

1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF NEW YORK

3 -----x
 4 UNITED STATES OF AMERICA,

18-CR-204 (NGG)

United States Courthouse
 Brooklyn, New York

5 -against-

June 17, 2019
 9:00 a.m.

6 KEITH RANIERE,

7 Defendant.

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

11 APPEARANCES

12 For the Government:

13 UNITED STATES ATTORNEY'S OFFICE
 14 Eastern District of New York
 271 Cadman Plaza East
 Brooklyn, New York 11201
 BY: MOIRA KIM PENZA, ESQ.
 TANYA HAJJAR, ESQ.
 MARK LESKO, ESQ.
 15 Assistant United States Attorneys

16 For the Defendant:

17 BRAFMAN & ASSOCIATES
 767 Third Avenue
 New York, New York 10017
 BY: MARC AGNIFILO, ESQ.
 18 TENY ROSE GERAGOS, ESQ.

19 DEROHANNESIAN & DEROHANNESIAN
 677 Broadway
 Albany, New York 12207
 BY: PAUL DerOHANNESIAN, II, ESQ.
 21 DANIELLE R. SMITH, ESQ.

22 Court Reporter:

23 Rivka Teich, CSR, RPR, RMR, FCRR
 Phone: 718-613-2268
 Email: RivkaTeich@gmail.com

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SUMMATIONS - MS. PENZA

1 (Jury enters the courtroom.)

2 THE COURT: Please be seated everyone.

3 Good morning members of the jury.

4 THE JURY: (Collectively) Good morning.

5 THE COURT: At this time we'll proceed with closing
6 arguments. The Government will give its closing argument
7 first, and then the defense will give a closing argument, to
8 be followed by rebuttal by the Government.

9 You may proceed with your argument, Ms. Penza.

10 MS. PENZA: Thank you, your Honor.

11 Knoxwood, Clifton Park, New York. At first glance
12 it looks like an ordinary subdivision in an ordinary suburb.
13 Manicured lawns, tree-lined streets, scenic train ride from
14 New York City.

15 At the beginning of this trial Mr. Agnifilio, he
16 called it idyllic. Yes. It looked like the American dream,
17 but if we've learned anything from this trial, it's that looks
18 can be deceiving. And it's what is the inside that counts.

19 127 Grenadier Court, a naked woman, held down, her
20 arms above her head like a sacrifice, screaming, while the
21 defendant's initials are branded into her body.

22 2 Flintlock Lane, newly married Sylvie ordered to
23 open her legs for the defendant before she could be intimate
24 with her husband.

25 8 Hale Drive, the defendant's executive library. A

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1 library with a sauna, a hot tub, a loft bed, and a collection
2 of sexually explicit photos including of 15-year-old Camila.
3 His trophy, his sexual conquest.

4 120 Victory Way, Nicole, lying naked on a cold
5 wooden table. Her wrists, her ankles bound, blind-folded, not
6 knowing that a video camera is pointed at her.

7 And 12 Wilton Court, Daniela, alone in her room for
8 the 700th day in a row, with a pen, a piece of paper, and a
9 foam pad on the verge of suicide.

10 The closed doors of these cookie-cutter homes had
11 seemed straight out of a horror movie, but for the defendant's
12 victims this was all too real.

13 Sex trafficking, child exploitation, forced labor,
14 and so many more crimes. Over the past six weeks you were
15 given a look behind these doors and into the inner workings of
16 the defendant's criminal enterprise. Strict but carefully
17 constructed image the defendant's inner circle made for him,
18 humanitarian, leader, mentor, guru. You saw him for what he,
19 was a conman, a predator, a crime boss.

20 The crimes he's charged with span nearly 15 years
21 and include sex trafficking, forced labor, sexual exploitation
22 of a child, possession of child pornography, identity theft,
23 wire fraud, and obstruction of justice.

24 It's been a long trial. And you've heard a lot of
25 evidence. Among other things, you heard testimony from former

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1 members of the defendant's inner circle like Lauren Salzman
2 and Mark Vicente. Those people committed crimes with him and
3 for him. You met Daniela, who went from hacking e-mail
4 accounts for the defendant to being imprisoned in her own home
5 on his orders. You met some of the defendant's most recent
6 victims, Sylvie, Nicole, Jay, who were groomed to be the
7 defendant's sex slaves. You saw the pictures of 15-year-old
8 Camila's private parts. You saw the hundreds of thousands of
9 dollars in cash that was kept for the defendant at Nancy
10 Salzman's house. You heard recordings in the defendant's own
11 voice directing his crimes.

12 It's been clear how carefully you paid attention
13 through this trial, and we thank you for that. Now we're
14 almost done. My job is to help you go through the process of
15 putting all the evidence you've heard together in a methodical
16 way and show you how to prove the defendant is guilty beyond
17 any reasonable doubt of each of the charged crimes.

18 The defendant is charged with seven crimes in this
19 case. Racketeering, racketeering conspiracy, wire fraud
20 conspiracy, forced labor conspiracy, sex trafficking
21 conspiracy, sex trafficking, attempted sex trafficking.

22 We're going to talk about racketeering first. Now,
23 when you hear racketeering, or RICO as it's sometimes called,
24 you might think of the mafia. But under the law other types
25 of organized crime are also racketeering. That's because the

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1 law recognizes that when people commit crimes as part of a
2 group they are more powerful and more dangerous. Put simply,
3 racketeering means that the defendant was part of a group of
4 people who were working towards a common goal. Under the law,
5 we say he was part of an enterprise; and as part of his
6 involvement in that enterprise he committed crimes. Here as
7 you've learned in this trial, the defendant and his inner
8 circle were the enterprise for which he committed crimes.

9 Now that's the who and the purpose of the
10 enterprise, but there is also the why and the how.

11 Now why would they all be part of this enterprise?
12 Because they all benefited. The whys in this case are as old
13 as time, sex, money, power.

14 As head of the enterprise, the defendant tapped into
15 a never-ending flow of women and money. He also gained power
16 and influence and means of control and protection. Alone he
17 would just have been a man; with his inner circle he was the
18 ruler in his universe in Clifton Park, New York. A crime boss
19 with no limits and no checks on his power. To the defendant's
20 most trusted insiders, his word was the law and no one acted
21 except on his say-so.

22 For their roles in the enterprise, the members of
23 the inner circle gained special privileges with their boss
24 along with the financial benefits of being close to him.

25 Let's talk about Lauren Salzman for a moment.

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1 Ms. Salzman testified that she was part of the defendant's
2 criminal enterprise, part of his inner circle. She admitted
3 to you the crimes she committed on the account defendant's
4 behalf. Her imprisonment of Daniela. Her fraud and her
5 extortion of the DOS victims. And she told you the benefits
6 she received from the enterprise. A job making over \$100,000
7 a year that allowed her to own two homes and travel all over
8 the world. As well as her personal sexual relationship with
9 the defendant and her dream of having his child. All of which
10 she would have lost if she stopped doing his bidding.

11 That brings to us the how. How did this enterprise
12 work? You'll see many examples as we discuss the charges in
13 this case; but in a nutshell, through abuse and control.
14 Grooming women for the defendant, collecting sensitive
15 information and naked photographs, and humiliation by creating
16 financial dependence, isolating people from their friends and
17 family, and by building an us-against-them mentality, and
18 waging war on anyone who challenged the enterprise's power.
19 Thereby instilling fear of reprisal in anyone who thought
20 about challenging the defendant or his inner circle.

21 In short, the defendant and his inner circle used
22 tactics that destroyed his victim's sense of self and ability
23 to trust. Making them compliant and vulnerable to being used
24 in whatever way the members of the enterprise chose.

25 And the enterprise was set up to last. First, the

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1 enterprise grew itself and furthered its aim by turning its
2 victims into victimizers. As just a few examples, we saw this
3 with Daniela who was groomed for the defendant at an age of 16
4 and then ended up facilitating the defendant's relationship
5 with her under-age sister, Camila. We saw with Camila, who
6 was sexually abused by the defendant at age 15, and then ended
7 up sexually abusing Nicole as the defendant watched. We saw
8 what Nicole, who was assigned to spy on Robbie Chiappone and
9 turn him over to some unknown person not knowing he was the
10 defendant's romantic rival. Even Lauren Salzman was abused
11 for years by the defendant before she made the choice to
12 commit the crimes she pled guilty to. She testified, if she
13 had ever spoken up or said no to the defendant, she would have
14 been ostracized, lost her career, and lost her relationship.

15 Second, is the importance of secrecy as an essential
16 part of the enterprise. Some of the defendant's goals he
17 could achieve through NXIVM and the other public
18 organizations, but for his criminal ambitions he needed the
19 enterprise: The naked pictures of 15-year-old Camila; the
20 confinement of Daniela; the operation of DOS; the recruitment
21 of virgin successors for him; the illegal surveillance of his
22 enterprise.

23 It's important to remember too, that not everyone
24 within the enterprise needs to know everything. Different
25 people serve different purposes for the defendant.

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1 For example, Pam Cafrtiz and Lauren Salzman, they
2 were the defendant's fixers, when one of his many girlfriends
3 was acting prideful or defiant. Nancy Salzman, she performed
4 that role as well. But she and Kristin Keeffe were also at
5 the forefront of efforts to protect the enterprise through
6 surveillance measures and other tactics meant to destroy.

7 That's how criminal organizations work, secrecy.
8 Even among members of the enterprise, it helps protect it and
9 keep it strong.

10 Let's turn to the law. At the end of closing
11 arguments Judge Garaufis will instruct you on the law that
12 applies in this case. I'm only going give you an overview.
13 When you go back to deliberate, it's what Judge Garaufis says
14 that controls. If anything that I say differs from what Judge
15 Garaufis says, you must listen to the Judge. I expect the
16 Judge Garaufis will instruct you that these are the elements
17 of racketeering.

18 The first element, is that an enterprise existed.
19 This is the enterprise. You heard and saw throughout trial
20 overwhelming evidence that these people were associated in
21 fact, which is what is required to find that an enterprise
22 existed.

23 The second element is that the enterprise engaged in
24 or its activities affected interstate or foreign commerce.
25 This just means that the operations of the defendant and his

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1 inner circle involved movements between states or between the
2 United States and another country. You heard overwhelming
3 evidence of this element, including that members of the inner
4 circle recruited new followers for the defendant from all over
5 the country and all over the world, and that people traveled
6 from these places to New York.

7 You can see this element when you look at
8 racketeering act too. Daniela being driven to Mexico in order
9 to walk across the border on the defendant's orders. DOS
10 slaves being recruited from Canada and Mexico. And you heard
11 about cash being transported over the Mexican border. These
12 are some the examples of how the enterprise operated across
13 state lines and across the country's borders.

14 Once you find that the enterprise existed, elements
15 three and four that the defendant was associated with the
16 enterprise and participated in the affairs of the enterprise,
17 are simple. Keith Raniere was the center of the enterprise.
18 Everything else revolved around him. So of course he was
19 associated. He was the boss. And he also participated in the
20 enterprise's affairs. He ran it. He was the one calling the
21 shots.

22 And that brings us to the fifth and final element of
23 racketeering, the defendant's participation in a pattern of
24 racketeering activity. In order to find that the defendant
25 participated in a pattern of racketeering activity, you must

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1 find that he committed at least two of the racketeering acts
2 that are alleged in this case. As we go through the evidence
3 this morning you'll see that for each racketeering act, the
4 defendant either committed the act himself or commanded it to
5 happen.

6 As I expect Judge Garaufis will tell you, under the
7 law even if you don't personally commit a crime, if you
8 command it or you help it happen, that's the same as
9 committing it yourself. That makes sense, that's how crime
10 bosses operate. Sometimes the defendant was at the scene of a
11 crime, but sometimes he wasn't. When he wasn't, that doesn't
12 make him any less guilty.

13 You must also unanimously agree on whichever acts
14 that you find. You must find that the most recent act proven
15 was committed within ten years of a prior act. I submit to
16 you that you're going to find that we proved all of the
17 alleged acts were committed, not just two. In any event, in
18 this case most combinations of acts would satisfy this
19 requirement.

20 These last requirements of nexus and relatedness and
21 that the enterprise lasted for a substantial period of time,
22 we'll cover at the end of the presentation.

23 Now we're going to take a brief look at each of the
24 racketeering acts alleged in this case, as well as the stand
25 alone counts.

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1 Before we do that, I want to talk about the legal
2 concept called conspiracy. A number of the racketeering acts
3 and stand alone counts are conspiracy counts, which means you
4 must prove there was an agreement between the defendant and at
5 least one other person to commit the crime at issue. When you
6 hear the word conspiracy, you should remember that the
7 criminal act is the agreement itself, it makes no difference
8 whether the crime was actually committed. Judge Garaufis will
9 instruct you that defining an you, just find to that the
10 defendant came to a mutual understanding, if even if passibly,
11 to carry out a crime through a joint plan or common scheme.
12 You certainly don't need to find that the defendant sat a
13 table and drew up a formal plan to commit a crime. That's not
14 how criminals work.

15 Now there is four categories that the racketeering
16 acts fit into. They are also common threads through the
17 pattern as a whole.

18 For racketeering act one, we'll look at the proof we
19 presented that the defendant agreed with others to transport
20 Daniela across the Canadian border into the United States
21 using someone else's name and birthday. Now there is two ways
22 that the defendant could have committed that act. In spots
23 like this, where there are two or more options, under the
24 Racketeering Act you only need to find one of them in order to
25 find that the defendant committed the act.

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1 For Racketeering Acts two, three, four we'll look at
2 the proof we presented that the defendant took graphic photos
3 of Camila when she was 15 and kept those photos for more than
4 a decade in the executive library, hidden in a folder called
5 studies, along with photos of his adult lovers in the same
6 poses all around the same time period.

7 For Racketeering Act five, we'll look at the proof
8 that the defendant agreed to obtain usernames and passwords of
9 people he deemed to be enemies of enterprise. That he was
10 directly involved in obtaining Edgar Bronfman and James
11 Loperfido's e-mail usernames and passwords in order to monitor
12 their e-mail accounts.

13 For Racketeering Act six we'll look at the proof of
14 the defendants role in agreeing to alter the video that would
15 be produced in the Franco litigation.

16 For Racketeering Act seven we'll look at the proof
17 of the defendant's agreement to obtain the username and
18 password for his lover, Marianna's e-mail account.

19 For Racketeering eight we'll look at the proof of
20 the defendant's trafficking of Daniela, to have her perform
21 work for him, including his imprisonment of her in a room for
22 nearly two years in an effort to extract work from her, as
23 well as the defendant's role in keeping Daniela's birth
24 certificate from her.

25 Racketeering nine and ten, both relate to the

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1 Government's proof regarding DOS.

2 For Racketeering nine, we'll look at the proof of
3 the defendant's role in extorting property from DOS slaves
4 under the threat of release of the initial collateral they
5 provided.

6 Racketeering Act ten is another one of the places
7 where there are two ways to prove that the Government proved
8 the act. The forced slave of Nicole and the sex trafficking
9 of Nicole. As to forced labor, we'll look at the proof that
10 Nicole was coerced to providing labor and services including
11 editing and transcription work, taking naked photographs, and
12 engaging in sex acts with the defendant under threat of her
13 release of her collateral.

14 As to sex trafficking, we'll look at the proof of
15 that Nicole was coerced in in engaging in a sex act; in this
16 instance, being tied to a table while Camila performed oral
17 sex on her. And that Allison Mack by offering Nicole up to
18 the defendant in this way, maintained the personal and
19 financial benefits that went with satisfying the defendant and
20 maintaining her role as a first line master.

21 Within DOS there were also stand alone counts --
22 there are also stand alone counts that relate to DOS.

23 When we talk about the DOS related Racketeering
24 Acts, we'll talk about the stand alone count at the same time
25 because most of the proof will be the same for all of them.

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1 The stand alone counts cover the sex trafficking of
2 Nicole and attempted sex trafficking of Jay, but they also
3 include three conspiracy counts, which we'll walk through.
4 For those counts we'll discuss the proof the Government has
5 presented, that the defendant agreed with others to defraud
6 lower-ranking DOS slaves by concealing his involvement in DOS;
7 to obtain a labor and services from lower-ranking DOS slaves
8 through coercion; and to commit sex trafficking more
9 generally.

10 For Racketeering 11, we'll look at the defendant's
11 agreement that Pam Cafritz's credit card would be used after
12 her death at a time when he claimed that he did not have the
13 right to access her money. And in an effort to continue to
14 hide the facts of his assets from the IRS and keep his
15 self-judgment free.

16 (Continued on next page.)

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1 MS. PENZA: Now, let's take a look at the verdict
2 form that Judge Garaufis is going to give us.

3 Here on Page 1, you can see that the first count is
4 racketeering. It says "Count Two" because in the indictment
5 racketeering was listed as Count Two. But the Court and the
6 parties all thought it would be easier for you to first
7 determine that the defendant committed racketeering.

8 On Pages 2 and 3 are the individual racketeering
9 acts, and those are the ones we just touched on. So if I had
10 the slide that had them on there, you would have seen all of
11 the different acts and here you'll have for each one what
12 you'll be able to check off whether that act was proved or not
13 proved.

14 And this is what I was explaining before is that for
15 certain of the acts there are two ways to find that that
16 racketeering act was proved. So, for example, for
17 Racketeering Act 1, you'll find Racketeering Act 1 was proved
18 if you find that either that we proved conspiracy to commit
19 identity theft or conspiracy to unlawfully possess
20 identification documents or both.

21 Once you check yes to two of the acts, two of the
22 underlying acts, then you can go ahead and you can check
23 guilty on the first page because finding the defendant guilty
24 of racketeering, you need to find at least two racketeering
25 acts proven. But you should go on to consider the other

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1 racketeering acts once you found that we've proven two of
2 them.

3 Now, if we turn to the third page of the verdict
4 form, you'll see that it says "Racketeering Conspiracy." And
5 that just has one place to check, guilty or not guilty.
6 That's because to be guilty of racketeering conspiracy, the
7 defendant only has to have agreed with another person that
8 they would commit racketeering. No part of the plan has to
9 have come to fruition, not the enterprise and not the
10 racketeering acts.

11 So let's hypothetically I found that the defendant
12 and Allison Mack had some great master plan to form the
13 enterprise and that they had planned that someone would carry
14 out at least two racketeering acts in furtherance of that
15 enterprise but they never succeeded. That agreement alone
16 would be enough to check guilty as to Count One on Page 3.

17 In this case, though, the defendant not only agreed
18 to commit crimes for the enterprise but he actually did so and
19 was successful for a long time until he was arrested. That's
20 why we submit he is guilty of both Count One and Count Two,
21 racketeering and racketeering conspiracy.

22 And because racketeering conspiracy doesn't require
23 any completed racketeering acts, there's no list of predicate
24 acts under Count Two on the verdict form. What the Government
25 must prove here is that the defendant agreed that he or a

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1 co-conspirator would commit two or more racketeering acts and
2 the crimes charged in the indictment and you must be unanimous
3 as to those types.

4 So here are the types of racketeering acts listed in
5 the indictment. Once you've checked off two racketeering acts
6 as proven, if you find that the defendant agreed to commit
7 those acts as part of the enterprise, then you can go ahead
8 and check off guilty on both racketeering and racketeering
9 conspiracy. But you can also find the defendant guilty of
10 racketeering conspiracy if you find he agreed with -- that he
11 or another person would commit two acts in any of these
12 categories.

13 For example, if you find that the defendant agreed
14 that two DAS slaves would be defrauded you're there. If you
15 find the defendant agreed that two DAS slaves would be
16 extorted, you're there. If you find the defendant agreed that
17 one DAS slave would be extorted and one DAS slave would be
18 defrauded, you're there and so on.

19 Now, finally, on the end of Page 3 and Page 4,
20 you'll see the standalone counts. And when we talk about the
21 racketeering acts that relate to DAS, we'll talk about those
22 as well because a lot of them will overlap.

23 So let's turn to talking about the evidence you
24 heard at trial and we'll start with Daniela.

25 Let's travel far away from Clifton Park, New York

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1 for a minute to the small ranching town in Central Mexico
2 where Daniela is from. She told you what you would have seen
3 if you had looked behind the closed doors of her childhood
4 home: A happy family, successful, joyful. From Daniela's
5 testimony, her family was the type of close, tight-knit family
6 everyone yearns for. But then her parents were introduced to
7 NXIVM.

8 Daniela testified that she set to attend a
9 prestigious Swiss High School on scholarship when her parents
10 gave her the NXIVM 16-day Intensive as a going away present.

11 This is Daniela's family and this is a picture from
12 Daniela's first Intensive in Monterey. A fresh-faced
13 teenager. In front of her is Lauren Salzman, the one, who,
14 eight years later, would become her captor at the defendant's
15 direction. Daniela testified that she wasn't impressed with
16 much of the course, but she was completely taken by the
17 Mission Module.

18 She went into the course hoping to change the world
19 through Green Peace or something similar. But in that module,
20 the defendant's curriculum taught her that all those things
21 were worthless. That the only way to save the world was
22 through his Tech. And that if people didn't get integrated,
23 the world was going to end. She was even taught that the
24 defendant who's billing as the smartest man in the word she
25 believed had come up with a mathematical formula for the End

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1 Times. Her testimony about this can be found at Page 2305
2 through 306.

3 After taking that first class, Daniela testified
4 that she came to believe that all of her dreams were
5 worthless. And when she was given the opportunity to forego
6 her scholarship and work for the Mission, as she called to,
7 the mission in Albany, she thought hard, sought the advice of
8 her parents who, I submit, had already been sucked in by the
9 defendant's teachings and the parade of wealthy and
10 influential Mexicans who were taking these courses and changed
11 her plans. Within a few months, Daniela was in Albany, 16
12 about to 17 turn without her family, without any friends,
13 without, and she's handed a data entry job in the admin
14 office. It was not the life she expected and it certainly
15 wasn't the life she had given up her fancy Swiss school for.

16 But one day, the defendant took an interest in her
17 after she solved a series of difficult brain teasers and that
18 changed things. He promised he would tutor her, give her an
19 education that would surpass the Ivy League education she
20 dreamt of. But rather than tutoring her, the defendant began
21 grooming her.

22 Now, around that time, something very important --
23 something happened that is very important that would later
24 change her life. Daniela testified that at one point when she
25 was 17, she stole \$6,000 in cash from the admin office. She

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1 put the money back a day after, but she ended up confessing
2 this to the defendant. Although the defendant acted as if the
3 incident was over and forgotten when she confessed, the next
4 day she was berated by Nancy Salzman and humiliated to learn
5 that everyone in the Intensive that was going on knew what she
6 had done.

7 This is Daniela's testimony about that incident.
8 She said: "At the time, he felt like the only person who was
9 on my side. In fact, because of that hell I went through
10 everybody thought I was bad and he didn't adopt that stance, I
11 thought he was understanding." When asked what she thought
12 about the incident looking back Daniela said, "I think he set
13 it up." "I think he set me up." I submit the defendant made
14 himself the hero of that story to get closer to Daniela.

15 Eventually, though this incident faded, it was
16 dredged up years later as pretense to punish her but we'll
17 talk about that in a bit.

18 So going back. One night, Daniela was in a NXIVM
19 education center and she confided in the defendant that her
20 parents were going through a divorce. How did the defendant
21 react? He kissed her. Daniela was 17, he was 43. That was
22 her first kiss. Daniela testified that when she got home that
23 night, the defendant called her and told her she should keep
24 it a secret.

25 Here's her testimony. You might remember when I

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1 asked her, "Daniela would you keep additional secrets after
2 that?" And she said, "Everything about my personal life was a
3 secret from then on."

4 This background provides important context that
5 explains Daniela's mental state years later when the defendant
6 and the Inner Circle convinced her that she had committed an
7 ethical breach that was threatening to destroy them all. And
8 after that kiss, the defendant's sexual behavior towards
9 Daniela escalated. He was asking her personal questions about
10 her sexual background of which there was none, which he liked.
11 And he asked her about her pubic hair. She didn't even know
12 that grooming it was a thing. Her testimony about this is at
13 Page 2376 to 77.

14 Then, a week after Daniela's 18th birthday, the
15 defendant performed oral sex on her on a dirty mattress on the
16 floor of the offices of the defendant's old company, CBI. But
17 did he have intercourse with her? You might remember how
18 Daniela testified that she was confused for years because
19 Daniela knew the defendant hadn't penetrated her that night,
20 yet he insisted he had. For years. This is an example, the
21 first example, of many that fit the definition of what
22 Dr. Hughes testified is called "gas lighting," a method of
23 coercive control in relationships. Her testimony about the
24 effects of these crazy-making techniques is at 3,720 to 21.

25 Daniela also testified she later observed the

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1 defendant use similar crazy-making techniques on other women.
2 Regardless of whether there was intercourse that night or not,
3 though, at that point things changed.

4 From some time around then, until the infamous Ben
5 Meyers kiss, Daniela was part of the defendant's inner circle.
6 Allowed to be present for the most sensitive meetings and
7 expected to take on sensitive criminal tasks. During that
8 time, though, something else happened, like the stealing and
9 returning of the \$6,000, that marks a key point in her story
10 and this one is the first racketeering act. The defendant's
11 agreement to have Daniela cross into the country.

12 Now, at the time she entered the United States,
13 Daniela was making that choice voluntarily knowing that it was
14 wrong, but her illegal status in the United States would
15 become a major tool of leverage used by the defendant.

16 Racketeering Act1. On October 26, 2004, Daniela
17 was denied entry into the United States and was told she would
18 have to wait another year to reenter. On April 10th in the
19 United States Daniela, returned to hometown. Daniela wanted
20 to return to Albany and the defendant wanted her to return to
21 Albany. After all, he was used to her providing him with sex
22 and with work. Daniela was in regular phone contact with the
23 defendant and eventually defendant Daniela testified the
24 defendant came up with a plan which he explained to her over
25 the phone. He told Daniela she should fly to Toronto, Canada

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1 on Christmas Eve where Kristin Keeffe would meet her with a
2 fake Sheriff's I.D. in the name of an Alaskan woman who died
3 but who, according to the defendant, looked similar to
4 Daniela. Daniela would do some shopping and she and Kristin
5 would cross over the border making it look like they had
6 popped over to do some Christmas shopping.

7 Daniela flew to Canada as planned but when she got
8 there, Kristin Keeffe was not. Instead, Kathy Russell met her
9 and handed her the fake I.D. that the defendant -- handed her
10 the fake I.D. that the defendant and Kristin Keeffe had
11 arranged for her to have. She and Kathy Russell crossed over
12 the border with Daniela distracting the officer who was
13 looking at her I.D. and drove down to the Christmas get
14 together in Clifton Park.

15 Now, when she was on the stand, Daniela could not
16 remember if Daniela and Kathy picked Kristin up on the
17 United States side of the border before heading to
18 Clifton Park. But you heard from Special Agent Wenninger's
19 testimony about the evidence that Kristin was on the
20 United States side of Niagara Falls on December 24, 2004.

21 So, as I mentioned earlier, this racketeering act
22 can be found in one of two ways. The first is conspiracy to
23 committed identify identity theft.

24 Now, right way, you remember that because this is a
25 conspiracy what matters is the defendant's agreement that the

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1 crime he did committed.

2 These are the elements of conspiracy to commit
3 identity theft. Here, the Government proved that the
4 defendant agreed with at least Daniela, Kristin, and Kathy that
5 Daniela would possess the means of I.D. of another person
6 knowing that the means would belong to another person without
7 lawful authority in connection with unlawful activity, and
8 that this affect interstate commerce. The Government proved
9 through Daniela's testimony that she held, that is, possessed
10 the sheriff's I.D. which itself contained a means of
11 identification of a person and used it by presenting it to a
12 border officer.

13 Judge Garaufis will instruct you that a means of
14 I.D. can include a last name or a birth date. Here Daniela
15 testified that the I.D. contained both Ashana Chenoa's last
16 name and her date of birth. And if we look at the next slide,
17 you can see that the Government's prove that Ashana Chenoa was
18 a real person, meaning, a real person living or dead. Her
19 driver's license and a death certificate.

20 Then, on the next slide, is Ashana Chenoa's death
21 certificate and her driver's license and a CBP record showing
22 that Ashana Chenoa crossed the Canadian border on 12/24/04.
23 Daniela also testified that the defendant told her that Ashana
24 Chenoa was a real person who had died.

25 Special Agent Wenninger told you that there is no

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1 Kathy Russell crossing the border the same day as Daniela.
2 Daniela as Chenoa. No one knows why that might be, but it
3 doesn't change the Government's proof. Daniela gave specific
4 details about Kathy Russell's involvement including Kathy
5 Russell's frequent retelling of the adventure especially when
6 Kathy Russell, who is also in her 40s, was trying to persuade
7 Daniela to participate in a threesome with her and the
8 defendant.

9 So let's turn back to the elements.

10 Number three. Without lawful authority means
11 without an official authorization to use the I.D. Here, this
12 element is proven because there is no way for someone to be
13 authorized to cross the border on another person's I.D. In
14 addition, Ashana Chenoa was dead by the time Daniela crossed
15 using her I.D. I expect Judge Garaufis will instruct you that
16 the fourth element, the use of the I.D. in connection with
17 unlawful activity can be proven in one of two ways. Here,
18 we've proven both.

19 First, the I.D. was used in connection with
20 transporting Daniela, an illegal alien, within the
21 United States from the Canadian border to Clifton Park.
22 Second, the I.D. was used in connection with efforts to
23 ultimately harbor her in the United States and to facilitate
24 her presence in the United States.

25 Finally, the Government has proven the fifth element

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1 because Daniela's border crossing had an effect on interstate
2 commerce because it involved the moment of people, Daniela and
3 Kathy Russell, as well as the Christmas presents they bought,
4 among other things, from Canada into the United States.

5 So that is one racketeering act proven.
6 Racketeering Act 1, 1-A. Proved. But there's still one more
7 way to prove that act: Conspiracy to unlawfully possess an
8 identification document.

9 Now, here are the elements of that. This one is
10 fairly self-explanatory and similar in many ways to the
11 identity theft elements we looked at. Again this is another
12 conspiracy, and the question is: Did the defendant agree that
13 this crime would be committed. Here, the Government proved
14 that the defendant agreed with Daniela and others that she
15 would possess a false identification document, in this case, a
16 fake sheriff's I.D.

17 Special Agent Wenninger testified that sheriff's
18 I.D. is something that is intended as a form of I.D. and is
19 commonly accepted in various counties in New York State.
20 Similar to the New York City I.D. card that's available.

21 Finally, the Government has proven that the
22 defendant intended that Daniela use the sheriff's I.D. to
23 defraud the United States because it was supposed to trick the
24 United States official at the border. So the evidence has
25 established that that subpart in Racketeering Act 1 has also

1 been proved.

2 Let's turn back now to what happened when Daniela
3 returns to Clifton Park. The very night she is bought back
4 across the border, the defendant tries to persuade her and her
5 sister Marianna, with whom she knows he was having a sexual
6 relationship, to engage in a threesome with her. It ends with
7 the defendant naked and Daniela and Marianna crying.

8 After that Daniela, is left all alone on her first
9 night back in the United States. With no legal status in the
10 United States, Daniela is now beholden to the enterprise in a
11 way that she didn't come to appreciate until her fight with
12 the defendant in fall 2006. We'll get there, but from
13 December 2004 until fall 2006, Daniela was the defendant's
14 workhorse. That testimony is at Page 2511. She did
15 everything the defendant desired from organizing his library
16 to working on book reports. And she also had to sexually
17 perform on the defendant's command giving him oral sex up to
18 two times a day.

19 Now, Daniela, she was a very productive member of
20 the enterprise: She recorded the defendant's words for
21 posterity; she organized his book collection; she digitized
22 his music collection; she cleaned; she taught herself to hack
23 into e-mail accounts of NXIVM's enemies.

24 She did whatever was asked her for all from her
25 perch 3 FlintLock Lane where the defendant lived with Pam,

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1 Marianna, Kristin, and Karen Unterreiner.

2 Daniela testified about the way the defendant
3 controlled and manipulated her during that time. Her weight,
4 for example, was constant focus of the defendant and he would
5 tell her that she was hurting him by not dieting. She was
6 given book reports on graduate level topics that she had never
7 studied and was not paid if she couldn't complete them. Even
8 if she got 75 or 90 percent of the way there. In fact, she
9 was never paid for a book report at all. And she wasn't
10 allowed to make money except by working for the enterprise.
11 They never paid her. Always one excuse after another.

12 She was in a state of financial dependence.
13 Economic control. Notably, Daniela also spent her first years
14 of young adulthood in a world where other women were treated
15 that way. Oinked at when they went to the fridge. Spied on.
16 Groped in front of her women. And you heard this type of talk
17 from the defendant's own mouth.

18 You'll remember the clip where the defendant says
19 that calling a woman a pig but that's something that's, you
20 know, very -- women don't like that. But then he goes on to
21 say what's even worse than calling a woman a pig is talking
22 about her odor. And then he goes on to joke that when
23 somebody says it's official at a wedding that what he thinks
24 of it's a fish hole. That's the clip that you probably
25 remember.

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1 Now, when the defendant impregnated Daniela at age
2 20 after not allowing her to use birth control, Pam Cafritz
3 paid for Daniela's abortion. And I submit she monitored her
4 at the clinic to make sure Daniela delivered the coverup story
5 that would protect the defendant. She said she'd only been in
6 the United States for two to three months and that she was
7 considering college in the United States.

8 You saw the records from the clinic that documented
9 the coverup as well. After her job protecting the defendant
10 was done, Pam left Daniela to experience the abortion alone
11 despite instructions from the clinic that Daniela should be
12 monitored throughout the process.

13 Then, in fall 2006, Daniela will kissed Ben Myers
14 and that was the beginning of the darkest turn she had at the
15 defendant's hands. With Ben, Daniela finally experienced
16 actual romantic interest. Actual sexual desire. Something
17 she never had for the defendant.

18 And nave Daniela, she made the mistake of telling
19 this to the defendant. She actually thought he'd be happy for
20 her. But he lost it. You heard he locked himself in the
21 bathroom. He threw her across a room. After that night, they
22 never spoke in person again.

23 After that fight, once again, Daniela's world was
24 shaken. From then on Daniela, had an ethical breach and was
25 under strict monitoring by the inner circle. Karen

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1 Unterreiner, Nancy Salzman started monitoring her program
2 which, of course, again, focused on her weight and having her
3 complete book reports for the defendant's benefit as well as
4 breaking what was termed her "pride" and her defiance. For
5 the next two years, e-mails between Daniela and the defendant
6 showed the never-ending abuse and manipulation she suffered
7 after that kiss. Some of those e-mails can be found at
8 Government Exhibit 1578, 1535, 1534, 1563 and 1603.

9 You might remember the graphic questioning about
10 what she had done sexually with Ben. The defendant commenting
11 that she was making him appear to be an ogre, keeping her
12 locked in a castle. And during this time, Daniela was
13 threatened with being sent back to Mexico. Mexico without any
14 contact with her family. Mexico with no identification
15 documents. Mexico with no money.

16 These pictures and the scribbling from her journal
17 from that time perhaps give the best insight into her mind.
18 On the left, a note saying: "I don't want to be alone
19 anymore. I want to kill myself." On the right a
20 self-portrait captioned "Horror Story of Failure."

21 Then, in March 2010, the defendant ordered Daniela
22 confined to a room or otherwise she would be sent to Mexico.
23 Perhaps the saddest part of this episode is that Daniela's
24 parents were turned into co-conspirators, too. And they're at
25 fault. At fault for letting that man convince them to help

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1 hurt their daughter. But make no mistakes, it was the
2 defendant who was in charge.

3 Take a look at Lauren Salzman's testimony. After
4 that point, the defendant approached her with a plan regarding
5 Daniela. Yes, he did. Okay. What was the plan as to
6 Daniela? He proposed that Dani be given an ultimatum that she
7 go in her room with no distractions and come up with a plan
8 for how to fix this or be sent back to Mexico. The defendant
9 also made clear to Lauren Salzman that this was to be kept a
10 secret. He didn't even want her to discuss it on the phone.
11 This is at Page 1927. It's okay, we'll read it.

12 You remember the conversation between the defendant
13 and Daniela's mom, Adriana. And the whole time, Marianna,
14 Daniela's sister, who is also in a sexual relationship with
15 the defendant is translating. The defendant says, "If you
16 killed someone's child, is it right that the family comes and
17 begs you to do something about it or apologizes to you for
18 being so bad to you.' Her mother says, "No." "If the world
19 were like that, it would be very beneficial to kill other
20 people's children, and as they would help make you into a
21 monster." "If I went and spoke to Dani, I would be doing my
22 part in helping make her monster." "If I was Danny's parents,
23 and going back to Mexico, I would make her choose between
24 doing the right thing and staying here or losing communication
25 with me or whatever." "Sometimes it has it be that strict."

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1 Now, Lauren Salzman, she's a cooperator. She's
2 accepted responsibility for her crimes and she's agreed to
3 testify. But she is hoping for leniency at sentencing. You
4 can consider her testimony with that in mind. But when you
5 analyze her testimony, you should also consider what we call
6 corroborating evidence that indicates she's been truthful. As
7 to Daniela's confinement, you have that corroborating evidence
8 including hundreds of letters Daniela wrote to Keith as a
9 recipient, and also e-mails exchanged between Lauren and the
10 defendant which I'll discuss more in a minute.

11 Now, Daniela's confinement in the room brings us to
12 Racketeering Act 8.

13 At issue in Racketeering Act 8 is the defendant's
14 efforts to make Daniela work for the enterprise and for the
15 defendant personally by keeping her in that room for 23 months
16 and threatening with being taken to Mexico and having her
17 identification documents kept from her. This is another one
18 where there are two ways you can find the act proven so let's
19 talk about the first one: Trafficking Daniela for labor and
20 services.

21 Now, remember you don't have to find that the
22 defendant personally committed the crime. It's enough that he
23 commanded it to happen. The first element is that Daniela was
24 harbored, transported, provided, or obtained. Harbored simply
25 means that the person was given shelter.

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1 Now, the Government has proven this element beyond a
2 reasonable doubt with the proof that she was in the room for
3 two years. And we've also proven beyond a reasonable doubt
4 that she was transported when Kristin Keeffe and her father,
5 at the defendant's direction, drove her to Mexico.

6 The second element is that Daniela was harbored or
7 transported for the purpose of providing or obtaining her
8 labor or services and in violation of the Forced Labor
9 Statute. You don't have to find that any of the labor or
10 services were ultimately provided.

11 Let's start with the first part of the second
12 element.

13 Labor and services means anything that causes
14 physical or mental effort. Labor means anything that causes
15 physical or mental effort, and services means conduct that
16 assists or benefits someone. The labor and services here are
17 Daniela's letters to the defendant while she was in the room.

18 The Government also has proven that Daniela was
19 harbored for labor and was services.

20 First, she was in the room to create a written
21 program. And so, the hundreds of hours she spent crafting
22 hundreds of letters to the defendant with various proposals --
23 this is Government Exhibit 907 -- was clearly labor. The
24 mental effort in those letters is evident on their face and
25 Daniela testified about it as well.

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1 Second, the Government has proven that Daniela's
2 confinement to the room was part of a larger scheme to make
3 her a productive member of the enterprise again, to break her
4 pride, and get her back to her regular work performing labor
5 such as documenting the defendant, writing books reports for
6 him, and satisfying him sexually.

7 This is further supported by the fact that when
8 Daniela was driven back to Mexico, the defendant and the
9 members of the Inner Circle through Daniela's family
10 immediately began demanding book reports.

11 Now, I should note there is no requirement that you
12 find labor and services, only that that is his purpose in
13 harboring her.

14 As to the second part, the Government has proven
15 that Daniela harbored and transported for labor and services
16 in violation of the Forced Labor Statute because she faced
17 threats of serious harm, or because there was a scheme to make
18 her believe that she would suffer serious natural if she did
19 not perform labor and services.

20 I expect Judge Garaufis will instruct you that when
21 someone is in the country illegally, the threat of deportation
22 or being forced to leaving the country may constitute serious
23 harm. Serious harm can also include psychological harm.

24 Now, Lauren and Daniela both testified that the
25 defendant did threaten to send Daniela back to Mexico. When

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1 you're looking at how threats of serious harm would impact
2 someone, I expect Judge Garaufis will instruct you that
3 serious harm involved looking at all the surrounding
4 circumstances.

5 For Daniela, almost all of these factors are met.
6 Verbal abuse. Daniela's was constantly being told she was
7 pride and destructive. Isolation. Daniela went months
8 without any human contact. Poor living conditions. She had a
9 phone foam pad on the floor and nothing else. Blacked out
10 curtains, dirty clothes, denial of adequate food. You saw in
11 her newsletter that sometimes the food was old or moldy.

12 Daniela testified that she was on the verge of
13 suicide before she left her room. So you must consider the
14 circumstances when evaluating how susceptible she would have
15 been to the defendant's threat of threat deportation.

16 Additionally, writing those letters was the only way
17 Daniela knew to try and avoid being in the room any longer and
18 bearing additional psychological harm.

19 One last thing on this element. I expect
20 Judge Garaufis will instruct you that the opportunity to
21 escape is irrelevant to determining whether someone was being
22 trafficked for labor and services. So Judge Garaufis will
23 tell you the opportunity to escape is irrelevant. Now, here
24 Daniela testified about all of the reasons why she couldn't
25 leave the room but that is not what matters here.

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1 The third element is that the defendant acted
2 knowingly.

3 The evidence of the defendant's knowing involvement
4 in Daniela's trafficking includes e-mails with Lauren during
5 Daniela's confinement such as when she reported that Daniela
6 said she was coming undone. The picture the defendant
7 demanded when Daniela cut her hair, and the defendant's role
8 in keeping her from going to the dentist.

9 There were also the text messages that you saw just
10 late last week where the defendant exchanged with Kristin
11 Keeffe while Daniela was being driven to the Mexican border
12 after the defendant made good on his threat. Those can be
13 found at Government Exhibit 1353.

14 And there were the letters, hundreds of them. So
15 many of them where she drafts a program. So many of them
16 where she begs to be let out. All addressed to the defendant.

17 With that, Racketeering Act 8, Racketeering Act 8-A
18 is proven.

19 Now, that actually means you found two racketeering
20 acts. And once you found two racketeering acts proven, that's
21 enough to establish a pattern of racketeering activity and it
22 find the defendant guilty of Counts One and Two.

23 Now, even though Racketeering Act 8 will be
24 satisfied on that trafficking charge alone, there's another
25 way to find that Racketeering Act 8 is proven. And that's if

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1 you find the defendant committed document servitude. Again,
2 he may not have personally committed it but it was on his
3 orders that it happen.

4 Document servitude has two elements. Here, the
5 Government has proven it first that the defendant commanded
6 the concealment of Daniela's birth certificate. And the
7 second, that the defendant did so with the intent to commit
8 forced labor or trafficking. Notably, there is no requirement
9 that the defendant violated the forced labor or trafficking
10 statutes.

11 Here, the Government has proven beyond a reasonable
12 doubt that once Daniela with a deported to Mexico, the
13 defendant directed that her birth certificate be withheld from
14 her with the intent of making her complete book reports by
15 certain deadlines or else be stuck without her identification
16 documents in Mexico. The proof of this act is correspondence
17 between Daniela and her family and members of the inner circle
18 discussing withholding her papers at the defendant's direction
19 of which we showed you some examples.

20 This is one of the examples here,
21 Government Exhibit 1579. You can see in the middle the e-mail
22 from Kristin Keeffe, "Hi, all here is the final e-mail.
23 Everyone is in agreement and has reviewed it including L,"
24 Lauren Salzman, and K, the defendant, Keith Raniere, "I think
25 this should come from the family."

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1 And I'll just read it. "Please send a book report
2 and I'll e-mail account password you had access to in the last
3 year to me within 48 hours. This book report must be based on
4 a book that is 250 pages or more and must be a minimum of
5 10,000 words. Thereafter, you will need to send one new book
6 by midnight every seven days. If you do not complete these
7 tasks without exception or excuse, it will demonstrate to all
8 of us a lack of care for the family and, therefore, we cannot
9 support such different in values.

10 Additionally, you need to legitimately return to
11 Clifton Park, New York by Wednesday, April 4, 2012.
12 Unfortunately, we cannot consider sending you any of your
13 requested documents."

14 (Continued on the next page.)
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25

1 MS. PENZA: Daniela testified about this as well on
2 page 2994. She explained that after she was in Mexico, her
3 family (which the emails evidence was at the direction of the
4 defendant and the members of the inner circle) kept her birth
5 certificate from her and tied it to her completion of book
6 reports. She also explained that in Mexico without a birth
7 certificate you cannot get an official ID or passport so
8 you're essentially identity-less.

9 Daniela went on to explain that a lawyer friend who
10 worked for a human rights group ultimately helped her get her
11 birth certificate and Daniela explained, "Having an identity
12 is everything."

13 And, therefore, Racketeering Act 8B is proven as
14 well.

15 Daniela was in that room for 100 weeks. There were
16 no locks on the doors but there were security cameras and, as
17 Daniela explained, as someone illegally in the country, there
18 were a number of fences keeping her where she was as well and
19 all that time she was writing hundreds of letters to the
20 defendant as she was ordered to until finally on the 705th
21 day, having stored up enough cleaning supplies to kill
22 herself, Daniela decided she was going to live and she did and
23 she testified before you about how she survived the
24 defendant's crimes.

25 Now we're going to turn to the category of crimes

1 placed under the category of deception and there was deception
2 in all of them but they're also all similar because they were
3 ways in which the enterprise operated to surveil enemies and
4 protect itself and, of course, to protect the defendant.

5 First we're going to discuss two racketeering acts
6 related to identity theft by way of hacking computers. So,
7 just like we looked at the identity theft in Racketeering
8 Act 1 that was in relation to a different crime, here we're
9 talking about identity theft where the purpose is to surveil
10 somebody else's email communications.

11 Daniela testified that when she was on her perch at
12 3 Flintlock she was shocked that the defendant and Nancy
13 Salzman were paying \$24,000 to purchase email passwords.
14 After the defendant challenged her to see if she could,
15 Daniela ended up successfully obtaining three user names and
16 passwords. Let's walk through each of them.

17 Now, before we turn to the individuals involved, I
18 think the motive behind the conspiracy is simple, the
19 defendant perceived -- we'll talk about Marianna later, but
20 certainly Edgar Bronfman and James Loperfido and his
21 connection to James O'Hara -- Joseph O'Hara, he viewed them
22 through paranoia and surveillance. You saw the box and we
23 went through this in pretty great detail about the documents
24 from Canaprobe. And you also saw the correspondence with
25 Kristin Keeffe where she and the defendant were using coded

1 language in their efforts to obtain personal banking
2 information on individuals.

3 Now, Racketeering Acts 5A, 5B, 5C and Racketeering
4 Act 7 have to do with the monitoring of electronic accounts
5 belonging first as a general conspiracy and then belonging to
6 Edgar Bronfman, James Loperfido and Marianna, and Daniela
7 helped the defendant commit all of these crimes.

8 First, let's look at the hacking of the Edgar
9 Bronfman account. The story is relatively simple. Daniela
10 accessed Edgar Bronfman's email account at the direction of
11 the defendant and with the assistance of Clare Bronfman.
12 Daniela explained to you how a keylogger works and how it
13 picks up all of the key strokes that somebody is using on
14 their computer. Daniela accessed Edgar's email and then would
15 regularly provide the content of the email account to the
16 defendant. As I said, the motive behind this conspiracy was
17 simple, the defendant perceived Edgar Bronfman as an enemy.

18 Now, throughout the trial you heard about Clare
19 Bronfman and her unwavering commitment to the defendant. Even
20 up until now she paid -- she put in \$14 million to finance the
21 defense in this case for both the defendant and other parties.
22 You've also learned about Clare Bronfman's father, Edgar
23 Bronfman. Edgar Bronfman was an international name that had
24 connections in powerful circles throughout the world. In
25 June 2003 Edgar Bronfman informed his daughter, Clare

1 Bronfman, of his distrust of ESP and the defendant. In fact,
2 Edgar refused to take any ESP curriculum in the future.
3 Moreover, Edgar Bronfman said that he refused to shill for the
4 organization.

5 Only a few months later Edgar Bronfman publicly
6 condemned the defendant and ESP in a Forbes Magazine article
7 published in October 2003. Edgar Bronfman told Forbes
8 Magazine, "I think ESP is a cult." With this statement Edgar
9 Bronfman officially became an enemy and although the defendant
10 and ESP considered him an enemy, Edgar Bronfman intended to
11 remain neutral in order to preserve his relationship with
12 Clare Bronfman.

13 In June 2004 Edgar informed Clare that he would not
14 be an advocate for ESP. Nonetheless, Edgar Bronfman agreed to
15 refrain from criticizing the organization and assumed a
16 neutral position. Still the defendant would not accept the
17 truce. In communications with Edgar Bronfman and the
18 defendant in the fall and winter of 2005 the focus on Edgar
19 was clear. In fact, in November 2005 in an email that's on
20 the screen as Government Exhibit 1456 from November 9th, 2005,
21 in that email Clare Bronfman discusses with the defendant that
22 she was emotional last night during the meeting with the
23 strategy team with regards to her father.

24 Now, Daniela told you that Edgar Bronfman's status
25 as an enemy of ESP drove the defendant's desire to obtain

1 access to his emails. As a result, Daniela was put to the
2 task. You saw many emails that this was just -- this was at
3 the exact same time, November 2005, that Daniela started
4 researching keyloggers; Government Exhibit 1516, Government
5 Exhibit 1517, that was the one that attached the white dress
6 jpeg that she said was a tester for the keylogger.

7 On November 6, 2005 she sent the defendant
8 keylogging sites, different websites about keylogging, and
9 that's Government Exhibit 1518. So, that's only three days
10 prior to this email about the strategy team meeting regarding
11 Edgar Bronfman.

12 During her testimony Daniela explained she created a
13 keylogger file and embedded it on an image. Daniela provided
14 the image on a USB drive to Clare Bronfman. Ultimately Clare
15 Bronfman visited her father and physically inserted the USB
16 drive into his computer. The file was then opened and
17 deployed. The hack was successful and soon the keylogger
18 revealed Edgar's email password. After Daniela acquired Edgar
19 Bronfman's password she began to access his emails. Daniela
20 testified that she was instructed to look for information
21 relative to ESP and ESP's legal cases. Once found, this
22 information was expected to be passed to the defendant.

23 For years -- page 2556 and 2557 Daniela explained
24 her role in the hacking of Edgar Bronfman's email account.
25 For years Daniela monitored Edgar Bronfman's account and

1 reported the results to the defendant. Now, in November 2008,
2 and this is even when he and Daniela have not been speaking in
3 person for years, the defendant inquired about the content of
4 Edgar Bronfman's email accounts. These communications
5 included coded language similar to other instances we've seen
6 in this case such as when the defendant and Kristin Keeffe
7 were communicating about Canaprobe.

8 Now, despite the use of coded language, we know that
9 Edgar Bronfman was a subject of this conversation because
10 Daniela testified to that fact. So, in this one, and we'll
11 pop it up: We'll talk about -- it says KLG for our close
12 friend -- who Daniela testified was Marianna and we'll talk
13 about in a minute -- I will check later today, will let you
14 know. Keylogger for our not so close friend I will also check
15 today and will also let you know.

16 And then in the follow-up email the defendant
17 writes: By the way, with regard to the keylog is there any
18 additional ones, you gave me one file.

19 And then it goes on about Marianna's account. But
20 then it says: What about the other keylog from the test,
21 there's some potentially important things recently.

22 And so we knew that right around this time,
23 November 2008, the defendant had reason to be curious about
24 Edgar Bronfman's communications. If you recall, this was the
25 exact period of time when Clare Bronfman was in contact with

1 her father and with Stephen Herbits. You heard from
2 Mr. Herbits in this courtroom. We also offered emails
3 describing the contentious relationship between Clare Bronfman
4 and Mr. Herbits, particularly during November 2008.

5 Here you can see two days after the email asking --
6 talking about where the defendant writes to Daniela inquiring
7 about the keylogger for their not so close friend, you can see
8 that Stephen Herbits and Clare Bronfman are in a back and
9 forth and you saw this email and Mr. Herbits testified about
10 it as well where Mr. Herbits writes: Typical -- where first
11 Clare Bronfman has written: I was under the impression that
12 dad had asked you to come in and help us resolve this
13 situation, that he wanted to help us turn things around and
14 confided in you to do so.

15 And that's when Mr. Herbits responds: Typical
16 friend or enemy when your father calls me, he said that you
17 and Sara had specifically asked him to ask me if I would be
18 willing to help you, not him.

19 So, right here it is very clear who the defendant is
20 referencing and that it is he who is concerned about Edgar
21 Bronfman's email. And then you also saw how all of these
22 emails between Edgar Bronfman -- between Stephen Herbits and
23 Clare Bronfman would all be forwarded to the defendant for his
24 reaction and for him to help draft them as well.

25 Now, you heard throughout the trial testimony that

1 Edgar Bronfman was only one of the many people that the
2 defendant and his inner circle considered an enemy. You saw a
3 whole box full. Another person who eventually fell into that
4 category was James Loperfido. James Loperfido testified that
5 he was introduced to NXIVM and ESP through Joseph O'Hara.
6 Mr. Loperfido told you that he was hired to perform
7 accounting-related duties. In this capacity, Mr. Loperfido
8 worked closely with Kathy Russell.

9 Now, if you recall, Kathy Russell handled most of
10 the accounting and bookkeeping for the defendant, ESP and
11 ESP-related companies. Government Exhibit 801 from January
12 9th, 2005 shows the interplay of all of these individuals.
13 So, Mr. Loperfido, when he was on the stand Mr. Agnifilo asked
14 him about Mr. Loperfido's personal interactions with the
15 defendant and so this email is an example of Kathy Russell
16 communicating with the defendant about Mr. Loperfido -- about
17 her communications with Mr. Loperfido and Mr. O'Hara and
18 trying to get his buy in on their communications.

19 Now, at a certain point after this Mr. O'Hara and
20 ESP had a falling out and at that point in time O'Hara was
21 labeled as an enemy by the defendant. At that point O'Hara
22 became the target of a hacking campaign and you heard that
23 Daniela and the defendant, they tried to gain access to
24 Mr. O'Hara's email account but they were unsuccessful. So, as
25 a result, the defendant set his sights on the unassuming

1 accountant referred to ESP by O'Hara and soon the defendant
2 had devised a plan concerning Mr. Loperfido.

3 According to the plan, Kathy Russell was tasked with
4 occupying Mr. Loperfido while Daniela went in and manually
5 installed the keylogger into his computer and she was
6 successful. This is Government Exhibit 1527 and we went
7 through this document when Daniela was on the stand.

8 And you know that the results found in Government
9 Exhibit 1527 are accurate because of Mr. Loperfido's
10 testimony. He confirmed his use of certain passwords found on
11 the raw files discovered in Daniela's email account. Once
12 these results were obtained they were passed to the defendant
13 for his review. And so, here you can see, this is Daniela's
14 testimony on page 2545 where she describes what she would do,
15 she would go into the email, she would read it, see if it was
16 relevant, copy/paste it into a text file and then she would
17 bring them to the defendant and she also testified that she
18 would observe the defendant reading and reviewing them.

19 Now, the defendant also used these hacking efforts
20 to control the women in his life. In fact, Daniela was
21 directed to obtain access to her own sister's electronic
22 devices. This occurred after Marianna was found to be having
23 issues and throwing tantrums. Daniela told you that the
24 defendant and Pam Cafritz expected -- and this was on
25 page 2560 -- that Marianna was rekindling a relationship with

1 an ex-boyfriend. This created jealousy in the defendant and,
2 of course, Pam Cafritz came in as well to be the fixer.

3 Now, in email communications there is evidence that
4 Daniela, Pam Cafritz and the defendant all separately were
5 discussing how to install keyloggers on the devices that
6 Marianna was using so they could monitor communications.

7 Daniela testified that she was able to obtain the necessary
8 password for Marianna's Facebook account. In an email sent by
9 Daniela to the defendant on November 3rd, 2008, Daniela
10 provided the requested information to the defendant.

11 Additionally, Daniela entered in the raw results of the
12 keylogger in the form of a text file.

13 So, here we see again emails going back and forth
14 with the defendant. First she says: Bad news about the --
15 about the keylogger, I can no longer get through. Kristin
16 will give you details and options.

17 And Daniela testified that was as to the Edgar
18 Bronfman account.

19 But the one in closer proximity, Marianna's account,
20 I have not checked, apparently the machine is not being used.
21 Already talked to Pam but do not think she will make it
22 happen.

23 And then the defendant writes back: The closer
24 proximity machine I think is in use.

25 Here you can see that Daniela actually attached

1 again the raw data file to the defendant providing the
2 information on her sister's account and you can see she
3 writes: My sister's Facebook info, user name, email as
4 always, password ohmy8god. I don't really want to look into
5 it, this is between you and her. I have the latest raw text
6 file I am attaching. I don't read through it. I just look to
7 find user name password zones. I haven't found the one for
8 gmail. There's a bunch of different combos I need to try. I
9 will let you know. Didn't find anyone to drive either a
10 distant location today to try the other keyloggers.

11 So, here Daniela and the defendant clearly are
12 communicating about the keyloggers. So, I submit that based
13 on this, the government has proven three additional
14 racketeering acts. So, here you can see this was the raw
15 results and where you can find where it has her email account
16 and the password and Daniela walked us through how she would
17 use the raw data and actually extract out those user names and
18 passwords.

19 So, what we just went through covers Racketeering
20 Act 5 which has three subparts; 5A, conspiracy to commit
21 identity theft, and so that relates to the general agreement
22 of the defendant with other members of the enterprise, Nancy
23 Salzman, Kristin Keeffe, Daniela, to obtain user names and
24 passwords generally, so Kim Snyder's password, Joseph O'Hara's
25 password and all of the other passwords that we talked about.

1 And then there's two additional subparts, identity theft of
2 James Loperfido because they actually did obtain his user name
3 and password, and identity theft of Edgar Bronfman because
4 they actually did obtain his user name and password.

5 And then Racketeering Act 7 is conspiracy to commit
6 identity theft as to Marianna and there the defendant's
7 agreement with Daniela, with Pam Cafritz to obtain the user
8 name and password for Marianna in order to surveil her
9 communications is what we're talking about there.

10 And so, the elements here of identity theft are the
11 same as we looked at in the very first racketeering act when
12 we looked at conspiracy to commit identity theft as to Ashana
13 Chenoa. The difference is that for the fourth element where
14 before we had the -- before the identity theft was in
15 connection with various immigration-related offenses of
16 transporting aliens across the border, here the unlawful
17 activity that it is in connection with is the interception of
18 wire and electronic communications and so for each of these,
19 again we're talking about conspiracy as to Racketeering Act 5A
20 and Racketeering Act 7 but as to the other ones it is enough
21 that the defendant commanded or helped to put in place what
22 happened.

23 And so for each of these you know that Daniela,
24 either in agreement with the defendant or at his command,
25 possessed a means of ID of another person, and a user name and

1 a password to your computer is in fact a means of ID of a
2 person, and that they knew that the means of ID belonged to
3 another person, these were all real people that they knew and
4 understood. There's no lawful authority to go into another
5 person's email account. And that they acted in connection
6 with the desire to read these people's email addresses
7 intercepting wired electronic communications. Additionally,
8 that this affected interstate or foreign commerce. Here
9 Daniela was using the internet, was using various materials
10 and people were in different states at different times.

11 And so, I submit that this proved an additional two
12 racketeering acts, Racketeering Act 5, and there's three
13 subparts there, so the general conspiracy to commit identity
14 theft, the general agreement that they were going to hack into
15 people's emails accounts using their user names and passwords,
16 proved; that they were going to do this specifically as to
17 James Loperfido, proved; and that they were going to do this
18 specifically as to Edgar Bronfman, proved; and then for
19 Racketeering Act 7, that there was this agreement to do the
20 same process in regards to Marianna, also proved.

21 Now we're going to turn to Racketeering Act 6, again
22 in that deception category, and Racketeering Act 6 alleges
23 that the defendant conspired to alter videotapes for use in
24 the Stephanie Franco case in federal court in New Jersey. The
25 goal of the conspiracy was clear, to protect against the

1 release of damaging statements included in the videotapes
2 particularly to the parties in the lawsuit who included many
3 of the defendants' enemies.

4 To do this the defendant and his co-conspirators had
5 to corrupt the integrity of the videotapes and their
6 availability in the case by altering them. The defendant and
7 his co-conspirators altered the videotapes with the corrupt
8 intent to obstruct the administration of justice and in doing
9 so not only submitted the altered videotapes to the parties
10 but lied to a federal magistrate judge, a federal magistrate
11 judge whose purported bank records were within the box,
12 Government Exhibit 204 that we've looked at, and by telling
13 him that the videotapes were, quote unquote, unedited.

14 So, let's discuss the alteration of the videotapes.
15 In June 2008 the defendant asked Mark Vicente if there was any
16 way to remove stuff from a videotape in such a way that
17 doesn't make it look like it was removed. Mark Vicente
18 testified to that on page 653.

19 The defendant further asked if there was a way to do
20 it so that it looked like a glitch or that it was part of a
21 natural process to remove something. Mr. Vicente told you
22 that he knew how to create glitches and that it could be done
23 by moving from a digital version to the analog or VHS version.
24 Mr. Vicente specifically told the defendant that there were
25 ways to create glitches on analog VHS tapes and that there

1 were ways to hide the removal of portions of a videotape with
2 certain kinds of glitches. Mr. Vicente explained that when he
3 used the term "glitches," he was referring to alterations of a
4 videotape that created interferences in the tape itself. He
5 further explained that VHS did not contain the same
6 information as digital formats and that when a videotape moved
7 from a digital to a VHS you can't see things like missing time
8 code -- you can't look at things like time code information
9 and see if there's something missing.

10 And so, what was the defendant's reaction, he said,
11 "Oh, that's good. There's some things we need removed." And
12 the defendant asked if -- and the defendant said that it had
13 to do with the legal department and needing to have some
14 things removed from tapes to do with the case where the
15 methodology is -- their methodology, the ESP tech methodology
16 is being evaluated and the patent is being looked at.

17 The defendant asked Mr. Vicente to alter the
18 videotapes and to remove segments from them and Mr. Vicente
19 knew that the videotapes would be produced in some litigation,
20 some legal case. Mr. Vicente also recalled that the segments
21 that were to be removed involved Nancy Salzman making claims
22 that the NXIVM curriculum could affect a person's health like
23 curing a disease or removing headaches. Mr. Vicente explained
24 that he believed the patent would be at risk if the tapes were
25 handed over. And Mr. Vicente agreed to alter the videotapes

1 as requested by the defendant. So, all of the information
2 that I just provided are between pages 664 and 670 in the
3 transcript.

4 And ladies and gentlemen, Mr. Vicente told you that
5 altering the videotapes was illegal and you heard about the
6 process of altering the videotapes. The legal department had
7 to determine what needed to be removed from the videotapes.
8 Mr. Vicente explained that the people he worked with in the
9 legal department were not lawyers and that he primarily worked
10 on the project with Kristin Keeffe and Clare Bronfman.

11 Mr. Vicente also told you that the legal department gave the
12 video department a list of time code segments that needed to
13 be removed. He told you that he saw the handwritten notes
14 with time codes on the desk. The video department then used
15 those various processes to create the glitches and multiple
16 copies of each videotape were made to make them appear older.

17 Mr. Vicente told you that while he oversaw the
18 project, other people in the video department also worked on
19 editing the videotapes. He explained in some detail the
20 actual procedures that were involved in altering the
21 videotapes. He mentioned moving the videotapes into a
22 computer editing system and removing segments and sometimes
23 putting static in the videotape. He recalled that sometimes
24 they used machine-to-machine dubbing and jiggled the cables
25 between the machines to create interference. He explained

1 that they randomized the procedures to make it seem natural or
2 organic, so there might be a glitch in a place where they
3 weren't really looking to cut anything out but just to make it
4 look like the glitches were appearing naturally. And, of
5 course, all of the time codes and metadata was removed.

6 Mr. Vicente further described to you why the types
7 of glitches that were created were not natural because there
8 was no consistent pattern to the glitches, like a consistent
9 line or a wave that you would see if there had been a power
10 outage. Mr. Vicente then wrote down for you four different
11 types of edits or glitches that were used to alter the
12 videotapes.

13 The first he talked about was called a static cut-in
14 where a segment would be removed and static was used to
15 replace it. The second was a jiggle which was done
16 machine-to-machine and the connecting cables would be jiggled
17 or pulled out for a minute and that would create glitches.
18 And Mr. Vicente explained that the jiggle was used to suggest
19 that there was something wrong with the tape and that it could
20 also be used to hide the static glitch. The third he talked
21 about was the pause cut which was also machine-to-machine and
22 the recording machine would be paused. The fourth type was
23 another stop cut machine-to-machine where instead of pausing,
24 the recording machine was stopped.

25 Mr. Vicente showed you examples of some of these

1 methods and the actual videotapes themselves, Government
2 Exhibit 605 A through D, and he recognized the methods as
3 being consistent with the methods he used to alter the
4 videotapes in 2008.

5 (Pause.)

6 That's okay, I'll let your memory serve.

7 And so, Mr. Vicente walked us through various
8 different types of these cuts, if you remember, and so 605-C
9 showed the jiggling and the static insert, 605-B showed three
10 types of glitches, the static insert, the jiggling and the
11 pause cut and those are the examples I was going to show you
12 now.

13 Mr. Vicente also testified that the initial dubbing
14 to create the master tapes occurred at 13 Twilight Drive and
15 that the multiple copying of the videotapes happened at
16 Apropos. He recalled that several VHS or combo DVD/VHS
17 machines were purchased for the project, that they laid around
18 for years afterwards. All of this is at page 682.

19 Mr. Vicente didn't watch all of the videotapes
20 because he was focused on the alterations or the glitches.
21 You learned that at the end Mr. Vicente had boxed the
22 videotapes that were delivered back to the legal department.

23 Now, you saw emails where the alteration of the
24 videotapes were discussed. This is Government Exhibit 1397R
25 and it is from June 30th, 2008, and it says: The

1 duplication -- it talks about the duplication of tapes Keith
2 has asked me for and the aging and weathering of the masters.

3 There was also an email in 1396R on June 21st to
4 Nancy -- from Chris to Nancy Salzman copying Kristin Keeffe,
5 Clare Bronfman and Mark Vicente where reviewing and editing
6 the videotapes was discussed and purchasing a VCR was
7 discussed. And so this, what we were just looking at, is a
8 memo that Mark Vicente had wrote about the "project that never
9 seemed to end" and in it he discussed the new machines and
10 cleaning up the house -- that was where it was also discussed
11 cleaning up the house, but also discussing the new machines as
12 well and the duplication of tapes for Keith.

13 Now, you saw another email, Government
14 Exhibit 1395R, a July 12, 2008 email from Mark, Mr. Vicente,
15 when the project was going to be completed and then there's a
16 response where he talks about the copying of videotapes and
17 Nancy Salzman's review of the videotapes. So, all of this is
18 going on in July 2008.

19 So, where did the videos go? You know where the
20 videotapes went because Anthony Valenziano, Stephanie Franco's
21 attorney, testified last week and told you where they went.
22 He told you that the altered videotapes were produced by
23 NXIVM's attorneys to Stephanie Franco's attorneys in the
24 federal civil cause brought against Stephanie Franco by NXIVM,
25 the case initially filed in federal court in Albany, New York

1 that was later transferred to federal court in New Jersey.
2 You'll recall that Mr. Valenziano explained the facts of the
3 case including Ms. Franco's being startled by some of the
4 representations that the intensive include -- representations
5 of the intensive.

6 Now, Mr. Valenziano told you that the main issue was
7 a binder of Stephanie Franco's that ultimately made its way to
8 Rick Ross, who also testified before you last week, and that
9 professors wrote articles about the binder and that those
10 articles were published on Mr. Ross's website. Mr. Ross also
11 told you about this in significant detail. And Mr. Valenziano
12 explained the long, tortured procedural history of the case
13 which I will not go into in detail right now.

14 Now, he testified that the case was transferred to
15 federal court in New Jersey in 2006 and that Judge Cavanagh
16 was the judge in the case until 2013 and that Judge Falk was
17 the assigned magistrate judge. You'll recall that there were
18 files on both Judge Cavanagh and Magistrate Judge Falk in the
19 Canaprobe box recovered from Nancy Salzman's home.

20 And you also know the case originally brought by
21 NXIVM against Ms. Franco lasted for 14 and a half years where
22 NXIVM had ten or eleven law firms and eventually settled in
23 2018 for a dollar all because of Stephanie Franco's binder.

24 Mr. Valenziano also told you that Ms. Franco's
25 attorneys requested the production of the videotapes in 2007

1 or 2008 because they believed the videotapes included false
2 statements and that one of the videotapes related to the
3 Forbes article about NXIVM. Another reason they wanted to see
4 the videotapes was because they wanted to see some of the
5 statements that had startled Ms. Franco, like the statements
6 about not paying taxes. At this point Ms. Franco was
7 considering and ultimately did bring her own countersuit.

8 Mr. Valenziano testified that the 35 videotapes were
9 eventually produced on July 1st, 2008 and that later another
10 22 videotapes were produced for a total of 57 videotapes and
11 he identified those videotapes for you which are in evidence
12 as Government Exhibit 605. And this scattered production of
13 the altered videotapes is entirely within the timeline
14 established by the emails that you looked at from Mark Vicente
15 and his memo and those were -- the videotapes that he
16 identified were the same ones that Mark Vicente said that
17 although he hadn't paid attention to what the videos
18 themselves were, that he could identify the various glitches
19 as being consistent with the types of glitches that he did to
20 the videos that were produced in the Franco litigation.

21 Now, this is the email -- there was an email from
22 NXIVM's attorney producing the initial videotapes at
23 Government Exhibit 619 where the attorney said that the
24 initial 35 videotapes were being produced exactly as they were
25 kept in the ordinary course and the cover letter dated

1 July 1st, 2008 producing the videotapes, which is in evidence
2 as Government Exhibit 618, and you saw the letter from Ms.
3 Franco's attorney to Magistrate Judge Falk also dated
4 July 1st, 2008 which quoted NXIVM's attorneys falsely saying
5 that the 35 videotapes were produced in unedited fashion as
6 requested, and that's Government Exhibit 617 which is on the
7 screen right now.

8 Mr. Valenziano also testified that he had concerns
9 about the videotapes because they didn't seem to include the
10 statements that had startled Ms. Franco, they didn't appear to
11 be complete, they appeared to have jump cuts and seemed to be
12 skipping around. Mr. Valenziano testified to this on page
13 4527. Mr. Valenziano explained that they actually considered
14 retaining an expert to look at this but that it was too
15 expensive.

16 So, Racketeering Act 6 charges the defendant with
17 conspiracy to alter records for use in an official proceeding.
18 Racketeering Act 6 is another one of the racketeering acts
19 that charges the defendant with conspiracy. So, here the
20 concern is whether the defendant agreed with others to commit
21 the crime.

22 Now, to prove that the defendant is guilty of this
23 conspiracy, here the elements -- these are the elements of
24 conspiracy to obstruct justice and so here the defendant has
25 to have agreed with at least one other person, here it could

1 be Kristin Keefte, it could be Mark Vicente, to commit this
2 crime and here the elements are the altered or mutilated video
3 recordings, that they acted with the intent of impairing the
4 recording's integrity or availability for use in an official
5 proceeding, and that they acted corruptly.

6 Now, as I expect Judge Garaufis will instruct you
7 that the Franco case in federal court in New Jersey was an
8 official proceeding, there really is no doubt about that. And
9 here, although there is no need for us to prove it, you know
10 that the object of the conspiracy actually was completed, the
11 videotapes were altered as instructed by the defendant and
12 produced to the parties in the Franco case.

13 I also expect Judge Garaufis will instruct you that
14 to act corruptly means to act with an improper purpose and to
15 engage in conduct knowingly and dishonestly and with the
16 intent to obstruct, impede or influence the due administration
17 of justice, in this case the Franco federal case.

18 We don't have to prove with certainty that the
19 conduct would actually affect the Franco case, only that he
20 acted corruptly in the manner described. I'd also note that
21 we do not have to prove that the defendant's conduct actually
22 obstructed justice or that the altered videotapes contained
23 particularly material evidence related to the Franco case.
24 Instead, the defendant's conduct must only have had the
25 natural and probable effect of interfering with the due

1 administration of justice in the Franco case, in other words,
2 the fair, impartial, uncorrupted and unimpeded investigation,
3 prosecution, or disposition of any matter in the Franco case.
4 And, lastly, the due administration of justice includes every
5 step in the Franco case to assure the just consideration and
6 determination of the rights of the parties.

7 Here we more than meet our burden on this
8 racketeering act and there's no doubt that the defendant
9 conspired with Mark Vicente and others to alter the videotapes
10 and that he did so corruptly and with the intent that the
11 edited portions of the videotapes not be provided to the
12 parties. The production of the altered videotapes in the
13 Franco case deprived the parties of particularly material
14 evidence, as explained by Mr. Valenziano, and clearly
15 interfered with the due administration of justice by impeding
16 the parties' ability to examine the complete, unedited
17 videotapes. Therefore, there's overwhelming proof that the
18 defendant participated in the conspiracy to alter the
19 videotapes in the Franco case. That brings us to Racketeering
20 Act 6 as also having been proved.

21 (Continued on next page.)
22
23
24
25

1 MS. PENZA: Your Honor, is now a good time to take a
2 break?

3 THE COURT: Yes. Let's take a ten-minute break.
4 All rise for the jury.

5 (Jury exits the courtroom.)

6 (Brief recess.)

7 THE COURT: Have you received this letter from the
8 Government regarding the sentence and the charge?

9 MR. AGNIFILO: I'm not sure that I've seen it,
10 Judge.

11 THE COURT: All right here. I'll give you a copy.
12 We'll talk about it at lunch time. Let's bring in the jury.

13 (Jury enters the courtroom.)

14 THE COURT: Please be seated.

15 I'll set, Ms. Penza?

16 MS. PENZA: Yes, your Honor. Thank you.

17 So we fixed a few things. So this is the slide that
18 I originally wanted to show you at the beginning of my
19 presentation; I think it's still worth showing now.

20 So as we've been going through the various
21 Racketeering Acts, so far we've gone through what I
22 categorized under trafficking of Daniela. And that's when we
23 went through Racketeering Act 1, related to her crossing over
24 the border. Then Racketeering Act 8, which related to labor
25 and services starting when she was in the room and then

1 following through until she was in Mexico. Then we moved on
2 to the deception category, and so far first we went over
3 Racketeering Act 5 and the three different ways that
4 Racketeering Act 5 could be proven. And then we went to
5 Racketeering Act 7, because those go together.

6 Now we just went over the conspiracy to alter
7 records in an official proceeding.

8 We're going to move on now to Racketeering Act 11,
9 which was related to the use of Pam Cafritz's credit card
10 after her death, which is another form of identity theft.
11 Then after that, we'll cover the exploitation of Camila. Then
12 we'll cover DOS.

13 As you can see with DOS, what I was trying to
14 explain earlier but it was difficult without a visual, is that
15 for DOS we're covering two Racketeering Acts. But we'll also
16 be talking through the five different stand alone counts.

17 Now you can kind of see the way we were moving. So
18 we went diagonally, then back up to Camila, then we'll finish
19 off with DOS.

20 I think the videos are working too. I think there
21 is some that you remember but we're going to go over one of
22 the video alterations because it's been a while since we've
23 watched that.

24 (Video played)

25 So that was an example of Mark Vicente's testimony

1 that he testified as an example, Government's Exhibit 605C of
2 jiggling and the static insert. We can watch 605B also.

3 (Video played)

4 That was an example of a jiggle static.

5 So now we'll move on to Racketeering Act 11. Again,
6 this is one that we have in the deception bracket.

7 Racketeering Act 11 is conspiracy to commit identity theft of
8 Pamela Cafritz. This act is straight forward as it involves
9 unauthorized use of Pam Cafritz's credit card after she died.

10 So you know that Pam Cafritz died on November 7,
11 2016, because you saw the death certificate, this is
12 Government's Exhibit 1108. You saw document relating to Pam
13 Cafritz's estate that told that you Ms. Cafritz's will
14 dominated the defendant the sole beneficiary and executor of
15 her estate. That the defendant renounced his appointment as
16 the executor on December 20, 2017, while he was in Mexico.
17 That was Government's Exhibit 724.

18 Then Government's Exhibit 722 were the full American
19 Express records that were put into evidence. Government's
20 Exhibit 725 was the schedule that Investigator Guerci put
21 together which summarized all of those records and made them
22 more digestible.

23 And so you heard from Investigator Guerci, when he
24 walked through his schedule of the Cafritz American Express
25 statements after her death that basically start with the

1 charge for an ambulance on the date of her death. Then
2 Investigator Guerici pointed out a number of charges on the
3 American Express after Ms. Cafritz died. Charges to Amazon
4 Marketplace, a number of charges to Keith Donato. Those
5 charges used a Square device. To Restoration Hardware for
6 thousands of dollars; a pet shop, a Dominoes Pizza; sock store
7 in Brooklyn; other pizza parlors; Neiman Marcus for \$4,457; a
8 charge to Bergdorf Goodman for 11,350; a charge to Saks Direct
9 for \$1,159; a National Grid utility bill; a Netflix bill; a
10 Satellite radio bill; a charge for Executive Success Programs
11 for \$3,140; and charges to baby companies. All together you
12 saw a total of \$135,000 in charges on the Cafritz American
13 Express from November 7, 2016, the date of Pam's death, until
14 February 8, 2018.

15 You'll hear that Investigator Guerici determined
16 there was no authorized user of the Cafritz American Express
17 card; only Pam Cafritz and she was dead.

18 The American Express records also showed payments
19 received from Ms. Cafritz's Key bank account. You saw the
20 checks from the Key bank contact that paid the American
21 Express bills, checks that were signed by the defendant. Like
22 a check signed by the defendant a few weeks after Pam died.
23 And another check signed by the defendant for \$29,390 on
24 January 19, 2017, a little over two months after Pam Cafritz
25 died, government's Exhibit 723.

1 Now, we also put into evidence Key bank records,
2 Government's Exhibit 721. The Key bank records, 726, the
3 summary. And then Government's Exhibit 727, which were the
4 summary of the checks signed by the defendant.

5 On page -- Government's Exhibit page -- Government's
6 Exhibit 721 pages 343 and 371, we saw something curious. On
7 page 343 you saw check signed by Pam Cafritz on November 18,
8 2016, 11 days after she died. On page 371 you saw a check
9 Buyer's Advocate signed by Pam Cafritz on November 7, 2016,
10 the day she died.

11 As I mentioned, you saw checks drawn on the Cafritz
12 Key bank account that were signed by the defendant.
13 Investigator Guerci explained to you that defendant did not
14 have signing authority or signature card for the Cafritz Key
15 bank account, but that didn't stop the defendant. He just
16 kept signing check after check. You saw these checks on
17 Investigator Guerci's schedule.

18 Checks paid the Cafritz American Express bill; a
19 check for insurance; to a plumber; and for work on a house and
20 for water bill; and Audi car payments; pool and tennis dues.
21 Checks for Siobhan and Samantha for personal assistance. A
22 \$60,847 check to Clare Bronfman. The defendant signed
23 \$320,305 worth of checks out of Ms. Cafritz's Key bank account
24 months and months after she died, without signature authority,
25 and none of the payments had anything to do with being the

1 executor of Ms. Cafritz's estate.

2 We listed all of Ms. Cafritz's Key bank account
3 after she died, which Investigator Guerci summarized in a
4 schedule, Government's Exhibit 726.

5 We looked at any anumber of payments. Payments to
6 Danielle Roberts, Juliana Vicente, Kathy Russell. A payment
7 of \$1,700 to Edgarda, a first line DOS slave and master to
8 reimburse her for surveillance cameras. Mortgage payments,
9 Knoxwood association dues. Trips to the movies, and pizza,
10 Dunkin Donuts, Cracker Barrel, and more pizza.

11 You heard That investigator Guerci tallied all the
12 disbursements, all of this disbursements out of this account
13 totaled \$736,856.

14 You also saw the deposits into bank account by
15 primarily from another Cafritz Key bank account totaling
16 \$695,661. Hundreds of thousands of dollars passing through
17 the Cafritz Key bank account, most of it coming from another
18 Cafritz Key bank account, all without authority, all months
19 and even years after Pam Cafritz died.

20 You also saw e-mails that were ultimately forwarded
21 from Clare Bronfman to the defendant. You saw one of these
22 e-mails, one of the first e-mails, in November 22, 2016, about
23 2 weeks after Pam died, where Michelle Tarzia tells Clare
24 Bronfman that she needs to pay the American Express bill and
25 the card is still being used. What is Clare Bronfman's

1 response: Oh, shit, okay. Let me figure this out.

2 Then she forwards the e-mail chain to the defendant
3 and says: Hey, I'm just forwarding these to you for your
4 review and approval.

5 We saw an e-mail chain requesting approval for the
6 American Express bill in June 2017, government's Exhibit
7 734-35, seven months after Pam's death. What was the
8 defendant's response: Yup, pay it.

9 You saw an e-mail chain requesting permission to pay
10 the Cafritz American Express bill, all forwarded to the
11 defendant. How do you know the defendant participated in the
12 use of the Cafritz American Express card after she died
13 without authority? Well, you heard from Keith Donato, the
14 chiropractor.

15 Dr. Donato treated the defendant and a number of
16 other members of the NXIVM community for many years. He
17 testified that he treated the defendant starting in 2008 and
18 then into 2017, so about ten years. Dr. Donato explained that
19 he was prepared to meet the defendant by Clare Bronfman or
20 Nancy Salzman, that he was told the defendant was like a monk
21 and did not drive and did not pay for himself. Dr. Donato
22 told you that he was advised that someone else would be paying
23 for the defendant. And that in all the years he treated the
24 defendant, the defendant may have only paid for himself once.

25 Dr. Donato explained that he saw the defendant

1 often, weekly sometimes. And that most of the time he was
2 accompanied by Pam Cafritz and Marianna.

3 He also recalled that before she died, Pam Cafritz
4 always paid for the defendant's visits. She paid with a
5 credit card. Dr. Donato started using the Square reader. He
6 explained that customers could swipe their card on the device
7 attached to the phone or they could manually enter their card
8 number.

9 Dr. Donato started using Nancy Salzman's house to
10 treat members of the NXIVM community in August 2016, to
11 accommodate Pam Cafritz's health problems. He received
12 payments by credit card using his Square reader; until she
13 died, Pam Cafritz paid for the defendant. Pam's health was
14 declining. She started forgetting her credit card. She
15 stopped swiping her card and started keying in her number. We
16 saw that happened in October 2016 in Dr. Donato's receipts.

17 After Pam died, Dr. Donato recalled that Marianna
18 took over responsibility for paying for the defendant's
19 visits. She always manually keyed in the number of Pam
20 Cafritz's American Express card. You saw the Square receipts,
21 they show the number was always keyed in.

22 Government's Exhibit 710 is Dr. Donato receipts for
23 the payments received from the Cafritz credit card. He
24 testified that each receipt involved the treatment of the
25 defendant. Sometimes they also reflected treatment of

1 Marianna also, but on each of those days the defendant was
2 definitely treated.

3 Dr. Donato reviewed the receipts and testified from
4 November 16, 2016, nine days after Pam died, until November 8,
5 2017, he treated the defendant 35 times. There were 35
6 receipts during that time period, ranging in payment amounts
7 from \$145 to \$285.

8 So based on Dr. Donato's testimony you know without
9 a doubt that the defendant was actively involved in using the
10 Cafritz American Express card for his own benefit after she
11 died.

12 Let's discuss the law related to Racketeering Act
13 11. Again, this is a conspiracy and so here the crime is the
14 agreement. And here the Government must prove that the
15 defendant knowingly transferred or possessed or used a means
16 of identification of Pam Cafritz. That he knew the means of
17 identification belonged to Pam Cafritz. That the defendant
18 acted without lawful authority. That the defendant acted with
19 the intent to commit or to aid and abet or in connection with
20 an unlawful activity that violates federal law. And that the
21 transfer or possession or use of the means of identification
22 occurred in or affected interstate or foreign commerce.

23 There can be no doubt that the defendant conspired
24 to use the Cafritz American Express card after she died. That
25 he knew the card belonged to Pam. And that he did not have

1 lawful authority to use the card. There is no doubt that the
2 card affected interstate commerce.

3 So let's discuss the fourth element, which requires
4 us to prove beyond a reasonable doubt that the defendant used
5 or transferred or possessed the means of identification with
6 the intent to commit or to aid and abet in connection with the
7 crime of tax evasion.

8 The crime of tax evasion prohibits the willful
9 attempt to evade or eschew any tax imposed by the Internal
10 Revenue Code. And to act willfully requires that we prove
11 that the law impose a duty on the defendant, that the
12 defendant knew of this duty and that he voluntarily violated
13 that duty.

14 I would suggest to you that we all have a duty to
15 pay tax, and we certainly know that the defendant knew about
16 this duty.

17 It's also important to note that the Government does
18 not need to prove that the defendant actually committed tax
19 evasion. It's enough if the defendant used or transferred or
20 possessed the means of identification or conspired to do so
21 with the intent to commit, aid and abet, or in this connection
22 with the crime of tax evasion.

23 So you how do you know that the defendant conspired
24 to use the Cafritz American Express card without authority to
25 evade having to pay taxes? Well, you heard from Investigator

1 Guerci that he was unaware that the defendant had any assets,
2 you heard from Mark Vicente that the defendant denounced it,
3 someone who had no connection. And the quotes from Mark
4 Vicente can be found from pages 585 through 610.

5 He also told you that the defendant was concerned
6 about bankruptcy, that he created so many companies to be
7 bankruptcy remote so that he could not be destroyed by the
8 forces against him.

9 And you know that the defendant had another company,
10 CBI, that had drawn the attention of Attorneys Generals and
11 was shut down.

12 Additionally, you had seen a lot of cash in this
13 case. There was cash -- you saw cash going to Nicole. Lauren
14 Salzman testified that she received from Dawn Morrison an
15 envelope of cash containing royalties that were owed to the
16 defendant.

17 Just last week we saw an XOSO document indicating
18 that the defendant was entitled to 10 percent of the XOSO
19 overall.

20 There was over \$500,000 of cash in Nancy Salzman's
21 home. I submit that given the defendant's not keeping assets
22 in his name that you can infer that that money did belong to
23 him. Here is a picture of the \$550,000 in cash that had been
24 secreted in Nancy Salzman's house. Remember there was two
25 shoe boxes of cash that were in a crawl space behind a closet

1 door. And then behind in a walk-in closet there was a crawl
2 space in the walk-in closet. There was an additional bag of
3 cash in another closet.

4 Remember that when Officer Fontanelli testified
5 regarding the search of Nancy Salzman's house, he identified
6 multiple pictures of the defendant throughout the house on her
7 mantle piece, that was one example. On the second floor of
8 the house. Then in the gym area there were three pictures,
9 large pictures, of the defendant down there as well. This is
10 Government's Exhibit 762.

11 We saw this during the trial. It's a declaration
12 filed in a case involving the defendant and Microsoft and AT&T
13 in Federal Court in Texas, where the defendant had been
14 ordered to pay \$400,000. Now he filed, he put in motion
15 papers in order to stay having to pay that \$400,000. It
16 states that as of December 30, 2016, the defendant could not
17 pay the fee, because he stated under penalty of perjury, that
18 he did not have access to money. This was at the same time he
19 was charging thousands of dollars to the Cafritz American
20 Express card, and writing hundreds of thousands of dollars in
21 checks out of the Cafritz Key bank account.

22 The defendant is living an expensive lifestyle,
23 traveling to Mexico, Audi payments, volleyball games, NXIVM.
24 Customers are paying thousands of dollars; and he gets the
25 10 percent cut of everything. Using Pam Cafritz's American

1 Express and writing checks out of her bank account. And he
2 claims he has no assets.

3 Why? Why hide all the assets? Why did he use Pam
4 Cafritz's credit card after she was dead to fund his
5 lifestyle? To avoid paying taxes. Because not he didn't want
6 to take that money into his own name because the defendant was
7 obsessed with not paying taxes.

8 You heard Stephanie Franco was startled that she
9 didn't have to -- that he didn't have to pay taxes.

10 You heard from James Loperfido, the tax preparer.
11 Mr. Loperfido explained that NXIVM created many companies to
12 take advantage of tax benefits. And Kathy Russell told
13 Mr. Loperfido that his job was to make as much tax liability
14 as possible for the NXIVM company. The ultimate goal for the
15 company was zero tax; that was the ultimately goal for the
16 defendant as well.

17 Mr. Loperfido testified that there was always a
18 question about the defendant's assets because it was clear he
19 was running them and making all the decisions. While the
20 defendant is running all these companies, the accountant,
21 Kathy Russell, is telling Mr. Loperfido that the defendant did
22 not have any income. No income while he was -- no income,
23 even though he was getting a 10 percent cut of all of the
24 companies.

25 So where is that? That's where we submit all this

1 cash is coming from, it's all the defendant's.

2 Mr. Loperfido told you about a movie shown at V Week
3 that concerned him very much. The documentary claimed that
4 taxes were unconstitutional. And Mr. Loperfido wanted to
5 address the audience, because the movie was showing a
6 one-sided stand on not paying taxes. He was not allowed to
7 address the crowd. That testimony was page 3373 to 3374.

8 I suggest to you -- I submit, that the defendant's
9 entire scheme to maintain the appearance of having no assets,
10 no income, while funding a lifestyle, was all done so he does
11 not to have pay taxes. That's why the conspiracy to use Pam
12 Cafritz's American Express card without authority was done
13 with the intent to commit or aid and abet or in connection
14 with the crime of tax evasion. I submit that we've proven
15 that one as well, which is Racketeering Act 11.

16 Now we're going to move on to Racketeering Act 2, 3,
17 4. So now we're in the portion of the category slide that
18 deals with the crimes related to the sexual exploitation of
19 Camila and the possession of child pornography.

20 Racketeering Act 2 is sexual exploitation of a child
21 and the actual producing of the pictures of Camila. And that
22 happened on two different occasions, so that's why there are
23 two Racketeering Acts related to that. Then Racketeering Act
24 4 is the actual possession of those photographs.

25 So you've heard a lot of evidence about Camila

1 during the course of this trial. You learned that the
2 defendant began having sex with Camila when she was just 15
3 years old and he was 45.

4 This photograph was taken when Camila was 13 or 14
5 years old, just when she started going to school in Cohoes,
6 New York. Now, at that point in time Daniela testified
7 Camila's parents were around while she was there for the
8 school year. But then Camila went home to Mexico and then
9 there was an effort by the defendant in discussions with
10 Daniela to encourage her younger siblings to come back to the
11 United States. When they came back, their parents weren't
12 there.

13 You heard from Daniela that the plan the defendant
14 had for Camila was to have her work as a maid for Nancy
15 Salzman, for Camila to clean Nancy Salzman's home, and to be
16 very far away from where Camila's other siblings were. At
17 that point in time, their parents are still in Mexico. And
18 Daniela testified she and Marianna are living apart from their
19 brothered, Adrian, who is far away, and then Camila is far
20 away as well. This was part of the defendant's plan.

21 In Daniela's words, "Camila was isolated from her so
22 the defendant could have easy access." Daniela testified to
23 that on page 2,471 of the transcript.

24 Daniela testified that sometime before the fall of
25 2006 she asked the defendant if he was asking sex with Camila.

1 He replied that he was. He asked whether Daniela minded.
2 Daniela was brutally honest when she testified. She said that
3 she remembers this because she was actually jealous. She felt
4 jealous because the defendant had made Daniela wait until her
5 18th birthday, while her sister was allowed to have sex with
6 him before she turned 18. The defendant responded that some
7 women girls are more mature, emotionally mature, than others.
8 And that's at transcript page 2,473.

9 Those words might sound familiar to you. Just last
10 Friday you heard the defendant speaking about the age of
11 consent. And he said in that context that it mattered, that
12 the real question was whether the person was a child or
13 adult-like.

14 You also know -- we looked last Friday at
15 Government's Exhibit 1071. This was another one of the
16 defendant's teachings. In that one he talked, he asked
17 whether there was anything wrong with an adult and a child
18 having sex. And first there were -- he posited there could be
19 concerns about pregnancy or disease. But then he says, "There
20 is sex that doesn't involve -- that involves -- that doesn't
21 involve, that minimally involved the need of transferring
22 procreation. So for example, an adult manually stimulates the
23 child, should the child be allowed to masturbate the adult?
24 Should the adult be allowed to masturbate the child?" The
25 defendant included an answer, "These are things students have

1 to think out for themselves. We're raising the issues on how
2 to think about the issue and generate an opinion. Be careful
3 as head trainer not to give any opinion."

4 You also know that Camila was only 15 when the
5 defendant started having sex with her because of the e-mails
6 and chats that you saw. You saw the WhatsApp chats from 2014
7 where the defendant says that he was proud to have been
8 Camila's husband for 8.75 years, which would have meant that
9 their relationship began in 2005.

10 This was another example from those WhatsApp
11 messages that also showed that the defendant had been having
12 sex with Camila since she was 15. This is in one of the
13 conversations, which we're going to talk about more in a
14 minute, about finding a successor for the defendant. The
15 defendant asked whether, who would be interested given age, et
16 cetera. She says something flattering. He says, "Even an
17 inexperienced 18 year old?" And Camila responds, "Even an
18 inexperienced 15 year old." The defendant certainly doesn't
19 respond, What are you talking about. He responds, "It needs
20 to be a once in a lifetime person. And I have that. And I
21 lost it."

22 You also saw that even back in 2009 the defendant
23 was calling Camila his slave. This one example, Government's
24 Exhibit 1400, where she talks -- where the defendant is
25 responding. This was the Camiliacastle account, where the

1 defendant and Camila would both communicate on the same
2 account. So it looks as if the same person is sending the
3 e-mail, but really they are both logging in and responding to
4 each other.

5 And so in this e-mail, written by the defendant, he
6 writes something sexual that he wants to have happen. He
7 says, "by very obedient slaves."

8 I submit within -- there were in the same set of
9 e-mails there were other references to BDS-type sex, and she
10 signed other e-mails your slavey slave.

11 Also in 2009 all of these messages reflect a much
12 longer-standing relationship than one would have been possible
13 to have begun had it begun by the time she turned 18.

14 And so, this one is also Government's Exhibit 1400,
15 Camila is writing another sexual comment, and then she notes
16 that she's "fresh out of jail bait grounds."

17 Racketeering Act 2 and 3 are based on the same
18 conduct. That on November 2, 2005, and again on November 24,
19 2005, the defendant took graphic and sexual photographs of
20 Camila who was then only 15 years old, a child. For both of
21 those crimes there are three elements.

22 One additional piece of evidence regarding the fact
23 that their relationship started well before Camila turned 18.
24 This is in August 2011, she says five years. That when we
25 looked at records from her gynecological visits, the nurse

1 practitioner explained this is a very important question, so
2 you can monitor their sexual health properly. Here Camila had
3 written she had been five years with her partner. And from
4 all of the evidence in this case, I submit, that had to have
5 been the defendant.

6 But here that would have turned out to be roughly
7 16. The five years then is an approximation that people often
8 use; but regardless, long before she turned 18.

9 So here are the elements of sexual exploitation of
10 child. First, that Camila was under 18 at the time of the
11 acts alleged, November 2, 2005 and November 24, 2005. That
12 the defendant used, employed or persuaded Camila to take part
13 in sexually explicit conduct for the purpose of producing a
14 visual image of that conduct. Sexually explicit conduct
15 includes lascivious exhibition of the genitalia and the pubic
16 area. And lascivious exhibition is a depiction designed to
17 excite lustfulness and sexual stimulation in a viewer. So the
18 difference between baby in a bubble bath and the types photos
19 that you saw of Camila. Now, the third element is that the
20 visual depiction produced was produced using materials mailed,
21 shipped, transported in or affecting interstate commerce.

22 Let's talk about the second element first. You now
23 that the defendant took sexually explicit photographs of
24 Camila. Daniela identified a redacted version of one of those
25 images as being of her little sister. So that's Government's

1 Exhibit 929, combined with on the top there is a transcript
2 cite to page 2,477. You saw all of the images. That's the
3 redacted version. They are in evidence as Government's
4 Exhibit 518 A through U. I'm not going to show you them
5 again. But you did see them. And you if feel it necessary,
6 you can you determine if they are necessary, if you want to,
7 you can request to see them again during your deliberations.
8 They clearly focus on Camila's genitals, which mean they are
9 what is called a lascivious exhibition under the law, or
10 visual depiction of a child's genitals for sexual stimulation.

11 You heard evidence of about where those images were
12 kept, on a hard drive, the defendant's executive library.

13 So that's the defendant on the left with the drive
14 behind him, that's the picture that was taken in
15 February 2012. And then on the right you can see the hard
16 drive, which Special Agent Mills testified he recovered in
17 2018. And so you can see that it has not moved from the same
18 spot since then. Those are Government's Exhibit 175A-1 and
19 Government's Exhibit 502A-34.

20 The images were found in a folder that the defendant
21 called his studies. Now, how do you know that this was the
22 defendant's hard drive, that it was the defendant's studies
23 folder?

24 First, because of Daniela's testimony. Daniela
25 testified that the defendant had a Dell computer and a Western

1 Digital hard drive and a Dell drive and a big professional
2 camera. She testified to that on pages 2,568 through 69.

3 Daniela testified that she went through the
4 defendant's Dell computer and found pictures of naked women,
5 women that she knew the defendant had been with. That was on
6 page 2,571 of the transcript.

7 She testified that she distinctly remembered seeing
8 Monica Duran's photograph, because she hadn't known up until
9 that point that the defendant was having sex with her.

10 She also testified that she set up the hard drive to
11 back up the defendant's Dell computer. You also know that it
12 was the defendant's studies folder because you saw what was in
13 the folder. There were 11 folders of sexually explicit
14 photographs, all of women that the defendant was having sex
15 with. You can look at Government's Exhibit 550, which was the
16 stipulation identifying the women in each of those individual
17 folders.

18 The first folder, 4L122505, naked photographs of
19 Lauren Salzman, which the defendant titled the folder after
20 his nickname for her Forelorn. A111005, naked photographs of
21 Angel Smith. BJ103005, naked photographs of Barbara Jeske.
22 101705, naked photographs of Dawn Morrison. A lot of these
23 people are on the inner circle board as well. DF101905, naked
24 photographs of Daniela. J10605 naked photographs of Barbara
25 Bouchey, who went by the nickname Ja, that was from Lauren

1 Salzman on page 1992. L102805, those were naked pictures of
2 Loretta Garza, one of the defendant's first line DOS slaves as
3 well. NMP102005, those were naked pictures of Marianna and
4 Pam Cafritz together. MO101805 were pictures of Monica Duran.
5 And then MS -- we're missing one. There was also MS Kathy
6 Russell's photographs were in a folder that was labeled MSK at
7 the beginning; and you heard through testimony that one of her
8 nicknames was Ms. Kathy. Then finally V110205, which were
9 naked photographs of Camila. Now, why the V? Well, you know
10 by now, you've seen her nickname over and over, all over the
11 place, Virgin Camila, Vicky Baby, CV Baby, the name was given
12 to her by the defendant.

13 The defendant talks with Camila about the fact that
14 he had these photographs. You saw that in the WhatsApp chat,
15 Government's Exhibit 302R, page 44. He says, "You know I
16 guard the other pictures, right?" Camila responds, "From way
17 back when?" The defendant responds, "I wanted the original
18 forever. I thought it was truly mine. Yes. From way back
19 when." Which brings us to the first element of the crime of
20 child exploitation. The evidence is overwhelming that Camila
21 was under the age of 18 when the photographs were taken.

22 First of all, you know Camila's birthday was
23 March 1st, 1990. You know that because Daniela testified to
24 it. But you also know it because of Camila's passport that
25 was scanned in her e-mail account, and her medical records,

1 all of which consistently show her birthday of March 1st,
2 1990.

3 Next you know when the photographs were taken
4 because of when they were dated. I don't think we have the,
5 we don't have the -- so there is -- the first one is B110205,
6 and then -- we'll come back to it before we finish.

7 Now the defendant clearly came up with the folder
8 title, because it's his own private nicknames for the women
9 who's pictures are inside them. Each of these folders contain
10 photographs that match the date on which they were taken. You
11 know it because Lauren Salzman and Daniela both testified that
12 the defendant took naked photographs of them in 2005. And the
13 naked photographs they described having been taken are exactly
14 like the ones that you saw in the studies on the Western
15 digital hard drive.

16 Now you also know that the photographs were taken in
17 2005 because that's what the data shows. The forensic
18 examiner, Brian Booth testified that the most reliable
19 metadata that the FBI could obtain from the images on the
20 Western digital hard drive, said that they were taken exactly
21 when the folders stated they were taken. So Government's
22 Exhibit 518 A through N, now we can see it, were taken on
23 November 2, 2005. And Government's Exhibit 518 O through U
24 were taken November 24, 2005.

25 You also know that the photographs were taken when

1 Camila was under 18 because you know that Camila's appendix
2 surgery was on January 9, 2015, when she still 16 years old,
3 she wouldn't turn 17 until the following March. You know that
4 the wounds were bad. You heard it described in detail,
5 watching her mother clean it out. You yourselves have
6 compared a recent photograph of Camila's abdomen where the
7 scar is still visible. You know it's a recent photograph
8 because you can also see her brand on there.

9 In that photograph, when you compared that
10 photograph to the photograph from the studies folder, I submit
11 to you, there is no scar. Special Agent Wenniger also told
12 you there was no scar. So the images must have been taken
13 before Camila turned 17.

14 The third element, the last element, is also clearly
15 mapped because the materials that had been mailed, shipped or
16 transported in or affecting interstate or foreign commerce.

17 So here, as you know, the images were taken from
18 this camera, the Canon EO 20D, which is Government's Exhibit
19 520. You can see that right on it, it says that it was made
20 in Japan. You know because the active data from every single
21 photograph taken from the defendant's studies folder showed
22 the photograph was taken by this camera with this serial
23 number 1420908348. This is in evidence.

24 It looks just like the camera that Lauren Salzman
25 and Daniela described the defendant taking pictures of them

1 with. You can inspect it yourself in the jury room.

2 As Special Agent Mills testified, the camera says it
3 was made in Japan. You can see it for yourselves, which
4 proves the third element of the Racketeering Act 2 and 3
5 beyond a reasonable doubt.

6 Now, as for Racketeering Act 4, the defendant was
7 charged with possession of child pornography. The child
8 pornography with which he possessed is the same as the images
9 he took of Camila when she was under 18 years old.

10 The elements of Racketeering Act 4 are that the
11 defendant knowingly possessed the visual depiction. That the
12 visual depiction was produced using material that had been
13 transported in interstate or foreign commerce. That the
14 production of the depiction involved the use of a minor
15 engaged in sexually explicit conduct. And that the defendant
16 knew that the production of the visual depiction involved the
17 use of a minor engaging in sexually explicit conduct.

18 So Racketeering Act 4 is similar to Racketeering Act
19 2 and 3 because elements two and three are the same. The
20 difference for Racketeering Act 4 is that Racketeering Act 4
21 charges the possession, not the creation, of the images of
22 Camila. All possession means is that the defendant had
23 control over the images at some point between when the images
24 were created in November 2005 and when they were seen by
25 Special Agent Mills in March 2018.

1 You know the defendant did, because again, the
2 defendant took those photos. He labels the photos with the
3 first initial of his nickname for Camila, Virgin Camila, and
4 he tells her that he has the photos from way back when.

5 (Continued on next page.)

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1 MS. PENZA: Now, it's not just -- let's check off
2 our three racketeering acts.

3 So I submit that what we just went through proved
4 Racketeering Acts 2, 3, and 4.

5
6 Now, the fact that in addition to the fact that he
7 began his relationship with request Camila when she was still
8 a child, 15. It was coercive and abusive in so many other
9 ways. You saw the nature of that relationship. The WhatsApp
10 chats Special Agent Reiss read were a special window into the
11 defendant's relationship with Camila. You saw how controlling
12 he was. How Camila asked permission to eat, to sleep, to cut
13 her hair, to see a friend, to text her family.

14 At the beginning of this case, Mr. Agnifilo, told
15 you that that a lot of the time the defendant was being
16 controlling, he said what's behind the control? This is
17 something these people signed up for. They are here to make
18 their lives better and they have signed up for this. But you
19 saw the messages, you heard the testimony. This was not about
20 making anyone's life better, and either Camila nor her sister
21 signed up for anything like this: The control, the abuse, the
22 threats to send her back to Mexico. And you likely remember
23 the defendant's obsession with Robbie.

24 The defendant also told Camila that by ruining her
25 period she had ruined herself as the defendant's successor.

1 And he tasked her with finding a new virgin to take on the
2 role.

3 You saw the defendant's messages with Camila about
4 Robbie asking her the most excruciating details about her
5 sexual encounters with him. Eerily similar to the messages
6 exchange between Daniela and the defendant about Ben Meyers.

7 This is Government Exhibit 301-R. This is a concept
8 of finding a successor for her. Oh, sorry, I didn't show you
9 the appendix scar. We'll talk about it before, but if you
10 want to look at the record, Government Exhibit 530-R is the
11 actual appendectomy records.

12 So this is the line about the successor where the
13 defendant says to Camila, "Make another successor. Give me
14 you in ways you never would have." And then he goes on about
15 how she had ruined herself for him.

16 Now, because Camila had been with Robbie, the
17 defendant no longer considered her worthy of being his
18 successor. And you heard from witnesses and saw e-mails and
19 messages about what the defendant wanted for his successor. A
20 young version that Camila was supposed to recruit and groom
21 into becoming his new sexual partner. You saw on WhatsApp
22 chats that the defendant told Camila Rosa Laura could help in
23 finding a successor. She could assist in her becoming friends
24 with young future candidates and shepherding them over time.
25 And you also saw Camilla's actual efforts to find the

1 defendant a virgin on Tinder. This is
2 Government Exhibit 1779-534. This is where the defendant says
3 Rosa Laura could assist her in finding a successor.

4 The defendant also said that the person needed to be
5 very pure, more than just being a virgin, and "at least as
6 pure as you were when I first met you."

7 And you saw this e-mail from Rosa Laura Junco to the
8 defendant telling him she was concerned she wasn't doing
9 enough to facilitate her own teenage daughter Laureisa's
10 possibility for succession.

11 This is consistent with Lauren Salzman's testimony,
12 too, at Pages 1899 and 1900. Lauren Salzman testified about
13 the defendant's young virgin successor that Daniela Padilla,
14 Loreta Garza, and Rosa Laura Junco, were trying to bring in
15 sisters or cousins from Mexico to come to Albany for this
16 purpose. Rosa Laura was even willing to give up her own
17 daughter.

18 Now, you remember this clip, right, this is when
19 Nancy Salzman was parroting the defendant's words about age of
20 consent in the Jness room. I want you to look on the
21 left-hand side. As Sylvie testified, those are the underage
22 girls from Mexico that were being taught in this girl's school
23 of Rosa Laura Junco's. I submit that the defendant wanted
24 those girls to hear that age of consent conversation to
25 believe that age of consent was just a societal construct,

1 that it would be okay to have sex with an adult as long as
2 they them themselves were adult-like. I submit that that is
3 grooming right there.

4 Now, if you want to review the testimony from Lauren
5 about Rosa Laura's Junco's girls program, you can review the
6 testimony on Page 1901.

7 Now, why the defendant instructed Camila to find him
8 a successor virgin because from the beginning the defendant
9 relied on his female sex partners to approach, recruit, and
10 groom other women as his sex partners. You saw that time and
11 time again. You heard that from Daniela who Pam Cafritz
12 facilitated her and her sister's abortions to quote, Make sure
13 everything went according to plan and that nothing implicated
14 the defendant. And that's on transcript Page 2647.

15 You heard that from Lauren Salzman, too, who
16 testified that Pam Cafritz facilitated all of Keith's
17 objectives, whatever Keith wanted especially in terms of
18 getting sex partners for the defendant. That's on Page 1707.

19 Lauren Salzman testified that Pam's illness and
20 death meant that no one was going to fill at that role to be
21 able to do that for him. That was until DOS. It was through
22 DOS that the defendant executed on his plan to have women
23 formally recruit other women and lock them into a
24 collateralized vow of obedience to him so that they couldn't
25 leave him, couldn't be unfaithful, to do work for him, to have

1 sex with him, and to recruit new sex partners for him and here
2 they are, the defendant and the seven first line DOS slaves.

3 Having women recruit other women was an important
4 part of this plan. Why? Because these women trust -- because
5 the women who were brought into DOS trusted the women who
6 recruited them. And the defendant exploited that trust for
7 the things he wanted.

8 But make no mistake about it. The defendant did not
9 create DOS to be a sisterhood as Mr. Agnifilo put it in his
10 opening statement. It was not as he put it, "A group of best
11 buddies."

12 To know what DOS really was, just look at the
13 defendant's own words. "I think it would be good for you to
14 own a fuck toy slave for me that you could groom and use as a
15 tool to pleasure me." That's October 2015.

16 The evidence is overwhelming that the defendant
17 created DOS not to empower women but to benefit and to satisfy
18 himself so that he could have DOS slaves do work for him and
19 have sex with him. Lauren Salzman testified about the sexual
20 aspects of DOS. She told you that the defendant was having
21 sex with his first line DOS slaves including herself. She
22 told you about the naked photographs, the up-close vagina
23 pictures that were sexual in nature. She told you about the
24 dungeon with the BDSM equipment that Daniela Padilla bought.
25 She told you about seduction assignments and the sexual

1 relationships between the defendant and the DOS slaves. And
2 that testimony on Page 1790.

3 And this is the testimony about the dungeon. 9
4 Milltowne Drive, the sorority house the defendant told his
5 slaves to purchase. And you can see here the warranty deed
6 dated October 25, 2018, with Stinka, LLC signed by Nicole
7 Clyne. She is one of the first line DOS slaves. And they
8 quote from Lauren Salzman about the dungeon is at Page 1638.

9 And the items that they told the first line DOS
10 slaves to buy for him. The ones Salzman described as a BDSM
11 sex torture place like the cage. And you saw the invoices.
12 And you saw what Daniela Padilla actually bought is
13 Government Exhibit 864 and Government Exhibit 863. These are
14 just a few of the items. Can there really be any doubt that
15 DOS was anything other than a way for the defendant to get
16 what he wanted from the women including sex.

17 All of this was for him to satisfy the defendant's
18 desire for sex and power and control. Here he is talking
19 about changing the vote, finding women of influence.

20 (Audio file played in open court.)

21 (Audio file concludes.)

22 MS. PENZA: So you you've time and time again the
23 defendant speaking out seeking out political influence.

24 Now, here, he wants to do that and you heard Lauren
25 Salzman testified that Cici, whose name we're not using, is

1 somebody who was a woman who did have very powerful
2 connections in Mexico. And the idea of changing a vote shows
3 that the defendant has envisioned, I submit, that all of these
4 women will be collateralized vows. And he what he says from
5 top down everyone's voting one way, he believes that everyone
6 will have to obey that. And so, this was the grand plan that
7 the defendant had envisioned.

8 Now, Lauren Salzman testified about the structure of
9 DOS and she told you making it abundantly clear throughout the
10 trial that the defendant was at the top of it. He was the
11 grandmaster, he was the supreme master. And that's a
12 transcript Page 1506.

13 And Lauren Salzman also testified about the Excel
14 spreadsheet that's in evidence as Government Exhibit 357 and
15 it documented the enrollments of individuals of women into DOS
16 and you can take a look at it during your deliberations.
17 You'll see the names of everyone in the first line and you'll
18 see the names of all of the slaves that they enrolled.

19 Now, this chart includes only a few of those names,
20 but you can see all of the people who were DOS slaves who you
21 heard from and about: Nicole, Jay, Lauren Salzman, Sylvie.
22 And all the ones you heard about: India, Michele, Daniela,
23 Audrey, Sarah. All of these slaves were ultimately under the
24 defendant. He was their master, he was their grandmaster, he
25 was their supreme master.

1 Now, the victims you heard from in this case, and
2 the other women who were recruited into DOS below the first
3 line, had no idea all of this was going on behind the scenes.

4 We're going to go through each of them individually
5 later, but the DOS victims who testified: Sylvie, Nicole,
6 Jay, were never told that the defendant was the head the
7 group; that the defendant was ultimate master, that they never
8 were expected to get naked for or send naked pictures to the
9 defendant. That they would have ever have to turn over
10 additional collateral, or they would be expected to have sex
11 with the defendant. None of them testified that they were
12 told that a BDSM dungeon, the defendant's idea, was being
13 built at the bottom of the house owned by the women in DOS and
14 that the defendant had been interested in BDSM for years.

15 In short, none of the DOS victims testified that
16 they were told that that group had anything to do with sex.
17 And based on the misrepresentation of the group as being about
18 female empowerment and the concealment of the defendant's
19 role, we'll talk about which women handed over property.

20 Now, you heard of how much this collateral meant to
21 these women. You saw the lists of collateral that were
22 provided by Michelle and her insistence that her slave, Suzie,
23 provide additional collateral including renunciations of their
24 inheritances. And that's in evidence as
25 Government Exhibit 1816.

1 You also saw the types of pictures that women handed
2 over as collateral. Close ups of their vaginas with their
3 faces in the same frame. I'm not going to show you these now,
4 you can ask to see them while you deliberate if you wish. But
5 some examples are Government Exhibit 1806, 1807, 1809, 1811,
6 and 1812. I submit these were pictures that no one would
7 released. Life destroying pictures.

8 You also heard that women like Nicole and Jay turned
9 over intimate videos as well. Of course, the victims did not
10 know, couldn't have known, that they were being asked to pose
11 in a way that was most sexually pleasing to the defendant.

12 At the beginning of the trial, Mr. Agnifilo said
13 that the naked photos that the DOS slaves provided were not
14 sexual. The photos the DOS slaves provided are nearly
15 indistinguishable save the Nokia phone and the old VCR from
16 the trophies the defendant kept in his study from over a
17 decade earlier. I submit those photos that the DOS slaves
18 provided were for the defendant's sexual gratification and
19 nothing else.

20 Now, several of the racketeering acts in all of the
21 standalone charges in this case are related to DOS and here
22 they are.

23 So the first one we're going to talk -- the way
24 we're structure the order in which we're going to go through
25 them I think is the way that it makes the most sense as we

1 talk about the facts as the DOS slaves were of them and as we
2 went through the evidence in the course of the case.

3 So the first count that we're going to talk about is
4 the wire fraud conspiracy and the concealment of the
5 defendant's role in DOS and the fact that it included making
6 women available to the defendant for sex brings us to the
7 first of those charges, s wire fraud conspiracy.

8 Now, this is another conspiracy charge, so, again,
9 it's the agreement to commit the wire fraud that's the crime.

10 And these are the elements of wire fraud.

11 The first element of wire fraud is the existence of
12 a scheme or artifice to defraud or to obtain money or property
13 by materially false and fraudulent pretenses, representations,
14 or promises.

15 The law says that materially false and fraudulent
16 pretenses, representations, or promises includes not only
17 deceitful statements but also half truths and concealment of
18 material facts.

19 As to the first element, the defendant and his first
20 line agreed that they defraud the lower-ranking DOS slaves by
21 concealing the true nature of DOS including the defendant's
22 involvement in the organization and the sexual aspects of it.

23 Lauren Salzman testified that she was instructed to
24 conceal the defendant's identity from her slaves, and that she
25 followed that instruction. And you can read Lauren's

1 Salzman's testimony on Page 1602. And you read the
2 defendant's own words to Camilla saying that there were slaves
3 who would never know of his existence. And as of October
4 2015, there were some who already did.

5 And you also heard from Nicole and Jay who said that
6 they had no idea that the defendant was involved when they
7 joined, and they would not have joined if they had known. And
8 so, Nicole's testimony on this can be found on Page 3862 and
9 Jay's testimony can shall found on Page 4324.

10 And I think it's just notable, also, I submit when
11 you read the transcript of these women, these women had the
12 best of intentions. They wanted good in the world and that
13 was used against them. Here Jay testifies that, you know, she
14 wanted to be this strong force of light in the world and that
15 was what was used against her. And here Jay is again. "Would
16 you have joined the vows if you were told or man or men was
17 involved in the organization?" "Absolutely not." "Why not?"
18 "Because no offense to me, but there are just some things that
19 men don't understand that only woman do and because of
20 everything that I had been through. And my mother not being
21 present, I definitely wanted to form more bonds with women and
22 it just made sense. It wouldn't make sent if there was a man
23 running things."

24 I submit that the defendant and the first line knew
25 women were not going to hand over their property, their

1 collateral, if they knew the truth. And I submit obtaining
2 that initial collateral was vitally important. At that point,
3 the fear of release is established and the power dynamic
4 immediately shifts.

5 So looking back at the elements of wire fraud
6 conspiracy, to prove the first element, Judge Garaufis will
7 instruct you to consider whether a reasonable person would
8 have considered the omitted information to be a concern when
9 making a decision.

10 Now, you heard interest Nicole and Jay on this
11 point, but I submit that any reasonable woman would have
12 considered it important, would have considered it important to
13 know that there was actually a man at the head of this women's
14 group before joining. Especially one where they were being
15 asked to provide naked photographs and sex tapes in order to
16 join.

17 Additionally, a reasonable woman would want to know
18 that a group she thinks will be about women's mentorship has
19 an explicit sexual bent and that the existing members already
20 understand sex and nudity to be part of the group.

21 Now, the second element requires the Government to
22 prove the defendant or conspirator knowingly and willfully
23 provides or participated in the scheme with a specific intent
24 to defraud. In short, the scheme of the defendant knew of the
25 lies being told to the DOS slaves, and that he intended to

1 obtain property through those lies.

2 The defendant was the creator of DOS and his first
3 line knew his identity had to be concealed, so there is no
4 doubt this element has been proven. Naked photos, videos,
5 rights to assets, those are things of real value in the real
6 world.

7 The third element that there was an agreement that
8 interstate or foreign wire communications would be used to
9 commit the scheme.

10 Again, this is an element where there really can be
11 no doubt that the Government has proven it. You heard the
12 women were recruited into DOS from California, from Mexico,
13 from Canada, of course communications would cross state lines
14 and national boundaries. Of course, communications that would
15 cross state lines and national boundaries were envisioned as
16 part of this. In fact, Lauren Salzman testified that she
17 recruited two of her slaves in Mexico over Skype while they
18 were in Mexico and she was in New York. Her testimony about
19 that can be found on Page 1604.

20 You also heard bunch of DOS's operation occurred
21 over telegram and that telegram did not operate in the
22 United States. There was testimony about that which appears
23 on Page 1604 and 1371.

24 With that, we submit we've proven the wire fraud
25 conspiracy and we can check off as guilty Count Four, wire

1 fraud conspiracy.

2 So we talked about the lies that brought women into
3 DOS who induced them to give up their property their
4 collateral, but let's talk now about what the DOS slaves
5 believed they're collateral meant.

6 As you'll see in a second, there is ample evidence
7 that the defendant and his co-conspirators intended to release
8 collateral if necessary. But even if that were the case, the
9 question is what victims believed based on the defendant's and
10 their co-conspirators words and actions. That's the key to
11 the coercion that will be at the heart of the rest of the
12 DOS-related crimes.

13 Let's look first at the evidence that the defendant
14 intended to release collateral, if necessary.

15 Here he is talking on tape.

16 (Audio file played in open court.)

17 (Audio file concludes.)

18 MS. PENZA: Executing the collateral. The defendant
19 is talking there about releasing it. Now, just last -- and
20 that's Government Exhibit 494 in evidence.

21 Now, also, just last week with
22 Special Agent Wenninger. We looked at an internal document
23 sent by Rosa Laura Junco to the defendant which he then saved
24 in November 2017. So then here Rosa Laura Junco is sending
25 the document to the defendant on October 15, 2016. "Find

1 attached the document promised the letter S," stands for what
2 you can imagine, "and it attach letters for M." And this is
3 Government Exhibit 1326. And this document describes how to
4 measure the specific collateral.

5 And the first one of the criteria was proven
6 authenticity. As you can see right underneath it asks "How
7 much can we prove collateral is authentic. This determines
8 how much the collateral is actual." Actual, executable, can
9 be released. Those are all words for the same thing.

10 Now, the criteria goes from whether the collateral
11 is typed versus handwritten versus notarized, to audio, to
12 video, and it whether there is an actual legal title to the
13 document. And there is different points that are to be
14 assigned to how valuable that collateral is.

15 I submit there is no way to interpret this other
16 than its plain language that they were trying to figure out
17 how executable the collateral would be, meaning, they were
18 trying to figure out could they take the property. If they
19 have the title, makes it easier to execute the collateral.
20 And could they make clearer that it was really belonging to
21 the DOS slave. Would it have the effect of damaging her
22 because it could be directly tied to her? Same document,
23 Page 1326. At the end of the document, there is a section
24 called depth of collateral.

25 And the points for the authenticity section and

1 another section were to be multiplied by how damaging the
2 collateral would be. The levels there ranged from become an
3 inconvenience to affects by limiting options permanently to
4 affects freedom and all experience of self. I submit this is
5 a document that only for the defendant and his first line and
6 the only way to the language of this document makes sense that
7 they intended to be able to release the collateral effectively
8 that is with the appropriate damage if they determined it was
9 necessary.

10 Your Honor, do you want to stop?

11 THE COURT: Is this a good place to stop?

12 MS. PENZA: This is fine.

13 THE COURT: Okay. What we're going to do now,
14 minimum, is we're going to take 45 minutes for lunch and then
15 we'll return and hear the rest of the Government's closing and
16 then we'll move on to the defense closing.

17 All rise for the jury.

18 (Jury exits courtroom.)

19 THE COURT: Please be seated. Ms. Penza.

20 MS. PENZA: I think I'm doing pretty well.

21 THE COURT: Congratulations.

22 Nothing like fishing for a compliment. About how
23 much longer do you have?

24 MS. PENZA: Less than an hour.

25 THE COURT: Let me advise you that we have checked

1 with the jury. I ask that they can still till 6:00, but they
2 can only stay till 5:00 tonight. So the defense closing will
3 spill over to tomorrow morning.

4 MR. AGNIFILO: May or may not, Judge.

5 THE COURT: Well, if it does, I want to let you know
6 we can't go past 5:00 today.

7 Let's take 40 minutes for lunch.

8 (Defendant exits from courtroom.)

9 (Luncheon recess taken.)

10 (Continued on the next page.)

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1 (Afternoon session.)

2 THE COURT: All right. Get the defendant.

3 Good.

4 All right. Be seated for a moment, everybody.

5 (Pause in proceedings.)

6 MS. PENZA: I'm ready, Your Honor.

7 THE COURT: Are you ready?

8 MS. PENZA: Yes.

9 THE COURT: Please bring in the jury.

10 (Pause in proceedings.)

11 (Jury enters the courtroom.)

12 (Jury present.)

13 THE COURT: Please be seated.

14 MS. PENZA: Thank you, Your Honor.

15 THE COURT: All right. Ms. Penza, you may continue
16 your closing argument for the Government.

17 MS. PENZA: Thank you, Your Honor.

18 BY MS. PENZA:

19 Good afternoon.

20 THE JURY: Good afternoon.

21 MS. PENZA: So where we left off, we were talking
22 about the collapse and the understanding among the first-line
23 DOS members and the defendant that collateral was meant to be
24 used.

25 Now, additionally, Lauren Salzman testified the

1 initial collateral she proposed, that the initial collateral
2 she proposed which described the true story of her, her mom,
3 and the defendant's role in corrupting a woman who was having
4 a mental breakdown following a NXIVM class was rejected
5 because the defendant might have been uninclined to release it
6 since it implicated himself.

7 And so this is Lauren Salzman's quote on Page 1691
8 and she said -- she told me she would rejected it because it
9 would be a conflict of interest for Keith to release the
10 collateral because he would be implicated in the collateral.
11 So if I were to ever violate the vow, he wouldn't be able to
12 use it because it would hurt him so she didn't accept it and
13 at that time did you believe your collateral would be released
14 if you violated your vow.

15 And she said yes.

16 I submit also the common meaning of the word
17 "collateral" implies execution. The bank, for example, can
18 foreclose on your house if you don't pay your mortgage.
19 Regardless, what matters at the end of the day is not what the
20 defendant actually intended to release or not release
21 collateral, what matters is the defendant knew the victims
22 believed their collateral could be released. That is where
23 the power lies. A master has also the ample proof that
24 victims did get release of their collateral and that the
25 defendant and the first-line masters re-enforced that.

1 Remember Sofie from the very beginning of the trial
2 and is this is her testimony on Page 273. She had decided
3 that her master, Monica Duran, right there (indicating) told
4 her that the defendant had said that another one of Monica
5 Duran's slaves, named Gaby was at risk for having her
6 collateral released. Sofie testified that Monica told they
7 are that the defendant had said Ana Gaby might have to be the
8 first one to, "take the fall." Sophie testified that scared
9 her and she called her Ana Gaby and tried to persuade her to
10 do what she was supposed to be doing because Sofie was so
11 worried about Anna Gaby's collateral to be released. Her
12 testimony, if you want to read it, is contained on the bottom
13 of Page 274 as well.

14 And Nicole also testified that she had experiences
15 that made her fearful that her collateral would be released if
16 she was not obedient. The first is just when a month -- the
17 first was one just a month and a half after having joined DOS
18 Nicole tried to leave. Allison told her that she had like an
19 arranged marriage and couldn't get out. Now we'll talk about
20 that a little more in a day, but Allison also told her that
21 Allison's own master, the defendant, who Nicole did not know
22 at that time was the defendant, had once threatened to release
23 a sex tape Allison had provided as collateral when Allison
24 wouldn't keep to her diet and Nicole testified after Allison
25 said this, Nicole used the disobedience as grounds for release

1 of her collateral. Nicole's testimony on this could be found
2 on Page 3875 to 76, if you want to review it.

3 The second was -- time was when Nicole tried to talk
4 to the defendant about leaving DOS. And he told her the story
5 of Billy Budd. Nicole's takeaway from the defendant was that
6 Billy Budd had been hanged in order to uphold the code of the
7 Navy, even though there weren't actual laws to be upheld.
8 Nicole told her that after that conversation she contemplated
9 options where perhaps DOS would not have to release her
10 collateral, like joining the witness protection program. She
11 was desperate to find any way to get out without DOS having to
12 make an example of her and release her collateral in order to
13 keep their code.

14 Now we're going to move on to extortion. I submit
15 that when the lower-ranking DOS slaves went through the
16 process of providing their initial collateral they thought the
17 worst of it was over. You heard, though, that once they were
18 in, they were informed for the first time that there was a
19 requirement of monthly collateral, and that brings us to the
20 next criminal act charged as part of DOS, extortion under
21 New York State Law, which is charged as racketeering, which is
22 actually charged as Racketeering Act 9.

23 Now, the premise here is that once the women had
24 provided their initial collateral, any subsequent property
25 that was obtained was obtained based on the threat of the

1 release of that initial collateral. Now extortion under
2 New York State Law requires the Government to prove that the
3 defendant obtained property illegally by extortion. This is
4 another act that has been charged under the aid and abetting
5 theory. So if you find that the defendant didn't get his own
6 hands dirty or commanded or held others in the process, then
7 you can find this act proven. Extortion means instilling in a
8 victim of fear that if they don't hand over property, the
9 defendant or another person would expose a secret or publicize
10 an asserted fact, whether true for false, tending to subject
11 some person, could be the victim or someone else, to hatred,
12 contempt, or ridicule or perform any other act which would
13 harm another person materially with respect to his health,
14 safety, business, calling, career, financial condition,
15 reputation or personal relationship. I submit there couldn't
16 be a more perfect statement of what the threat posed by
17 release of that collateral was.

18 DOS slaves uploaded their monthly collateral to
19 avoid the release of their initial collateral which had been
20 specifically designed to harm them with respect to their
21 business, their calling, their career, their financial
22 condition, their reputation, their personal relationship.
23 Plus the fact that the initial -- at the DOS collateral
24 document that we had been looking at before,
25 Government's Exhibit 1326. There is a section called Areas.

1 And that that is A collateral is committed affecting a
2 specific area or areas. The more areas are affected, the
3 stronger it is. Each area affected is worth five points.
4 These are the areas: Work, family, social credibility,
5 important people affected, assets, wealth, possessions,
6 rights. It reads almost -- it's very similar to the list in
7 the extortion statute.

8 Now Nicole also testified explicitly that the fear
9 of her original collateral being released is what kept her to
10 submit more, the fear of harming her family. And you can find
11 that testimony on Page 4017. And you also saw some of the
12 initial additional collateral Nicole provided, and she told
13 you she also provided many more additional naked pictures. I
14 submit that the Government has also proven that the defendant
15 engaged in state law extortion beyond a reasonable doubt, so
16 Racketeering Act 9 has been proven.

17 Now, the remaining DOS related crimes that we're
18 going to look at rely in part on an analysis of whether
19 tactics of force, fraud or coercion were used on victims.
20 Let's look at all the tactics of coercion that were being
21 reported DOS beyond the collateral. First you have the
22 branding with the defendant's initials, the humiliating act of
23 possession.

24 Lauren Salzman and Nicole both described how painful
25 this process was. Lauren even described her slave, Jimena,

1 squealing and screaming and said it looks horrendous and
2 really scary. Lauren Salzman's testimony about this is on
3 Page 1748. And let's take a look at that, what that chat
4 between, again, October 2015 with -- between Camila and the
5 defendant and even all the way back in October 2015 even
6 though the slave would not end up being branded until early
7 2017. The defendant is talking about branding he says it
8 caused her and other slaves all that wanted to be branded with
9 my monogram plus a number, so the defendant's initials were
10 always conceded to be what the brand was going to be.

11 (Audio plays.)

12 (Audio stops.)

13 MS. PENZA: Now, you heard that the ceremonies
14 played out exactly as the defendant described, that all slaves
15 were naked. The ceremonies were videoed to create more
16 collateral. Their hands were held above their heads like a
17 sacrifice. You also heard that the victims had to say, Master
18 please brand me, so it didn't seem like they were being
19 forced.

20 I submit that line in the recording was a submission
21 by the defendant that, in fact, the brands which secretly
22 contained his monogram was obviously coercive or he wouldn't
23 have thought that the statement was necessary. He knew if the
24 true meaning of the branding came out he would need to protect
25 himself. And look at the brand. I don't think you need me to

1 trace his initials anymore. You know what it is. Just like
2 Nicole knows what it is, when she looks down and sees that
3 permanent scar on her body every day.

4 Dr. Hughes described in her testimony a number of
5 tactics of coercion that victims experienced and the relevant
6 effect. She talked about isolation, how that keeps abusive
7 secrets and stops victims from getting help. She talked about
8 indoctrination and how it takes away freedom of thought. She
9 talked about subjugation, treating someone as less than them.
10 She talked about surveillance and checking in and creating a
11 sense that the abuser is omnipotent. She talked about secrecy
12 and intimidation, about controlling vital functions like
13 eating, sleeping, grooming, and she talked about shame,
14 humiliation and emotional abuse. Dr. Hughes' testimony on
15 these topics can be found on Page 3721 through 28 and she told
16 you the goal of these behaviors is entrapment.

17 The evidence showed that those tactics are used by
18 the defendant time and time again, perhaps most formally
19 within DOS. There was a push to isolate the members of DOS by
20 forcing them to stay in Clifton Park as much as possible. For
21 example, Nicole testified that she was expected to travel
22 nearly every day off even if it was only overnight. You can
23 read about her grueling schedule on transcript Page 3953. And
24 the DOS slaves were in a master/slave relationship. There
25 could be no greater subjugation. They were doing readiness

1 drills at all hours, walked at all hours, naked pictures on
2 demand. Nicole testified that she even needed permission to
3 cut her hair, and I submit it's just common sense that when
4 people are sleep deprived and living on 500 calories a day,
5 that they are more easily manipulated and coerced.

6 For those willing to make a career of it, success in
7 EPS was explicitly tied to -- success in DOS was explicitly
8 tied to their success in ESP, an additional tactic of
9 coercion. For example, in one of the text messages we
10 discovered in Exhibit 432 between Audrey and Lauren Salzman,
11 Lauren said, I'm telling you this not just as your M, a
12 master, but as a green in ESP, very high rank.

13 That brings us to the next type of criminal conduct
14 that occurred within DOS, forced labor. And here there was
15 one standalone task related to forced labor, and there's one
16 subpart of a racketeering act, forced labor of Nicole is 10B.
17 We're going to talk about them together, but for the
18 conspiracy count, again you only need to find an agreement and
19 for the racketeering act you do not need to find that the
20 defendant committed it himself if he commanded it or caused it
21 to happen.

22 Now starting with the first element, the Government
23 has proved that the defendant agreed with his first line slave
24 including Lauren Salzman and Allison Mack to obtain the labor
25 of lower-ranking slaves and that the defendant did

1 specifically obtain the labor and services of Nicole.
2 Throughout the trial there was ample evidence DOS operated as
3 a way for the defendant to obtain sex and labor from
4 lower-ranking slaves. This is what's in evidence as
5 Government's Exhibit 1404 and that's the entirety of the DOS
6 book, but take this example from the DOS book where it says
7 that you surrender your life, mind, body and possessions for
8 unconditional use.

9 You can also look at Lauren Salzman's testimony.
10 This is on Page 1618 and 19. She testified that the defendant
11 had said that the first-line DOS members should be getting
12 approximately 40 hours of labor per week from their slaves.
13 And you also saw the text message, Government's Exhibit 432
14 that she -- that Lauren Salzman texted one of her slaves
15 where -- that she was conveying that her slave needed to
16 provide her with work and she told the slave, who was a
17 professional, that the type of work Audrey should be doing
18 should be commensurate with Audrey's skill set. So, for
19 example, I submit that if Audrey were a lawyer, Lauren
20 expected an hour of legal work from her. Notably as mentioned
21 before, Lauren also threw around her power of a high ranking
22 member of NXIVM with Audrey who herself was looking to be
23 promoted within NXIVM.

24 Now as to the second element, the Government has
25 proven then the defendant agreed to obtain the labor of DOS

1 slaves and he did obtain labor from Nicole through threats of
2 serious harm or a scheme, plan or pattern intended to cause
3 them to believe that if they did not perform such labor and
4 services they or someone else would suffer serious harm.

5 As I mentioned before, I expect Judge Garaufis will
6 instruct you that serious harm includes psychological,
7 financial and reputational harm. I submit that the scheme
8 language is particularly appropriate here because there was no
9 need to threaten harm day in and day out to get women to do
10 things once they were DOS slaves. The collateral served this
11 intended purpose and served as an ever present threat to the
12 psychological, financial and reputational stability and took
13 away the ability of the DOS slaves to make their choices
14 freely. And remember, when you're analyzing whether the DOS
15 slaves would have felt that serious harm would befall them if
16 they did not provide labor and services, the question is what
17 a reasonable person in the DOS slaves circumstances would do.
18 That's a reasonable person who has been isolated, who has been
19 sleep deprived, limited in eating and who is being humiliated.

20
21 Count 4, forced labor conspiracy. So that has led
22 us to forced labor and conspiracy and we have proved it
23 because the defendant did get labor and services. He agreed
24 to get labor and services. So forced labor conspiracy has
25 been proven guilty.

1 Now the defendant also actually got the labor and
2 services, and so that's where we're going to talk about the
3 racketeering act. Now, Nicole and others transcribed
4 recordings of Pam Cafritz speaking for her memorial service
5 and you heard that Nicole stayed up all night to do that after
6 getting home from her nightclub job. If you wish to review
7 her testimony, it's at Pages 4039 and 4040.

8 Now, if you look at Government's Exhibit 658, that
9 is the attachment that Nicole sends with her transcription and
10 she writes, It took me about five and a half hours just to do
11 this first part.

12 Now, Sylvie testified that other people in the
13 Community, including Sylvie were getting paid for tasks
14 related to the memorial. In fact, Sylvie said she was
15 supposed to do the transcription but realized that she
16 couldn't get it all done and that's when it was suggested that
17 Allison's slave do it. I submit there was no chance Nicole
18 would have stayed up for 23 hours in a row to transcribe
19 recordings of Pam's tape unless she felt she had no choice.

20 Nicole and Sylvie also edited the defendant's
21 articles for hours a day for weeks straight. I submit that
22 the purpose of those articles being edited was to benefit the
23 defendant and make them available for curriculum or for the
24 defendant to publish. Now these are some examples. This is
25 Government's Exhibit 1358 and Government's Exhibit 1360.

1 Now throughout the trial you've heard about other
2 types of labor and services performed as well such as acts of
3 care, including running errands and buying groceries. I mean
4 there's a regular taking of naked photographs which is its own
5 form of labor. Sofie testified she would spend all this time
6 in the bathroom to take pictures for the defendant. The
7 evidence of the labor Nicole actually performed means that the
8 Racketeering Act 10B has been proven.

9 Now, we're at the final set of DOS-related crimes.
10 Count 5, sex trafficking conspiracy. Count 6 and racketeering
11 10A, which both relate to the sex trafficking of Nicole and
12 Count 7 which relates to the attempted sex trafficking of Jay.
13 Before we discuss the elements of sex trafficking I'm going to
14 ask you to keep a few things in mind. We've discussed already
15 the fact that the sexual component of DOS was concealed from
16 DOS slaves when they joined while all the first-line slaves
17 were in sexual relationships with the defendant. And you can
18 look to the Government's Exhibit 1779, Page 285.

19 And keep this in mind, too, this Exhibit 1779, Page
20 285. October 1st, 2015, the defendant's order that Camila is
21 a fuck-toy slave for him. Keep this in mind as you walk
22 through the sex trafficking of Nicole starting with her
23 recruitment into DOS in February of 2015, four months after
24 Camila received this WhatsApp message. Now in February
25 of 2016 Nicole was spending her first winter in the city

1 having moved from California to pursue her acting career.
2 Things weren't going well and she was actually suicidal.
3 Prior to that I submit Allison had begun pushing her way into
4 Nicole's life, arranging for Nicole to sleep in her bed and
5 hinting at the women's mentorship group she was a part of.
6 She would also assign Nicole to a personal journal entry to
7 Allison as part of their source work. But back to February
8 of 2016, Allison repeated to Nicole, Did Allison suggest
9 Nicole see a therapist? Go home to California for a while and
10 spend time with her family? No.

11 So this is February 10th, Nicole sends, Tonight was
12 brutal. I haven't felt this low in a very long time. I
13 haven't felt suicidal like this in a long time. This is
14 Government's Exhibit 657. The very next day Allison Mack
15 meets with Nicole at the Ace Hotel in New York City and
16 pitches her on DOS. Nicole testified that meeting with
17 Allison made her feel hopeful. You can read about this
18 initial meeting through the process -- through the process of
19 her joining on Pages 3845 to 3856. Nicole thought she was
20 being given an opportunity to be mentored by an established
21 actor. Now, within a few days, and this is an e-mail from
22 Allison to Nicole saying, I'm so excited to share what I'm
23 doing. This is exactly what you need. Trust me, you'll be
24 okay. Is your collateral finished.

25 And so this is three days after Nicole had sent the

1 note -- the e-mail saying that she was feeling suicidal.

2 Now, within a few days Nicole did submit her
3 collateral, the process was difficult and Nicole broke down on
4 the stand when she described writing a letter of her father's
5 sexual abuse. You can see that spot in the transcript on
6 Page 3850. But then she was in and she was hopeful, but she
7 didn't know what she had signed up for. Nicole testified that
8 she was okay with the first commitment, stop sleeping with her
9 on and off boyfriend, try being celibate for three months.
10 Nicole told herself that maybe those things were good for her.
11 I submit what Nicole did not know was that the defendant
12 required all women he had sex with to be monogamous and that
13 he already had his eyes set on having sex with her. At the
14 beginning they were also signs that maybe DOS was a membership
15 group. Allison got her prestigious off-Broadway audition and
16 an interview with Allison's agent which Nicole describes on
17 Page 3866. But fast-forward to late March 2016. By then,
18 Nicole was doing a bit better and one night at her job she met
19 a cute guy who asked for her number and her e-mail journal to
20 Allison that night Nicole wrote about what had happened.
21 Nicole testified that she was concerned by Allison's reaction
22 was to flip out. Allison then went on to tell Nicole she
23 needed to fix it. After that Nicole felt, quote, super
24 unnerved. You can review Nicole's testimony about this
25 interaction on Page 3869 of the transcript. It was then that

1 Nicole decided she didn't want to be in DOS anymore, but she
2 tried to tell Allison. Allison told her it wasn't an option.
3 At that point Allison told Nicole about the time the defendant
4 threatened to release Allison's sex tape.

5 After that meeting Allison sent the following
6 e-mail. This is March 29th. Why are you scaring yourself --
7 go back, I'm sorry.

8 Okay. So on the 29th -- take that back.

9 So on the 29th this is where Nicole talks about
10 wanting to give -- if I wanted to give out my number to get
11 coffee or even kiss a boy, small things that make me smile, I
12 don't see how that's bad, I just don't. And then within two
13 days, Allison Mack is saying, Why are you scaring yourself?
14 This is the after they had the conversation where Allison
15 had -- Allison Mack had talked about the defendant threatening
16 to release her sex tape, although Nicole didn't know it was
17 the defendant at the time. And Allison Mack says, Why are you
18 scaring yourself? I want to remind you that ou made a
19 commitment. You can't go back. It's not an option. It's
20 like an arranged marriage. Why waste time contemplating
21 changing your mind. Take that energy and move into the choice
22 you made. You don't get to question. It's a choice you made,
23 now what are you going to do about it? You will find freedom
24 in the commitment you already made. Don't question, don't
25 waste time, just do.

1 And I submit that behind the scenes Allison was
2 discussing every step of this with the defendant because
3 within one week of saying she wanted to leave DOS, Allison
4 tasked Nicole with making contact with the defendant. So at
5 that point Nicole still did not know he was a part of DOS, and
6 it was less than two months after that Nicole was staying at
7 Allison's house when she was commanded to go on a walk with
8 the defendant and say she would do anything he asked her to
9 do. And before she left, Allison ordered her to be a good
10 slave. This testimony is on Page 3916 through 17.

11 And so here you can see the increase in
12 communication. Within a week she is, a little bit after that
13 Allison is passing her getting the attention of the smartest
14 man in the world and then there was a series of e-mails that
15 Allison wrote and it would be about a month, a little over a
16 month later that she was given the assignment to do whatever
17 the defendant wanted her to do.

18 And so before we go on, there's one -- another
19 WhatsApp message that I wanted you to bear in mind as we
20 consider what happens to Nicole. And this is where the
21 defendant is saying to her, again, October 2015, What if we
22 suggested that another woman seduced me with you?

23 Now, when Nicole went on the first walk and said to
24 the defendant she would do anything he wanted her to do. He
25 asked her what the worst thing he could ask her to do was.

1 She said she thought the worst was something sexual, but
2 hadn't realized it's the worst thing would actually be to get
3 asked to hurt her family or hurt herself. So the defendant
4 went for second worst. On the walk after that, which I submit
5 based on the e-mail was likely a week after the one where she
6 asked what the worst thing walk he could do for her was --
7 asked her to do was, Allison again arranged for Nicole to walk
8 with the defendant. Testimony regarding what's the following
9 on this walk and the prior walk can be found on Pages 3917
10 through 37. I'm sure you remember what Nicole's testimony was
11 next. She described the terrifying and disorienting moment
12 when she was lying on a wooden table, tied down and
13 blindfolded and felt someone begin to go down on her. She
14 assumed it was the defendant but then she heard his voice and
15 realized there was a third person there. She testified that
16 in that moment she worried there were even more people in the
17 room. What Nicole didn't know then but you know now, is that
18 the person who was going down on her was Camila, the very DOS
19 slave who the defendant had commanded to recruit fuck-toy
20 slaves, and who the defendant had sexually abused when she was
21 a minor.

22 Lauren testified that the defendant told her it was
23 Camila. Lauren's testimony on that is at Page 1870. And this
24 happened at Camila's apartment 120 Victory Way, which I submit
25 is a secret apartment where the defendant hid Camila. You

1 heard evidence that the apartment was paid for and this
2 testimony can be found at 3338. You heard evidence that the
3 apartment was paid for in cash by Kathy Russell, using a fake
4 name Kathy O'Sullivan. And the woman -- the landlord
5 testified and was shown a picture of Kathy Russell and
6 identified her as Kathy O'Sullivan the woman who had been
7 paying a year's worth of rent upfront in cash in a bag at
8 Starbucks for seven years. And that testimony is on
9 Page 3338.

10 Now, when the Government obtained a search warrant
11 for Camila's Google account, this picture with the wooden
12 table -- with the wooden table moved out of its usual spot.
13 And the tie that was used, I submit the tie that was used to
14 bind Nicole's wrist or ankle still hanging off to the side on
15 the upper right of that picture was dated the same day Nicole
16 told us that this incident happened.

17 And you also saw the video of 120 Victory Way that
18 the landlord took. You also saw the video of 120 Victory Way
19 that the landlord took and there were items all over that
20 video but that all were in this -- all were in this. And so
21 Nicole told you that while she was tied to the table -- that
22 while she was tied to the table the defendant circled her
23 asking probing questions about her sexual history. Based on
24 that picture, I submit that what Nicole didn't know is that
25 the defendant had a videocamera pointed at her while she was

1 tied to that table. I submit the defendant videoed Nicole
2 without her knowledge to have as additional collateral on both
3 her and Camila and for his own sexual gratification.

4 Tellingly, after this was over, the defendant sat
5 Nicole down and told her that there was nothing wrong with
6 what had happened. I submit the defendant said that to Nicole
7 because he knew what had happened was very, very wrong. And
8 of course --

9 (Continued on the next page.)

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1 MS. PENZA: Of course he told her not to tell
2 anyone, making an exception only for Allison. The defendant
3 also told Nicole she was great.

4 Now Nicole sent an e-mail close in time to this
5 saying that she was looking forward to working more with
6 defendant. Nicole and the defendant had sex after that and
7 she sometimes sent messages initiating contact with the
8 defendant. Describing this period where she would try to make
9 the situation she thought she was stuck in work.

10 And Dr. Hughes provided psychological insight as
11 well for this behavior. She told us that the fact of
12 continued contact or even a relationship after a sexual
13 assault does not mean the assault did not happen. She
14 explained a perpetrator might get attacked later in the day
15 after a sexual assault and say, it was so nice seeing you.
16 Dr. Hughes explained, the victim may be thinking, well, it
17 wasn't nice to be raped, but I'm going to keep you happy
18 because I know that is what you want to hear because that's
19 what is going to keep me safe. Dr. Hughes' testimony on this
20 point can be found at 3,733.

21 Look at Nicole. I submit you'll see displaced anger
22 and avoidance that Dr. Hughes told you is very common in
23 sexual assault victims. Dr. Hughes' testimony is at 3,708 and
24 3,709. All of Dr. Hughes' testimony is valuable in
25 considering the victims. If you feel it may help, you should

1 ask for her testimony.

2 Do not forget that as soon as DOS blew up and Nicole
3 confirmed with Allison that her collateral wouldn't be
4 released, Nicole didn't feel the need to breakup with the
5 defendant. I submit that Nicole's behavior, once she was
6 unburdened, showed that all of her interactions with the
7 defendant were the product of coercion and direct result of
8 being collateralized. Without DOS, I submit, there is no
9 chance for the defendant ever having sex with Nicole. What
10 happened to Nicole on May 31, 2016 was sex trafficking.

11 Let's talk about the elements of sex trafficking,
12 all of which are proven here. Now, again, the defendant is
13 guilty if he committed the crime or if he helped to commit the
14 crime.

15 The first element is that the defendant knowingly
16 recruited, enticed, harbored Nicole, or that the defendant
17 knowingly benefited financially or by receiving something of
18 value from participating in a venture that recruited, enticed,
19 transported, provided or obtained Nicole. I submit you can
20 find that this element is proven under theory the defendant
21 recruited, enticed Nicole to do so. The defendant was also
22 part of DOS and knowingly benefited financially from DOS
23 eventually.

24 The second element is that the defendant knew or
25 recklessly disregarded that force, fraud or coercion would be

1 used with respect to Nicole. This element is proven once
2 again by the coercion stemming from the collateral.

3 And now the forced labor context above. Here the
4 defendant was also the direct participant in the use of force
5 against -- in the use of force against Nicole, given that she
6 was tied to the table.

7 The third element in that is the defendant knew that
8 Nicole would be engaged in a commercial sex act. Here the sex
9 act is obvious, Nicole having other sex performed on her by
10 Camila for the defendant's sexual gratification.

11 Now what make this is act commercial? I expect
12 Judge Garaufis will instruct you that a commercial sex act is
13 any sex act in which anything of value is given to any person
14 because of the sex act. Here it's Allison Mack who is the one
15 who received a thing of value by providing Nicole for a sex
16 act to the defendant. A thing of value need not involve a
17 monetary exchange, and need not have any financial component.

18 As we looked at before, there were certain
19 privileges, including economic privileges, that came with
20 being in the first line, including the longest line of free
21 labor flowing up to you. Maintaining a spot in the first line
22 and receiving those benefits, meant keeping the defendant
23 happy. And because Allison kept the defendant happy and
24 maintained that position by providing the defendant with women
25 to have sex with, she received a commercial benefit. The

1 defendant knew, and the defendant committed the sex
2 trafficking. Nicole even testified that Allison was called
3 Madam Mack.

4 Additionally, e-mail correspondence between the
5 defendant and Allison about an assignment for India to take
6 her clothes you off and pose in the most revealing way for
7 her, demonstrates the commercial ties for Allison to her
8 providing women for the defendant. This is the e-mail I just
9 described. You can see it was written only three-and-a-half
10 weeks before Nicole -- so again, the top header is when the
11 defendant ended up sending himself a lot of e-mails in
12 November 2017, but at the bottom you can see that the original
13 date is March 3rd, 2016.

14 The defendant writes, Does India know to complete
15 her she needs to take off all her clothes while pose in the
16 most revealing way and have me take a picture of her with her
17 phone to be immediately sent to you as proof. And Allison
18 Mack writes back, Wahoo, smiley face. And then the next day
19 Allison writes to the defendant, I'm so sorry to bug you but I
20 have not been paid as head trainer for the source since last
21 year and I'm struggling a little with income. Clare says she
22 cannot approve the payments until you review them, is there
23 someway you might be able to review this sooner rather than
24 later? I know you're slammed, if I can help in any way to
25 make this simply, please let me know. I'll try to figure out

1 to be more streamlined with this too. The defendant
2 responded, Yes. Any news on India? Then an hour later
3 Allison replied telling the defendant that India has changed
4 her flight, inclined that she was now, she has changed her
5 flight and is really emotional as money is tight, but totally
6 sees what the value in what the lessen and how it is moving
7 her ahead. She sees how this relates to her whole life. It
8 is good. She should reach out to you. You're meeting again
9 to complete the assign.

10 I submit this is evidence of a quid pro quo between
11 Allison the defendant. She grooms women for him, and he gives
12 her financial benefit for it.

13 Finally, you must find that the defendant's conduct
14 was in or effecting interstate commerce. Here the element can
15 be met in many ways, but at least because Nicole took either
16 Amtrak or Greyhound to and from Albany the day of that
17 assignment -- Amtrak or a bus, a commercial bus. The use of
18 these modes of transportation affect interstate commerce.
19 With that we have proven sex trafficking as to Nicole. Both
20 Racketeering Act 10A and Count Six.

21 Now, on this question on six there is one more
22 thing, so there is another box underneath, it says, "Do you
23 find that the defendant knew means of force, fraud or coercion
24 to be used to cause one or more persons to engage in one or
25 more commercial sex acts." This question is there because

1 this count can be proven by evidence that the defendant
2 recklessly disregarded facts in front of him; but here the
3 defendant was the prime mover and knew exactly what was
4 happening every step of the way. I submit you can check yes
5 to that as well.

6 Turning now to sex trafficking conspiracy. From
7 what we've already discussed, you can check it. We've proven
8 that Allison and the defendant agreed that Nicole would be sex
9 trafficked. That is enough to find the conspiracy count as
10 well. I'll check it off, that is Count Five.

11 You can look at other examples as well to consider
12 whether this conspiracy existed. Like Sylvie, from the very
13 beginning of trial, described receiving an assignment to
14 seduce the defendant and ended up performing oral sex on him.
15 You can review that on pages 254 to 255. Her master, Monica
16 Duran, who is also in a first line, I submit would have
17 received the benefit Allison did by being in the first line.

18 Sylvie receiving that assignment was calculated and
19 planned, just as Nicole's was. Similar to what happened with
20 Nicole, not long before she was recruited into DOS, Sylvie was
21 told she had to be celibate with her husband by Keith, by
22 Clare, by also by Rosa Laura Junco.

23 Another similarity, after the assault on Sylvie the
24 defendant told Sylvie that she was brave, that she was
25 special. Sylvie testified that she was disgusted by this.

1 Her testimony about this is on page 255.

2 Finally let's talk about the last count in the
3 Indictment, that's Count Seven, the attempted sex trafficking
4 of Jay. As she described on page 4,427, Jay was assigned to
5 seduce the defendant and have him take a picture of her and
6 send it to India to prove it was done. Allison told her to
7 keep the assignment. Jay pushed back with Allison. And Jay
8 testified on page 4,418, Allison tried to convince her that it
9 would help her with her child sexual abuse. Jay also directly
10 asked Allison if the defendant was part of the vow and Allison
11 lied and said no. Finally, at one point, Allison stated to
12 Jay, I give you permission to enjoy it in regards to the
13 assignment.

14 Given what happened with Sylvie and Nicole, I submit
15 it's clear that Jay was being sent to the defendant to engage
16 in a sex act. They thought because of her collateral she
17 could be coerced like the others. In fact, Allison admitted
18 it that Jay that was supposed to have sex with the defendant.
19 This is page 1,794. Lauren Salzman testified that she asked
20 Allison if the defendant was having sex with her slaves.
21 Allison said, just Nicole and Suzy, but we're going to start
22 working with India and Jay. Lauren then asked, when you say
23 working, do you mean fucking? And Allison said yes.

24 Additionally, the coercive power collateral is made
25 clear by the fact that she decided she needed to download

1 other people's collateral to have leverage if they tried to
2 release hers.

3 The rest of the analysis isn't the same. Allison's
4 commercial benefit is based on her arrangement with the
5 defendant.

6 Here interstate commerce is effected by Jay's
7 flights in and out of J.F.K. from California. With that the
8 Government has proven that Jay was also being set up to have
9 sex with the defendant, and you can check guilty.

10 At this point we've gone through all the counts, and
11 every Racketeering Act. I submit we have proven. I submit
12 we've already now checked off guilty on Racketeering, even
13 though you could have checked that off as soon as you find
14 two. We already checked off Racketeering conspiracy. And now
15 finally checking off Jay.

16 At the beginning I said I would come back to
17 relatedness and the threat of continued criminal activity. So
18 here we are.

19 A nexus that is a connection to the enterprise. I
20 submit there is a substantial overlap in the participants and
21 victims in these counts. Additionally, the defendant was able
22 to commit each of the Racketeering Acts because of the
23 position in the enterprise and his position in the enterprise
24 helped him commit those acts. Either of those factors alone
25 satisfy both these requirements.

1 Finally you have to find that the Racketeering Act
2 occurred over a substantial period of time where there was a
3 threat of continued criminal activity. You can look at the
4 timeline. I don't think there can be a dispute on this. The
5 Racketeering at issue here span nearly 15 years. There was no
6 sign that the defendant or his inner circle had any intention
7 of stopping. Which brings us to the end.

8 In November 2016 the defendant fled to Mexico
9 leaving Lauren Salzman and others holding down Clifton Park.
10 A short time after, that he dropped his phones and stopped
11 using his e-mail. He went into hiding.

12 On the day the defendant was arrested in Mexico he
13 was with several of the first line slaves, including Lauren
14 Salzman, with the intention that they could recommit
15 themselves to the defendant and DOS through group sex. But
16 his fantasy never happened. The Federalies came to his villa
17 and the defendant hid behind another door, in fact two doors;
18 but the defendant can't hide anymore.

19 A light has been shown into the darkness and the
20 defendant's crimes have been exposed. The victims are
21 thriving. Justice has been a long time coming, and for the
22 first time he's being held accountable to you.

23 Trust the evidence. Trust your judgment. And find
24 the defendant guilty of all counts. Thank you.

25 THE COURT: At this time we'll hear the closing