

STATE OF NEW YORK  
COUNTY COURT

COUNTY OF ALBANY

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THE PEOPLE OF THE STATE OF NEW YORK

**AFFIDAVIT IN SUPPORT OF  
DEFENDANT'S CLAYTON  
MOTION IN THE INTEREST OF  
JUSTICE**

-against-

**Ind. No.: 34-7323  
Hon. Stephen W. Herrick**

BARBARA BOUCHEY,  
Defendant.

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**AFFIDAVIT OF BARBARA J. BOUCHEY**

Barbara J. Bouchey, being duly sworn, swears to the following under penalty of perjury:

**BACKGROUND**

1. I was born and raised in low-income housing project in South Troy, NY. My mother died suddenly of an aneurysm when I was eight years old, and my father was a severe alcoholic, who was unsupportive, was rarely home and we walked on egg shells. This created great adversity for me and my three brothers, one with Down syndrome and another mentally disabled. At an early age, I became the responsible caretaker of my brothers and the household, and began working at odd jobs to help out.

2. A turning point came in the face of more adversity. My father re-married and divorced three months later, and then put my two special needs brothers in institutions forbidding any contact. But, I loved my brothers and abandoning them was not an option. So, I stood up

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2. A turning point came in the face of more adversity. My father re-married and divorced three months later, and then put my two special needs brothers in institutions forbidding any contact. But, I loved my brothers and abandoning them was not an option. So, I stood up

for them, and would see them often – even when punished. By age twelve, my father realized my steadfastness, and finally agreed to let me see them if I never mentioned them in his presence—a promise I kept until age 24, when he died of cancer.

3. I learned from my obstacles and overcame them—and I came to understand a lot about people, far before my time at a young age. With a father who could not cope, I learned tolerance and acceptance. Having special needs brothers deepened my compassion, forgiveness, humanity, and taught me unconditional love. Being poor and working at an early age taught me gratitude, appreciation for things, and built a strong work ethic. My moral core grew strong—at an early age by doing what was the right thing.

4. College was not spoken of during my childhood, and therefore, my aspirations were not great. After high school I landed a solid job working for the government as a secretary. But, at age 21, I began dreaming of becoming something more with a deep desire to help people. So, I began community college, and became a waitress to support myself.

5. By age 25, I decided to embark on a career as a financial planner, and continued to waitress at night to support myself. My first year I made only \$200 a month. After humble beginnings, I went from seeing new clients sitting at their kitchen tables, to building a financial planning firm that not only was successful locally, but put me in the top tier of financial advisors in the nation. I built a highly successful and respectable practice, staffed with 4 *Certified Financial Planners*, a CPA and various other qualified professionals. I believed that if you do right by people - success will follow.

6. By age 40, I was financially independent with gross revenues exceeding \$1 million annually, managing client assets of \$90 million, my company valued at \$3 million, and I had enough savings to retire. I was recognized as a leader in my industry, and became a well-respected pillar in my community. I sat on numerous philanthropic boards and charities,

including chairing events with Mary Lou Vanderbilt Whitney. I was a local town girl who achieved the American dream becoming a self-made millionaire, and did so through being honest, responsible, hardworking, and by helping others.

7. I wanted to do more so I became entrenched in the community, the local Chamber, and causes benefitting the less fortunate. I had great pride when funding and inspiring my third brother, Steven Bouchey, in 1990 to follow in my footsteps enabling him to also become a successful financial planner. Today, he manages a \$270 million firm and is also a pillar of the business community.

8. A former Commissioner of Education and a client of 28 years understanding the tremendous challenges this legal attack by NXIVM has caused me recently described me as being, "very thoughtful, ethical, resilient, competent, intelligent and your strength during times of adversity is unparalleled." My character references attached describe me as "a person of integrity who is driven by purpose - with tenacity, attention to detail and accuracy." Further mentioned from those who know me well "can attest to my kindhearted and loving nature – and someone who truly cares about others." My life is more about principle than material things. A friend of 30 years puts it succinctly, "she has a tenacity that is only rivaled by her patience and ability to accept her fate with grace, as if she knows there is a larger purpose that's yet to reveal itself."

9. When my close childhood friend had committed suicide and I was separating from my husband, I had re-connected with a therapist I had seen years ago, Nancy Salzman, who urged me to take part in a workshop in her company NXIVM saying it would help me with separation and grief. Per Nancy and her colleagues, NXIVM had a patent-pending process to make the world a better place through ethics. NXIVM Founder, Keith Raniere, was internationally respected as a brilliant, honest, noble, highly evolved human being. Attendees

were respected celebrities, Fortune 500 CEOs, Heads of State, and thought leaders including Richard Branson, Virgin Group CEO; Edgar Bronfman Sr., Seagram's CEO; Adam Glassman, Oprah Magazine Editor; and former U.S. Surgeon General, Dr. Antonio Novello. Even His Holiness the Dalai Lama wrote the Foreword to Keith's second book.

10. Keith also pursued me romantically and we ended up in a relationship.

11. Unfortunately, Mr. Raniere, Ms. Salzman, and their closest confidantes covered up his past history, including how Mr. Raniere was prohibited from doing business in NYS by the Attorney General, and the specifics of his being in violation of the law in 38 states when he operated his former business. In the years to come at NXIVM, I asked questions and saw inequities with serious implications. In time I discovered to my complete surprise that Mr. Raniere had not just some human weaknesses — but major addictions. In addressing these, more disturbing things began to surface. It uncovered that Mr. Raniere and his hierarchy were far from the 'ethical' ideals they were marketing, and Mr. Raniere was not who they purported him to be.

12. It was a tremendously difficult time for me as I tried to sever ties, after attempting to address the inequities to no avail. Since I had recruited so many people to take their workshops, I felt responsible to educate people why I was leaving, because I had helped to grow the company, and coaching many. This would become the impetus for Keith and his followers to begin a fierce negative propaganda campaign and legal attack against me.

13. What eventually was uncovered about NXIVM and its leadership would make a mockery of everything I had thought, and sacrificed—including my life savings. Mr. Raniere and Ms. Salzman owed me \$1.7 million that had been borrowed and lost in an investment project, which they promised to pay back for years. When resigning, I, and the others who resigned, demanded payment of monies owed for various services, trainer fees, and other. They

then *knowingly* fabricated that these monies rightfully owed me was a lie, and instead some kind of extortion demand. These egregious actions caused me to then research the original investment, which resulted in discovering Mr. Ranieri had actually defrauded me in an elaborate scheme. In fact, Federal Judge Lynch in *NXIVM vs. Dones*; wherein, NXIVM made the same identical allegations against them in his decision ruled that this was *not extortion*. Even the Prosecutor in this case appears to have been lead to believe that this ridiculous, baseless extortion claim might be true (See Attached Hayes Affirmation Exh. C: Judge Lynch Order).

14. Mr. Ranieri and high profile members under his direction, Clare and Sara Bronfman (*Heiresses to the Seagram's fortune*), then began a fierce legal attack to silence me, and trying to force me to hand over records and evidence in my possession that I was legally bound to maintain. I decided to go through these records to uncover what they feared that I possessed. When I finally did, I located information that suggested criminal activity that could incriminate them.

15. NXIVM and the Bronfmans would then draw me into six of their existing, unrelated legal cases for no legitimate reason at all, none that would manifest charges—but rather, to harass, threaten, and seek to destroy me as a credible whistleblower with their spurious lawsuits attempting to assassinate my character and falsely accuse me.

16. Their malicious legal attack against me spans over 6 years, filing 7 lawsuits against me and dragging me into another 6 lawsuits against other detractors as a witness while falsely accusing me of conspiracy, appearing before 10 Judges in 4 states. There has been over 800 court filings filled with salacious lies and fabrications—all in an effort to silence me from being a credible whistleblower while continuing to try to remove my copy of the records even after I provided them with their original records.

17. When using the civil courts didn't enable them to successfully eliminate my copy of the evidence against them, and also proof of my innocence against their false allegations, NXIVM and the Bronfmans then fabricated false criminal charges in this case, and had me arrested as yet another tactic.

18. I have been unfortunately pulled into 26 local headline controversial newspaper stories and countless national magazines (*Vanity Fair, Forbes, The Nation, and NY Post*) attempting to inform, and alert, the general public about NXIVM Founder Raniere and certain members by revealing highly disturbing things -- where once I was a pillar of the community. I have spent close to \$600,000 in fees defending myself, and was forced into filing for temporary relief under Chapter 11 Bankruptcy. I am still paying off the debt incurred to this day. I have lost all my assets and a large portion of my clientele. This has enormously damaged my reputation and company goodwill, with my Financial Planning Firm losing over \$8 million in earnings since 2009 when they began legally attacking and besieging my character, wrongfully. This does not account for pain, suffering, medical bills, travel fees, and lost work time.

19. Since my severing ties back in 2009, numerous investigative stories have been done and have revealed highly negative information about Mr. Raneire's past such as: gambling addictions, accused of a Ponzi scheme by 23 Attorney Generals resulting in his company shutting down, possible tax evasion, money laundering, hiring illegal aliens, and sexual and psychological abuse. Most disturbing were the six women who came forward alleging Mr. Raniere had sexual relations while they were between the ages of 12 to 15. One woman at age 13 actually filed a police report, but was too afraid to move forward as they wanted her to wear a wire (See Attached Exh. A: Times Union 4-Part Series "Secrets of NXIVM" and Vanity Fair "The Heiresses and the Cult")

20. **The 13 lawsuits I have been wrongfully dragged into have produced no judgement or ruling against me**—no evidence of civil or criminal wrongdoing with most being already dismissed. Also, most cases above were in existence prior to my departure from NXIVM having nothing whatsoever to do with me.

### **CLEAN HANDS VIOLATION**

21. On February 12, 2014, I received a call (which is audio-taped) from Kristin Keefe, a long standing NXIVM member, and legal liaison who previously oversaw NXIVM and the Bronfman's 13 litigations in 4 states with 7 prominent law firms for over ten years. She wanted to apologize to me for the egregious, wrongful legal attack launched against me that she participated in, and began informing me about the lies, fabrications and wrongful actions taken against me. She further informed me that Inv. Kirsopp had just helped her leave NXIVM with her 7 year old son taking them to a domestic violence shelter as she was concerned for their well-being. Ms. Keefe stated that three months earlier she had begun providing information to the authorities regarding what she deemed "massive criminal activities" (her exact words) committed by NXIVM Founder, Keith Raniere, NXIVM President, Nancy Salzman, and NXIVM Officer, Clare Bronfman. Ms. Keefe stated that when the time came that she felt "safe" from any harm that Mr. Raniere could do to her that she would begin to reveal more specific information regarding what these criminal activities, and Mr. Raniere's sexual and psychological abuse to upon many women.

22. On February 26, 2015, Ms. Keefe copied me on an illuminating Email (See Attached Ex. B: Keefe Email) she had sent to NXIVM Albany attorneys, Steve Coffey and Pamela Nichols, and ten NXIVM members. Some highlights stated are:



- a.) These members “knowingly participated, directly or indirectly, in criminal conduct of the most insane order.”
- b.) “Keith (NXIVM Founder Ranieri) orchestrated crimes at every level of NXIVM operations” and “horribly lied to and/or abused all of my friends.”
- c.) Keith gave direction “to obtain financial records for leverage against every potential anti- NXIVM party. This included getting records for every Judge in every NXIVM related case. Cavanaugh, Falk, Sharpe, Treece, Macevoy, Littlefield, and the Judge in the O'Hara criminal case.”
- d.) “Keith began planning his attacks on Bouchey etc. in 2009” and “Keith intended these women (Bouchey) serious, serious, emotional and physical harm.”
- e.) Informed Ms. Nichols “of some of the goings on with Keith and NX before I left” and that she emailed Mr. Coffey and Ms. Nichols having “discussed three main areas of criminal liability.”
- f.) Reminded the attorneys of their “mandatory disclosures in the various NXIVM litigations.”
- g.) “Clare (Bronfman) and Nancy (Salzman) are like the secretary for Bernie Madoff” and have “suspended all personal discrimination and judgement and defer to Keith on all things without question.”
- h.) Tells the attorneys that “I have only told you a small fraction of what Keith has gotten them into”
- i.) Ends by asking Ms. Nichols to “please talk some sense into them”

23. On March 24, 2015, Ms. Keeffe called me for three hours (which is audiotaped) stating that she finally felt safe, and wanted to begin giving explicit details of NXIVM's criminal activities, information and an understanding of how they operated. Some highlights are:

- a.) Mr. Ranieri illegally hacked into my computer server, banking, Emails and phone records, along with other numerous people
- c.) knowingly committed fraud in each of their litigations
- d.) Mr. Rainere gave instructions to long-standing devoted computer programmers Steve Ose and Ben Myers (also used in this criminal case as their supposed

- independent forensic consultants) and his girlfriend Karen Unterreiner, to wipe their computer server clean and then rebuild it while also entering fabricated data
- e.) Mr. Rainere had them tamper with evidence submitted during discovery
  - f.) Mr. Raniere committed fraud at every level, tax evasion, and money-laundering in all of many corporate entities and charities
  - g.) Ms. Keeffe provided me with third party providers that could easily be subpoenaed validating these facts such as: Email account names, fax numbers, dates, facts, banking information, people involved, charities fraud, corporate money laundering, abuses, and their illegal hacking into many people's banking, computer, phone and Email accounts

#### **NXIVM AND BRONFMAN'S LITIGIOUSNESS**

24. Currently in Albany Northern District Federal Court, NXIVM served a lawsuit just last summer against reporters from *Vanity Fair* magazine and the *Albany Times Union* newspaper, along with co-defendants O'Hara and Foley for civil damages based on the same alleged charges in this criminal case. It is significant to note that I am not named in this lawsuit at all, because NXIVM knows and possesses no evidence, that I was a participant with those individuals and those allegations occurring back in 2010. This is further evidence in supporting that I was wrongfully enjoined in this criminal case with co-defendants O'Hara and Foley for my single, isolated login done with permission looking at only non-proprietary information in 2014 – occurring years later and having absolutely no connection to their case at all.

25. For over a decade, NXIVM has demonstrated an obvious, clear pattern of litigiousness, egregious and wrongful allegations, and spending millions legally attacking their detractors, or anyone revealing information perceived to be negative, which has resulted thus far

in no favorable rulings on NXIVM's behalf – but – has been extremely malicious and abusive to those they have attacked.

26. Attorney David Shultz, representing *Albany Times Union Newspaper* reporter Odatto, points out in his Motion to Dismiss, which was filed on October 1, 2014, numerous instances of NXIVM's pattern of legal harassment and rulings against them in *NXIVM vs Foley et al*, in the Northern District of New York, by stating that,

**NXIVM is also known to be highly litigious and vindictive. It has launched multiple lawsuits against former members and others, often alleging only small losses, but inflicting huge litigation expense. NXIVM engages in relentless motion practice and excessive discovery—abusive tactics that have not gone unnoticed by the courts. One bankruptcy judge, for example, detailed NXIVM's "deplorable" pursuit of a former NXIVM trainer (In *NXIVM vs. Dones*):**

**"Her "sin" was to attempt to walk away after discovering that NXIVM was not what she thought or hoped. In return, she was labeled a "suppressive," a term that NXIVM applies to former associates who leave the company or whom NXIVM perceives to be its enemies, and subjected to protracted litigation from two large law firms and a phalanx of attorneys. Despite multiple depositions and extensive discovery, they were never able to prove that Woolhouse did anything wrong. NXIVM's treatment of Woolhouse in this adversary proceeding was, in a word, deplorable." ~ Judge Brian Lynch (See Attached Hayes Affirmation Exh. C: Judge Lynch Order)**

27. In regards to NXIVM's improper use of discovery, in *NXIVM vs Dones*, Attorney Shultz states,

**Earlier in that litigation, in asking the court to quash subpoenas issued by NXIVM, defendants documented how NXIVM was seeking to use discovery as a tool to "make a full sweep of their ex-members" who had spoken out publicly. (See Attached Exh. C: Dones Motion to Quash)**

28. NXIVM is no stranger in the Northern District of New York having launched a lawsuit in against a famous cult de-programmer, Rick Ross, in *NXIVM v. Ross Institute* (No. 06-cv-1051-KSH\_D.N.J. 2006), for posting statements from two psychiatrists claiming NXIVM was a cult on his website, along with posting a few pages from a NXIVM student manual. In regards to that case Attorney Shultz states,

**Magistrate Judge Randolph Treece, who handled one aspect of the Ross litigation despaired over NXIVM's litigation tactics, including a "glaringly transparent" effort to do an end-run around one court ruling by withdrawing its federal lawsuit and immediately filing a state action alleging the same claims and seeking the same relief.**

(See Attached Exh. D: Judge Treece Order)

29. NXIVM Founder Raniere's legal retaliation tactics have been duly noted, and not tolerated, by another local judge. Mr. Raniere had filed a complaint against former girlfriend, Toni Natalie Foley (also a co-defendant in this case); but, Judge Littlefield from Northern District Bankruptcy of New York, dismissed it giving a very telling statement in his decision stating,

**This matter smacks of a jilted fellow's (Raniere) attempt at revenge or retaliation against his former girlfriend, with many attempts at tripping her up along the way.**  
(See Attached Exh. E: Judge Littlefield Order)

30. Attorney Shultz then goes on to speak about how "NXIVM's tactics do not stop with aggressive litigation" citing,

**After leaving NXIVM, defendant Toni Foley had to obtain a restraining order against a NXIVM employee who, among other things, was caught tampering with her mailbox.**

(See Attached Exh. F: Protective Order Foley)

31. Also mentioning NXIVM's unlawful actions in *NXIVM v Ross Institute* in the Northern District of New York (No. 03-7952\_2d Cir. 2004); wherein Ross presented tangible evidence of the same to the Court, with Attorney Shultz stating,

**Rick Ross has alleged that NXIVM hired private investigators who unlawfully obtained his bank records and telephone records, rummaged through his garbage, and set up a 'sting operation' in an unlawful effort to manufacture evidence to use against him.**

(See Attached Exh. G: Ross Counterclaims)

Magistrate Judge Treece took Ross's counterclaims and allegations against NXIVM for this unlawful act seriously, and in his ruling stated,

**What raised eyebrows...and is the linchpin of their argument for piercing the privileges, is the improper and probably illegal manner in which Interfor (hired by NXIVM) collected data on Ross' banking and telephone information. Within this Report, a number of privacy breaches are divulged, including several of Ross' banking transactions...burden of reasonable cause to believe that a crime of fraud has been committed.**

(See Attached Exh. H: Judge Falk)

32. In *Bronfmans vs O'Hara*, a Protective Order had to be issued on behalf of my four friends who were improperly issued deposition subpoenas for a 'fishing expedition as a result of their refusing to speak with a high-profile famous Private Investigator hired to dig up some kind of dirt about me. For six months this PI harassed my friends, employees and colleagues, threatened to arrest some, and spread a negative smear campaign against me.

(See Attached Exh. I: Motion to Quash and Protective Order).

32. NXIVM's legal pursuit against Mr. Ross has now spanned 11 years, while most claims have been dismissed except a copyright infringement, which the Judge has ordered the parties attend mediation.

33. Even Albany County Criminal Court has had to dismiss a case due to NXIVM's false allegations. Judge Thomas Breslin dismissed a case whereby NXIVM falsely accused Joseph O'Hara (also a co-defendant in this case) of stealing money from one of their charities. Very shortly thereafter, all charges were dismissed with Judge Breslin stating,

**The People presented a 'bare bones' case to the Grand Jury and the instructions were so brief as to fail to provide appropriate legal instruction"...it is noted that the prosecutor posed numerous leading questions throughout the presentation.**

(See Attached Exh. J: Judge Breslin Order)

34. Another local media firm, Metroland Magazine, has also experienced NXIVM's litigiousness. After their investigations and then running controversial stories, NXIVM launched a \$65 million lawsuit in the Western District of New York in *NXIVM Corp. v. Metroland Magazine*, No. 136445 (Sup. Ct. Niagara County. 2009) for product disparagement and tortious interference. This case was dismissed shortly thereafter.

35. There is now a long history establishing Mr. Ranieri's malicious patterns of filing baseless, meritless lawsuits, while spending millions on a battalion of prominent law firms across the country whom are influential and politically connected while performing unlawful activities (many criminal) to gain access illegally to their detractors private affairs in an effort to use it for coercion – with the goal to continue silencing, and suppressing negative information about them.

### CONCLUSION

36. NXIVM has a long history and are far reaching in their extreme harassment of people possessing negative information about Mr. Ranieri and his inner circle. Speaking up can cause someone to fear suffering negative repercussions, which is clearly the case with my key witness, Svetlana Kotlin. She was too terrified to voluntarily step forward, sign an affidavit to clarify the facts and speak the truth about my having permission to use her password for NXIVM's social website. Kathy Ethier, and myself, both submitted affidavits attesting, and being witness, to Ms. Kotlin admit this and why. Ms. Kotlin at one time was Mr. Ranieri's business partner and personally involved with him, but severed ties leaving frightened and on bad terms. She truly believes that she cannot be honest, because she feels threatened, and terrified, of what he might do to harm her either personally or professionally. She stated to me, "He will torture me like he has done to you." If she wasn't so afraid, this felony count would never have been brought. Mr. Ranieri's manipulation of the courts and law enforcement to use as a weapon to scare and silence people – hoping to keep damaging information about him from coming out – has been extremely an effective strategy so far. And, just when you think you have evidence - you then don't - because there is such fear around honestly expressing, like with Ms. Kotlin.

37. Sadly, an enormous amount of my time and resources has been spent these last six years defending against false allegations and salacious accusations in these frivolous, baseless lawsuits filed by NXIVM and the Bronfmans. After spending over \$500,000 over the last six years defending myself, I just incurred another \$50,000 to defend against this ridiculous felony count, been further traumatized, inconvenienced traveling from Seattle while sleeping on couches. And, my passport was taken restricting my travel. So far, the Prosecutor offered five plea offers, some quite favorable. But, I have declined. I have been falsely accused, arrested, and indicted. I do not want nor deserve a criminal record, violation or fine. I do not want NXIVM and the Bronfmans to then only enter NYS Supreme Court (where they each have a pending lawsuit) where they will surely put a negative spin on a plea offer somehow managing to make me look guilty, raise doubts, and gain an unfair advantage. And so, I decided it was best to allow the facts, evidence and truth to be brought forward, and trust that even though NXIVM's bizarre, egregious and far-reaching litigiousness against me does not overwhelm or confuse the Court. But rather, that the Court is wise to these type of malicious patterns and meritless claims. I pray this Court will see through the veil of these false allegations, and dismiss this indictment wherein I have been falsely accused of logging on one single time for mere minutes to NXIVM's social website looking at nothing more than social workshop calendars and testimonials (which even NXIVM defines as non-proprietary), and can also be viewed by the general public without a member password.

38. I continue to visit and share my life with my special brothers and friends. I enjoy taking care of those clients who stayed loyal to me even through the travesty of negative publicity – still entrusting and having confidence in my continuing commitment to manage their retirements and estates. I attach herewith eight character references written by some of them (See Attached Exh. K: Character References).

Barbara J. Bouchey, being duly sworn, swears to this under penalty of perjury,

Barbara J. Bouchey      9/3/15  
Barbara J. Bouchey      Date

Signed and sworn to me this \_\_\_ day of September, 2015.

\_\_\_\_\_  
Notary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA COUNTY OF Marin  
Subscribed and sworn to (or affirmed) before me on this 3 day of Sept  
2015 by Barbara J. Bouchey  
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

AR  
(Signature of Notary)

