 was filed, that she suspected intrusions of her computer
16 system. The judge noted with some troubling facts, but
17 ultimately declined to impose Rule 11 sanctions. That,
18 however, was purely an issue of law. And did not alter the
19 fact that Clare had lied in order to continue her litigation;
20 nor did it stop her from pursuing bogus criminal charges.

21 In 2015, a patent, I was unaware I owned, until a
22 lawsuit filed by Mr. Raniere and funded as stated by
23 Ms. Bronfman against AT&T and Microsoft for patent
24 infringement in excess of \$20 million. The Court ruled I was
25 the only one that could bring the claim, yet in the midst of

1 the criminal litigation I barely had taken a breath before I
2 was served by AT&T, Microsoft and Keith Raniere in the state
3 of Washington, with little time to respond and clearly not the
4 resources needed to defend the actions.

5 In February of 2016, broken and exhausted I reached
6 an ACOD. They say an ACOD returns you to your prior life. If
7 that be true, I'd like my life back. I miss my child, my
8 parents, my home, my reputation, my work, my life, and what it
9 should have been.

10 The most difficult thing in my life was losing my
11 Mom. The second, were the seven weeks of this trial. It was
12 like watching a parallel universe run through my mind, as
13 timelines collided with so many witnesses.

14 In 2004 I was diagnosed with PTSD and fibromyalgia,
15 then filed by CPTSD, Complex Post Traumatic Stress.

16 I live alone with my dog since 2010. The pressure
17 destroyed my marriage. My life is difficult to explain to
18 anyone, and I feel safer for people to keep a distance. I
19 jump each time the door rings. I live where I can all around
20 me. I don't allow my dog to go outside unless I watch her; my
21 last dog was poisoned. I look over my shoulder always.

22 My son lives with his dad in a different state.
23 Each time I felt it was safe to bring my child back into my
24 world, it would implode again. My world was never safe place
25 to raise a child. He's a grown man now. I missed most of his

1 childhood fighting legal battle after legal battle. Working
2 to stay alive, funded by you.

3 I believe it's just a matter of time before it
4 starts all over again; if it hasn't already. And I don't know
5 how much more fight I have left in me.

6 I'm sorry, your Honor, this is so long and
7 disjointed.

8 Clare's response to the Court suggested to me that
9 she has absolutely no remorse. I feel it's only appropriate
10 that she now stand before this Court to be sentenced to
11 prison. And there is no amount of time that will give me back
12 my family or the many years of my life I fought these monsters
13 off to stay alive. I hope everyone day she's behind bars,
14 Clare reflects on the evil and damage she inflicted on so many
15 others. And brings back to the world something other than the
16 destructive force she has brought so far.

17 In closing, I ask for one more thing, as a favor to
18 a family, truth for Kristen Snyder, someone knows something.

19 I'm grateful for the Court for their time and
20 consideration. Thank you.

21 THE COURT: Thank you. Sally Brink.

22 MS. BRINK: Thank you for the opportunity and the
23 time to speak. I didn't plan on reading today, but this is a
24 quite intense venue to say the least.

25 In February 2016 I decided to leave ESP after 13

1 years of involvement, ranging from very little, to my life was
2 completely incapsulated in ESP. It was a feeling that
3 something was deeply wrong, but I couldn't figure out what it
4 was, I couldn't pinpoint it. I just knew I needed to leave
5 and I was scared. So scared I didn't tell anyone, not even my
6 partner, my husband who I had been with since 1995.

7 While I was transitioning out of the companies, I
8 was in many, many roles. I was diagnosed in January of 2017
9 with Stage Two breast cancer. That night I was in the shower,
10 so my son couldn't hear my sobbing. Why am I so sick? How
11 did this happen? I'm only 45 years old with no history of
12 breast cancer in my family.

13 I started looking at my thoughts about myself and it
14 was like I was in a movie screen and everything was negative
15 and self-deprecating. I started to think do I really think
16 these things about myself? Do I really believe this? And I
17 realized I didn't.

18 It was all feedback from ESP. All the things that
19 they said to me about my self-esteem, I didn't earn anything,
20 and I had no right to anything, I felt entitled, I was a
21 princess.

22 A lot of this came from Clare. We were very close
23 at certain points. I lived on her farm as a property manager
24 with my husband. And I worked in many roles and she was my
25 supervisor in many of the roles. And I thought we were

1 friends.

2 In that moment I knew when I was in the shower that
3 I needed to rid myself of all the negatives associations with
4 ESP or that I would die. Between the stress of the
5 indoctrination, my body being in a constant state of fight or
6 flight or freeze. My body broke down like many before me who
7 died of cancer in ESP.

8 Within weeks the cancer took over my body and I was
9 told I was going to die. I had gone from Stage Two to Stage
10 Three or Four within five weeks. They didn't know if it was
11 Three or Four, they said it didn't matter. They were going to
12 create me the same way.

13 Ninety days later I was cancer free. That's when
14 DOS was exposed.

15 A few days after DOS was exposed I was sitting in
16 the FBI Albany telling them what I knew, asking for help. I
17 didn't even know what I was asking help from. It was like
18 this monster that had no face, no name.

19 I had a panic attack in July 2018 after Clare was
20 arrested. I again was told I was going to die. But here I
21 am.

22 I'm here today as part of my healing journey and
23 because I thought that I needed to look at Clare. I needed to
24 be here because I think it's only fair to you that I say these
25 things to you. And I would like to address Clare now.

1 I was reading some of my old e-mails between us.
2 And one of e-mails I wrote -- excuse me -- that I loved you.
3 And I was grateful for you. And yesterday when I read about
4 your illness, I felt very sad for you, and scared. Wondering
5 what it would be like managing your fear in this moment, what
6 you're going through. I know this, in part, because of how
7 sick I've been over the years. But I'm wondering if you can
8 imagine what it was like for me to be told that I was going
9 die. The pain about thinking about leaving my son motherless,
10 and not having the resources to chose the best doctors.

11 I was completely broke. When I joined ESP and I
12 moved to Albany, I had a fantastic resume, I had six figure
13 line of credit, I had a lot of money in the bank, I had health
14 insurance. And I left with none of that.

15 And here I am involved in this community that I
16 really believed in and now some of the higher ranks were
17 telling people not to help me. This community, a lot of the
18 higher ranks they turned their back on me. I was shunned for
19 being sick.

20 The deep emotional pain that you and many others
21 were not my friend and did not love or care about me still
22 resonates with me today.

23 When I resigned from coaching in September 2016 we
24 had our last walk. You didn't speak to me again until you
25 called me in April 2017 to tell me I was going beat cancer.

1 And I was beating cancer. I was on the hardest chemotherapy
2 that they can give to breast cancer patients.

3 I now know that your friendship and your love was
4 completely dependent on my involvement in ESP. Have you ever
5 thought about your impact in my life? How you directly
6 participated in the destruction of all aspects of my life. I
7 can tell you that you're not going to heal with KR in your
8 life. You have to take back your power. This is, of course,
9 if you're not his evil understudy but a victim. And I do
10 believe you're a good person.

11 I'm sad that your choices and mine have brought us
12 to this space. If you had put down your pride and were open
13 to feedback from others besides KR, and I hadn't abnegated my
14 personal power to you and ESP, perhaps none of this would ever
15 have happened.

16 My pain is, where were you ever my friend? I am
17 holding that space. As long as you support KR there is no
18 forgiveness for you. The damage and the destruction that you
19 caused in my life can only be healed if you can disavow him
20 and see him for what he is.

21 After reading your letters I believe that this is
22 all because of KR. There is no Clare. It is crystal clear
23 that you have no sense of self without him. You do all his
24 bidding, and that's what makes you dangerous.

25 If you go to jail, my hope is that you can finally

1 experience yourself without any expectations from the outside
2 world. When you leave jail you can finally do the good you
3 wanted to do in the world. You've caused so much destruction
4 in so many lives but you'll have the opportunity to heal the
5 damage that you caused. The choice is yours. It is light
6 over darkness, and I hope one day you see the light.

7 Thank you so much for your time.

8 THE COURT: Thank you. Susan Dones.

9 MS. DONES: Thank you, Judge, for letting me speak.

10 Ms. Bronfman, I read your letters to the Judge where
11 you explained how you were ashamed of your wealth, you wanted
12 to be accepted by others. How Nxivm gave you a sense of
13 belonging and you overcame your patterns of self-loathing,
14 insecurities and fears. A place where you felt most
15 passionate about and fulfilled by and deeply cared about. Did
16 you ever consider that they just wanted your money? And what
17 would happen if you just stopped giving your money. Would you
18 be that important to them? Especially to Keith Raniere. You
19 might want to try that and find out where you lie with his
20 love and affection.

21 You talked about the last two years have been
22 immensely painful and how many people's lives have been up
23 heaved. A community where many thrived, felt purposeful and
24 really enjoyed their lives, and then everything fell apart.
25 How this is caused tremendous pain for them in their families.

1 You stated in the last two years you spent time
2 reflecting how all of this happened. Where you participated
3 and why. How you tried to understand your bad choices and
4 overcome the struggles driving you to chose them.

5 Then you mentioned you read the victim's statements.
6 How you became aware of many of your, but you never mentioned
7 any of those blindspots; so it's interesting, they remain
8 blind to us. Reading these letters you said that some of them
9 you still care deeply about; but what about the other victims.
10 You say it has been immensely painful, helpful for you to
11 understand your actions and that you perceived how people
12 experience you and felt effected by you and how -- but you
13 never explained how.

14 In my opinion, these are just empty words and they
15 mean nothing to me as your victim and I wonder about the other
16 victims. So why should any of us care how our letters
17 impacted your awareness. In my opinion you're just being
18 selfish. If you really cared, you would find ways to heal the
19 wounds that you have caused with every one of your victims and
20 you wouldn't leave it up to the courts to decide how to heal
21 those wounds.

22 Ms. Bronfman, it's your soul, it's your karma. And
23 if you want, to use a Nxivm term, you would heal your ethical
24 breach with each one of us. If you leave them unhealed,
25 you'll eventually have to heal them with your maker.

1 As a result, you say you believe you stand here as a
2 better person, a person with a deeper understanding of
3 humanity, the difference between people and the gravity of how
4 it effects you. I say, well, bravo to you, Ms. Bronfman.
5 Good for you. You stand here as a better person with a deeper
6 understanding of yourself; again, this is all about you.
7 Again, what a selfish thing to say.

8 In my opinion, you're a predator. Let that sink in.
9 These past two years haven't been a life skill class. You
10 broke the law. And breaking the law has legal ramifications.

11 If its true that you did a deep dive into your
12 behavior the last couple of years, you should feel shame,
13 self-loathing, insecure, and fearful of your actions that
14 you've done and the behaviors that the end of the sentencing
15 hearing -- that the hearing of today. And not just try to
16 sell yourself to the judge of what a better person you are and
17 what might happen in the sentencing.

18 Have you ever considered the pain that you have
19 caused us when you went after us legally for your master,
20 Keith Raniere? How you up-ended our lives and how our lives
21 fell apart when you went after us. The pain that you've
22 caused us and our families. Or did you leave that out of
23 yourself reflection these last couple of years?

24 You should understand there are lives that you've
25 destroyed using your wealth by allowing Keith Raniere and

1 Nancy Salzman and yourself, by doing nothing but -- by doing
2 nothing but by allowing us to tell the truth of what has
3 unraveled in Nxivm. If you would have allowed that truth to
4 come to the surface, DOS might have never happened.

5 You willingly opened your checkbook and spent
6 millions of dollars to destroy me and others all without
7 giving a thought of what we were saying was true. To this day
8 I don't think you considered that, what we were saying might
9 have been true. I don't think you sought any information
10 outside of what Keith Raniere and Nancy Salzman told you what
11 was true. There was plenty of information out there. I don't
12 even know if in the last two years you've even gone outside to
13 look outside to see if what we were saying was true.

14 So I read all the kind words that people have
15 written about you, but those are people who never stood up to
16 the criminal enterprise that was running behind the training.
17 Well, that wasn't me. I was one of the people who stood up
18 and told the truth about the criminal enterprise. How did I
19 know the truth? Nancy Salzman spilled the beans to me one
20 night. She told me all the illegal activities that Nxivm was
21 up to. I was horrified. She said: What are you going to
22 about it? I said: It's my word against yours. And shortly
23 after that I left.

24 So it was you, Clare Bronfman, that claim after me
25 with orders of the man, Keith Raniere, to this day that you

1 refuse to denounce and you refuse to denounce what you called
2 the organization of Nxivm that doesn't even exist, the owns
3 that organization. And so what you call the humanity of Nxivm
4 is just lipstick on a pig. There is no humanity of Nxivm, not
5 when you look outside in the destruction that's happened.

6 So I remember after myself and eight other people
7 left you, and the other leaders made it impossible for us to
8 have a relationship with our friends in Nxivm. If you
9 remember, Ms. Bronfman, it was called shunning.

10 So when I resigned I asked for my commissions owned
11 in the value of the business that I built in the Pacific
12 Northwest that Nxivm continued to profit off of for decades
13 until Nxivm was shut down by the DOJ. I was called an
14 extortionist for this.

15 I received a letter while still in Albany, New York.
16 I had to hire an attorney in Albany. I had to call my sister
17 that let her know I might need some bail money. I asked her
18 not to tell me mother because she was sick, I didn't want her
19 to worry about me. After meeting with the attorney, and in
20 Albany I found out that asking for money that I believed was
21 owed to me is not extortion and no charges were ever filed
22 with me. But to this day there are many people left in the
23 inner circle of Nxivm that believe I was an extortionist.

24 But this is not what you told the Nxivm people or
25 the judge in my case. So when you filed charges against me,

1 when you sued me, you told the judge I was an extortionist.
2 After I closed my center I was warned by people that you would
3 punish me by speaking out, by suing me. If it wasn't bad
4 enough that I had to file bankruptcy due to the center, you
5 guys sued me. You entered into my bankruptcy as adversaries
6 and claimed over 230 claims against me, knowing that I
7 couldn't afford an attorney, which was the worst.

8 Ms. Bronfman, you paid for seven attorneys to come
9 after me at the cost of over \$500,000 to sue me, when I asked
10 for less than half of that. Nxivm knew full well that I was
11 going to open a center in Vancouver BC, that I had been
12 working on for almost a decade to build, and they would profit
13 off of those efforts of my labor for years to come.

14 You also testified at my trial, telling one lie
15 after another because you had no evidence against me, only
16 that I showed a portion of a video that I owned.

17 So I'm going to -- I'm running out of time -- I'm
18 going to get to the end of this.

19 To this day I suffer from PTSD, anxiety. I'll never
20 recover the loss of my investment into Nxivm, or the two years
21 that I couldn't work because I had to learn how to defend
22 myself, and the loss of the building that we bought to built
23 the center.

24 Through the 11 years of my therapy I've learned
25 anger is my poison, so I'm not angry at you, Ms. Bronfman. I

1 pray for you every day. I pray that you will take the claws
2 of Keith Raniere out of you and you will learn who Clare
3 Bronfman really is, because he's killing you. And I hope you
4 find out who you really are. But I hope the judge will
5 sentence you to prison time so you can find out that you never
6 ever want to go back to prison; and if you stay with him, you
7 will end up committing more crimes. Thank you.

8 THE COURT: We're up to Kristin Keefe. Do you want
9 to wait until we hear from someone else so you can get
10 settled?

11 MS. KEEFE: Yes, your Honor.

12 THE COURT: Okay, please be seated.

13 Barbara Bouchev.

14 MS. BOUCHEY: Thank you. Is it okay if I move this?

15 THE COURT: You can move it, just don't remove the
16 little cover.

17 MS. BOUCHEY: That's better. Thank you.

18 Hi, Clare.

19 Unlike Clare, I was not born into a life of
20 privilege, power, wealth and prominence. Nor having the
21 liberty to not finish high school or not go to college,
22 because I inherited a fortune. Rather I grew up in low-income
23 housing project. We were poor. My Mom died when I was eight.
24 My father was a severe alcoholic. And I have two special
25 needs brothers that he then put into institutions and forbid

1 me to see. But being a very determined young woman, I
2 disobeyed him and two years later, at age of 11, we called a
3 truce and negotiated with my father that I want to still see
4 my two brothers he abandoned. And my father agreed as long as
5 I never mentioned their names in this life again, which I
6 vowed to do.

7 College was never mentioned in our household, nor
8 even a dream. It wasn't spoke in the house. My only
9 aspiration was to be a secretary, and a really good secretary.

10 It wasn't until somewhere in my early 20s that I
11 stopped one day and thought, I can be more than this, I can be
12 more than a secretary. And that's when I started to waiting
13 tables 40 hours a week and I put myself through college.

14 At the age of 24 I began my career in the financial
15 planning industry. And through hard work I built a reputation
16 of being honest, responsible, ethical and integrous. And by
17 the age of 40 I had become a self-made millionaire, generated
18 1 million a year in annual renewable fees, had a net worth of
19 \$5 million, was a leader respected by my peers and a pillar of
20 my community. And yet, still only owned one pair of black
21 shoes and blue shoes and wore Ann Taylor suits. Because
22 instead of spending my money on things that were frivolous, I
23 gave it instead to help others and I prudently saved my money.

24 Here is a snapshot of my life, Clare, that you may
25 not be aware of. Within the 12 months before entering Nxivm,

1 I was featured as a keynote speaker for the Women's Leadership
2 Forum. I co-chaired an event with Marylou Whitney Vanderbilt.
3 I was quoted in the newspapers constantly about the market.
4 My annual --

5 THE COURT: Excuse me, please slow down a little. I
6 want to absorb your words.

7 MS. BOUCHEY: I'm just nervous.

8 THE COURT: Take a deep breath and slow down.

9 MS. BOUCHEY: My annual client parties, my Christmas
10 party, and believe it or not the opening day of the Saratoga
11 race track party was the biggest event at my office.

12 All this from a girl that I call came up from white
13 trailer trash, the wrong side of the track. And there I was,
14 40 years old, having achieved what they would call the
15 American Dream and I beat all the odds.

16 Here is a snapshot of my life now, after leaving
17 Nxivm.

18 I have been smeared by Keith Raniere who very
19 carefully two years before I quit and after the behind scenes
20 smear campaign because I broke off my intimate relationship
21 with him, and then lied to you and everybody else that I had
22 some big ethical breach. And then when I left, he then
23 falsely told you and other people that \$1.7 million of my life
24 savings that he actually owed me and Nancy, and vowed to pay
25 my every year, and every year they made an excuse. And then

1 guilted me and shamed me, and said you're just so selfish, you
2 must have an attachment to money, how much money do you need
3 to make, you're still making a million a year.

4 They wouldn't pay me back. Because I needed to
5 sacrifice for you and the community. And I didn't have
6 millions; but what I had I gave.

7 And then I had to suffer being trying to be arrested
8 for extortion.

9 You say that you never lied or that you've never
10 wrongly accused anybody, when this is the letter that proved
11 the first lie that you told. You went through my hometown
12 district attorney and told them that you fired me as your
13 adviser for ethical violations. And that I then tried to
14 extort \$2 million from you in revenge and retaliation, saying
15 that you're on the executive board and you got my letter that
16 only went to Keith and Nancy asking them to pay me back my
17 \$1.7 million that they rightfully owed me.

18 And here is the proof. This is an Nxivm
19 communication dated May 10, two weeks after I left, where you
20 were appointed to the board and strategically did so that you
21 can go then go to Saratoga DA and tell them that you were on
22 the board and you got this letter. But you never got that
23 letter.

24 And this letter launched a thousand court filings.
25 From this letter you then sued me three times in two different

1 states. You launched year-long investigation on my financial
2 planning board accused me of twenty-nine salacious lies,
3 including that I was a commodities broker for an account you
4 never had, and lent money to Keith. And I never traded
5 accommodate in my entire lifetime.

6 And so my life after this is I have been headline
7 news. I've been dragged into 14 lawsuits that lasted eight
8 years, in front of eight judges, in four states. My illegal
9 fees have been \$700,000.

10 Because I'm a local town girl, prominent business
11 woman in Albany where the local headquarters was, I endured
12 hundreds of headline news stories that all portrayed me as the
13 evil banker from the dark side. That I must be corrupt
14 because I was a financial planner, and I must have been
15 Nxivm's financial director, which I was never allowed in the
16 accounting office.

17 And I have been ridiculed and shunned. And after
18 six years of this non-stop headline news I lost two-thirds of
19 my clients, millions in revenues, and my reputation was
20 totally destroyed.

21 The one thing you need as a financial adviser is
22 trust. My integrity and my character was assassinated for
23 years in hundreds of headline news stories. And I was
24 innocent. And I was the one that was being accused of having
25 done wrongs to you and to Nxivm. And all I did was decide to

1 breakup with Keith Raniere, get punished, then leave and try
2 to tell people, and just tell the truth. And this is what I
3 have endured.

4 It is has been 4,197 days that my character has been
5 assassinated every single day. I can't get new clients. If
6 you Google me, the top three stories that come up is local
7 financial planner arrested for felony for a criminal complaint
8 that you signed. You had me arrested wrongfully. You had my
9 passport removed for an entire year. I was handcuffed on
10 Christmas Eve and arraigned. It was the scariest, worst day
11 of my life.

12 And the Times Union ran a Sunday front page news
13 that I was a criminal.

14 When your lawsuits against me that were 50,000 a
15 month. I filed Chapter 11, not at a rate of paying anybody, I
16 filed 100 percent repayment plan on Chapter 11. And that was
17 Sunday front page news, news local financial planner files
18 bankruptcy.

19 And then when you sued me because you're Seagram's
20 heiress, for ethical, alleged, ethical violations, that was
21 Friday night headline news.

22 How does a financial planner of my caliber survive,
23 ever, with those kind of headline news? I can't tell you how
24 humiliating and ashamed and degraded I felt with those just
25 three headline news. And yet I was innocent. And you want to

1 know how I'm innocent?

2 My financial planning board that you brought a
3 complaint to, had eight financial planners who were also
4 attorneys. And they scoured my records for an entire year,
5 and they know what they are looking for. And by preponderance
6 of the evidence that I provided and proved, they closed that
7 case against me. I was innocent, but it didn't stop.

8 I don't have time to read everything, so I'm just
9 going to skip to the last page.

10 How do you encompass 20 years of abuse and 11 years
11 that you have funded lawsuits against me that is still going
12 on to this day?

13 You reached out a mere three weeks ago. I, like
14 Susan, read your character reference because I want to know
15 more about the person that you are, so that I can craft my
16 statement.

17 I have a letter -- I'm so nervous -- I have a letter
18 here that you submitted a letter of your attorney. And in
19 this letter, a mere three weeks ago, you allowed your attorney
20 to falsely accuse me, defame me, and slander me. And the
21 entire world is devouring your court filings.

22 You've been under house arrest for two years, and
23 yet, you have not stopped. You have not stopped damaging me.
24 When I read this I was immediately terrified. Will you never
25 stop? Is it not bad enough that my damage is submitted in

1 this courtroom was \$14 million, 14 million.

2 How is it possible that I'm the one that you sued
3 more than anyone else, for longer, was more publicly
4 humiliated and headline news than anybody else. And suffered
5 \$14 million, which may be more than anybody else. And yet I'm
6 not viewed at a victim. I'm called a bitch, a whore, a
7 prostitute, an evil banker, a corrupt financial planner. And
8 yet, I'm innocent.

9 I can't even begin to tell you what I want. What I
10 want, Clare, is my reputation. I want my reputation. For
11 decades it was unblemished and impeccable and held in a high
12 regard in my industry. A leader, a pioneer, a pillar of my
13 community. And I'm still that person that earned that at age
14 40 to stand next to Marylou Whitney Vanderbilt and co-chair an
15 event. Yes, me, from Bristol Heights, the income housing
16 projects. I earned and deserve everything that I did.

17 I didn't inherit my wealth or my achievement. I
18 just want my reputation back. I want my good name back. And
19 I want you to please stop, stop accusing me, slandering me,
20 defaming me, even to this day.

21 And I would encourage you, your Honor -- I want to
22 stay something. Kristin, who just came in, had a profound
23 effect on my life.

24 Five years after I quit she called me at
25 1:00 o'clock in the morning. And I thought, oh, my God, she's

1 playing a double agent. Because she was cleared and Nxivm's
2 legal liaison. And I thought, holy crap. She said to me, I
3 left. In that I said to her, Aren't you afraid to call me?
4 Everybody is terrified to be me and talk to me. And she said,
5 no because I know the truth. And I never once saw you do one
6 thing in all of those years that I questioned.

7 Clare, do you realize that they lied to you?

8 (Continued on next page.)
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1 (Continuing.)

2 MS. BOUCHEY: Kristen -- and they told me, barred
3 from the day you walked through the door, Keith pitted us
4 against you. He knowingly directed us to lie to you, conspire
5 to conceal things. You thought you were in the inner circle.
6 You were six layers out, because that's what we wanted you to
7 think.

8 It-- Your Honor, I believe that there are some of
9 us, like Kristen did for me that fateful night -- and it was
10 painful to hear, you know, he labeled me mentally retarded
11 because I have two special needs brothers and not to pay
12 attention to me, because I, too, was mentally retarded. You
13 know, there are things that Clare has no idea that Keith said
14 and did to her behind her back, and there are some of us, not
15 many, me, Kristen, Karen, there's a number of us that could
16 share with you what we know was kept from you that you don't
17 know about, that he used you; he conned you; he manipulated
18 you; he made you feel special just like he did to me, just
19 like he did to Kristin. It's the same playbook you sued, just
20 words, just played on you. You just haven't had that defining
21 moment that I did yet. That's all.

22 But I know you're a good person. As your financial
23 advisor for a brief time, I saw the goodness in your heart. I
24 know you wanted to be a humanitarian. I know, and I helped
25 teach you how to spend your money and be responsible and how

1 not to feel guilty and ashamed of it and to be proud that you
2 had the opportunity to be a true humanitarian. And I know
3 that resides deep within you. And you could truly be that and
4 go on to do more of that.

5 THE COURT: Ms. Bouchey?

6 MS. BOUCHEY: Yes.

7 THE COURT: Time's up.

8 MS. BOUCHEY: Thank you.

9 So I will be praying for you, Clare. I know, I know
10 you can do this. You can.

11 THE COURT: Thank you.

12 Ms. Keeffe, you have ten minutes, ma'am.

13 MS. KEEFFE: Your Honor, there's a couple instances
14 where I'm going to use initials for people that were other
15 victims in the case. I just want to point that out so it
16 doesn't give us some confusion.

17 THE COURT: So you're just going to use initials?

18 MS. KEEFFE: Just one or two times.

19 THE COURT: That's fine.

20 MS. KEEFFE: Your Honor, this is a difficult thing
21 for me to read.

22 Clare Bronfman has caused me unimaginable pain. I
23 have a 13-year-old son with Keith Raniere named Gaelyn.
24 Throughout Gaelyn's life, Keith had never paid us child
25 support. When Gaelyn was born, Keith convinced me to lie and

1 not tell anyone that I was Gaelyn's mother and Keith his
2 father. He told me to tell everyone that I had adopted
3 Gaelyn. Keith had me convinced that Edgar Bronfman, Clare's
4 father, would harm Gaelyn if he found out Keith was his
5 father. When Clare found out about Gaelyn, she concurred to
6 this with Keith. I never would have believed those lies. I
7 was so scared. Clare Bronfman insisted repeatedly over many,
8 many years that her father was a evil, wicked man capable of
9 orchestrating a wide variety of crimes and violence, and he
10 was after Keith and NXIVM. I believe I had to live this lie
11 to protect my son.

12 Being a mother is the most important thing in my
13 life, my most treasured experience. Keith and Clare made me
14 lie about them. My own mother I lied and distorted. All my
15 relationships and all my experiences, it was extremely
16 deflating for me and you can't imagine the grief and distress
17 that I felt and the fear that I had for my son.

18 Keith and Clare used to -- there's a story as the
19 base to justify Keith not wanting paternity of my son and not
20 paying his child support. Clare told me her father was
21 checking on her finances.

22 I met Clare in 2003 shortly after I was hired by
23 Nancy Salzman and Keith to assist with NXIVM's legal affairs.
24 I worked with Clare closely for the next 11 years --

25 THE COURT: I'm sorry. Are you a lawyer?

1 MS. KEEFFE: No, paralegal.

2 THE COURT: I see.

3 MS. KEEFFE: So I worked with Clare the next 11
4 years, the last five of which she was my direct boss. Over
5 time Clare used my fear of her father to manipulate me and
6 took control of every aspect of my life. She used it as an
7 excuse to persuade Keith to forego his role with childcare and
8 to justify Keith not paying his child support. She also
9 fronted other expenses of Keith's that were enormous so we
10 didn't have to take a salary from NXIVM or claim he had any
11 assets. So the Court understands the true scope of what Clare
12 did, in a very short period of time from 2003 through 2006, I
13 witnessed her and her sister make cash distributions of
14 approximately \$100 million to NXIVM and NXIVM-related
15 endeavors, despite the -- despite the fact that NXIVM as a
16 business was only grossing about \$4 million a year. Clare has
17 stated and continues to state these distributions were loans,
18 despite that neither Clare nor Keith ever expected this money
19 to be repaid, nor could it be repaid. They both told me as
20 much.

21 Eventually I fled NXIVM in 2014 out of sheer terror
22 arising from the fallen. This is not an exhaustive list.
23 NXIVM was rapidly and most obviously becoming a sex cult in
24 2012 to 2013, and I didn't want my son to be raised in such an
25 environment. Keith was sleeping with almost every woman in

1 the higher ranks of the company and his behavior was growing
2 increasingly and quite publicly out of control.

3 Clare was publicly engaging in wide-spread deeds of
4 fraught involving MS and Sylvie, some of which involved women
5 who were providing childcare to my son, KK and BM, while Nancy
6 and Keith were openly embezzling cash from the various
7 companies and storing it at Nancy's house, some of which was
8 seized by the Government after their arrest. I know Nancy and
9 Keith were not claiming these monies as income. And I thought
10 this in combination with Clare's phony loans and her abusive
11 fraud could lead to serious criminal charges filed some day.
12 I was quite sure Clare, Nancy and Keith might end up in prison
13 and I told them as much. I saw Clare mentally descending over
14 several years into a type of dangerous megalomania. I never
15 met the humble aesthetic Clare that supporters speak of now.
16 While I worked for Clare various times she wrote a million
17 dollars worth, bought a 6500 square-foot mansion and flew
18 around in her 11 million-dollar private jet, all a matter of
19 public record.

20 Clare's illegal conduct was never about money for
21 her, it was about her having control of people, including
22 myself. This caused me extreme psychological duress. Clare
23 demoted me and refused to pay me a liveable wage. I went from
24 making a modest 56 to \$55,000 a year to being paid \$13,000 a
25 year after I protested the continuing litigating of Barbara

1 Bouchey because I thought it was wrongful. I could not
2 support myself and my son alone on this. I started to feel
3 like her prisoner and I was her prisoner. My car was
4 repossessed, my townhouse of NXIVM-owned property and I had
5 lived in it from three to five years. I know when Clare sent
6 me a bill for \$5,000 saying I owed back rent, knowing full
7 well I couldn't pay it. She was trying to psychologically
8 break me and she almost did.

9 I realize the real reason Clare was funding a large
10 portion of Keith's expenses was to keep Keith -- keep Keith
11 safe, judgment-proof, to disempower me and make it impossible
12 for me to obtain child support for my son. I felt very
13 powerless.

14 I saw many people around me whose lives fell apart
15 mentally and financially while under Clare's supervision, and
16 she exhibited zero conscience about this. I was sure NXIVM
17 would end in some type of violence. I was terrified of this.
18 I knew something bad would happen and it did. I became sick
19 with worry about the state of Daniella. I couldn't stop
20 thinking about her. I felt I had to report what happened to
21 her to the police, which I did. I finally recognized that
22 Clare was attempting to prove her father was behind this
23 wide-spread illegal conspiracy to destroy Keith and NXIVM and
24 anyone close to Keith was borne outside of vindictiveness on
25 Clare's part and might not be true. She had spent millions of

1 dollars to prove her father's crime, including \$1.1 million to
2 Cavco. She hacked her computer to have his emails read.

3 When Edgar's health started to seriously fail in
4 September of 2013, Clare showed up at his home with a film
5 crew to interview him to get him to confess his crimes on
6 camera before he died, and actually he didn't confess. Then a
7 month before Edgar died Clare told me, Oh, I made up with my
8 father. Just like that, like the past ten years of her
9 threatening me hadn't happened and she was completely
10 indifferent to all the lies I had to tell about my only son's
11 life. After all of that, I knew it was all happening, I had
12 no choice but to flee NXIVM in Clifton Park, New York, and
13 report everything I did to the authorities, which I did.

14 We had to give up our homes, our beloved pets,
15 everything. I had so much fear about what Keith and Clare
16 would do to my son and what revenge she might take on me. I
17 made several reports to the authorities and I easily --
18 eagerly cooperated with the prosecution team here in the
19 Eastern District of New York. I don't have any ill feelings.
20 You can't imagine the loneliness and fear itself to have to
21 give up everything I own and every single friend that I had
22 and completely disrupt my son's life to protect us and do the
23 right thing for others so there would be no harm. It's been a
24 long, hard struggle but it was the only choice to make.

25 Unfortunately for me and my son, Clare continues to

1 harm him to this day. In March of this year in the wake of
2 COVID-19, I spoke directly to my attorney through a private
3 settlement for child support with Keith Raniere once and for
4 all --

5 THE COURT: I'm sorry. Can you take your mask off
6 while you make the rest of your statement, if you don't mind?

7 MS. KEEFFE: I don't mind.

8 THE COURT: Okay. Because I'm having trouble
9 understanding you.

10 MS. KEEFFE: Okay.

11 THE COURT: Just remove your mask.

12 MS. KEEFFE: Did you understand what I said so far?

13 THE COURT: No, no just finish up.

14 MS. KEEFFE: Okay.

15 In March of this year in the wake of the COVID-19
16 pandemic, I went directly to my attorneys to enter into a
17 private settlement agreement for child support with Keith
18 Raniere once and for all. I was worthy and deserving of child
19 support from Keith and we were always worthy and deserving and
20 we should have been paid.

21 With COVID-19 I worry it's not soon enough, fast
22 enough to rebuild the life for my son and me. I worry about
23 the fragility of my long-term health. What will happen to my
24 son if I died?

25 Through Keith's attorneys and my attorney we came to

1 an agreement for a lump-sum payment by Keith to settle child
2 support payments due in full. I knew that Keith had inherited
3 money from Pamela Cafritz when she died in 2016, and I learned
4 the sum of the amount was \$8 million. Keith continues to
5 represent child support will be paid from his interest in
6 Pam's estate. So just recently I learned through Matthew
7 Dorsey, the attorney for Pam Cafritz's estate, the horrifying
8 reality. The sole reason the estate was not issued to Keith
9 was because Pam Cafritz's personal tax returns had never been
10 filed to substantiate the income from the basis of her estate,
11 and the funds might never issue into Keith's name or it could
12 be months or years before they do. This was a huge wake-up
13 call and the fragile thing for me to deal with because of
14 Clare Bronfman, more secrets and lies. I am crushed and this
15 has caused me enormous emotional pain, which I'm trying to
16 hide from my son.

17 Clare conspired with Keith to deliberately not pay
18 the settle Pam's estate, and it's still not settled. Instead,
19 Clare fraudulently used Pam's identity to funnel money to
20 Keith and us and their baby together that Keith would
21 otherwise claim as income to avoid taxes, which Clare pled
22 guilty to. The simultaneous consequence of Keith and Clare's
23 tax avoidance of their crime is depriving my son of proper
24 financial support from his otherwise extremely wealthy father.
25 Moreover, Clare established the \$500,000 KR Trust for Keith's

1 other son's benefit.

2 I'm asking the Court to make Clare responsible for
3 her crime and the damages to my son's life as a result. We
4 really need to be made whole.

5 I would also like to have any of our personal
6 things --

7 (Pause in proceedings.)

8 THE COURT: I'm sorry. Repeat what you just said.

9 MS. KEEFFE: Okay.

10 THE COURT: And just slow down and finish up,
11 please.

12 MS. KEEFFE: I would also like to have any of our
13 things that we were forced to leave behind in Clifton Park
14 attorneys, if Clare still has them somewhere. And especially
15 -- I'm sorry -- and especially my son's baby pictures, which I
16 don't have them.

17 Thank you.

18 THE COURT: Thank you, ma'am.

19 We'll resume at 1:45 to complete sentencing. I will
20 first hear from the defense as to the 3553(a) factors and then
21 the Government as to the 3553(a) factors that the Court should
22 consider in reaching a sentence that is sufficient but not
23 greater than that necessary to fulfill the purposes of
24 sentencing. Then I'll hear from the defendant if she has
25 anything to say, and then I'll issue my decision as to the

1 sentence.

2 I would like to thank all the victims who spoke
3 today. I understand how difficult it has been for the victims
4 to come forward and make their statements in public. And I
5 want to give my appreciation to all of you who came forward to
6 provide your statements.

7 You are not obligated to discuss anything that you
8 said or anything that you know with anybody in this courthouse
9 today or at any other time, and I just want you to be aware
10 that you were here to discuss your comments for the Court, and
11 that if you do not wish to talk to anyone else about your
12 comments, you should understand that that is your right.

13 And, of course, if you wish to discuss with others,
14 that is also your right.

15 All right? Thank you.

16 THE COURTROOM DEPUTY: All rise.

17 THE COURT: We will resume at 1:45.

18 (Recess taken.)

19 (Continued on the next page.)
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1 A F T E R N O O N S E S S I O N

2 (Time noted: 2:05 p.m.)

3 THE COURT: At this time the Court will hear from
4 counsel in connection with the factors under 18 United States
5 Code Section 3553(a) that the Court could take into
6 consideration in order to impose a sentence that is
7 sufficient, but not greater than that necessary, to fulfill
8 the purposes of sentencing. We will begin with the defense,
9 Mr. Sullivan.

10 MS. HAJJAR: Your Honor I apologize, I wanted to put
11 on the record one thing before we proceeded.

12 THE COURT: Go ahead.

13 MS. HAJJAR: I wanted to note for the record that
14 the Court also received 92 additional victim impact statements
15 in writing, that the Court had also received -- in addition to
16 the prerecorded video statements and from the victims that
17 Your Honor heard from today. Lastly, there was one additional
18 statement from Sylvie, who was not able to come today. It's
19 very brief if the Court would like to hear it now or --

20 THE COURT: Let me hear it now, but the 92 were not
21 solely regarding this defendant, were they?

22 MS. HAJJAR: Yes. The 92 reflect impact statements
23 in connection with this case in general.

24 THE COURT: In general, right.

25 MS. HAJJAR: Yes. But I'm saying with regard to

1 many of those statements which were focused primarily on other
2 defendant's particularly Mr. Ranieri.

3 MS. HAJJAR: That's true, yes.

4 THE COURT: Have you provided those to the other
5 side?

6 MS. HAJJAR: Yes, Your Honor.

7 MR. SULLIVAN yes, Your Honor.

8 THE COURT: Thank you very much.

9 Now, this statement is from whom?

10 MS. HAJJAR: From: Sylvie, Your Honor, a witness at
11 Mr. Ranieri's trial.

12 THE COURT: You are going to read the statement?

13 MS. HAJJAR: Yes, Your Honor.

14 THE COURT: Okay, proceed.

15 MS. HAJJAR: "Whether Clare intended to hurt me, my
16 family and many other people who were affected by her actions
17 is irrelevant. The impact of the psychological, emotional and
18 physical abuse I and many other experienced at the hands of
19 Nxivm has been devastating. My family deals with this pain on
20 a daily basis and, yet, we are so incredibly grateful for all
21 of the love, support and healing we have received since
22 leaving Nxivm behind. We will never be able to fully convey
23 our gratitude to the Government for their tireless
24 investigation of this case in their pursuit of justice. I
25 personally hope that Clare Bronfman can find peace and

1 repentance by facing the dark truth of Nxivm."

2 THE COURT: Thank you very much.

3 MS. HAJJAR: Thank you, Your Honor.

4 THE COURT: We will now proceed with the 3553(a)
5 discussion.

6 Mr. Sullivan.

7 MR. SULLIVAN: Thank you very much, Your Honor. And
8 if I may briefly, I think that I do need to preserve an
9 objection without argument, but I want to preserve it for the
10 record that we made in our briefs that Jane Doe 12 is the
11 victim in this case, given the charges that Ms. Bronfman
12 pleaded to and to the extent statements that Your Honor heard
13 introduced new conspiracies, crimes and the like, but that's
14 outside the scope. So we will reincorporate by reference what
15 we wrote.

16 THE COURT: You have your objection.

17 MR. SULLIVAN: If it please the Court, may I be
18 heard on the 3553(a)?

19 THE COURT: Please.

20 MR. SULLIVAN: Thank you, Your Honor. We certainly
21 appreciate the opportunity to be heard on this. We, as we put
22 in our papers, are asking the Court to issue a sentence below
23 guidelines of three years probation. We're asking the Court
24 this based on several factors which I would like to discuss
25 and we think it is appropriate. But first and foremost with

1 regard to the victim in this case, Jane Doe Number 12, you
2 will hear from Clare later, Your Honor, but through counsel
3 she would like to express her deep, deep, sorrow for any and
4 all pain caused to Jane Doe 12. She considers, present tense,
5 Jane Doe 12, a friend, a person who grew up through the Nxivm
6 program with her, growing together in certain very important
7 aspects of life and she is deeply, deeply sorry, and begs the
8 Court's pardon, begs Jane Doe 12's pardon for everything that
9 she did to cause her pain; no excuses, just a flat-out apology
10 to someone whom she cares deeply about.

11 Your Honor, as you know, Clare Bronfman who I have
12 had the honor of representing is a 41-year-old woman who
13 before this had absolutely no criminal history. She spent her
14 youth as a professional athlete and then was introduced
15 through her family member, her sister and father to Nxivm,
16 where she began to find a purpose in her life. Clare Bronfman
17 has wanted to and still wants to help people, and plain and
18 simple, that has been her mission. She has made mistakes and
19 we're going to talk about that, but her mission in life has
20 been to help people.

21 She is privileged and has unearned wealth which she
22 freely admits through inheritance and she thought and thinks
23 she ought to use that in a way to help humanity. That is what
24 appealed to Clare when she was introduced to Nxivm. She and
25 some 17 or 18,000 additional people found success through

1 Nxivm in terms of being a better person an ethical person, a
2 humanitarian. That was her goal. That's what she wanted to
3 do with the gifts that she had and in very many respects, Your
4 Honor, Clare was successful in helping people for a long time.
5 We would ask Your Honor to consider that as Your Honor
6 fashions a sentence.

7 So, with no criminal history prior to this,
8 Ms. Bronfman has been on house arrest as Your Honor knows for
9 26 months. No problems. She has been perfect with respect to
10 her pretrial reporting. Indeed she may report today because
11 the bracelet was engaging and she's been right here in open
12 court. She's been diligent including up to today in terms of
13 abiding by everything that this court ordered. She is a good
14 risk, Your Honor, to abide by anything that this court decides
15 to order, should Your Honor grant this probationary term that
16 we are requesting.

17 We mention the 26 months because we're asking Your
18 Honor to make an equitable consideration in fashioning an
19 opinion. We know as a technical matter or a statutory matter
20 it doesn't count against any time, but we're asking for an
21 equitable consideration for that fact that she's been on house
22 arrest now for over two years with her liberty already
23 severely restricted, as appropriate and as ordered by this
24 court, and she has had absolutely no problems with that.

25 We also ask, Your Honor, to keep in mind and take

1 into consideration the fact that we are in the midst of a
2 global health pandemic and to sentence someone to a prison
3 term with the COVID-19 virus so rampant that even we here are
4 with shields and face masks and so forth and that that should
5 be a consideration Your Honor should take in deciding what is
6 an appropriate and what is a fair and what is a just decision
7 with respect to Clare.

8 Now, Your Honor, if I may, I just want to speak very
9 directly about a few of the things that are really two
10 categories of areas where Clare simply had no involvement and
11 I think that's important; both because of mentions in open
12 court and because of what Your Honor has read.

13 We are delighted and relieved that the September
14 24th letter from the Government, that the Government at a
15 minimum admitted that it, quote, had not argued that DOS
16 victims disclose their membership in DOS, in quotes, to Clare.
17 So it's not just me screaming it to the mountaintops that
18 Clare knew nothing about DOS. The Government has now said
19 that they're not even arguing that people told Clare about
20 DOS. It was a secret society.

21 As we said in our papers and we will say it again
22 Clare Bronfman denounces and renounces in all of its forms any
23 sex trafficking, any human trafficking, or any sort of sex
24 cult, whatever the terms are. Clare Bronfman absolutely
25 denounces that, as we said, at several points in our papers.

1 It was a secret organization. She was not told about it and
2 because she wasn't told about it, there is no way she would
3 know about the branding and so many pages, page after page
4 after page in both the Government's submission and in the
5 pre-sentence report were related to DOS and when DOS was a
6 secret organization. There may be some argument about DOS but
7 everything having to do with DOS, including the branding, was
8 secret. We made the representation, the Government now makes
9 the representation and I would even draw Your Honor's
10 attention to Ms. Bouchey, who said that many were directed,
11 and I'm quoting, to lie to Clare: You thought you were in the
12 inner circle, you were six layers out, end quote.

13 People were directed to lie to Clare to keep certain
14 things from Clare and all of the issues about DOS simply were
15 kept from Clare. And, indeed, when Clare learned about them
16 like the rest of the world when there was a newspaper article,
17 the Government's own witness, Ms. Saltzman at the hearing at
18 which Your Honor presided, said they were further directed to
19 lie to Clare about the scope of what was going on and they
20 were further directed to lie to the investigators that Clare
21 hired in her position as essentially a board member in order
22 to investigate what in the world was going on and that's what
23 Clare wanted to know.

24 But the Government's own witnesses told Your Honor
25 that they were lying, still then, and Clare did not know the

1 full scope and maybe as she sits here today maybe not even the
2 full scope, until the trial. So, I just wanted to make that
3 point with respect to DOS.

4 Next, with respect to the money that Clare spent
5 over the years, I fear that Your Honor may be left with an
6 impression that Clare just sort of willy-nilly gave money to
7 Mr. Ranieri to do as he places and, indeed, the submissions
8 make very sweeping claims that Ms. Bronfman enabled
9 Mr. Ranieri in all sorts of ways with the funds.

10 The truth of the matter, Your Honor, is that the
11 money can be separated into three distinct areas. It's
12 provable. It's calculable. The Government knows this. There
13 are records and there are receipts and I will just mention as
14 well, not one dime of Ms. Bronfman's money went to DOS,
15 there's no wire transfer, no check, no cash, nothing, zero.
16 But the three categories are demonstrable.

17 The first category, about \$67 million went to paying
18 calls on commodity trades, not as the Government puts it, 67
19 million to Keith Ranieri to go and play in the commodities
20 market. These were calls on previous investments. 67 million
21 went to that. That had nothing to do with the operation of
22 Nxivm. Nxivm had, as I mentioned, 17 or 18,000 people. It
23 made millions of dollars, even tens of millions of dollars
24 over the years so that was one category of money, a big chunk.

25 THE COURT: So whose trades were they?

1 MR. SULLIVAN: Some were Keith Raniere's and others
2 were friends. They were involved in Nxivm, but friends of
3 Clare who were investing in the commodities market. My
4 colleague can help put together a list, if Your Honor wants.
5 I don't have it off the top of my head but trades of friends.
6 And she covered them fully expecting, as the way calls work,
7 fully expecting that he would recoup, but --

8 THE COURT: Well, Mr. Raniere didn't have a job, as
9 far as I can tell. He wasn't earning a big, big paycheck and
10 he had \$67 million worth of calls at one point on commodities
11 trades?

12 MR. SULLIVAN: No, Your Honor. Not as I understand
13 it.

14 THE COURT: It's a diversion in a sense, but let's
15 try to find a point on it. Wouldn't that tell someone, a
16 person of means, a multimillionaire, that something is wrong
17 here; that someone invested all of this money and now they owe
18 \$67 million in commodities trading? What does that tell you?
19 That is a rhetorical question. What does that tell you about
20 the individual who you are doing business with or who you are
21 associated with? I think it is strange.

22 MR. SULLIVAN: It could be, very well. The first
23 point is that it wasn't all calls from Mr. Raniere. There
24 were other people involved. The second point is that as far
25 as Clare knew, that Mr. Raniere was supported by his longtime

1 life partner who was a woman of independent means.

2 How those people involved invested in the market was
3 not Clare's doing, but they were in the market. There were
4 calls. If calls are met and if it works out, as Your Honor
5 knows, she would have gotten her money back. She didn't. She
6 lost a lot of money. She was not happy about that at all.

7 THE COURT: What year was that. I do not recall?

8 MR. SULLIVAN: '05.

9 THE COURT: She was upset, but she continued to have
10 a relationship with Mr. Ranieri until 2018 when they were
11 arrested. I wanted to understand what's at play here. I am
12 just following up on your issue.

13 MR. SULLIVAN: Indeed. Perhaps he and others were
14 not good commodity investors. She also made more money than
15 she lost in that period investing and other things personally.

16 THE COURT: I see. Go ahead.

17 MR. SULLIVAN: Yes. But to say that he and others
18 may have been bad investors in the commodities market is not
19 to say that she was aware of a RICO enterprise in Nxivm per
20 se. \$30 million, Your Honor, went to the Ethical Science
21 Foundation. If Your Honor has had a chance to look at the My
22 Tourette's documentary that we submitted, from Clare's vantage
23 point, she was able to see how her investment in a scientific
24 endeavor played out. Viewing the video, which I have
25 certainly done many times, the results were incredible. These

1 were people with severe Tourette's Syndrome who -- Clare is
2 not a doctor. She didn't do the doctoring part of it. She
3 was an investor, but these are people with severe Tourette's
4 Syndrome who, in the end, were speaking more fluently than I
5 am speaking today. It was simply, simply an incredible
6 change. And that's the bulk of the money; responding to calls
7 and the money for the Ethical Science Foundation.

8 Now, there were -- the remaining had to do with
9 litigation and I certainly don't think it's appropriate now
10 and I don't intend to go litigation by litigation and talk
11 about that, but, yes, she did fund lawyers in her capacity as
12 a board member of Nxivm where she thought that intellectual
13 property and the like of Nxivm was stolen.

14 The only thing I would say --

15 THE COURT: There is nothing in this record in
16 particular about the advice that she was given by attorneys as
17 to whether these cases were serious cases that -- where the
18 rights of the plaintiffs were significantly affected which
19 would cause a mature, wealthy individual to provide funding
20 for an extended litigation. I mean, all we've got is they
21 brought this case and they brought that case and then we hear
22 from victims of these lawsuits which may or may not be
23 significant in the sentencing here, but there is nothing --

24 I have never been provided with any kind of
25 professional statement of counsel as to the kind of advice

1 that was given to Ms. Bronfman. They don't have to. I'm not
2 saying they should, but if you are saying that these were bona
3 fide lawsuits against people who had done wrong, civilly or
4 otherwise, then this was an opportunity to clarify that; and
5 you have not clarified that because these lawyers have not
6 come forward to tell me, like the lawyer in Mexico, to tell me
7 that this lawyer counseled Clare that there was something awry
8 that caused her to bring -- to threaten litigation against
9 people who she used to have relationships with.

10 So why are we even talking about it other than she
11 paid for a litigation? I heard that.

12 MR. SULLIVAN: I will make three points in response
13 to Your Honor's concerns. First, with respect to every
14 jurisdiction of which I'm aware, an attorney has an ethical
15 obligation that prohibits him or her to bring suits or
16 institute legal proceedings just to vex an innocent. I'm not
17 aware of any jurisdiction that allows that. That's an
18 inference that Your Honor can draw.

19 THE COURT: I do not draw that inference without
20 evidence --

21 MR. SULLIVAN: The second --

22 THE COURT: -- because you are asking me to believe
23 that there was a bona fide reason for, you know, writing a
24 check which had an adverse effect on certain people for years
25 and years and years and that it was a -- that it was done in

1 good faith, all right? The question of good faith is
2 something that I can take into account. I can take good faith
3 into account, but there is no way for me to infer that there
4 was good faith here because no effort was made by your client
5 to associate her actions with the claim of good faith. That's
6 all I'm saying. But it doesn't matter. It is what it is. We
7 have what we have. Let's just move on.

8 MR. SULLIVAN: May I just clarify the record with my
9 final two points?

10 THE COURT: Sure.

11 MR. SULLIVAN: The second point is we put in our
12 initial submission that most of the litigation claimed to be
13 vexatious was, in fact, successful in courts of competent
14 jurisdiction; another basis for the Court to draw an
15 inference.

16 And, third and finally, to the extent that the Court
17 is not moved by any of those two inferences, then it's
18 certainly not Clare who didn't bring it forward. It's me as
19 her counsel and I'm ineffective in that respect and I will --
20 I certainly will live with that, but my representation is that
21 these cases were filed in good faith. I'm happy to provide --

22 THE COURT: Well, Mr. Sullivan, you are just the
23 third in a series of very capable lawyers who have been
24 counseling Ms. Bronfman over the course of this litigation.
25 You are not alone.

1 MR. SULLIVAN: Very well, I guess I'm not that
2 capable if we didn't prove up that point sufficiently. But
3 that's the final category, a large category, of where the
4 monies went. But that's -- almost 100 million went to two
5 things clearly unassociated with Nxivm as an organization.
6 And I just think that is an important aspect to at least
7 highlight for Your Honor.

8 THE COURT: Counsel, Raniere was Nxivm and if your
9 client was bailing out Mr. Raniere, she was in effect bailing
10 out Nxivm, no?

11 MR. SULLIVAN: I don't agree with that as I
12 understand the corporate structure of Nxivm, Mr. Raniere could
13 have issues. He certainly was the founder and the charismatic
14 leader and, yes, if he failed, I suppose Nxivm would have
15 failed. My simple point was that 100 million didn't go to the
16 corporate entity itself; that it was quite well self-sustained
17 and, to my knowledge, none of the earnings from the corporate
18 entity went to the commodities or anything like that. You
19 know, the 30 million for Ethical Science Foundation was a
20 group within Nxivm, but it was self-funded for that and, of
21 course, no one has ever claimed that that money didn't go to
22 that research. So that's --

23 THE COURT: Okay. Go ahead.

24 MR. SULLIVAN: So, the final section here, Your
25 Honor, we submitted as well a number of character letters

1 about Clare. Because of the rules of court and federal
2 statutes they obviously do not have the opportunity to make
3 the claims in front of Your Honor in open court but we ask
4 Your Honor to consider these as well. These are people who
5 have known Clare, some dated back to her pre-Nxivm days,
6 people within Nxivm who certainly had a very different
7 understanding and appreciation of the value or of the
8 organization and some people who may not be fond of Nxivm
9 anymore, but are still extraordinarily fond of Clare Bronfman
10 and these letters weren't sort of created out of whole cloth
11 because of the range.

12 People who have even encountered Clare on somewhat
13 of a random basis, her acupuncturist, for example, all see
14 within her a desire to do good and be helpful. Indeed some of
15 the character witnesses that Your Honor heard from even
16 mentioned that this seems to be at the core of Clare's
17 personality; that she wants to do good, wants to be a
18 humanitarian. If Your Honor finds that that desire was
19 misused or somehow corrupted through this vehicle of Nxivm,
20 that just doesn't speak to what is deep within Clare's
21 character and what she understood herself to be doing in an
22 attempt to help people in an organization whom she cared
23 deeply for and to help an organization that she and others,
24 for some long periods of their lives, cared deeply for.

25 Now, I certainly grant that Your Honor heard a

1 six-week trial and there is a lot that came out about Nxivm as
2 one witness, Ms. Bouchey pointed out, was absolutely behind
3 the curtain, was absolutely just hidden and specifically
4 hidden to Clare Bronfman. I think that was one of the most
5 significant statements that came out to date, explicitly
6 directed was the word that was used, directed, to lie to Clare
7 Bronfman about things going on behind the curtain.

8 So, to the extent Your Honor is thinking through how
9 to fashion an appropriate sentence, what was motivating Clare
10 to spend her resources versus what was not and one thing that
11 clearly was not was recruiting people for sex slavery or
12 bondage or DOS and all of that that has occupied just so much
13 paper and has been the result of at least me having to spend
14 so much time on an issue that, you know, six days before
15 trial, the Government said we're not even -- we're not arguing
16 that anymore.

17 But it is so colored, Your Honor, the perception of
18 Clare as an heiress funding a sex cult, when it's just not
19 true. Clare's actions after the arrest and so forth have
20 become a matter of dispute here and I will just say very
21 briefly that at the trial of Mr. Raniere, Your Honor heard
22 that key persons were told to lie to Clare about what was
23 going on and her statement about it being a sorority, not
24 unlike a fraternity, was simply a function of what people whom
25 she loved and trusted -- Nancy Saltzman, as Your Honor knows

1 was the witness, people whom she loved and trusted told her
2 and she -- and she gave voice to that --

3 THE COURT: Lauren Saltzman or Nancy Saltzman?

4 MR. SULLIVAN: I'm sorry. It was Lauren. The
5 daughter, Lauren Saltzman. If I said the wrong name, forgive
6 me.

7 THE COURT: I wanted to correct the record.

8 MR. SULLIVAN: Lauren Saltzman. And that's the
9 Government's witness who said that and so to in any way, in
10 any way, impute a certain knowledge to Clare when she was
11 relying on people who she loved and trusted, strikes me as
12 unfair. And, so, in that sense, you know, this is the basis
13 of why we are asking for a probationary term.

14 Clare -- the thing -- the entity that many have
15 claimed through very vivid imagery used Clare in a way that
16 aided in things that it was doing outside the scope of its
17 charter is no more. That was a very garbled way of saying,
18 Your Honor, that Nxivm as an institution doesn't exist. There
19 isn't a reason then to think that Nxivm is going to in any way
20 use Clare's wealth even unknowingly, even use it in a way that
21 is problematic and troubled.

22 With that behind us, Your Honor, the two matters for
23 which Clare pleaded to were -- the first, of course, Your
24 Honor had to do with Jane Doe Number 12 and it's the harboring
25 an illegal alien. Clare was wrong and she apologizes

1 profusely for doing that.

2 She indeed violated the immigration laws in
3 attempting to get Jane Doe 12 back into the -- or keep her, I
4 should say, in the country. We've laid out context in our
5 papers. I won't be repetitive. But, yes, she was absolutely
6 wrong for that and stands ready to be judged by Your Honor for
7 that.

8 The second use of a credit card in violation to the
9 applicable statute. Once again, Your Honor, that violated the
10 law. Clare Bronfman is remorseful. Clare Bronfman is very
11 sorry that she did that and, indeed, and indeed, as we put in
12 our papers once she figured out that that was improper, she
13 stopped it. It's not like it was part of a diabolical plan to
14 continue in perpetuity. Once she found out that this is not
15 the way to do it, it's improper, it's illegal, she stopped it.

16 Now, the Government claims that this was in some way
17 in order to shield Keith Raniere from showing income and that
18 claim seems inconsistent with everything else about this
19 matter. Her purpose was to get income and care for MF. That
20 was her purpose. Now, the Government has erected a theory
21 that this is to shield Keith Raniere from tax liability and so
22 forth, but again that doesn't seem to follow because Clare
23 understood that Keith Raniere was inheriting all of Pam's
24 wealth and that's why she, again mistakenly and wrongfully,
25 used the credit card and continued paying those bills because

1 she thought, well, it was going to him in a way and the
2 paperwork would get done at some point and it would all be
3 his. So she can't both think that Pam's wealth, and I heard a
4 figure of \$8 million, I have no idea, but Pam's wealth was
5 going to Keith, but yet she's using a credit card to -- in
6 this way so that his -- so that he can avoid taxes on
7 something that she thought was going to him? It's
8 inconsistent, Your Honor.

9 She was helping MF. That's what she pled to and
10 that's what she allocuted to and that was her desire. It
11 violates the law. Clare is very sorry. She should have done
12 her due diligence up front. She should never have used the
13 credit card, continued to authorize the use of the credit card
14 to a person who has passed away, and for that she is sorry.
15 The point I am simply trying to express to Your Honor is that
16 her doing so was not part of some grand scheme to shield money
17 from Keith. It was part of what is illegal and intentioned to
18 keep funding a dear friend, MF.

19 So, Your Honor, this case has been briefed even --
20 perhaps even more than Your Honor even likes with 80 pages
21 here, 60 pages there, another 50 pages in response and letters
22 flying back and forth. I'm going to adopt by reference all
23 the arguments made in our submissions and all the responses to
24 everything that Your Honor -- that Your Honor included. I
25 made a note, Your Honor, and I apologize that I was slow on

1 the draw, but there were two letters exchanged on September
2 24th that I think were fairly part of the sentencing
3 submission as well and the one letter is the one I referenced
4 where -- from the Government on September 24th where in a
5 footnote the Government said that it is not arguing that DOS
6 victims disclosed their membership in DOS to Clare. I think
7 it's an important part given the pages and pages about DOS.

8 THE COURT: Thank you.

9 MR. SULLIVAN: So forgive me if I was slow on that
10 but I wanted to add that.

11 And in conclusion, Your Honor, if permitted a period
12 of probation as we are asking for, Clare will continue to
13 attempt to use whatever wealth she has left to do some good in
14 this world. If nothing else, she has learned tremendously
15 from this experience about how to take ownership of what she
16 has and make independent decisions with -- and using advisors
17 to help inform her decisions, but to make decisions that just
18 comply with not only law but rules and norms. She is a
19 deeply, highly scheduled person; an individual who wants to
20 dot every I and cross every T and to just use a colloquial
21 phrase, do the right thing, Your Honor.

22 That's the Clare Bronfman that sits here before you
23 right now, an individual who has always been committed to
24 being in the service of humanity and now has even recommitted
25 to being in the service of humanity. Things obviously over

1 the last few years got distorted in a way that we can never
2 turn back. But what she can do and what she's committed to do
3 and what she will do going forward is to take the same desire
4 that got her to do the Ethical Science Foundation, the one
5 that got her to think about how to help people suffering from,
6 in this case, a neurologic disorder, but suffering is what --
7 when Clare sees someone suffer, she steps in.

8 As Your Honor knows, she's a business owner. And
9 when COVID hit, like every place else, it went from an income
10 to zero; to zero, to closed down, shut down. Clare did not
11 fire, did not lay off a single employee, but rather used what
12 resources she had to continue to pay those families so that
13 they can eat and feed their children and educate them and so
14 forth. When Clare sees hurt and suffering, she attempts to
15 step in.

16 And that she has caused hurt and suffering is deeply
17 upsetting to her, I mean down to the marrow of her bone and
18 her core, Your Honor, deeply upsetting that she could be the
19 cause of suffering when all she wanted to do was to help
20 people.

21 THE COURT: Thank you.

22 MR. SULLIVAN: With a brief indulgence, Your Honor,
23 in case I neglected something.

24 (Pause in proceedings.)

25 MR. SULLIVAN: Thank you very much.

1 THE COURT: I will hear from Ms. Bronfman after I
2 have heard from the Government.

3 MS. HAJJAR: Thank you, Your Honor. The Government
4 respectfully requests that the Court impose a sentence of 60
5 months. Based on everything that's before the Court; the
6 exhibits, the memoranda the victim impact statements, the
7 testimony at Ms. Bronfman's co-defendant's trial, such a
8 sentence is warranted and it's necessary to accomplish the
9 goals of sentencing. Every factor the Court must consider
10 under Section 3553(a) weighs in favor of a significant
11 custodial sentence, not a sentence of probation.

12 Turning first to the history and characteristics of
13 this defendant and the nature of the offenses, this is no
14 ordinary alien smuggling case. Clare Bronfman recruited
15 individuals into Nxivm and promised to pay them a professional
16 salary as required by immigration law. And then once they
17 were here in the United States, Clare Bronfman exploited her
18 victims for free labor by dangling that salary in front of
19 them without painting them.

20 Starting with Jane Doe 12, whom the Court heard from
21 today, Clare Bronfman promised to pay Jane Doe 12 \$3,600 a
22 month or over \$43,000 a year as a management consultant in
23 order to get her a work visa, but the defendant never planned
24 on paying her that salary. Instead, she paid Jane Doe 12 a
25 little over \$4,000 for over a year of work, which is less than

1 a third of the annual salary of a minimum wage worker.

2 Defense counsel in his remarks referred to context
3 in terms of the communications between the defendant and Jane
4 Doe 12. The only context that's reflected in the e-mails
5 between Jane Doe 12 and the defendant was that Jane Doe 12 was
6 in a desperate financial situation. She sent e-mails to the
7 defendant asking her to approve a check for money that she had
8 earned and that check was less than \$200. She said it was an
9 emergency, that her health was suffering, that she needed the
10 money to see a doctor and Clare Bronfman refused to approve
11 the payment. That's the context of their communications.

12 Now, the defendant has asked the Court to consider
13 only part of her conduct, only as to Jane Doe 12, but as all
14 of the e-mails in Exhibit A of the Government's sentencing
15 submission show, this happened again and again; that Clare
16 Bronfman had no respect for the law, that she repeatedly lied
17 and created false letters of employment.

18 (Continued on the following page.)
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25

1 (Continuing.)

2 MS. HAJJAR: And then in doing so, she secured a
3 workforce of people who were dependent on her and dependent on
4 NXIVM for legal status and for money.

5 And as just one other example, the defendant
6 recruited a woman from South Africa by writing a letter
7 purporting to award her a scholarship for her academic
8 talents. Instead, the woman earned a living by baby-sitting
9 children, by taking care of Bronfman's dogs, by cleaning the
10 defendant's house and by doing all kinds of other menial and
11 unpaid work. And as indicated in the woman's impact
12 statement, she had to beg Bronfman to pay her tuition each
13 semester. And each time she did, the defendant asked her, "Do
14 think you do enough to earn it?"

15 In the government's view, the guidelines don't begin
16 to take into account the gravity of the defendant's conduct.
17 This was not simply helping someone across the U.S. border.
18 This was a sophisticated operation. Claire Bronfman used
19 lawyers and falsified letters of employment to secure visas
20 for people who genuinely wanted to work in the United States
21 and believed they were coming here to earn a living. Instead,
22 the defendant exploited them by making them pay back the cost
23 of the visa through uncompensated work for her and for NXIVM.

24 I don't know what to make of defense counsel's
25 argument that as to the other count, the identity theft count,

1 that the defendant was unaware that this was in service of
2 attempted tax evasion. That is what is charged in the
3 information and that is what the defendant pled to, commission
4 of that crime in connection with attempted tax evasion.

5 Now, I want to address two of the points, the main
6 points that counsel made in his remarks to the Court. And the
7 first relates to DOS, which the defendant's sentencing
8 submissions focus on. And from the beginning, the
9 government's arguments about DOS have been based on the
10 evidence, the e-mails that the defendant does not dispute she
11 received and she does not dispute she wrote. After the
12 existence of DOS became known to members of the NXIVM
13 community, the defendant received letters from DOS victims
14 requesting the return or the destruction of their collateral.
15 These letters were not ambiguous. They specifically
16 identified the collateral. They described it as naked
17 photographs, videos of branding, videos of paddling, and
18 confessions of devastating secrets. The DOS victims made
19 clear they were lied to in providing this collateral and they
20 said they wanted it back and they wanted it destroyed. Claire
21 Bronfman didn't respond to these letters, she didn't undertake
22 any genuine investigation of what had happened. Instead, she
23 and Raniere drafted threatening letters to DOS victims that
24 were sent by attorneys in Mexico. The defendant also tried to
25 have criminal charges filed against Sarah Edmondson, one of

1 the most vocal of the DOS victims, which Your Honor heard from
2 today. And I just briefly want to address the defendant's
3 explanation of this conduct in the reply memorandum. This is
4 on pages 14 and 15 of the reply filing.

5 First, Claire Bronfman argues the fact that she
6 received these requests for collateral shouldn't be held
7 against her because they were also sent to other members of
8 the NXIVM executive board and those people weren't charged.
9 And that's simply not true. Keith Raniere, Lauren Salzman,
10 and Nancy Salzman also received those letters, all of whom
11 were criminally charged. But more significantly, that
12 argument completely misses the point. We are not talking
13 about the culpability of other members of the NXIVM executive
14 board, we are talking about what the defendant did after
15 receiving those letters.

16 On page 15 of the defendant's reply memorandum, she
17 discusses her efforts to send threatening letters to DOS
18 victims, and this was alluded by counsel today, a couple of
19 minutes ago. She says that she would never try to silence
20 crime victims. She was in possession of evidence that NXIVM's
21 computers had been hacked into and that the NXIVM client
22 roster was being contacted in Mexico, and that misusing
23 NXIVM's client list to cause harm to the company was properly
24 against the law in Mexico and the attorneys in Mexico took
25 action based on that. That argument is completely

1 contradicted by the facts. These letters were drafted by the
2 defendant and by Raniere, not by any lawyers. The DOS victims
3 who received these letters had no involvement with NXIVM
4 Mexico. They had nothing to do with misusing NXIVM's client
5 list.

6 And I'd like to point the Court to the actual
7 letters, which are in Exhibit B of the government's sentencing
8 memorandum. And those letters make clear that they have
9 nothing to do with misusing NXIVM's client list or that they
10 were genuine cease-and-desist letters from Mexican attorneys.
11 They read, "You are currently connected to several criminal
12 investigations involving fraud, coercion, extortion and a
13 series of other crimes. I strongly suggest that you cease and
14 desist, undo, reverse, cancel and retract participation in all
15 past, present and future conversations, conference calls,
16 meetings, news media, social media, blogs or web sites."

17 This wasn't about misusing NXIVM client lists, this
18 was about, quote, "news media, social media, blogs and web
19 sites." Bronfman wanted to scare these victims and make sure
20 they didn't go to the New York Times, like Sarah Edmondson
21 did, to make sure they didn't speak up about their abuse. And
22 this was a pattern of behavior in which the defendant used the
23 threat of criminal charges to silence those she perceived to
24 be hostile to Keith Raniere. And all of the e-mail
25 communication with Stephen Herbits in Exhibit C illustrate

1 those efforts.

2 Now, as the Court knows, sex crimes can be difficult
3 to investigate and prosecute, in part because victims are
4 often reluctant to speak about what happened to them. And
5 Bronfman used her position of power and her attorneys to try
6 to intimidate these victims into silence, and this, too,
7 warrants a significant upward departure.

8 Next, the Court should consider the need to promote
9 respect for the law and the need to afford adequate
10 deterrence. And what is especially concerning to the
11 government in this regard is that even now Bronfman continues
12 to unequivocally support Raniere. The defense suggests that
13 the defendant didn't know the details about DOS or every
14 detail about all of Raniere's crimes, but she knows now. And
15 even though Raniere has been convicted by a jury of sex
16 trafficking, forced labor and exploitation of a child, the
17 defendant still does not acknowledge that his conduct was
18 unlawful or wrong. And that's significant because it suggests
19 the defendant, who has supported Raniere without question or
20 limitation for decades, will continue to do so.

21 Now, in remarks today, counsel tried to
22 re-characterize some of Ms. Bronfman's financial support of
23 Raniere. And I don't want to belabor this, but I do briefly
24 want to respond to their argument about the \$67 million that
25 were provided to Raniere. Your Honor, the defendant's own

1 objections to the PSR -- this is on page 25 -- acknowledge
2 that she made the \$67 million investment to, quote, "allow
3 Raniere to invest in the commodities market." That language
4 could not be clearer. This was the defendant's own objections
5 filed by prior counsel. But the truth doesn't change just
6 because Ms. Bronfman has new counsel. This was in this
7 objection to the PSR.

8 And what's more, in a lawsuit, in a trial in 2011,
9 Claire Bronfman testified under oath that this was a loan to
10 Keith Raniere. I have copies of the transcript for the Court
11 and for the defense. But this is the portion of -- the
12 relevant portion of the transcript:

13 "Question: So the \$65 million that Mr. Raniere
14 borrowed and lost in the commodities markets, he never had to
15 sign any loan document form, correct?

16 "Answer: Correct."

17 These arguments about the loan to Keith Raniere,
18 about funding ESF, which the Court has heard about as a
19 vehicle to provide visas for those who were coming into the
20 United States to work for a different -- a NXIVM entity. They
21 attempt to minimize the defendant's behavior in ways that
22 suggest that she has not fully accepted responsibility for
23 this conduct. And counsel's argument that Raniere was not
24 NXIVM or not DOS simply misses the boat. There is no check in
25 which the defendant wrote Claire Bronfman to DOS that was not

1 a corporate entity, but she supported Raniere in full without
2 limitation or restriction, and that is what the government
3 respectfully asks the Court to consider in terms of
4 deterrence.

5 And lastly, Your Honor, there also is a strong need
6 for general deterrence in this case. The fact that the
7 defendant used attorneys to commit these crimes makes them
8 particularly difficult to investigate and to prosecute. A
9 significant sentence will deliver a much needed message that
10 this conduct will have serious consequences. The government
11 respectfully submits that there are no mitigating factors that
12 warrant the sentence of probation that is requested by the
13 defendant. The defendant's compliance with the terms of her
14 pretrial release is not a basis for probation. The COVID-19
15 pandemic, the defendant has provided no basis to impose a
16 sentence of probation on that ground. The government urges
17 the Court to impose a sentence of no less than 60 months,
18 because that is what is necessary to accomplish the goal of
19 sentencing.

20 THE COURT: Anything else from you, Mr. Sullivan?

21 MR. SULLIVAN: Nothing else, Your Honor.

22 And we're ready for Ms. Bronfman when the Court is.

23 THE COURT: Yes. At this time, Ms. Bronfman, if
24 there is anything you would like to say before I sentence you,
25 please stand up, if you feel up to it, and make your

1 statement.

2 THE DEFENDANT: Thank you, Your Honor.

3 THE COURT: If you are reading, read slower, please.

4 THE DEFENDANT: Thank you, Your Honor.

5 THE COURT: Okay.

6 THE DEFENDANT: I'm sorry, my bracelet, it keeps
7 going off.

8 THE COURT: Your what?

9 THE DEFENDANT: My ankle bracelet keeps going off.
10 I apologize.

11 THE COURT: Oh.

12 MR. SULLIVAN: That's the noise, if Your Honor hears
13 it.

14 THE COURT: Just go ahead, please.

15 THE DEFENDANT: Your Honor, I'm immensely grateful
16 and privileged because all over the world today people are
17 praying for me because they know my goodness. I'm saying this
18 because, one, I'm grateful that they're praying for me and,
19 two, because I hope you will see a glimmer of what they see in
20 me. It doesn't mean I haven't made mistakes, because I have
21 made mistakes. I'm standing here before you today because of
22 my mistakes and my wrongful choices, and for that I am deeply
23 sorry.

24 I would also like to apologize to my friend who came
25 here today who is sitting in the room. I am truly sorry for

1 all of your hardship and any pain that I caused you and I
2 truly hope you can forgive me and that you can live a very
3 happy life. Sorry.

4 Your Honor, lastly, I'm sorry for the time and the
5 resources that I have taken from this court and from yourself
6 for my actions. Thank you.

7 THE COURT: Please be seated.

8 The Court is going to make a sentencing statement at
9 this time. A copy of the statement will be placed on ECF
10 immediately following this proceeding for anyone who wishes to
11 access it.

12 All right. Having calculated the guidelines range,
13 I now turn to the sentence I will impose. It is
14 well-established law that the sentencing guidelines are merely
15 advisory rather than binding under this court. Accordingly,
16 Supreme Court and Second Circuit precedent require that I
17 determine an independently reasonable sentence based on an
18 individualized application of the statutory sentencing factors
19 in Title 18, United States Code, Section 3553(a). And while
20 as the Second Circuit has noted, that in the overwhelming
21 majority of cases a guideline sentence will fall comfortably
22 within the broad range of sentences that would be reasonable
23 in the particular circumstances, that is not always the case.
24 That is particularly true in a case such as this one where the
25 crimes of conviction standing alone do not fully encompass the

1 larger pattern and misdeeds perpetrated by Ms. Bronfman. This
2 case is not about an isolated incident of credit card fraud or
3 the run-of-the-mill case of harboring of illegal aliens for
4 financial gain. To the contrary, the crimes to which
5 Ms. Bronfman has pleaded guilty exist in the larger context of
6 the crimes committed by her codefendants, including Keith
7 Raniere. A brief description of that context is therefore
8 necessary before turning to an analysis under Section 3553(a)
9 factors.

10 Raniere is the founder of an organization called
11 NXIVM, a self-styled executive coaching and self-help
12 organization that functioned as a pyramid scheme in which
13 members paid thousands of dollars for various workshops and
14 new members were recruited via the promise of payments or
15 services for enrolling others into the scheme. Raniere made
16 members of NXIVM call him, quote, "the Vanguard," end quote,
17 and he maintained a rotating group of 15 to 20 female NXIVM
18 members with whom he maintained sexual relationships. These
19 women were not permitted to have sexual relationships with
20 anyone but Raniere or to discuss with others their
21 relationship with Raniere.

22 From at least 2009 to 2018, Ms. Bronfman served on
23 NXIVM's executive board. In 2015, Raniere created a secret
24 society called DOS, D-O-S, or the VOW. As the PSR explains,
25 quote, "DOS was comprised of all female masters who were NXIVM

1 members who recruited and commanded groups of all female
2 slaves. In identifying prospective slaves, masters often
3 targeted women who were experiencing difficulties in their
4 lives, including dissatisfaction with the pace of their
5 advancement in NXIVM. Each DOS slave was expected to recruit
6 slaves of her own, who in turn owed service not only to their
7 masters but also to masters above them in the DOS pyramid.
8 Raniere alone formed the top of the pyramid as the highest
9 master. Other than Raniere, all participants in DOS were
10 women. Raniere's status as head of the pyramid was concealed
11 from all newly recruited slaves, other than those directly
12 under Raniere. DOS masters persuaded slaves to join DOS by
13 falsely describing it as a secret women's empowerment group
14 and that the goal of DOS was to eradicate weaknesses in its
15 members. Prospective slaves were required to provide
16 collateral to prevent them from leaving the group or
17 disclosing its existence to others. Collateral included
18 sexually explicit photographs and videos of themselves, rights
19 to financial assets, and videos or letters of true or untrue
20 confessions that would be damaging to the prospective slave's
21 family members and friends. After joining DOS, slaves were
22 required to provide additional collateral, including sexually
23 explicit photographs and to pay tribute to their masters,
24 including by performing tasks that would otherwise be
25 compensable. In addition, several DOS slaves were directed to

1 have sex with Ranieri to maintain membership." End quote.

2 And I would point out that adequate proof beyond a
3 reasonable doubt of this information was provided at Ranieri's
4 trial by victims who took the witness stand and to my
5 satisfaction, as well as to the jurors.

6 As the PSR addendum notes, Ms. Bronfman objects to
7 this paragraph of the PSR because the discussion of DOS,
8 quote, "creates a false impression that the defendant was
9 aware of or even a participant of DOS." End quote. While I
10 will discuss the extent of Ms. Bronfman's knowledge of DOS in
11 the context of Section 3553(a) factors, I note that this
12 paragraph does not state that Bronfman was aware of or
13 involved with DOS or that she directly funded it.

14 DOS operated to abuse and exploit young women for
15 sex, labor and financial gain. There are too many example to
16 name. To pick one, when a DOS slave developed feelings for
17 another man, Ranieri told her parents that she had committed
18 an, quote, "ethical breach," end quote, and ordered that she
19 be confined to her room in her parents home without human
20 contact. Many DOS slaves were to be branded with a symbol
21 which, unbeknownst to the slaves, represented Ranieri's
22 initials. At Ranieri's instruction, the DOS victim being
23 branded was held down by other DOS slaves and required to
24 state, quote, "Master, please brand me. It would be an
25 honor." End quote.

1 Following a six-week jury trial over which I
2 presided, Raniere was convicted of racketeering, racketeering
3 conspiracy, wire fraud conspiracy, forced labor conspiracy,
4 sex trafficking conspiracy and two counts of sex trafficking.
5 To be crystal-clear, Ms. Bronfman was not convicted of any of
6 those crimes, Ms. Bronfman was not convicted of participating
7 in any racketeering activity, and there were many aspects of
8 Mr. Raniere's crimes in which Ms. Bronfman very well may have
9 not have been familiar. Ms. Bronfman vigorously disputes the
10 proposition that she was aware of either DOS or any sex
11 trafficking that Raniere engaged in and she vigorously
12 disputes the proposition that she knowingly funded DOS or sex
13 trafficking activity. I agree with Ms. Bronfman that the
14 available evidence does not establish that she was aware of
15 DOS prior to June 2017 or that she directly or knowingly
16 funded DOS or other sex trafficking activities. However, I
17 believe that this background about not only Raniere and NXIVM
18 in which she held a leadership role, but also DOS in which
19 there is no evidence that she directly participated, is
20 relevant context for my analysis of the appropriate sentence
21 for Ms. Bronfman. Ms. Bronfman's crimes were not committed in
22 a vacuum, they were committed in connection with a role in
23 NXIVM and a close relationship with Raniere, and I believe it
24 would be inappropriate for me to consider them divorced from
25 that context.

1 Before turning to an analysis of Section 3553(a)
2 factors, it is important to say a word about what I will be
3 considering in that analysis. First, I have reviewed the
4 parties' sentencing submissions, I have read the 67 letters
5 submitted in support of Ms. Bronfman, as well as the many
6 victim letters that have been submitted. I have listened
7 carefully to the victims' statements made here today in court
8 and I have heard and considered counsels' arguments. I have
9 also considered testimony adduced at Raniere's trial to the
10 extent that it is relevant and has been proven in my view by a
11 preponderance of the evidence. It is well settled that the
12 scope of the sentencing judge's inquiry when analyzing the
13 Section 3553(a) factors is largely unlimited as to the kind of
14 information the district court may consider and it is free to
15 consider evidence of uncharged crimes, dropped counts of an
16 indictment and criminal activity resulting in an acquittal in
17 determining sentence. I am not bound by rules of evidence
18 that would pertain to at a trial and I am not limited to
19 considering admissible evidence in determining an appropriate
20 sentence. Particularly relevant here, the Second Circuit has
21 repeatedly held that a sentencing court is entitled to rely on
22 information gleaned from a trial in which the person to be
23 sentenced was neither a defendant nor represented by counsel.

24 I now turn to the Section 3553(a) factors. Under
25 Section 3553(a), I must consider several factors in imposing a

1 sentence, including the nature and circumstances of the
2 offense, the defendant's history and characteristics, the need
3 for the sentence to reflect the seriousness of the offense, to
4 promote respect for the law and to provide just punishment for
5 the offense, the need for the sentence to afford adequate
6 deterrence and the need to protect the public.

7 Ms. Bronfman argues that a below guidelines
8 noncustodial sentence is appropriate because there are no
9 aggravating factors and because her actions were, quote,
10 "never ill-intentioned," end quote. The evidence suggests,
11 however, that Ms. Bronfman's conduct underlying her conviction
12 on Count One was particularly egregious because it was not
13 only dishonest with respect to the United States Government,
14 but it was also dishonest and damaging with respect to the
15 individuals whom she harbored. Ms. Bronfman helped Jane Doe
16 12 to obtain a visa by representing that she would make \$3600
17 per month as a, quote, "management consultant," end quote, for
18 a NXIVM-affiliated fitness company Exo/Eso, E-x-o/-E-s-o.
19 Instead, Jane Doe was barely compensated for her work.

20 Her e-mail correspondence with Ms. Bronfman shows
21 that she repeatedly made Ms. Bronfman aware that
22 Ms. Bronfman's failure to deliver on the terms of the
23 employment agreement had left her in dire financial straits.
24 In November 2015, for example, Jane Doe 12 e-mailed
25 Ms. Bronfman that, quote, "with no money involved," end quote,

1 she was, quote -- it was, quote, "very difficult to support
2 herself and to keep pace with no income and with the
3 uncertainty of not knowing how I will live each day." End
4 quote.

5 The following month, in December 2015, Jane Doe 12
6 e-mailed Ms. Bronfman that because Exo/Eso was not paying her
7 the contractually specified wage she was owed, she needed to
8 find another source of income, quote, "to support myself
9 here."

10 Jane Doe 12's victim impact statement makes clear
11 that she felt tremendous pressure from Ms. Bronfman, who led
12 her to believe that she did not deserve the salary provided
13 for her in her employment letter because any business
14 difficulties that Exo/Eso endured were attributable to Jane
15 Doe's, quote, "personal issues." End quote.

16 According to Jane Doe 12's statement, Ms. Bronfman,
17 despite her financial needs and earlier commitments to the
18 contrary, explained that she, quote, "couldn't pay her," end
19 quote, because she had failed to enroll enough participants in
20 Exo/Eso to generate sufficient revenue.

21 Ms. Bronfman also used Jane Doe's immigration status
22 as a means of pressuring her to continue working without
23 compensation. When Jane Doe 12 e-mailed Ms. Bronfman to ask
24 if she could look for another job, Ms. Bronfman replied that
25 it, quote, "would impact the work agreement," end quote, and

1 cause possible visa issues. Those visa issues just popped up
2 whenever it was inconvenient for Ms. Bronfman to fulfill her
3 obligations, and that is a sword to force people to do things
4 and not get paid to do them. This is the same Ms. Bronfman
5 who, according to paragraph 183 of the presentence report, had
6 gross taxable income in the range of 26 million to over
7 \$30 million a year in the last four years that are reported.

8 Several months later, Ms. Bronfman e-mailed Jane Doe
9 12 that in order to, quote, "stay here," end quote, she needed
10 to address, quote, "one fundamental question yet to be
11 answered, what are you going to do to earn your visa?" End
12 quote.

13 Importantly, none of these facts are disputed.
14 Ms. Bronfman does not contend that she provided Jane Doe 12
15 with adequate or consistent compensation or honor the terms of
16 the employment agreement, rather she merely suggests that she
17 was surprised to learn that Jane Doe 12 was unhappy with the
18 circumstances of her employment and she thought their
19 relationship was, quote, "caring," end quote, and a, quote,
20 "friendship," end quote. But her characterization is belied
21 by Jane Doe 12's victim impact statement and by the e-mail
22 correspondence between Ms. Bronfman and Jane Doe 12.

23 In short, I find by a preponderance of the evidence
24 that Ms. Bronfman refused to honor the terms of Jane Doe 12's
25 employment agreement, demanded work from Jane Doe 12 without

1 compensation and emotionally manipulated Jane Doe 12 into
2 believing that her own personal failures and job performance,
3 not Ms. Bronfman's refusal to pay her, were the cause of her
4 precarious financial situation.

5 I think that part of Ms. Bronfman's statement was
6 directed this afternoon at Jane Doe 12, and it would appear to
7 me that Jane Doe 12 was affected by that. I saw it on her
8 face today. At this very moment in this very courtroom,
9 Ms. Bronfman is doing again what she did then. This judge is
10 not blind, Ms. Bronfman. I saw what you just did and I'm
11 speechless.

12 And all of this emotional and financial pressure
13 came with severe cost to the victim, a cost greater than the
14 sum of its parts. Jane Doe 12 was eventually recruited into
15 DOS, Raniere's secret society in which she was pressured into
16 giving up, quote, "collateral," end quote, and becoming a,
17 quote, "slave," end quote. I am not suggesting that
18 Ms. Bronfman had a direct role in Jane Doe 12's recruitment
19 into DOS or even if she was aware of it. The evidence before
20 me does not support such a proposition. But I do find that
21 the kind of pressure and mistreatment that Jane Doe 12 was
22 subjected to by Ms. Bronfman put her in a very vulnerable
23 state, the kind of state that could make a person more
24 susceptible to be recruited into an organization like DOS.

25 Moreover, the evidence suggests that this kind of

1 conduct was part of a pattern. Ms. Bronfman obtained a visa
2 for another noncitizen so that she could supposedly earn \$3600
3 per month as a management consultant at Exo/Eso. Three months
4 later, that woman e-mailed Ms. Bronfman to say that she had
5 not been, quote, "prepared for no income," end quote. Despite
6 this individual's financial predicament, e-mails between her
7 and Ms. Bronfman demonstrate that Ms. Bronfman's main concern
8 was that the individual, quote, "go above and beyond," end
9 quote, to pay her back plus interest.

10 Ms. Bronfman helped obtain a visa for another
11 noncitizen, a woman from India, and actually paid her a salary
12 but then required that the woman to pay her back when the work
13 responsibilities she was given were less than full time.

14 Adrian, the brother of Jane Does 2, 3 and 4,
15 submitted a victim impact statement in which he states that
16 Ms. Bronfman, quote, "told me she was going to help me with my
17 immigration problem, but she never did," end quote, and that
18 she repeatedly talked him out of returning to Mexico, but,
19 quote, "made sure I never got my visa so she would always have
20 something to hold over my head." End quote. Ms. Bronfman's
21 sentencing submissions suggests that she considered Adrian,
22 quote, "akin to a younger brother." End quote. Apparently,
23 the feeling is not mutual.

24 And at least one other woman who worked for
25 Ms. Bronfman and who was in the United States pursuant to a

1 visa that Ms. Bronfman helped to obtain was recruited into
2 DOS. As a DOS slave, she was coerced into an unwanted and
3 nonconsensual relationship with Raniere.

4 What is clear to the Court from all this is that
5 Ms. Bronfman made promises to immigrants that she did not
6 keep, exacted labor that she did not pay for and took
7 advantage of these individuals' financial straits and
8 immigration statuses in a manner that exacerbated both their
9 financial and emotional vulnerability and made them more
10 reliant on her and the NXIVM community, sometimes with very
11 harmful consequences.

12 Ms. Bronfman's conviction on Count Two for
13 fraudulent use of identification must also be considered in
14 the context of her relationship to Raniere and his history and
15 conduct. The charged conduct concerns Ms. Bronfman's use of
16 credit card and bank account information belonging to a
17 deceased individual who had been a close associate of hers and
18 Raniere's. Over the 15 months that followed this woman's
19 death, Ms. Bronfman paid approximately \$135,000 in bills
20 charged to the deceased's credit card. Additionally,
21 approximately \$320,205 in checks and \$736,856 total
22 disbursements were withdrawn from the deceased's account. The
23 government suggests that this conduct was consistent with
24 Raniere's habit of keeping expenses out of his name in an
25 effort to avoid tax liability, while Ms. Bronfman

1 characterizes her actions as a mere misunderstanding and a
2 victimless crime since the deceased had left the entirety of
3 her estate to Raniere. She also suggests that her only
4 involvement in the scheme was that her office handled the
5 bookkeeping for the deceased's account and that her role was
6 therefore minimal and indirect. Ms. Bronfman denies that she
7 engaged in any effort to intentionally help Raniere keep money
8 out of his name. I agree with her that the preponderance of
9 the evidence available to me does not suggest what her
10 specific intentions were in authorizing expenditures of a
11 deceased woman's money, but I do find by a preponderance of
12 the evidence that the facts underlying this offense are
13 consistent with a pattern of facts suggesting that Raniere
14 attempted to minimize money that was in his name. And I find
15 by a preponderance of the evidence that Ms. Bronfman's conduct
16 in committing this offense helped to facilitate those efforts
17 on Raniere's part, regardless of whether or not that is what
18 Ms. Bronfman understood herself to be doing. This crime, like
19 the crime in Count One, was committed within a larger context
20 of more serious crimes and alarming behavior by Ms. Bronfman's
21 codefendants and was consistent with the hallmarks and aims of
22 that behavior. That does not necessarily mean that
23 Ms. Bronfman shared in those aims, but it is still a relevant
24 context and I can take it into consideration.

25 Ms. Bronfman is a person of considerable privilege

1 and wealth, so much so, in fact, that she was able to give
2 NXIVM and other Ranieri-associated endeavors more than
3 \$100 million. There is nothing wrong with being wealthy, of
4 course, but I am troubled by the evidence suggesting that
5 Ms. Bronfman repeatedly and consistently leveraged her wealth
6 and social status as a means of intimidating, controlling and
7 punishing individuals whom Ranieri perceived as his
8 adversaries, particularly NXIVM'S detractors and critics.

9 For example, in 2008, in a 2008 e-mail to Stephen
10 Herbits, H-e-r-b-i-t-s, a friend of Ms. Bronfman's father whom
11 she believed to have political connections, Ms. Bronfman
12 inquired whether criminal indictments could be brought against
13 NXIVM critic Rick Ross. She wrote that the, quote, "Ross camp
14 needs to be fearful, back down and look to fix the damage they
15 have done," end quote," and that, quote, "the thought of
16 criminal charges may help inspire this." End quote. In a
17 separate e-mail, she indicated that she hoped Mr. Herbits
18 would, quote, "rapidly facilitate Mr. Ross's indictment and
19 conviction." Mr. Herbits testified at Ranieri's trial that
20 Ms. Bronfman also asked him to contact the Attorneys General
21 of New York and New Jersey to request that they prosecute
22 Mr. Ross.

23 Furthermore, Ms. Bronfman's efforts to intimidate
24 and silence NXIVM's critics were not limited to its prominent
25 and powerful detractors. In 2017, for example, she e-mailed a

1 Mexican lawyer photographs of three of Raniere's former
2 partners along with descriptors that seemed to be aimed at
3 facilitating the former partners' contemporaneous
4 identification. According to the government, all three of
5 these women had become vocal critics of Raniere. It is not
6 clear from the record why Ms. Bronfman wanted this lawyer to
7 be able to visually identify these women, but it is hard to
8 imagine an innocuous explanation.

9 Numerous victim impact statements from other
10 individuals corroborate the fact that Ms. Bronfman was
11 forceful and aggressive in her efforts to use the legal system
12 to silence NXIVM's critics. One woman wrote that Ms. Bronfman
13 and Raniere, quote, "put a lot of pressure on her to sue her
14 mother because she was publicly speaking out about NXIVM and
15 they wanted to silence her." End quote. The parents of a
16 young woman whom NXIVM sued for publishing its course
17 materials online wrote that it is, quote, "not possible to
18 overstate," end quote, the significance of Ms. Bronfman's
19 financial support for the litigation against their daughter,
20 calling her, quote, "the very fuel that powered the NXIVM
21 engine of vengeance and cruelty." End quote.

22 It was one thing to believe in NXIVM's mission and
23 methods and to adhere to its teachings. As Ms. Bronfman
24 points out, she was far from alone in that respect. But the
25 record is clear that she used her incredible wealth and

1 attempted to use her social status and connections not only to
2 support NXIVM's work, but also was a means of intimidating,
3 threatening and exacting revenge upon individuals who dared to
4 challenge its dogma.

5 This culture of stifling and threatening dissenters,
6 a culture that Ms. Bronfman clearly participated in and
7 perpetuated, is the same culture that gave rise to the darkest
8 and most horrific crimes that Raniere and others committed.
9 This was one of the mechanisms by which Raniere exerted and
10 retained power over his victims. And even if Ms. Bronfman did
11 not knowingly facilitate Raniere's worst crimes, as a general
12 matter she was his accomplice in the effort to intimidate and
13 silence detractors, using her wealth and privilege as a sword
14 on Raniere's and NXIVM'S behalf.

15 (Continued on the next page.)
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1 (Continuing.)

2 THE COURT: Ms. Bronfman's comfort with using her
3 wealth and status to attack perceived enemies is evidenced in
4 further ways. The first involves her role in hacking into a
5 computer of her father, Edgar Bronfman. In October 2003
6 Forbes Magazine published an article in which Mr. Bronfman was
7 quoted as calling Nxivm a "cult." From that point on, Raniere
8 reportedly considered Mr. Bronfman to be on the "enemy side."
9 as a result, Raniere told Jane Doe 4 that it would be good to
10 gain access to Mr. Bronfman's e-mail.

11 Initially the plan to access Mr. Bronfman's e-mails
12 was that Ms. Bronfman, given her relationship with her father,
13 would send him e-mail messages containing a link to software
14 that when opened would infect his computer and provide Jane
15 Doe 4 access to his e-mail. Jane Doe 4 testified that she
16 handed Ms. Bronfman a USB with a file on it that she would
17 send to her father as an attachment. Ms. Bronfman sent
18 multiple e-mails with the attachment to the father; but the
19 plan was stymied because for whatever reason, Mr. Bronfman did
20 not open the e-mails. To overcome this obstacle, Ms. Bronfman
21 ended up physically plugging a USB drive given to her by Jane
22 Doe 4 into her father's computer, clicking on the necessary
23 software, and infecting the computer locally. Ms. Bronfman
24 was successful, and Jane Doe 4 was able to monitor
25 Mr. Bronfman's e-mail, which she did "regularly, mostly at the

1 request" of Raniere. Ms. Bronfman's attempts to downplay this
2 incident as an "unproven" and a mere "family dispute"
3 notwithstanding. I find that Jane Doe 4's testimony credibly
4 establishes Ms. Bronfman's role in this scheme by a
5 preponderance of the evidence. And I am troubled by
6 Ms. Bronfman's dismissive characterization of this incident as
7 a "family dispute." This is serious conduct, and it became
8 more of a family dispute the moment that Ms. Bronfman gave
9 access to her father's e-mail account to individuals that were
10 outside the family and who in fact considered her father to be
11 an "enemy."

12 Ms. Bronfman was not finished helping Raniere spy on
13 his perceived enemies. According to the testimony of FBI
14 Special Agent Michael Weniger, Ms. Bronfman paid "upwards of
15 \$400,000" to a Canadian company called can Canaprobe to spy on
16 Raniere's enemies, including Rick Ross. In the face of this
17 testimony, Ms. Bronfman now argues that she was "led to
18 believe that Canaprob's work was legal because Canada had
19 different laws than the United States."

20 While, I find it difficult to imagine that
21 Ms. Bronfman thought that this kind of surveillance would be
22 legal in Canada but not in the United States, that debate is
23 purely academic. Ms. Bronfman concedes that she was aware
24 that Canaprob specialized in "tracking global asset movement
25 and concealment," and the testimony of Special Agent Weniger,

1 supported by substantial documentary proof, establishes by a
2 preponderance that Ms. Bronfman spent hundreds of thousands of
3 dollars on Canaprob services in an attempt to gain information
4 about Raniere's so-called enemies. I find this behavior to be
5 yet another example of a consistent theme of Ms. Bronfman: At
6 every turn she was a willing partner to Raniere in his efforts
7 to intimidate and silence perceived enemies or threats.

8 Perhaps the most troubling of this theme concerns
9 Ms. Bronfman's actions when she was confronted with the
10 information about DOS. Ms. Bronfman is adamant comment that
11 DOS was a secret society that she "neither participated nor
12 knew anything about it." To be clear, the fact that some
13 "commodities," a "few loans," and "patents," translated to
14 Ms. Bronfman giving Raniere and Raniere-associated endeavors
15 more than \$100 million, yet again, an almost unshakeable
16 commitment to Raniere on the part of Ms. Bronfman. Yet, I
17 discuss DOS not because the evidence establishes, for example,
18 that Ms. Bronfman funded specific DOS activities or even knew
19 about specific DOS rituals in real time. I do not find that
20 the Government has proven by a preponderance of the evidence
21 that Ms. Bronfman knowingly funded particular criminal
22 activities. I do not find that Ms. Bronfman knowingly funded
23 a sex cult.

24 There is ample evidence, however, that as
25 Ms. Bronfman was confronted with information about DOS, and,

1 therefore, necessarily became aware of it, she doubled down on
2 her support of Raniere and pursued her now familiar practice
3 of attacking his critics.

4 In June 2017, the existence of DOS started to become
5 known within the larger Nxivm community when the husband of
6 Sarah Edmondson, a DOS "slave," publicly confronted a DOS
7 First Line member, Lauren Salzman, about the cult.
8 Subsequently Ms. Salzman began to receive requests by DOS
9 slaves, many of whom were longtime Nxivm members who
10 Ms. Bronfman knew, that their collateral be returned to them.
11 When asked what she did when she received those requests, Ms.
12 Salzman testified that "I forwarded them to Clare" because
13 "Clare was heading up our legal initiatives."

14 One such e-mail from a DOS victim that Salzman
15 forwarded to Ms. Bronfman began as follows: "I am requesting
16 the immediate return and/or destruction of the collateral I
17 provided to you, as well as the nude photographs and videos of
18 me that were produced within DOS under your direction." It
19 continued, "My participation in DOS and all material provided
20 or created during that time was based on false information you
21 gave me end." It concluded, "I don't want to worry about my
22 collateral being exposed and I absolutely have that right."

23 Ms. Bronfman protests what she considers to be the
24 Government's assertion that her receipt of these e-mails
25 imputes to her foreknowledge of DOS's activities. That is not

1 what I find to be true, and I do not base Ms. Bronfman's
2 sentence on the assumption that she knew about DOS prior to
3 receiving these e-mails. What it does impute, however, and
4 what I do consider relevant is Ms. Bronfman's awareness, in
5 that moment, of DOS victims urgently reaching out to cover
6 their "collateral," including as Ms. Bronfman now knew, nude
7 photographs and videos and expressing obvious fear that this
8 collateral would be exposed.

9 With this knowledge Ms. Bronfman could have begun to
10 distance herself from Raniere in an attempt to help those who
11 were clearly in need. Instead, she chose to double down on
12 her support for Raniere, even helping to facilitate further
13 intimidation of DOS victims. For example, shortly after
14 learning that the New York Times would be publishing an
15 article about DOS in September 2017, Raniere sent an e-mail to
16 Ms. Bronfman with the subject line, "What are your thoughts"
17 containing a draft of a threatening letter to be sent to DOS
18 victims.

19 The Government has quoted I think part of that
20 letter and I'm not going to quote it again, but I'm placing it
21 in the record as part of my statement.

22 Less than 30 minutes later, Ms. Bronfman e-mailed
23 the text of the e-mail to an associate in Mexico. The next
24 day the DOS victim referenced in the draft e-mail received an
25 e-mail from a Mexican attorney, Ricardo Olmedo, with an

1 attachment of a Microsoft Word document containing nearly word
2 for word the text of the e-mail sent by Raniere to
3 Ms. Bronfman. Metadata of the Word document received by the
4 DOS victim reflects that the creator of the document was
5 Ms. Bronfman. Raniere sent further drafts of threatening
6 e-mails to Bronfman who passed them along to Olmedo, who sent
7 them to DOS victims.

8 In other words, here we have Ms. Bronfman in
9 September 2017 working hand-in-hand with Raniere to intimidate
10 and silence victims of Raniere's a brutal campaign of sexual
11 abuse and exploitation. I frankly find Ms. Bronfman's
12 explanation of this behavior deeply disingenuous.
13 Ms. Bronfman argues that she was "informed individuals
14 associated with Nxivm Mexico company were being called, scared
15 and persuaded to leave Nxivm." As a result, and supposedly
16 out of magnanimous sense of duty to people who were reliant on
17 Nxivm for their income and whose livelihoods might be put at
18 risk if Nxivm members were talked into leaving. Ms. Bronfman
19 explained that she "sought legal counsel to help stop what she
20 was told was criminal behavior based in Mexican law," and
21 "together with Nxivm Mexico lawyers aggressively tried to stop
22 the damage."

23 Such an argument flies in face of the facts.
24 Raniere specifically sought out Ms. Bronfman to review and
25 forward his threatening letters, which she then ensured were

1 sent to Raniere's victims. She cannot now seek to pawn off
2 the entire chain of events on counsel. Ms. Bronfman further
3 avers that she merely engaged counsel in Mexico out of a
4 concern that Nxivm's client list was being misused. That
5 suggestion is belied by the language of the letter, which is
6 plainly written in a manner designed to threaten its
7 recipient. In lieu of any mention of the Nxivm client list
8 the letter accuses its recipient of being "connected to
9 several criminal investigations involving fraud, coercion,
10 extortion, harassment, stalking, theft, larceny, hate crime,
11 criminal conspiracy, breaking and entering, computer crimes,
12 wire fraud, criminal enterprise, and corporate espionage."
13 That is a threat.

14 And not surprisingly, recipients of these e-mails
15 felt threatened. One DOS victim who received a threatening
16 letter writes to the Court that "words can not describe" the
17 experience of receiving a "threatening letter from a lawyer in
18 Mexico that basically warned me that I better keep my mouth
19 shut about DOS or I would suffer the consequences." Another
20 DOS victim who received such a letter writes that the letter
21 represented "underhanded intimidation to scare me into
22 remaining silent." The victim's statement continues, "When I
23 was at my most vulnerable, Clare Bronfman traumatized me."

24 The trend continued for Ms. Bronfman. In
25 December 2017, Ms. Bronfman issued a public statement in which

1 she falsely characterized DOS as a "sorority" that "truly
2 benefited the lives of its members and does so freely."
3 Ms. Bronfman is adamant that at the time she made the
4 statement "she was acting with limited information" and that
5 she "did not understand the full scope of DOS until Keith
6 Raniere's trial."

7 What Ms. Bronfman did not know at the time, however,
8 was that DOS victims were reaching out to Lauren Salzman
9 asking for their -- sorry.

10 What Ms. Bronfman did know at the time, however, was
11 that DOS victims were reaching out to Lauren Salzman and
12 asking her for their "collateral" of nude photographs and
13 videos to be returned. She knew that Raniere had sent
14 threatening letters to DOS victims, letters she helped draft
15 and send. She knew in October 2017 the New York Times
16 published an expose on DOS, in which, for example former DOS
17 "slave" Sarah Edmondson describes getting branded and saying
18 as instructed, "Master, please brand me. It would be an
19 honor."

20 Yet, Ms. Bronfman was too concerned with, as she put
21 it in her December 2017 statement, the potential "tragedy" of
22 losing the "innovative and transformational ideas and tools"
23 of Nxivm to acknowledge the horrors that had occurred within
24 the community to which she both belonged and helped lead or
25 take action on behalf of those who had been badly hurt.

1 To the contrary, she acted against their interests
2 and in defense of Raniere, yet again, by seeking to have
3 criminal charges brought against Ms. Edmondson in Vancouver.
4 She subsequently traveled to Mexico to live with Raniere,
5 during which time Raniere invited First Line DOS members to
6 participate in a "recommitment ceremony." And After Raniere's
7 arrest, Bronfman funded his legal defense, including an
8 initial deposit of approximately \$5 million to the fund from
9 which her co-defendants' legal fees were paid. To date,
10 Ms. Bronfman has contributed \$13,800,000 to an irrevocable
11 trust to pay the legal fees of Raniere and other
12 co-defendants. I find this behavior indicative of
13 Ms. Bronfman's allegiance to Raniere, whatever the cost,
14 whomever it hurts, and highly relevant to the application of
15 the Section 3553(a) factors to Ms. Bronfman's sentence.
16 Ms. Bronfman came to learn details about DOS and faced a
17 choice as to whose interests she would protect: Raniere's or
18 his victims. She chose Raniere unequivocally, and to this day
19 she has not clearly apologized for that choice, admitted her
20 actions were harmful, or conceded that her loyalty was
21 misplaced.

22 Ms. Bronfman repeatedly argues that she knew nothing
23 about and never funded DOS. As I said earlier, I do not base
24 my sentence on a finding that contradicts either of those
25 claims. However, I do find it relevant that Ms. Bronfman

1 seems to have a pattern of willful blindness when it comes to
2 Raniere and his activities. As Lauren Salzman testified,
3 Ms. Bronfman "didn't want to know anything about DOS that she
4 didn't need to know."

5 I find that the testimony particularly credible
6 because it would not be the first time that Ms. Bronfman
7 exuded the sense that she wanted to participate in Raniere's
8 world while remain unaware of uglier aspects. For example,
9 when she tried to get Stephen Herbits to convince authorities
10 to bring criminal charges against Raniere-enemy Rick Ross,
11 Bronfman told Herbits, "I don't need to know who is funding
12 the efforts, how you stop that from continuing. In fact, I
13 don't want to know. It just needs to be done and quickly."

14 I also find it relevant that Ms. Bronfman's
15 allegiance to Raniere shines through again and again. She has
16 paid his legal fees and to this day, maintains that he
17 "greatly changed her life for the better." That is consistent
18 with both her actions as described above and from what others
19 have said about.

20 Raniere and his adherents appear to understand
21 Ms. Bronfman's continued loyalty, even after his trial and
22 conviction during which all the details of his sexual abuse
23 and exploitation became known to the world. For example, in a
24 post-conviction call between Raniere and Jane Doe 3, Jane Doe
25 3 reported that Ms. Bronfman is "very good with you," to which

1 Raniere responded, "I don't think her view of me has changed
2 at all, if anything it's gotten stronger." Later in the
3 conversation when discussing whether Jane Doe 3 could share
4 with Ms. Bronfman an op-ed about DOS authored by Raniere,
5 Raniere explained "Yeah, oh, absolutely, yeah, anything with
6 Clare."

7 Raniere's view that Bronfman remains loyal to him to
8 this day only buttresses my conclusion that Ms. Bronfman was
9 concerned first and foremost with protecting Raniere and
10 attacking his enemies. That she personally feels like Raniere
11 changed her life for the better is beside the point. And
12 while she might not have known about DOS before receiving the
13 collateral e-mails in September 2017, I had find it clear that
14 in her own words, she did not want to know either.

15 In determining an appropriate sentence I also
16 considered the need for a sentence that I impose to reflect
17 the seriousness of the offense, promote respect for the law
18 and provide just punishment. As I mentioned, the offenses of
19 conviction, particularly Count One, were more serious here
20 than those crimes might ordinarily be under other
21 circumstances. The immigration-related offense is serious
22 because Ms. Bronfman's dishonesty and misrepresentations were
23 harmful, not only to the federal Government but to the
24 immigrants like Jane Doe 12, who were taken advantage of and
25 put in a position of having to work for little or no pay.

1 Likewise, Ms. Bronfman's conduct with respect to Count Two had
2 the effect of facilitating Raniere's efforts to keep money out
3 of his name.

4 With respect to promoting the respect for the law,
5 I'm mindful of Ms. Bronfman's history of seeking to manipulate
6 the legal system to her advantage, both in her execution of
7 the offenses of conviction, and for example, by seeking to
8 leverage her social connections to have criminal charges
9 brought against Raniere's critics. This is not a defendant
10 who has shown great respect for the law amount, am a just
11 punishment must take that into account.

12 I also need to consider the extent to which the
13 sentence will operate as a deterrent. Ms. Bronfman's
14 circumstances are rather unique. I don't know how many other
15 multi-millionaires are out there, ready to devote limitless
16 resources at their disposal to pyramid schemes run by
17 dangerous criminals and stifling the voices of their victims.
18 But in another sense, her circumstances are not so unique.
19 She maintains that she was an innocent bystander to Raniere's
20 abhorrent conduct, completely blind to Raniere's crimes and
21 the sex trafficking that occurred within the Nxivm community.
22 As I have said, I find that any such blindness was willful and
23 cultivated, and Ms. Bronfman's sentence can and should serve
24 to deter other people who find themselves in situations in
25 which they can chose to either confront or avert their gaze

1 from the harm brought by their actions and the actions of
2 those to whom they are close.

3 I also need to consider whether the sentence will
4 protect the public from further crimes committed by
5 Ms. Bronfman. I believe that Ms. Bronfman has been chastened
6 by this experience, and she expressed remorse for the crimes
7 to which she pleaded guilty. I don't doubt her sincerity. It
8 does, however, concern me that she continues to stand by
9 Ranieri and believe in his work, even as he stands convicted
10 of heinous conduct. Nonetheless, I don't expect her to commit
11 further crimes of this nature, regardless of the sentence that
12 I imposed.

13 I've considered the range of sentences by the
14 Sentencing Guidelines. There is no minimum mandatory sentence
15 for the offenses of conviction, and Ms. Bronfman requests a
16 non-custodial sentence. I've considered that possibility, but
17 given the nature and circumstances of the offenses and the
18 context in which they were committed, my view is that a
19 non-custodial sentence would be insufficient. I have
20 considered the sentences that are below the Guidelines range,
21 and the sentences that are within the range, and I have
22 considered sentences that are above that range, up to and
23 statutory maximums of ten years on Count One and 15 years on
24 Count Two. Because these sentences may be imposed either
25 concurrently or consecutively, the combined statutory maximum

1 I sentence Ms. Bronfman to is 25 years.

2 I've considered the need to avoid unwarranted
3 sentence disparities between Ms. Bronfman and other defendants
4 who have been convicted of similar conduct. But I find for
5 the reasons I have explained, that the context of
6 Ms. Bronfman's criminal conduct places her in and all together
7 different category from other defendants convicted of the same
8 offenses; and, therefore, her circumstances defy easy
9 comparison. I've also considered the threat that Covid-19
10 poses to incarcerated persons and the humanitarian need to
11 minimize our prison populations in light of the pandemic.
12 Neither Ms. Bronfman's age nor health condition place her in
13 the category of high-risk individuals, and I find that her
14 conduct warrants custodial sentence even during the pandemic.

15 Finally I have considered the appropriateness of
16 imposing a fine, as I am obligated to do subject to 18 United
17 States Code, Section 3571, unless I find Ms. Bronfman unable
18 to pay. Section 3571(b) permits me to impose a fine on each
19 count of up to \$250,000, for a total of \$500,000. In addition
20 to the factors I have noted already, Section 3572(a) sets out
21 additional factors that I must consider in determining whether
22 to impose a fine; and if I do, what the amount should be.
23 These factors include Ms. Bronfman's ability to pay and the
24 financial burden that a fine impose on her or anyone else.
25 They also include the expected cost to the Government of her

1 sentence. The Guidelines fine range for Ms. Bronfman offense
2 is between 10,000 and \$95,000. Ms. Bronfman points out that I
3 may not impose an excessive fine as punishment, and that I
4 should not increase the fine above the suggested range simply
5 on the basis of her ability to pay.

6 In light of Ms. Bronfman's wealth there is no
7 question that she can afford to pay any fine that I might
8 impose, up to and including the statutory maximum. As I've
9 already explained, I find that the seriousness of her offenses
10 viewed in the context of her other conduct and the conduct of
11 her co-defendants to whom she remains loyal justifies a
12 serious sentence. As one aspect of that sentence, I'm
13 imposing the statutory maximum fine of \$500,000. I select
14 this fine amount not because Ms. Bronfman is wealthy, but
15 because I believe the nature and seriousness of her conduct
16 warrants such a substantial fine. And because I find that her
17 personal financial circumstances do not preclude from imposing
18 it.

19 In determining an appropriate sentence I am guided
20 by the Second Circuit's instruction that I use the Guidelines
21 as an initial benchmark and then make an informed and
22 individualized sentencing determination, taking into account
23 all the statutory factors. Applying the statutory factors to
24 this case I find that a substantial upward variance is
25 appropriate. As the foregoing has made clear, I find that the

1 nature and circumstances of Ms. Bronfman's offenses exacted a
2 harm not reflected in the Guidelines and placed her conduct
3 outside the ordinary realm of these offenses. I also find
4 that a fair appreciation of her history and characteristics,
5 including her repeated attempts to leverage her wealth and
6 status as a sword against Raniere's enemies, and her decision
7 as she became aware of DOS to remain steadfast in her support
8 of Raniere, lead to the conclusion greater than the upper
9 limit of a Guidelines is warranted. The remaining statutory
10 factors, likewise, reflect the above guideline sentence.

11 The defendant will stand. I sentence you,
12 Ms. Bronfman -- are you ready to be sentenced?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: I sentence you, Ms. Bronfman, as
15 follows: A prison sentence of 81 months in the custody of the
16 Attorney General, which is three times the high end of the
17 Guidelines range, and which takings into account the severity
18 of your illegal behavior. A fine in the amount of \$500,000
19 the statutory maximum, payable immediately. A \$200 special
20 assessment, also due immediately. Three years'
21 post-incarceration supervised release on each count to be
22 served concurrently, restitution in the amount of \$96,605.25
23 to Jane Doe 12 on Count One. And finally I also enter and
24 order forfeiture money judgment of \$6 million, which you have
25 consented to in your plea agreement, payable within 30 days.

1 You have the right to appeal your sentence to the
2 United States Court of Appeals for the Second Circuit if you
3 believe the Court has not properly sentenced you. Your time
4 to appeal is extremely limited, so you should consult with
5 your attorneys at once whether an appeal would be worthwhile.

6 You may be seated.

7 I'm prepared to remand the defendant.

8 MR. SULLIVAN: We ask that you allow Ms. Bronfman to
9 surrender herself, get her affairs in order, particularly
10 given some of the money judgments that we need her present in
11 order to help facilitate quickly, so a reasonable amount of
12 time for surrender. She's been compliant and has 100 million
13 bond existing already, so we ask for a reasonable amount of
14 time.

15 THE COURT: Well, the application is denied.
16 Ms. Bronfman has attorneys and investment advisers and others
17 who she can direct to take care of her financial obligations
18 to the Court and she can do that while she's awaiting the
19 Bureau of Prisons' determining where she will be spending most
20 of her time, at least initially.

21 The application is denied. The Court is remanding
22 the defendant to the custody of the Attorney General.

23 MR. SULLIVAN: We'll make an oral note and submit
24 appeal papers to follow.

25 THE COURT: Yes.

1 PROBATION OFFICER: Probation would request that you
2 read the special conditions of supervised release on the
3 record.

4 THE COURT: Let me read the conditions of supervised
5 release, the defendant's special conditions of supervised
6 release.

7 The defendant shall comply with the fine and
8 restitution orders. Upon request, the defendant shall provide
9 U.S. Probation Department full disclosure of her financial
10 records, including co-mingled income, expenses and assets, and
11 liabilities, to include yearly income tax returns, with the
12 exception of a financial accounts reported and noted within
13 the presentence report. The defendant is prohibited from
14 maintaining and/or opening any additional individual and/or
15 joint checking, savings or other financial accounts for either
16 personal or business purposes without the knowledge and
17 approval of the U.S. Probation Department.

18 The defendant shall cooperate with the Probation
19 Office in the investigation of her financial dealings. And
20 she'll provide truthful monthly statements of her income and
21 expenses. The defendant shall cooperate in the signing of any
22 necessary authorization to the release the information
23 permitting the U.S. Probation Department access to financial
24 information and records.

25 The defendant shall not associate in person through

1 e-mail, through mail, electronic mail, telephone with any
2 individual any affiliation through Executive Success Programs,
3 Nxivm, DOS or any other affiliated Nxivm organizations. Nor
4 shall the defendant frequent any establishment or locale where
5 these groups may be, pursuant to but not limited to
6 prohibition list provided by the U.S. Probation Department.

7 Defendant shall not contribute to the Bureau of
8 Prisons commissary accounts of any co-defendants or
9 participants in Executives Success Programs, Nxivm, DOS or any
10 other Nxivm affiliated organizations.

11 I've already discussed the special assessment. All
12 the standard conditions of supervision are included.

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1 (Continuing.)

2 THE COURT: Anything else from the probation
3 officer?

4 PROBATION OFFICER: No, Your Honor.

5 THE COURT: And I'd like to thank the probation
6 officer for her excellent work in providing the Court and the
7 parties with the pre-sentence report and the addendum to the
8 pre-sentence report.

9 MS. DANIZ: Thank you.

10 THE COURT: Anything further from the Government?

11 MS. HAJJAR: Just one matter, Your Honor.

12 The Government continues to receive restitution
13 requests, some of which may or may not be directed at this
14 particular defendant. So pursuant to 18 USC, 3664(d)(5),
15 should there become a restitution request directed at the
16 defendant, the Government will submit it to the Court with a
17 submission in the event that the Court wishes to amend the
18 judgment to add additional restitution.

19 THE COURT: Well, how long will this take? Because
20 I'd like to -- I'm interested in closing the door on these
21 defendants' cases and I don't want to keep the door open any
22 longer than I absolutely have to.

23 MS. HAJJAR: If at all possible, for it to track
24 with Ms. Bronfman's co-defendant, Keith Raniere, I suspect
25 that many of the claims for restitution may be directed at one

1 or the other. The government wants to make sure the Court has
2 all of these restitution requests and can then make that
3 determination. So if that's possible to do, the government
4 will provide those requests.

5 THE COURT: I think it's important for defense
6 counsel to understand that we're going to close this out.

7 MS. HAJJAR: Yes, Your Honor.

8 THE COURT: And I'm sentencing Mr. Ranieri on
9 October 27th. So, I'll give you 90 days from October 27th to
10 provide that information for both defendants.

11 MS. HAJJAR: Thank you, Your Honor.

12 THE COURT: And I'll only hold the matter open as to
13 any additional terms of the judgment, restitution, until 90
14 days from October 27th.

15 MS. HAJJAR: Yes, Your Honor. Thank you.

16 THE COURT: And then I also, as long as we're here,
17 I'm interested in getting the other sentencings on the
18 schedule. There are five other defendants, and I think that
19 we need to move the matter along and resolve the sentencing of
20 the other five defendants as well.

21 MS. HAJJAR: Okay.

22 THE COURT: Thank you very much.

23 Anything else from the defense?

24 MR. SULLIVAN: Nothing.

25 THE COURT: All right. Thank you very much,

1 everyone.

2 (Whereupon the proceedings adjourned.)

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woman... [12] 48/11 56/25 67/12 73/1 87/6 87/8 105/4 105/11 105/12 105/24 109/12 109/16 woman's [4] 16/20 87/11 106/18 107/11 women [14] 13/4 16/14 17/22 18/11 19/17 24/9 30/7 57/4 96/19 97/3 97/10 98/14 109/5 109/7 women's [2] 46/1 97/13 wonder [1] 39/15 wondering [2] 36/4 36/7 word [7] 41/22 79/6 100/2 116/1 116/1 116/2 116/3 words [9] 3/17 26/19 39/14 41/14 46/6 53/20 116/8 117/16 121/14 wore [1] 45/21 worker [1] 86/1 workers [1] 15/25 workers' [1] 15/9 workforce [1] 87/3 works [1] 73/4 workshops [1] 96/13 world [15] 19/13 23/12 24/2 32/24 32/24 33/15 38/2 38/3 50/21 70/16 70/22 83/14 94/16 120/8 120/23 worry [5] 42/19 58/19 60/21 60/22 114/21 worst [3] 43/7 49/10 110/11 worth [3] 45/18 57/17 72/10 worthwhile [1] 127/5 worthy [2] 60/18 60/19 wound [1] 23/7 wounds [2] 39/19 39/21 wrenching [1] 30/14 write [2] 15/21 27/22 writes [2] 117/16 117/20 writing [4] 5/10 64/15 75/23 87/6 written [3] 29/23 41/15 117/6 wrongdoing [1] 16/11 wrongful [2] 58/1 94/22 wrongfully [2] 49/8 81/24 wrongly [1] 47/10 wrongs [1] 48/25 wrote [9] 28/10 36/2 57/16 66/15 88/11 92/25 108/13 109/12 109/17	Z zero [4] 58/16 71/15 84/10 84/10
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year [21] 15/3 15/6 28/9 45/18 46/25 46/25 47/3 48/1 49/9 50/4 54/23 56/16 57/24 57/25 60/1 60/15 67/12 73/7 85/22 85/25 103/7 year-long [1] 48/1 yearly [1] 128/11 years [50] 11/24 15/21 19/15 20/3 20/24 21/11 31/14 33/12 34/1 34/11 36/7 38/21 39/1 40/9 40/12 40/23 41/12 43/13 43/20 43/24 45/2 46/14 46/19 48/8 48/18 48/23 50/10 50/10 50/22 51/24 52/6 55/8 55/24 56/4 57/14 58/5 59/8 61/12 66/23 68/22 71/5 71/24 75/24 75/25 75/25 84/1 103/7 123/23 123/23 124/1 years' [1] 126/20 yesterday [1] 36/3 yields [1] 9/22 YORK [14] 1/1 1/4 1/12 1/13 1/19 1/19 1/24 42/15 59/12 59/19 90/20 108/21 115/14 118/15 young [3] 45/1 98/14 109/16 younger [1] 105/22 Your Honor [12] 53/8 54/13 54/20 89/1 91/25 93/5 93/21 94/2 94/4 94/12 94/15 95/4 yourself [7] 30/20 38/1 40/6 40/16 40/23	

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Case 1:18-cr-00204-NGG-VMS Document 946 Filed 10/07/20 Page 1 of 7 PageID #: 16473

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA

v.

CLARE BRONFMAN

JUDGMENT IN A CRIMINAL CASE

Case Number: CR 18-0204 (S-3) (NGG)

USM Number: 91010-053

Ronald S. Sullivan, Jr., Esq.

Defendant's Attorney

THE DEFENDANT:

X pleaded guilty to count(s) ONE (1) AND TWO (2) OF THE SUPERSEDING INFORMATION (S-3).☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. §§ 1324(a)(1) (A)(v)(I) and 1324(a)(1) (B)(i)	CONSPIRACY TO CONCEAL AND HARBOR ALIENS FOR FINANCIAL GAIN	January 2018	1 (S-3)
18 U.S.C. §§ 1028(a)(7), 1028(b)(1)(D) and 1028(c)(3)(A)	FRAUDULENT USE OF IDENTIFICATION	March 2018	2 (S-3)

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.X Any underlying Indictment is dismissed by motion of the United States.☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

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

September 30, 2020

Date of Imposition of Judgment

s/Nicholas G. Garaufis

Signature of Judge

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

Name and Title of Judge

October 6, 2020

Date

SPA-161

Case 1:18-cr-00204-NGG-VMS Document 946 Filed 10/07/20 Page 2 of 7 PageID #: 16474

AO 245B (Rev. 09/19) Judgment in Criminal Case
Sheet 2 — ImprisonmentJudgment — Page 2 of 7DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: EIGHTY-ONE (81) MONTHS (CAG) ON COUNTS ONE (1) AND TWO (2) OF THE SUPERSEDING INFORMATION (S-3) WHICH SHALL RUN CONCURRENTLY.

☒ The court makes the following recommendations to the Bureau of Prisons:
THE COURT RECOMMENDS TO THE BUREAU OF PRISONS THAT DEFENDANT BE DESIGNATED TO THE MINIMUM SECURITY CAMP AT DANBURY, CONNECTICUT.

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: THREE (3) YEARS ON COUNTS ONE (1) AND TWO (2) OF THE SUPERSEDING INFORMATION (S-3) WHICH SHALL RUN CONCURRENTLY.

MANDATORY CONDITIONS

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

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

DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)

STANDARD CONDITIONS OF SUPERVISION

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

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____

DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)

SPECIAL CONDITIONS OF SUPERVISION

1. THE DEFENDANT SHALL NOT POSSESS A FIREARM, AMMUNITION OR ANY DESTRUCTIVE DEVICE;
2. THE DEFENDANT SHALL COMPLY WITH THE FINE, RESTITUTION ORDERS AND ATTACHED ORDER OF FORFEITURE;
3. UPON REQUEST, THE DEFENDANT SHALL PROVIDE THE U.S. PROBATION DEPARTMENT WITH FULL DISCLOSURE OF HER FINANCIAL RECORDS, INCLUDING CO-MINGLED INCOME, EXPENSES, ASSETS AND LIABILITIES, TO INCLUDE YEARLY INCOME TAX RETURNS. WITH THE EXCEPTION OF THE FINANCIAL ACCOUNTS REPORTED AND NOTED WITHIN THE PRESENTENCE REPORT, THE DEFENDANT IS PROHIBITED FROM MAINTAINING AND/OR OPENING ANY ADDITIONAL INDIVIDUAL AND/OR JOINT CHECKING, SAVINGS, OR OTHER FINANCIAL ACCOUNTS, FOR EITHER PERSONAL OR BUSINESS PURPOSES, WITHOUT THE KNOWLEDGE AND APPROVAL OF THE U.S. PROBATION DEPARTMENT. THE DEFENDANT SHALL COOPERATE WITH THE PROBATION OFFICER IN THE INVESTIGATION OF HER FINANCIAL DEALINGS AND SHALL PROVIDE TRUTHFUL MONTHLY STATEMENTS OF HER INCOME AND EXPENSES. THE DEFENDANT SHALL COOPERATE IN THE SIGNING OF ANY NECESSARY AUTHORIZATION TO RELEASE INFORMATION FORMS PERMITTING THE U.S. PROBATION DEPARTMENT ACCESS TO HER FINANCIAL INFORMATION AND RECORDS;
4. THE DEFENDANT SHALL NOT ASSOCIATE IN PERSON, THROUGH MAIL, ELECTRONIC MAIL OR TELEPHONE WITH ANY INDIVIDUAL WITH AN AFFILIATION TO EXECUTIVE SUCCESS PROGRAMS, NXIVM, DOS OR ANY OTHER NXIVM-AFFILIATED ORGANIZATIONS; NOR SHALL THE DEFENDANT FREQUENT ANY ESTABLISHMENT, OR OTHER LOCALE WHERE THESE GROUPS MAY MEET PURSUANT, BUT NOT LIMITED TO, A PROHIBITION LIST PROVIDED BY THE PROBATION DEPARTMENT;
5. THE DEFENDANT SHALL NOT CONTRIBUTE TO THE BUREAU OF PRISONS (BOP) COMMISSARY ACCOUNTS OF ANY CO-DEFENDANTS OR PARTICIPANTS OF EXECUTIVE SUCCESS PROGRAMS, NXIVM, DOS OR ANY OTHER NXIVM-AFFILIATED ORGANIZATIONS.

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary Penalties

Judgment — Page 6 of 7

DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)**CRIMINAL MONETARY PENALTIES**

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>Forfeiture Money</u> <u>Judgment</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 200.00	\$ 96,605.25	\$ 500,000.00	\$ 6,000,000.00	\$ N/A

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

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

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

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Jane Doe 12 (Contact the government for any restitution payment information.)		\$96,605.25	

TOTALS	\$ _____	\$ 96,605.25
---------------	----------	--------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

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

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

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

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

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

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

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Case 1:18-cr-00204-NGG-VMS Document 946 Filed 10/07/20 Page 7 of 7 PageID #: 16479

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 6 — Schedule of PaymentsJudgment — Page 7 of 7DEFENDANT: CLARE BRONFMAN
CASE NUMBER: CR 18-0204 (S-3) (NGG)**SCHEDULE OF PAYMENTS**

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

A ☒ **Special Assessment of \$ 200.00** due immediately, balance due☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; orB ☐ _____ ☐ D, or ☐ F below); orC ☒ **Fine Payment of \$500,000.00 due immediately.**C ☐ _____ (_____ over a period of
_____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; orD ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of
_____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a
term of supervision; orE ☐ _____
X **Forfeiture Money Judgment of \$6,000,000.00 due immediately and payable within 30 days.**F ☒ **Order of Restitution of \$96,605.25****An additional Order of Restitution is ordered but the amount is still to be determined at a later date. The government will file an additional Order of Restitution within 90 days from October 27, 2020.**

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

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and SeveralCase Number
Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several
AmountCorresponding Payee,
if appropriate☐ The defendant shall pay the cost of prosecution.☐ The defendant shall pay the following court cost(s):☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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

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D/F

BDM:KKO
F. #2017R01840

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

CONSENT ORDER OF FORFEITURE

- against -

18-CR-204 (S-3) (NGG)

CLARE BRONFMAN,

Defendant.

-----X

WHEREAS, on or about April 19, 2019, CLARE BRONFMAN, (the "defendant"), entered a plea of guilty to the offenses charged in Count One and Count Two of the above-captioned Superseding Information, charging violations of 8 U.S.C.

§ 1324(a)(1)(A)(iii) and 18 U.S.C. § 1028(a)(7), 1028(b)(1)(D) and 1028(c)(3)(A); and

WHEREAS, the defendant has consented to the entry of a forfeiture money judgment in the amount of six million dollars and zero cents (\$6,000,000.00) (the "Forfeiture Money Judgment"), as: (a) any property constituting, or derived from, proceeds obtained directly or indirectly as a result of a violation of 18 U.S.C. § 1028, and thus is forfeitable to the United States pursuant to 18 U.S.C. § 982(a)(2)(B); (b) a substitute *res* for the following real properties (the "Properties"):

- a.
- b.
- c.
- d.
- e.
- f. 1475 U.S. 9, Clifton Park, New York,

which Properties represent: (i) any property, real or personal, that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of 8 U.S.C. § 1324, and thus is forfeitable to the United States pursuant to 18 U.S.C. § 982(a)(6); and (ii) the gross proceeds of a violation of 8 U.S.C. § 1324, and any property traceable to any such gross proceeds, and thus is forfeitable to the United States pursuant to 18 U.S.C. § 982(b)(6) and 8 U.S.C. § 1324(b); and/or (c) substitute assets, pursuant to 21 U.S.C. § 853(p).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, on consent, by and between the United States and the defendant as follows:

1. The defendant shall forfeit to the United States the full amount of the Forfeiture Money Judgment, pursuant to 8 U.S.C. § 1324(b), 18 U.S.C. §§ 982(a)(2)(B) 982(a)(6), 982(b)(6), 1028(b)(5), and 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

2. All payments made towards the Forfeiture Money Judgment shall be made by a money order, or a certified or official bank check, payable to "United States Marshals Service" with the criminal docket number noted on the face of the instrument. The defendant shall cause said instrument(s) to be delivered by overnight mail to Assistant United States Attorney Karin Orenstein, United States Attorney's Office, Eastern District of New York, 271-A Cadman Plaza East, Brooklyn, New York 11201. The Forfeiture Money Judgment shall be paid in full by June 18, 2019 (the "Due Date").

3. Upon entry of this Order of Forfeiture ("Order"), the United States Attorney General or his designee is authorized to conduct any proper discovery in accordance with Fed. R. Crim. P. 32.2(b)(3) and (c). The United States alone shall hold title

to the monies paid by the defendant to satisfy the Forfeiture Money Judgment following the Court's entry of the judgment of conviction.

4. The defendant shall not file or interpose, or assist others to file or interpose, any claim or petition seeking remission or contesting the forfeiture of any property against which the government seeks to enforce the Forfeiture Money Judgment in any administrative or judicial proceeding. The defendant shall fully assist the government in effectuating the payment of the Forfeiture Money Judgment. If the Forfeiture Money Judgment is not received as provided above, the defendant shall forfeit any other property of hers up to the value of the outstanding balance, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1). The defendant further agrees that the conditions of 21 U.S.C. § 853(p)(1)(A)-(E) have been met.

5. The defendant knowingly and voluntarily waives her right to any required notice concerning the forfeiture of the monies and/or properties forfeited hereunder, including notice set forth in an indictment or information. In addition, the defendant knowingly and voluntarily waives her right, if any, to a jury trial on the forfeiture of said monies and/or properties, and waives all constitutional, legal and equitable defenses to the forfeiture of said monies and/or properties, including, but not limited to, any defenses based on principles of double jeopardy, the *Ex Post Facto* clause of the Constitution, any applicable statute of limitations, venue, or any defense under the Eighth Amendment, including a claim of excessive fines.

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

7. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B), this Order shall become final as to the defendant at the time of sentencing and shall be made part of the defendant's sentence and included in the judgment of conviction. This Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2). At that time, the monies and/or properties paid toward the Forfeiture Money Judgment shall be forfeited to the United States for disposition in accordance with the law.

8. Upon the payment in full of the Forfeiture Money Judgment by the Due Date, the United States agrees not to seek any further forfeiture of property owned by the defendant, by the defendant and one or more immediate family members, or by any entity wholly owned by the defendant or by the defendant and one or more immediate family members, as a result of any crimes charged in the above-captioned Superseding Information or in the First and Second Superseding Indictments in *United States v. Bronfman, et al.*, 18-CR-204 (S-1 and S-2). To the extent that such property is partially owned by unrelated third parties, the United States may seek forfeiture of the unrelated third parties' interests in such property. The defendant disclaims any interest in and agrees not file or interpose, or assist others to file or interpose, any claim or petition seeking remission or contesting the forfeiture of following properties: the real property located at 455, 457 and/or 449 New Karner Road, Albany, NY 12205, together with such property's respective buildings, appurtenances, improvements, fixtures, attachments, easements and furnishings, and all proceeds traceable thereto. Nothing in this order shall prevent the United States from pursuing any property to satisfy the defendant's restitution obligations or any criminal fine imposed by the Court.

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

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

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

12. The Clerk of the Court is directed to send, by inter-office mail, three (3) certified copies of this executed Order to the United States Attorney's Office, Eastern

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District of New York, Attn: Elizabeth Valeriane, FSA Law Clerk, 271-A Cadman Plaza East,
Brooklyn, New York 11201.

Dated: Brooklyn, New York
June 14, 2019

RICHARD P. DONOGHUE
United States Attorney
Eastern District Of New York
271-A Cadman Plaza East
Brooklyn, New York 11201

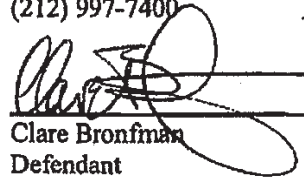
By:


Karin Orenstein
Assistant U.S. Attorney
(718) 254-6188


Mark J. Geragos, Esq.
Kathleen Cassidy, Esq.
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644 South Figueroa Street
Los Angeles, CA 90017

Hafetz & Necheles
10 E. 40th Street, 48th Floor
New York, NY 10016
(212) 997-7400


Clare Bronfman
Defendant

SO ORDERED:

s/Nicholas G. Garaufis

HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

6/14/19

United States v. Clare Bronfman, 18-CR-204 (S-3) (NGG)
Order of Forfeiture