

EXHIBIT F

Andrew Nelson Rebuttal P & D on 11-17 at 451pm

Designation	Source	Tx Duration	Elapsed	Remains
8:19 -8:20	Nelson, Andrew 2009-02-26	00:00:02	00:00:00	00:16:08
	8:19 MR. HOWARD: Q. Mr. Nelson, my name is			
	8:20 Geoff Howard. (Edited)			
8:25 -9:1	Nelson, Andrew 2009-02-26	00:00:02	00:00:02	00:16:06
	8:25 Q. Are you employed?			
	9:1 A. No.			
9:8 -9:12	Nelson, Andrew 2009-02-26	00:00:16	00:00:04	00:16:04
	9:8 Q. When was the last time that you were			
	9:9 employed?			
	9:10 A. November -- late November of 2007.			
	9:11 Q. Who was your employer at that time?			
	9:12 A. TomorrowNow Incorporated.			
25:18 -25:22	Nelson, Andrew 2009-02-26	00:00:15	00:00:20	00:15:48
	25:18 Q. When did you leave PeopleSoft?			
	25:19 A. I'm not sure exactly. Sometime --			
	25:20 sometime in 1998, 1999.			
	25:21 Q. When did you found TomorrowNow?			
	25:22 A. Around that same time.			
163:14 -163:17	Nelson, Andrew 2009-02-26	00:00:13	00:00:35	00:15:33
Link > 37.1.3	163:14 Q. And is Exhibit 1018 an e-mail that you			
	163:15 sent to some of your colleagues at TomorrowNow, and			
	163:16 copied to Mr. Apotheker, on March 26, 2006?			
	163:17 A. Yes.			
163:18 -165:25	Nelson, Andrew 2009-02-26	00:03:44	00:00:48	00:15:20
	163:18 Q. Do you recall sending this e-mail?			
	163:19 A. It's very familiar to me. I vaguely			
	163:20 recall it, yes.			
	163:21 Q. And do you recall why you were copying			
	163:22 Mr. Apotheker?			
	163:23 A. I believe so. There may have been other			
	163:24 reasons, but in reading through this I am reminded			
	163:25 of the misunderstandings that our sales teams had			
	164:1 with SAP sales teams.			
	164:2 And we felt that there was good strategic			
	164:3 alignment between the two companies in what we were			
	164:4 doing, selling our services without requiring people			
	164:5 to sign up for SAP. We understood that the decision			
	164:6 for a major enterprise software purchase had to do			
	164:7 with key huge business needs of a customer, not			
	164:8 whether or not TomorrowNow was doing maintenance			

164:9 services there.

164:10 Some of the SAP sales team -- a lot of the

164:11 SAP salespeople didn't perceive that. They thought

164:12 if we closed a three-year deal with a customer that

164:13 that meant that we have taken away an opportunity

164:14 for them.

164:15 And I recall making sure this e-mail

164:16 was -- in 2006, over a year after the acquisition,

164:17 and given the resistance that some of the SAP sales

164:18 team had with cooperating and collaborating, as well

164:19 as the marketing team, it was important to hear from

164:20 the top that we could continue to operate and do

164:21 sales work independent, that we didn't have to back

164:22 away because SAP salespeople just didn't want us to

164:23 be in business.

164:24 And we wanted to explain to them why it

164:25 made sense for them, and that we weren't really

165:1 hurting their business.

165:2 And in talking and in getting that

165:3 affirmation from the board people who were SAP

165:4 employees, ultimately, SAP board members that SAP

165:5 employees ultimately reported to, it gave much more

165:6 authority or believability, if you will, to a

165:7 salesperson to know this isn't just coming from

165:8 TomorrowNow. This is something that all of our

165:9 stakeholders who ultimately are responsible for SAP

165:10 sales also believe in.

165:11 And so I think it was important for our

165:12 executives to know that this was the position, and

165:13 it was important for me to be very careful, because

165:14 I was representing, you know, Leo as the person

165:15 responsible for sales, I believe, at this time. I

165:16 wanted to make sure that he was aware that I was

165:17 writing these words, so if something was wrong,

165:18 giving him a chance to clarify or object or, you

165:19 know, whatever. But I understood that I was

165:20 representing what I felt I had understood from them.

165:21 Q. "Them" being Mr. Apotheke, Mr. Oswald,

165:22 and Mr. Agassi?

165:23 A. Sure. That they felt comfortable with us

165:24 having an independent strategy instead of having to

165:25 just do whatever the SAP sales guys wanted us to do.

166:1 -166:4

Nelson, Andrew 2009-02-26

00:00:09 00:04:32 00:11:36

166:1 Q. Do you recall any clarification or dissent

166:2 or objection from Mr. Apotheke in response to this

166:3 e-mail?
166:4 A. I don't.

167:22 -168:5

Nelson, Andrew 2009-02-26 00:00:26 00:04:41 00:11:27

[Link > 37.1.1](#)

167:22 Q. And the first of those is that it allows
167:23 you -- you say, "It allows us to build \$10 of
167:24 strategic future SAP license pipeline for every \$1
167:25 of TN stand-alone business" that you get.
168:1 Do you see that?
168:2 A. I see it.
168:3 Q. And that was something that you clearly
168:4 believe was agreed to by the SAP stakeholders,
168:5 Mr. Apotheker, Mr. Oswald, and Mr. Agassi?

168:7 -168:8

Nelson, Andrew 2009-02-26 00:00:05 00:05:07 00:11:01

168:7 THE WITNESS: I think it was more of a
168:8 mechanical fact, as opposed to an opinion.

168:9 -169:1

Nelson, Andrew 2009-02-26 00:01:02 00:05:12 00:10:56

168:9 MR. HOWARD: Q. What do you mean by that?
168:10 A. Well, we -- our business model was to sell
168:11 at half of whatever the vendor had. The vendor's
168:12 typical model was to sell at 20 percent of the
168:13 license annually. So at half of that we were
168:14 10 percent of the original product purchase.
168:15 And so for every -- for that \$10 of
168:16 product, we would get \$1 of maintenance. And when
168:17 whoever bought that had to go and replace that
168:18 system, a benchmark would be -- you know, it was
168:19 \$10. So if we are getting a dollar for every dollar
168:20 of maintenance, there is a potential, if that
168:21 customer down the road made a purchase of SAP, you
168:22 know, our -- every \$1 of maintenance reflected that
168:23 as a potential.
168:24 Q. And that's what you called the strategic
168:25 future SAP pipeline in point number one?
169:1 A. Yes.

169:2 -170:5

Nelson, Andrew 2009-02-26 00:01:49 00:06:14 00:09:54

[Link > 37.1.2](#)

169:2 Q. In point number two you said that "Over
169:3 the long term, every \$1 of TN's stand-alone revenue
169:4 this year represents \$18 of originally expected
169:5 Oracle revenue from their misguided acquisition
169:6 strategy."
169:7 A. Yes.
169:8 Q. What did you mean by that?
169:9 A. Well, as I talked to you about sort of the
169:10 financial -- my understanding of the financial

169:11 reasons driving Oracle's takeover battle with
 169:12 PeopleSoft, I recall -- I am not sure the
 169:13 publication, but I recall reading a financial
 169:14 analysis saying that the reason for the acquisition
 169:15 is to get, you know, a million or a billion dollars
 169:16 of maintenance over 10 years.
 169:17 And so my understanding was that there was
 169:18 a 10-year plan that involved taking the annual
 169:19 maintenance and multiplying it by 10 years. So a
 169:20 billion a year for -- and it may have included the
 169:21 JD Edwards at the time, because during that that had
 169:22 happened, too. But somewhere it was this billion --
 169:23 you know, \$10 billion.
 169:24 So this was in 2006, which would have been
 169:25 one year after that. So if you take our \$1, which
 170:1 is half of -- since we are selling at half, our \$1
 170:2 would be half of \$2. And then \$2 over those nine
 170:3 remaining years from the original strategy would be
 170:4 nine times two, equaling 18. So the assumption of
 170:5 that 18 included that 10-year -- that 10-year model.

170:7-170:8

Nelson, Andrew 2009-02-26 00:00:12 00:08:03 00:08:05

[Link > 970.1.15](#)

170:7 And I will mark as Exhibit 1019 an e-mail
 170:8 chain between you and Lon Fiala on April 25th, 2006.

170:15-170:18

Nelson, Andrew 2009-02-26 00:00:14 00:08:15 00:07:53

170:15 Q. This e-mail is fairly shortly after the
 170:16 one that we just saw that was Exhibit 1018, about a
 170:17 month later; right?
 170:18 A. It appears to be within 30 days.

170:19-170:23

Nelson, Andrew 2009-02-26 00:00:17 00:08:29 00:07:39

[Link > 970.1.1](#)

170:19 Q. And this is an exchange between you and
 170:20 Mr. Fiala entitled "Working financial impact notes"?
 170:21 A. Yes. It appears to be a response, with
 170:22 R-E. But, yes, I see "Working financial impact
 170:23 notes" in the subject.

171:6-171:8

Nelson, Andrew 2009-02-26 00:00:17 00:08:46 00:07:22

171:6 Q. Do you recall what the purpose of this
 171:7 financial impact note was?
 171:8 A. No.

171:13-172:1

Nelson, Andrew 2009-02-26 00:00:46 00:09:03 00:07:05

[Link > 970.1.2](#)

171:13 Q. Do you recall that, looking at the first
 171:14 main paragraph there, that new TomorrowNow business
 171:15 unrelated to SAP Safe Passage support totaled nearly
 171:16 \$10 million in 2005?
 171:17 A. I see -- I see where that's in here.

171:18 Q. And is that consistent with your
171:19 recollection?
171:20 A. I don't really recall the detailed
171:21 numbers, other than, if we were writing it, there
171:22 was probably a basis for it.
171:23 Q. And do you recall expecting it to grow at
171:24 that time at a rate of 100 percent annually for the
171:25 next several years?
172:1 A. I think we probably hoped that, yes.

172:8-174:11

Nelson, Andrew 2009-02-26

00:02:34

00:09:49

00:06:19

Link > 970.1.3

172:8 You say, "In replacing Oracle maintenance
172:9 with 50 percent savings, this component of
172:10 TomorrowNow's business translates to nearly
172:11 \$20 million in lost Oracle revenues in 2005."

Link > 970.1.4

172:12 A. I see that.
172:13 Q. All right. And then you said that over 10
172:14 years time, projecting out, this lost annual revenue
172:15 adds up to \$200 million?

Link > 970.1.5

172:16 A. Yes.
172:17 Q. That was your view at the time, your
172:18 expectation?
172:19 A. I think I was just noting that over 10
172:20 years time \$20 million times 10 is 200.
172:21 Q. Right. And then you said, "Assuming
172:22 consistent growth over the next 10 years, this
172:23 single component of TomorrowNow's business would
172:24 take away approximately \$1.1 billion from Oracle."
172:25 A. I see that.
173:1 Q. And that was an accurate reflection of
173:2 your projection at the time?
173:3 A. I don't know that this was a projection.
173:4 I think it was a recognition that, if we continued
173:5 at 100 percent growth and added 20 million each
173:6 year, 20 times 10 is 200 million. The next year, 20
173:7 times nine would be another 180,000,000. The next
173:8 year, 20 times eight would be 160,000,000, and so on
173:9 and so forth.
173:10 So that if you were to mathematically add
173:11 that up, my hope is that we would come up with a
173:12 number that's pretty close to this 1.1 billion. So
173:13 I think that that's the note there, as opposed to a
173:14 formal projection.
173:15 Q. And that was -- is it fair to say that
173:16 that was a goal of the company, to have that
173:17 100 percent annual growth for the next several

Link > 970.1.6	<p>173:18 years?</p> <p>173:19 A. It was definitely not a formal goal to</p> <p>173:20 have 100 percent growth for 10 years, to have</p> <p>173:21 1.2 billion -- no, this was not a formal goal.</p> <p>173:22 Q. It says that "he revealed that new</p> <p>173:23 TomorrowNow business unrelated to SAP Safe Passage</p> <p>173:24 support totaled nearly \$10 million in 2005, and is</p> <p>173:25 expected to grow at a rate of 100 percent annually</p> <p>174:1 for the next several years."</p> <p>174:2 A. Right. As opposed to 10 years, is what I</p> <p>174:3 am saying. We had no goal to do that for a 10-year</p> <p>174:4 period.</p> <p>174:5 Q. Difference between several years and 10</p> <p>174:6 years?</p> <p>174:7 A. Yes, sir. That we expected -- we felt</p> <p>174:8 that we would continue to get 100 percent growth,</p> <p>174:9 but not over a 10-year period. And the expectation</p> <p>174:10 is different from a formal goal. So those were the</p> <p>174:11 two clarifying comments.</p>	
Link > 970.1.7	<p>174:12 Q. Okay. And then down below that paragraph</p> <p>174:13 you say -- and I think this is similar to what you</p> <p>174:14 said a minute ago, but "Every \$1 of 2005 closed</p> <p>174:15 TomorrowNow business typically represents," and then</p> <p>174:16 number one is "\$2 taken from Oracle's annual</p> <p>174:17 maintenance."</p>	<p>174:12-174:22 Nelson, Andrew 2009-02-26 00:00:31 00:12:23 00:03:45</p>
Link > 970.1.8	<p>174:18 A. Yes.</p> <p>174:19 Q. And number two is "\$20 taken from any</p> <p>174:20 10-year maintenance-based justification for the</p> <p>174:21 PeopleSoft/JDE takeover"?</p> <p>174:22 A. Yes. That's what I was alluding to here.</p>	
Link > 970.1.10	<p>174:25 Q. And number three is "Every \$1 of 2005</p> <p>175:1 closed TomorrowNow business typically represents \$10</p> <p>175:2 increase to SAP's strategic license revenue</p> <p>175:3 pipeline." That's the same thing you said in</p> <p>175:4 Exhibit 1018.</p>	<p>174:25-175:16 Nelson, Andrew 2009-02-26 00:00:55 00:12:54 00:03:14</p>
Link > 970.1.11	<p>175:5 A. That -- yes.</p> <p>175:6 Q. And then further down, you say that if you</p> <p>175:7 hold those results steady over a 10-year period,</p> <p>175:8 "2005 TomorrowNow standalone business would cost</p> <p>175:9 Oracle up to \$200 million in maintenance revenue."</p> <p>175:10 That's the mathematical formula that you described</p> <p>175:11 earlier; right?</p> <p>175:12 A. It appears to be.</p>	

Link > 970.1.12	175:13	Q. And that -- and "TomorrowNow would capture			
	175:14	15 percent of the PeopleSoft/JDE customer base and			
	175:15	takeaway over \$1.1 billion in maintenance revenues			
	175:16	between now and 2014."			
<hr/>					
175:20 -176:1	Nelson, Andrew	2009-02-26	00:00:16	00:13:49	00:02:19
	175:20	A. That's what I am reading here. Holding			
	175:21	those results steady, TomorrowNow would capture it,			
	175:22	yes.			
Link > 970.1.13	175:23	Q. And third, "Holding those results steady			
	175:24	over a 10-year period SAP strategic pipeline would			
	175:25	increase by \$1 billion."			
	176:1	A. I am reading it.			
<hr/>					
176:4 -176:6	Nelson, Andrew	2009-02-26	00:00:07	00:14:05	00:02:03
	176:4	MR. HOWARD: Q. That's what you said here			
	176:5	in this note.			
	176:6	A. Yes, that is what I said.			
<hr/>					
176:13 -176:18	Nelson, Andrew	2009-02-26	00:00:29	00:14:12	00:01:56
Link > 970.1.14	176:13	MR. HOWARD: Q. Yeah. So if you look at			
	176:14	two and three at the bottom together, is it fair to			
	176:15	say that if you hold those results steady over a			
	176:16	10-year period there would be a \$2.1 billion swing			
	176:17	consisting of revenue gained -- taken away by			
	176:18	TomorrowNow and SAP pipeline increased?			
<hr/>					
176:20 -176:25	Nelson, Andrew	2009-02-26	00:00:13	00:14:41	00:01:27
	176:20	THE WITNESS: No, I think you are mixing			
	176:21	apples and oranges. One is a pipeline and one is a			
	176:22	revenue number, making the assumption that you hold			
	176:23	them steady. They are two different numbers. I			
	176:24	don't know how -- I wouldn't say that I was adding			
	176:25	those numbers together.			
<hr/>					
177:1 -177:6	Nelson, Andrew	2009-02-26	00:00:24	00:14:54	00:01:14
	177:1	MR. HOWARD: Q. Right. But I am looking			
	177:2	at -- I am looking at sort of the overall financial			
	177:3	impact if you hold those results steady over a			
	177:4	10-year period. One impact is \$1.1 billion in			
	177:5	maintenance revenues taken away from Oracle between			
	177:6	2006 and 2014?			
<hr/>					
177:11 -177:19	Nelson, Andrew	2009-02-26	00:00:37	00:15:18	00:00:50
	177:11	I believe that if you hold those percents			
	177:12	steady over a 10-year period that number two, as I			
	177:13	read it, would add up to that number.			
	177:14	Q. To \$1.1 billion in maintenance revenues			
	177:15	lost by Oracle between 2006 and 2014.			

177:16 A. Yes.
177:17 Q. And a second impact would be an increase
177:18 of SAP's strategic pipeline by one billion dollars.
177:19 A. As best as I can read this, yes.

[Link >](#) [Hide](#)

177:20-177:22 Nelson, Andrew 2009-02-26 00:00:12 00:15:55 00:00:13

177:20 Q. Was Mr. Fiala an executive at TomorrowNow?
177:21 A. Yes. He was our vice president for
177:22 marketing, amongst other roles he had.

[Link >](#) [Hide](#)

Play Time for this Script: **00:16:08**
