http://www.timesunion.com/local/article/Ample-evidence-to-justify-investigation-3337402.php

'Ample evidence' to justify investigation

Experts say Keith Raniere's business model warrants an inquiry by authorities

By James M. Odato Updated 2:28 pm, Monday, February 20, 2012

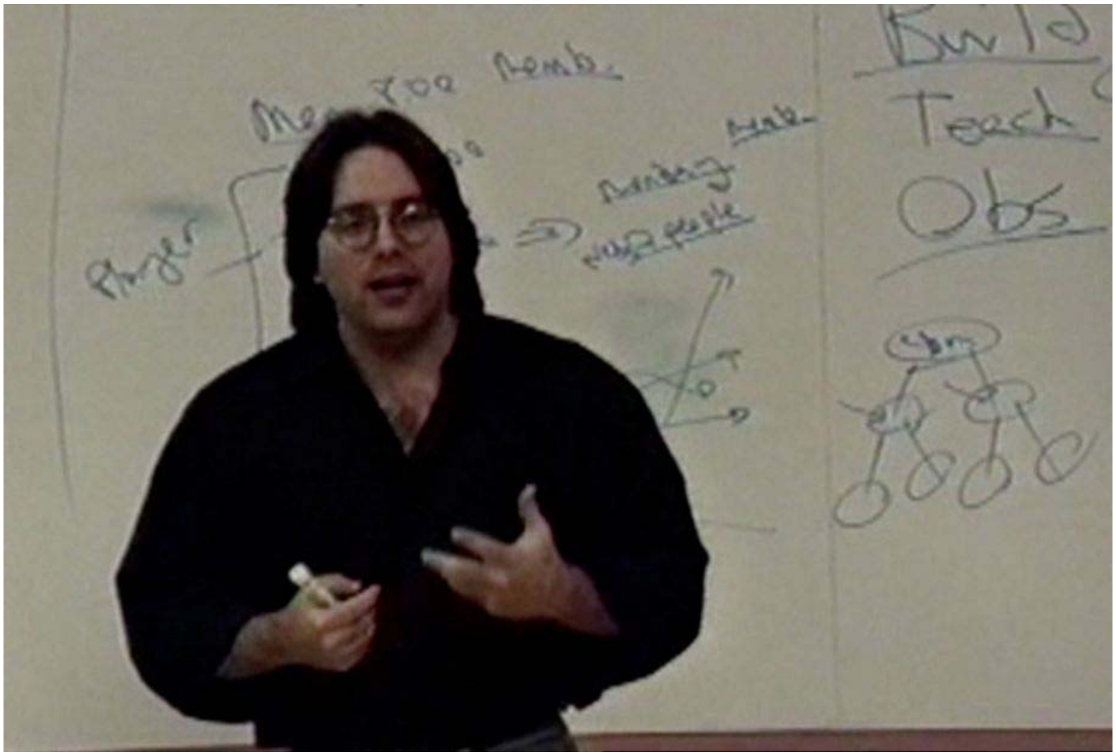

IMAGE 1 OF 3

Keith Raniere describes his multi-level marketing strategy for Innovative Network, a short-lived business, to a small audience in Clifton Park in November 1997. Raniere's associates would frequently record his every speech.

Waving a marker, Keith Raniere drew a chart for the prospective sales force that sat before him in folding chairs. He sketched how his payment matrix could make salesmen for the Innovative Network wealthy if only they would apply themselves to building a sequence of customers and affiliates who would sell more memberships.

Gesturing vigorously, he asked his prospects to visualize a pile of ten million dollars.

"It's big. It's huge. You know the smell of new money makes your nostrils twitch like a bunny," he said. "Imagine the feel of the bills.... Get it firml in your consciousness." He paused.

"If I told you if you got a member here by Monday and two partners by Wednesday tha you would have that money on Wednesday, how many of you think you could do it?"

Every hand went up.

It's a scene of Raniere from a 1997 recruitment meeting for the now shuttered Innovative Network videotaped in a modest Clifton Park conferenc room. And it is an episode seemingly far removed from what Raniere, who describes himself as "a spiritual being," does today as the intellectual force behind NXIVM, the Colonie-based personal improvement program with thousands of adherents around the world.

But some of those familiar with Raniere have said his business model for peddling memberships to get discounts on top grade health products years ago and personal growth programs today is the same, and several experts who evaluated that model have said it's enough to warrant an investigation by the attorney general's office.

Raniere picked up his business structure in the early 1980s, when he took Amway sales training. Multi-Level Marketing, or "MLMs," as they're known to millions of Americans who sell or distribute Avon or Mary Kay cosmetic products, can be successful and legitimate. But they can, when misused, run afoul of laws that prohibit pyramid schemes or what New York calls a "chain distributor scheme."

More Information

This series

***"Secrets of NXIVM: The untold story of Keith Raniere,"** is the result of a more-than-year-long examination of the self-improvement guru and conceptual founder of NXIVM, which has attracted students from Vancouver to Mexico but remains rooted in the Capital Region.*

The reporting includes scores of interviews and a review of business records, police reports and thousands of pages of court documents, which provide a window into Raniere's world, but it comes without an interview with the elusive Raniere, who did not respond to repeated attempts to get comment. It also lacks any response from the women who surround him and serve as NXIVM's lifeblood. They, and the lawyers who represent the organization, have refused repeated requests to speak with them.

The four-part series — which details the grasp of mind, money and body Raniere has held over some followers — unfolds in print, online and with a special report for the iPad.

- *Part 1:* ***An overview of Raniere and his unusual life.***
- *Part 2:* ***Relentless litigation wrought against NXIVM defectors.***
- *Part 3:* ***Raniere's multi-level marketing mind.***
- *Part 4:* ***A history of Raniere's sexual conquests.***

Put simply, what can make an MLM illegal is requiring participants to invest their own money for a chance to make money by enlisting more participants in the recruitment game, said Douglas Brooks, a lawyer in Massachusetts who has specialized in claims against alleged pyramid schemes. The unlawful schemes result in networks of members and sales teams, and participants at the top may net extraordinary wealth, but most participants are likely to lose money.

Raniere's past business models involved enlisting people to purchase memberships. Those who were recruited, as well as anyone they eventually recruit, trigger commissions up a ladder that enriched those at the top. NXIVM is different only in that its sells workshops and courses in Raniere's philosophies on ethics and success, rather than consumer goods, according to numerous sources.

Testimony in legal cases involving NXIVM suggests that people have to take NXIVM courses, which cost at least a few thousand dollars a year, to be eligible to recruit and make commissions from recruitment.

In federal court in New Jersey, a lawyer defending a cult watcher sued for publishing NXIVM training material, has repeatedly suggested that NXIVM is a kind of unlawful business scheme.

"**I will refrain from calling it a Ponzi scheme, but of course that's what it is**," lawyer Peter Skolnik said at a hearing last year describing NXIVM's structure as relying on students bringing in others.

Earlier this year, Skolnik tried to unseal a record in court that describes NXIVM business practices. "**This document establishes that the way NXIVM operates internally financially is a violation of the general business law of New York**," Skolnik said in a federal court proceeding in February. "**This document establishes that NXIVM is run as a version of [a] multi-level marketing scheme in violation of a consent order that Raniere ... entered into with the New York State Attorney General in connection with Consumers' Buyline.**"

Consumers' Buyline Inc. was a nationwide buying club offering discounts to members who could become affiliates and recruit more members. It employed more than 150 people in offices in Clifton Park and directed dozens of sales representatives nationwide. It grew rapidly, signing up some 250,000 members in many states, and then collapsed.

Raniere recalled in a sworn statement that Consumers' Buyline encountered "**political problems . . . more than 20 states started investigating us and filing civil actions.**"

In 1996, Raniere and two of his Consumers' Buyline colleagues signed a **consent order with the New York Attorney General.** State officials had accused Raniere of operating an illegal "chain distributor scheme." Without acknowledging any "fraudulent, illegal or deceptive acts," Raniere and two associates, Pamela Cafritz and Karen Unterreiner, agreed to be permanently barred from "promoting, offering or granting participation in a chain distribution scheme." The consent order agreement also included a fine of $40,000 against Raniere and his business, which wasn't paid off for another four years, and then only after the attorney general's office pressed. Consumers' Buyline also agreed to **concessions in Arkansas**, including an order to pay $145,000, again without admitting any guilt. Officials at that state's attorney general's office could only document $55,000 in payments made, potentially exposing Raniere, Cafritz, Unterreiner and Raniere's father, James, to additional penalties.

By 1997, Raniere had closed Consumers' Buyline and developed Innovative Network, which sold memberships for discounts on top-grade health products and was structured with the same commissions/bonus-based model as Consumers' Buyline, with money traveling upline to leaders, said Toni Natalie, a former girlfriend of Raniere's who was one of the top salespersons for Consumers' Buyline and the formal head of Innovative Network.

"The only difference was the name of the company and the names of the levels," said Natalie, who claims she didn't know about the consent order until years after ending her relationships with Raniere.

"We worked our tails off and never got paid," said Patty Cepeda, who for several months helped build a group of sellers for Innovative Network and tried to get Raniere to explain compensation so that the layman could understand. "He made it difficult to figure out even how to get paid."

Her husband, Herb Cepeda, a New York State trooper from 1987 to 1992, who quit to pursue a more lucrative career in selling through multi-level marketing companies with his wife, said Raniere's company wasn't reputable and that's a key reason they left after a short time.

"He's a manipulative character," Herb Cepeda said. "He preys on the people who lost hope or have esteem issues." Cepeda has since worked for several other marketing businesses, and said Innovative Network probably was a pyramid scheme and nothing more than a "sign-up game."

"When the income is a function of enrollments, instead of goods and services going out to the consumer, that's the definition of a pyramid scheme," Cepeda said.

Among the people in the sales network of Innovative Network were Unterreiner and Cafritz — the key figures in Consumers' Buyline with Raniere then. In 1998, they worked alongside Raniere and others to create Executive Success Programs Inc., which would later become NXIVM. They remain key players in it today.

In an October 2009 deposition, Barbara Bouchey, a former NXIVM executive board member, depicts how people graduate in the **ranks of NXIVM** as coach, proctor, senior proctor or field trainer. Cafritz and Unterreiner were high in the hierarchy, according to several people familiar with the group. Although he holds no business title, Raniere leads the company, they've said. It isn't clear if he receives any direct compensation, but according to former NXIVM instructor Susan Dones, who left the organization with Bouchey in 2009, **his expenses are covered** by NXIVM members and NXIVM President Nancy Salzman.

Bouchey said everyone making commissions was required to sign up for one of NXIVM's programs, called **Ethos**, which costs about $2,000 annually.

Other NXIVM courses, called intensives, where students take concentrated workshops of a week or more, cost up to $10,000 for five days.

Bouchey also testified that NXIVM emphasized recruiting or enrolling new participants with a concentration on people with **"spheres of influence."**

She told of 20 percent **commissions** for field trainers — "**someone who has demonstrated the ability to be able to sell or enroll and be able to teach or oversee others to do the same thing**." She said 10 percent went to a higher-ranking person, a proctor, and that more money, 30 percent, went to the corporation.

In a deposition, Dones said she asked Raniere if NXIVM was a multi-level-marketing scheme and he wouldn't say.

"**Whenever he was asked how NXIVM's payment plan differed from typical MLM schemes, Raniere would always evade answering the question**," Dones testified. Instead, she said, he often stated that "**he believed that MLMs were unethical.**"

Raniere said in a 2003 sworn statement that the New York consent order **does not restrict him from starting an MLM**, it only enjoins him from participating in an illegal scheme. "I suspect everyone is permanently enjoined from this," Raniere said in that statement.

In court testimony, Kim Woolhouse, Dones' partner and manager of a former NXIVM training center in Tacoma, Wash., called her personal investment in NXIVM "**an issue of consumer fraud**." She told a judge that she went into debt paying for more and more NXIVM lessons.

In the same case, in which NXIVM sued Woolhouse and Dones for violating their confidentiality agreement to protect NXIVM trade secrets, Dones refers to NXIVM leaders as untruthful. "**The people that I believed in, and that I spent years selling to people, I found out were liars**," Dones said.

NXIVM and Raniere have never been charged with a crime. Raniere and NXIVM associates would not respond to repeated requests for comment.

Determining whether a business is a pyramid scheme isn't easy, said Michael Berlin, a lawyer who until recently was an assistant attorney general in New York heading economic justice probes. Such cases, Berlin said, "rely a tremendous amount on victims who may be reluctant to come forward or embarrassed about participating in these schemes and may not be aware; they may think they legitimately lost their money rather than it being taken in these schemes."

In her 2009 deposition, Bouchey said Raniere did not want to be a named NXIVM officer and **sought to be behind the scenes as much as possible to avoid government scrutiny**

"He felt because of his past being involved in certain litigations and lawsuits, and also because he felt as though the government was watching him and he needed to be careful about what he did ... it would be easier to run the company that way," Bouchey said.

Natalie says Raniere was in on key decisions but never wanted his name on the series of companies he helped create when she was his partner in the mid-1990s. That way, she said he explained to her, if regulators closed one company down its sister company could pick up where the other one left off. He also would refuse to open business or government mail because it would prove he had seen it, she recalled.

Raniere stopped acting as a president or corporate officer and frequently became the creator or patron of for-profit and non-profit ventures whose top officers were women involved in NXIVM.

The New York Attorney General's office **denied a Times Union request** for records collected about NXIVM under the Freedom of Information Law, saying the documents sought "were compiled for law enforcement purposes" and "if disclosed, would interfere with law enforcement investigations or judicial proceedings." Jennifer Givner, a spokeswoman for Attorney General Eric Schneiderman, said: "While we can't comment on matters before our office, we encourage anyone with information related to these issues to contact us."

The AG has broad subpoena powers and the pyramid scheme statute treats distribution networks as marketing securities. That means any fraudulent scheme involving pyramids could also be outlawed by New York's Martin Act, allowing for both civil and criminal avenues of prosecution.

There are indications that investigators may already be interested. Blogger **John Tighe**, who for several months has regularly tracked NXIVM and Raniere on his website, "Saratoga in Decline," said unknown computer users at the U.S. Department of Justice and the AG have monitored the blog.

"There is ample evidence to justify an investigation by the New York attorney general, given the past regulatory orders," said Robert FitzPatrick, president of the consumer advocacy group Pyramid Scheme Alert, after reviewing Raniere's business history.

FitzPatrick said experts, in general, are reluctant to be quoted about potential pyramid schemes because of the possibility of being sued.

Pyramid scheme organizations "are extremely bold and have very little fear of government," FitzPatrick said. "The organizations are merely figments of the people."

"They're devices created by individual people, and they can be very litigious" he said.

A fraud investigator with a forensic accounting firm, shown the consent order, deposition transcripts describing the NXIVM commission program and videos showing Raniere discussing his two earlier companies, agreed that there are sufficient traits in NXIVM's business to warrant a probe, given Raniere's professional history.

"It certainly seems to resemble a chain distribution scheme, pyramid scheme, whatever you want to call it," said Christopher Rosetti, a former investigator with the state Inspector General's office, who is now with Colonie-based BST Valuation Forensic and Litigation Services.

Brooks, the Massachusetts lawyer and pyramid scheme expert who once pursued a **class action suit** against Consumers' Buyline but dropped it after the company closed, also serves as a legal advisor to an institute run by Rick Ross, a cult-tracker being sued by NXIVM for allegedly exposing the group's proprietary information. He has continued to follow Raniere's more recent pursuits.

Both Brooks and FitzPatrick said generally that pyramid schemes and cults share some common characteristics and sometimes they are one and the same.

"They get people in and they keep them in the same way as cults," Brooks said.

Brooks said his review of public records suggests sufficient evidence to warrant an investigation of NXIVM.

"It smells bad, and if I were the New York AG, I would want to follow up," Brooks said.

jodato@timesunion.com • 518-454-5083 • @JamesMOdato • jgish@timesunion.com • 518-454-5089