

In The Matter Of:

NXIVM v.

Sutton

Nancy Salzman

October 14, 2010

Videotaped

Rizman Rappaport Dillon & Rose

66 W. Mt. Pleasant Ave.

Livingston, N.J. 07039

(973) 992-7650

COPY

Min-U-Script® with Word Index

1 THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF NEW JERSEY
 3 CIVIL NO. 2:06-cv-01051 (DMC/MF)
 4 -----:
 5 NXIVM CORPORATION, formerly known as
 6 EXECUTIVE SUCCESS PROGRAMS, INC., and FIRST
 7 PRINCIPLES, INC., Plaintiffs, VIDEOTAPED
 8
 9 v.
 10 MORRIS SUTTON, ROCHELLE SUTTON, THE ROSS
 11 INSTITUTE, RICK ROSS a/k/a "RICKY" ROSS,
 12 STEPHANIE FRANCO, PAUL MARTIN, PH.D. and
 13 WELLSRING RETREAT, INC.,
 14 Defendants.
 15 -----:
 16 RICK ROSS, Counterclaim Plaintiff
 17 v.
 18 KEITH RANIERE, NANCY SALZMAN, KRISTIN KEEFFE,
 19 INTERFOR, INC., JUVAL AVIV, ANNA MOODY,
 20 NXIVM CORPORATION, JANE DOE and JOHN
 21 DOES 1-10,
 22 Counterclaim Defendants,
 23 -----:
 24 INTERFOR, INC., JUVAL AVIV and ANNA MOODY,
 25 Cross-Claimants,
 v.
 NXIVM CORPORATION, KEITH RANIERE,
 NANCY SALZMAN and KRISTIN KEEFFE,
 Cross-Claim Defendants.
 -----:
 -----:
 -----:

1 A P P E A R A N C E S: (Continued)
 2
 3 LATHAM & WATKINS, LLP
 4 335 South Grand Avenue
 5 Los Angeles, California 90071-1560
 6 BY: ROBERT D. CROCKETT, ESQ.
 7 Counsel for Kristin Keeffe
 8
 9 DRINKER BIDDLE & REATH, P.C.
 10 500 Campus Drive
 11 Florham Park, New Jersey 07932
 12 BY: ROBERT M. LEONARD, ESQ.
 13 Counsel for Keith Raniere
 14
 15 FRIEDMAN KAPLAN SEILER & ADELMAN, LLP
 16 1633 Broadway
 17 New York, New York 10019-6708
 18 BY: ROBERT S. LANDY, ESQ.
 19 Counsel for Interfor, Inc. and Juval Aviv
 20
 21 -ALSO PRESENT-
 22 Tracy Christopher
 23 M. Beth Arnold, Videographer
 24
 25

1 30(b) (6) DEPOSITION of NANCY SALZMAN, as an agent
 2 of the Plaintiff, held pursuant to Order at the Offices of
 3 GLEASON, DUNN, WALSH & O'SHEA, 40 Beaver Street, Albany,
 4 New York 12207, on Thursday, October 14, 2010, 10:59 a.m.,
 5 before Deborah M. McByrne, Shorthand Reporter and Notary
 6 Public in and for the State of New York.
 7
 8
 9
 10 A P P E A R A N C E S:
 11
 12 TOMPKINS, MCGUIRE, WACHENFELD & BARRY, LLP
 13 4 Gateway Center
 14 100 Mulberry Street
 15 Newark, New Jersey 07102
 16 BY: WILLIAM B. MCGUIRE, ESQ.
 17 Counsel for NXIVM Corporation and Nancy Salzman
 18
 19 RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, LLP
 20 1 Speedwell Avenue
 21 Morristown, New Jersey 07962
 22 BY: HAROLD L. KOFFMAN, ESQ.
 23 Counsel for Morris Sutton, Rochelle Sutton and
 24 Stephanie Franco
 25
 26 LOWENSTEIN SANDLER, P.C.
 27 65 Livingston Avenue
 28 Roseland, New Jersey 07068
 29 BY: PETER L. SKOLNIK, ESQ.
 30 THOMAS S. DOLAN, ESQ.
 31 Counsel for The Ross Institute, Rick Ross, Paul Martin,
 32 Ph.D., and Wellspring Retreat, Inc.
 33
 34
 35

1 VIDEOGRAPHER: My name is M. Beth Arnold. I am
 2 here on behalf of the M-F Reporting service in Clifton
 3 Park, New York. I will be the audio video operator for the
 4 testimony of Nancy Salzman, being videotaped at 40 Beaver
 5 Street in Albany, New York. An abbreviated caption of this
 6 case is NXIVM versus Sutton, et al. This videotape is
 7 being taken on behalf of the defendants. The date is
 8 October 14, 2010 and the time is 10:59. Will counsel
 9 please introduce themselves.
 10 MR. KOFFMAN: Harold Koffman, Riker, Danzig,
 11 Scherer, Hyland & Perretti, LLP, for Morris Sutton,
 12 Rochelle Sutton and Stephanie Franco.
 13 MR. LANDY: Robert Landy, Friedman, Kaplan, Seiler
 14 & Adelman, LLP, for Interfor, Incorporated and Juval Aviv.
 15 MR. SKOLNIK: Peter Skolnik, Lowenstein Sandler,
 16 P.C. for Rick Ross, The Ross Institute, the late Paul
 17 Martin and Wellspring Retreat, Inc.
 18 MR. DOLAN: Tom Dolan of Lowenstein Sandler on
 19 behalf of Rick Ross, The Ross Institute, the late Dr. Paul
 20 Martin and Wellspring Retreat.
 21 MR. LEONARD: Robert Leonard, Drinker, Biddle &
 22 Reath for Keith Raniere.
 23 MR. CROCKETT: Robert Crockett, Latham & Watkins,
 24 for Kristin Keeffe.
 25 MR. MCGUIRE: William McGuire on behalf of NXIVM

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1 and Nancy Salzman.
 2 MR. KOFMAN: Good morning, Ms. Salzman. We've met
 3 before.
 4 COURT REPORTER: I have to swear her.
 5 NANCY SALZMAN,
 6 was called as a witness, and having been first
 7 duly sworn under oath, was examined and testified
 8 as follows:
 9 EXAMINATION BY
 10 MR. KOFMAN:
 11 Q. Good morning, Ms. Salzman. We've met before. Before we
 12 start, do you need me to go over the ground rules of a
 13 deposition?
 14 A. I don't think so.
 15 Q. Okay. You are here as a 30(b)(6) witness on behalf of
 16 NXIVM, with respect to issues concerning a so-called
 17 Massachusetts storage facility. Is that correct, you have
 18 been designated by NXIVM?
 19 A. Yes.
 20 Q. Do you recall driving from New York to Albany with Juval
 21 Aviv and Kristin Keffe?
 22 A. Yes.
 23 Q. On how many occasions did you do that?
 24 A. One time.
 25 Q. Do you remember when that was?

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1 A. I think it was in May of 2004.
 2 Q. And do you recall what was -- what was the purpose of that
 3 trip?
 4 A. Aviv was coming up to Albany to see our facility, our
 5 training facility and also he was going to meet Keith
 6 Raniere while he was up there.
 7 Q. Do you -- did you discuss with him certain individuals that
 8 you were going to put him in touch with for possible
 9 business reasons?
 10 A. I don't remember.
 11 Q. Did you do -- I'm sorry, did I cut you off?
 12 A. Yeah, no, I'm sorry, I don't know what you're talking
 13 about.
 14 Q. Did you do a psychological profile of him during the drive?
 15 A. No.
 16 Q. Did you attempt to ascertain information for -- strike
 17 that. Do you recall where you went in Albany with
 18 Mr. Aviv?
 19 A. We went to the center, our corporate headquarters and we
 20 went to my house.
 21 Q. How long did you spend, did Mr. Aviv spend in New York?
 22 A. Just a couple of hours.
 23 Q. Okay. Did --
 24 A. You mean in Albany.
 25 Q. In Albany, rather. Did Mr. Aviv go back to New York City

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1 that night with Ms. Keffe?
 2 A. He did.
 3 Q. By train?
 4 A. I think she drove him.
 5 Q. Okay. During any of the time that you were with Mr. Aviv,
 6 was there any discussion about NXIVM maintaining a
 7 warehouse or storage facility where it kept documents that
 8 it did not want to produce in litigation?
 9 A. No.
 10 Q. Did you have any discussions about a storage facility that
 11 NXIVM maintained in Massachusetts?
 12 A. No.
 13 Q. Did you have -- to the best of your understanding, Ms.
 14 Keffe traveled back to New York City that night with
 15 Mr. Keffe -- Mr. Aviv?
 16 A. Yes.
 17 Q. Do you know what they discussed?
 18 A. No, I don't.
 19 Q. Does NXIVM own any property in Massachusetts?
 20 A. No.
 21 Q. Has NXIVM ever owned any property in Massachusetts?
 22 A. No.
 23 Q. Has -- have any other companies, with which you are
 24 affiliated, owned any property in Massachusetts?
 25 A. No.

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1 Q. Does NXIVM maintain -- strike that.
 2 Is it the case that NXIVM maintains its corporate
 3 documents in Albany, New York?
 4 MR. McGUIRE: You mean in the Albany area or?
 5 Q. In the Albany area.
 6 A. Yes.
 7 Q. Has it ever shipped any of those documents off site, other
 8 than to lawyers in connection with litigation?
 9 A. Off site?
 10 Q. To someplace other than where they were previously stored?
 11 A. No.
 12 MR. CROCKETT: Objection, overbroad.
 13 A. I'm sorry?
 14 MR. CROCKETT: I'm sorry. Objection to form.
 15 Q. Is it your understanding that documents, that documents
 16 located outside the State of New York would be, that were
 17 in NXIVM's possession, would be discoverable?
 18 MR. CROCKETT: Objection to form.
 19 MR. KOFMAN: Strike that.
 20 Q. Do you have an understanding, one way or the other, as to
 21 whether documents must be located in the state in which
 22 litigation was pending for them to be discoverable?
 23 MR. CROCKETT: Could you just say subject to
 24 discovery requests --
 25 MR. KOFMAN: Strike that.

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1 MR. CROCKETT: -- promulgated by, you know.
2 Q. Do you understand that -- do you have an understanding, one
3 way or another, as to whether discovery requests
4 promulgated in litigation, would require production of
5 documents, whether they were located in the state where the
6 litigation was pending or not?
7 A. Yes.
8 Q. Okay. Has anyone ever suggested to you that, and I don't
9 want conversation from counsel, that NXIVM could move
10 documents off site for the purpose of avoiding discovery?
11 A. No.
12 MR. KOFMAN: I don't have any other questions on
13 this.
14 MR. SKOLNIK: Do you?
15 MR. LANDY: Sure.
16 MR. KOFMAN: You want to move over here?
17 MR. LANDY: This will take approximately two
18 minutes or less, so why don't we just go.
19 EXAMINATION BY
20 MR. LANDY:
21 Q. Is there a person, I'll say affiliated with NXIVM, who is
22 responsible, whose responsibility it is to oversee the
23 preservation and collection of documents in connection with
24 litigations?
25 A. Yes. Well, it was Kristin Keeffe.

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1 Q. We'll go one at a time.
2 A. Oh. Yes.
3 Q. Is there a title associated with that position?
4 A. No.
5 Q. Is that responsibility, has it been -- strike that, let me
6 start again.
7 Between 2003 and present, has that responsibility
8 been vested in one person at all times?
9 A. Yes.
10 Q. Okay. Has it been the same person throughout that time?
11 A. It has.
12 Q. Who is it?
13 A. Kristin Keeffe.
14 Q. Is it still Kristin Keeffe?
15 A. Kristin is not working full-time for our company anymore,
16 so it's changing now. It hasn't changed yet.
17 Q. It has not changed yet?
18 A. I don't believe so.
19 Q. Is there a title, using the term loosely, in the
20 organization that's referred to as legal liaison?
21 A. Yes.
22 Q. Okay. Was that, at any time, Kristin Keeffe?
23 A. Yes.
24 Q. Is it still Kristin Keeffe?
25 A. She still is.

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1 Q. Does anyone else hold that title?
2 A. Not -- no.
3 Q. All right. Changing subjects. You just testified that you
4 believed the drive that you had with Mr. Aviv occurred in
5 May of 2004?
6 A. I am not sure about that, but I think.
7 Q. Do you recall whether it was spring or not?
8 A. To the best of my knowledge, it was chilly and it was, I
9 think it was spring.
10 Q. Okay. Do you recall whether when you had this drive, the
11 Ross investigation had already begun?
12 A. Yes.
13 Q. Okay. I'll represent to you -- strike that.
14 At any time, doesn't matter when, have you seen a
15 document that's referred -- that we've referred to in this
16 litigation as the Ross report?
17 A. Yes.
18 Q. I'll represent to you that that document is dated in
19 November of 2004. With that representation, would it be
20 your understanding that your drive occurred in 2005, after
21 that report was produced and created?
22 A. I don't remember. I think it was before, but I don't
23 remember.
24 Q. Were you present when -- well, strike that.
25 Did Mr. Aviv, in fact, meet Mr. Ranieri?

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1 A. Yes.
2 Q. Were you present for any of those -- did they speak?
3 A. Yes.
4 Q. Were you present for those conversations?
5 A. There was one, yes.
6 Q. Sorry. Were you present for that conversation?
7 A. I was.
8 Q. Very generally, do you recall what occurred during that
9 conversation, what was said?
10 A. I do.
11 Q. What was the general subject?
12 MR. McGUIRE: I am going to place an objection on
13 the record. This is not part of the 30(b)(6) notice.
14 MR. LANDY: Objection noted. I'm simply
15 attempting to ascertain a date that may have been testified
16 to incorrectly, so we'll see where this goes and it will be
17 over shortly.
18 MR. McGUIRE: You can answer if you remember.
19 Q. All right. Do you remember the general subject matter of
20 that conversation?
21 A. Yes.
22 Q. Did it relate to Mr. Ross?
23 A. No.
24 Q. Oh. What did it relate to?
25 A. Mr. Aviv. He talked about himself a lot.

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1 Q. Do you recall whether that conversation was closer,
2 occurred closer to the beginning of NXIVM's relationship
3 with Interfor or near the end?
4 A. To the best of my recollection, it was nearer to the
5 beginning than the end, but I could be mistaken. It was a
6 long time ago.
7 MR. LANDY: Okay. That's all I have.
8 EXAMINATION BY
9 MR. SKOLNIK:
10 Q. Ms. Salzman, will Tracy Christopher be replacing Kristin
11 Keeffe as legal liaison?
12 A. Yes.
13 Q. When is that meant to happen?
14 A. I think that's changing currently, I think, right now.
15 Q. Does NXIVM maintain any offsite locations? By offsite, I
16 mean anywhere other than the Karner Road headquarters where
17 it stores documents.
18 A. Yes.
19 Q. What offsite locations does it maintain and what kinds of
20 documents are stored there?
21 A. My house.
22 Q. Is that the only place?
23 A. There are two places where they are stored now. Some of
24 them are stored in my house and some of them are stored in
25 a house I used to live in.

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1 MR. KOFMAN: There is a call from the court for
2 you.
3 VIDEOGRAPHER: Go off the record?
4 MR. KOFMAN: From the Judge. Yes.
5 MR. SKOLNIK: Yes.
6 VIDEOGRAPHER: It is 11:11, we are going off the
7 record.
8 (Discussion with Judge is held off the record.)
9 (The previous question is read back.)
10 VIDEOGRAPHER: The time is 11:20, we are back on
11 the record.
12 BY MR. SKOLNIK:
13 Q. What kind of documents were stored in your house?
14 A. All of the documents and tapes, DVDs, videos of my
15 progression of creating the modules and my work with Keith
16 Ranieri and Keith Ranieri's forums that he's delivered. I
17 used, I used different tapes and things to, to document the
18 things that he teaches me and then I use those to create
19 the educational material, and I have a documentation of all
20 of that and it's stored in my house, in my old house and
21 this house. I have a room in each house.
22 Q. You have a room in each house?
23 A. Uhhh-humm, where I store them. I have a lot of videos and
24 audios and taping.
25 Q. What's the nature of the room?

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1 A. It is just a locked room where I store -- each one, there
2 is a locked room in each house.
3 Q. Who has keys to that room?
4 A. I do and Clare Bronfman does.
5 Q. Has Kristin Keeffe ever had a key to that room?
6 A. No.
7 Q. When Kristin Keeffe was responding to document requests
8 earlier in this case, did she review the documents in that
9 room?
10 MR. McGUIRE: We are getting off line here,
11 Mr. Skolnik. This is a 30(b)(6) about two limited issues.
12 Kristin Keeffe will be deposed later today. Kristin Keeffe
13 has already been deposed for I think three days. It has
14 nothing to do with the 30(b)(6) that Mr. Kofman served.
15 MR. SKOLNIK: The issue is where it is that NXIVM
16 stores documents.
17 MR. McGUIRE: Yes.
18 MR. SKOLNIK: Why it stores them in various
19 locations and the security that is maintained on the
20 documents where they are stored.
21 MR. McGUIRE: That's not the 30(b)(6). The
22 30(b)(6) called for Miss -- for NXIVM to name someone to
23 testify as to two limited areas. Whether Kristin Keeffe
24 looked there or not is not one of those areas, so I direct
25 her not to answer. Ms. Keeffe, she can give you direct

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1 testimony, rather than have Ms. Salzman guess or anything
2 else. It is not part of the 30(b)(6).
3 Q. Okay. Other than the room in the house where you live now,
4 and the house where you used to live, are there any other
5 locations where NXIVM stores documents of any sort?
6 A. In the corporate headquarters.
7 Q. Other than those three places?
8 A. No.
9 Q. You're quite sure of that?
10 A. Yes.
11 Q. In her prior deposition and in an affidavit, Kristin Keeffe
12 referred to an undisclosed storage location. What is the
13 undisclosed storage location?
14 A. My house.
15 Q. Does NXIVM store any documents, at all, outside of New York
16 State?
17 A. No.
18 MR. McGUIRE: You want to leave the room for a
19 second.
20 MR. CROCKETT: I assume you're not talking about
21 lawyers?
22 MR. McGUIRE: Hold on. Why don't you just leave
23 the room for a second so you don't hear what I'm saying.
24 VIDEOGRAPHER: Your microphone.
25 MR. McGUIRE: You can't leave with that.

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1 (Whereupon the witness leaves the room.)
 2 VIDEOGRAPHER: Should I go off the record?
 3 MR. McGUIRE: No, you could stay on the record.
 4 Peter, obviously, there are centers in Mexico and
 5 other places where I assume registrations and things of
 6 that sort are there, but she is talking, I think, in
 7 general about NXIVM corporate documents, just so there's no
 8 confusion about that.
 9 MR. SKOLNIK: I understand.
 10 MR. CROCKETT: And she has lawyers in New Jersey
 11 and California that hold document productions.
 12 MR. SKOLNIK: That's not --
 13 MR. McGUIRE: I suspect that you are not talking
 14 about that.
 15 MR. SKOLNIK: I am referring to the storage of
 16 documents.
 17 MR. McGUIRE: Well, there are documents stored in
 18 Mexico, I assume, for example, students, registrations and
 19 things of that sort, so I just want to be clear on that.
 20 MR. SKOLNIK: And let's also be clear, having shut
 21 down questions to Nancy Salzman about the storage, I'm
 22 assuming that you will not similarly try to preclude me
 23 from asking those questions of Kristin Keeffe?
 24 MR. McGUIRE: No, no.
 25 MR. SKOLNIK: Okay. And Bob, you won't either?

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1 MR. CROCKETT: No, you can ask her any
 2 questions --
 3 MR. McGUIRE: I didn't preclude you from asking
 4 questions about the storage. I precluded her from
 5 answering a question about whether Kristin Keeffe searched
 6 that. That had nothing to do with the 30(b)(6).
 7 MR. DOLAN: That's not proper to direct the
 8 witness not to answer a question just because it's outside
 9 the question of 30(b)(6).
 10 MR. McGUIRE: It's not?
 11 MR. CROCKETT: What's the remedy?
 12 MR. DOLAN: They testify in their individual
 13 capacity. We had this issue come up --
 14 MR. McGUIRE: Tom. You know, we don't need to
 15 argue this, do we? You want to get the witness back in?
 16 MR. SKOLNIK: Yeah.
 17 MR. McGUIRE: Okay.
 18 MR. SKOLNIK: For the record, I agree completely
 19 with Tom, but I am prepared to go on.
 20 MR. CROCKETT: Well, I think the remedy you force
 21 us to take is to suspend the deposition.
 22 MR. DOLAN: We have to move for a protective order
 23 for what reason?
 24 MR. CROCKETT: It's beyond the scope.
 25 MR. DOLAN: That is not a reason. That is not a

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1 reason.
 2 MR. CROCKETT: Well, I have been practicing law a
 3 long time in the Federal system.
 4 MR. DOLAN: I appreciate that and I am surprised
 5 you believe that is a valid objection.
 6 MR. CROCKETT: Could you cite me some authorities?
 7 MR. McGUIRE: Look, we are wasting time. Let's
 8 proceed.
 9 MR. DOLAN: Could you cite me some authority.
 10 MR. LEONARD: We'll send you a bill, too.
 11 MR. SKOLNIK: Could I have the last question and
 12 answer?
 13 MR. CROCKETT: I send Mr. Lockwood some authority
 14 the other day and he didn't thank me for it.
 15 MR. DOLAN: I would thank you. Just don't send me
 16 a bill.
 17 (Whereupon the witness returns to room.)
 18 (The previous question and answer is read back.)
 19 Q. Have you ever discussed with Keith Raniere or anyone else,
 20 NXIVM's desire to find locations to store documents in
 21 order to prevent discovery of those documents?
 22 A. No.
 23 MR. SKOLNIK: I have nothing further.
 24 MR. KOFMAN: I have no further questions.
 25 MR. McGUIRE: Thank you, Nancy.

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1 VIDEOGRAPHER: The time is 11:28, this will now
 2 conclude the testimony.
 3 (Whereupon the above-entitled matter was concluded
 4 at 11:28 a.m.)
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1 STATE OF NEW YORK)
 2 SS.:
 3 COUNTY OF)
 4
 5
 6 I, NANCY SALZMAN, HAVE READ the foregoing record
 7 of my testimony taken at the time and place noted hereof,
 8 and I do hereby acknowledge it to be a true and correct
 9 transcript of the same.
 10
 11 _____
 12
 13
 14 Sworn to before me this ____ day of _____
 15 _____ County.
 16
 17
 18 My commission expires
 19 Notary Public, State of New York
 20 Resident in _____ County.
 21 _____
 22 Notary Public
 23
 24
 25

1 I N D E X P A G E
 2
 3 WITNESS:
 4 NANCY SALZMAN
 5 EXAMINATION BY MR. KOFMAN 5
 6 EXAMINATION BY MR. LANDY 9
 7 EXAMINATION BY MR. SKOLNIK 13
 8
 9 EXHIBITS
 10 NAME DESCRIPTION PAGE
 11 (Whereupon no exhibits were marked.)
 12
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1 C E R T I F I C A T I O N
 2
 3
 4
 5 I, Deborah M. McByrne, a Shorthand Reporter and
 6 Notary Public of the State of New York, do hereby certify
 7 that the above and foregoing is a true and correct
 8 transcript of the proceedings as mentioned in the heading
 9 hereof, to the best of my knowledge and belief.
 10
 11
 12
 13
 14 _____
 15 Deborah M. McByrne
 16
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Videotaped

1 STATE OF NEW YORK)

2 SS.:

3 COUNTY OF)

4

5

6 I, NANCY SALZMAN, HAVE READ the foregoing record
7 of my testimony taken at the time and place noted hereof,
8 and I do hereby acknowledge it to be a true and correct
9 transcript of the same.

10

11

12

13

14 Sworn to before me this ____ day of _____
15 _____ County.

16

17

18 My commission expires

19 Notary Public, State of New York

20 Resident in _____ County.

21

22

Notary Public

23

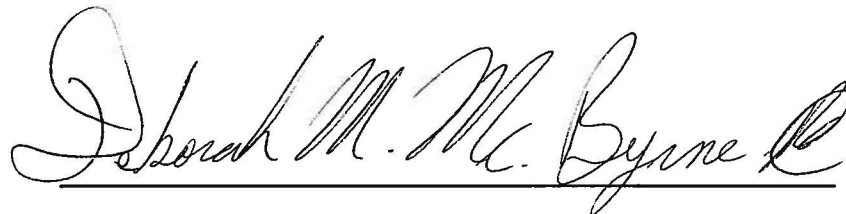
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C E R T I F I C A T I O N

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I, Deborah M. McByrne, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify that the above and foregoing is a true and correct transcript of the proceedings as mentioned in the heading hereof, to the best of my knowledge and belief.

A handwritten signature in cursive script, reading "Deborah M. McByrne", is written over a horizontal line.

Deborah M. McByrne

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