

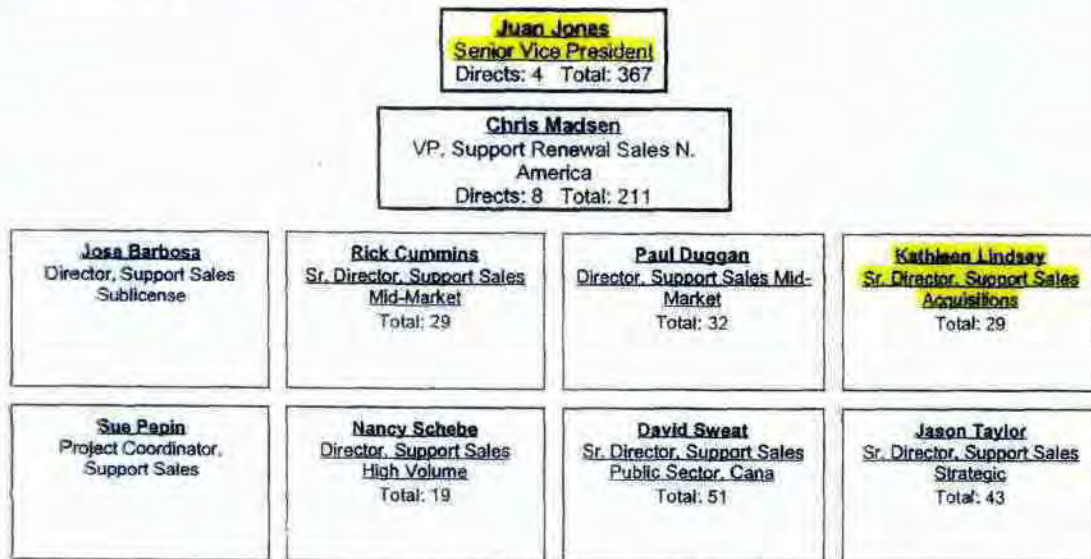
EXHIBIT 16

**Foundation for
A-5995**

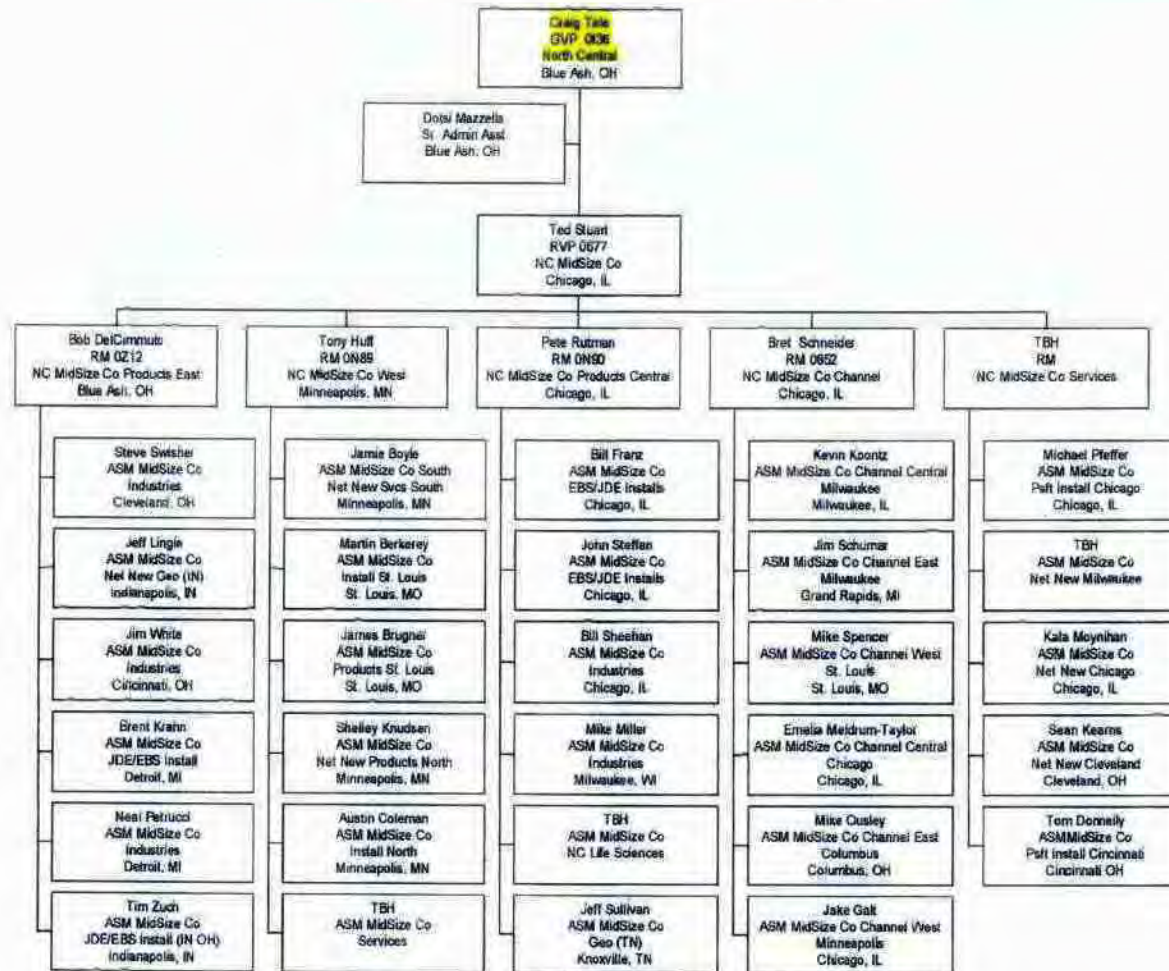
Defendants' Trial Exhibit A-5995 – Foundational Support

- ORCL00034305 (Oracle organizational chart identifying Juan Jones as Oracle Senior Vice President and Kathleen Lindsey as Senior Director, Support Sales Acquisitions. Deposition testimony below shows that Lindsey took this title after she had previously managed a group of support renewal/sales representatives.)
- ORCL00160564 (Oracle organizational chart identifying Craig Tate as Oracle GVP (group vice president))
- Jones Video Depo. Tr. (as played at Trial 11/15/10) at 20:3-6; 24:10-18; 25:3-20; 43:7-10 (identifying Jones as Oracle's Senior Vice President, Customer Services, North America Support and describing his job responsibilities)
- Jones Apr. 24, 2009 Depo. Tr. 29:12-17 (indicating that Jones had responsibility for Oracle's support sales renewal function from at least 2005 to 2009)
- Blotner July 23, 2008 Depo. Tr. 98:7-99:3 (Rule 30(b)(6) testimony stating that Juan Jones "runs support for North America")
- Cummins Apr. 22, 2009 Depo Tr. 491:24-492:8 (describing Kathleen Lindsey's responsibilities)
- Cummins Sept. 16, 2008 Depo Tr. at 60:17-61:11 (Rule 30(b)(6) testimony indicating that Kathleen Lindsey began reporting directly to Juan Jones and outlining Lindsey's responsibilities in Oracle support sales acquisitions)
- Blotner July 23, 2008 Depo. Tr. 118:4-5 (Rule 30(b)(6) testimony indicating that at Oracle, "GVP" stands for group vice president)
- Feb. 23, 2010 Oracle Expert Report of Paul Meyer (redacted excerpt) (identifying Juan Jones as Oracle Senior Vice President Customer Services, North America Support)
- A-5997 (Oracle production document listing Craig Tate as Oracle Group Vice President, North Central Applications in 2006, located at ORCL00272886)
- A-6411 (Oracle production document listing Craig Tate as Oracle Group Vice President, North Central Applications in 2006, located at ORCL00747255)

ORACLE® Aria People Search



NA Commercial Apps Organization ERP North Central MidSize Co



Jones DA PC on 11-14 FINAL

Scene	Designation	Source	Tx Duration	Elapsed	Remains
1	20:3-20:6	Jones, Juan 2009-04-24	00:00:11	00:00:00	00:46:09
	20:3	Q. What – what precisely is your job title			
	20:4	today?			
	20:5	A. Today my job title is senior vice			
	20:6	president, customer services, North America support.			
2	21:24-22:5	Jones, Juan 2009-04-24	00:00:17	00:00:11	00:45:58
	21:24	Q. So today you report directly to Juergen			
	21:25	Rottler?			
	22:1	A. That is correct.			
	22:2	Q. How long – how long have you reported to			
	22:3	Mr. Rottler?			
	22:4	A. I've reported to Juergen Rottler			
	22:5	approximately four and half years, maybe.			
3	24:10-24:18	Jones, Juan 2009-04-24	00:00:40	00:00:28	00:45:41
	24:10	Q. Can you tell me in a little more detail			
	24:11	what your current job responsibilities are today?			
	24:12	A. Okay. My current job responsibilities			
	24:13	today are to lead the support renewal sales team for			
	24:14	North America and also to lead the customer services			
	24:15	management team for North America. Those are			
	24:16	predominantly my functions. I also have a small			
	24:17	group that does acquisition, customer success, makes			
	24:18	sure those things are going well.			
4	25:3-25:20	Jones, Juan 2009-04-24	00:01:07	00:01:08	00:45:01
	25:3	Q. Can you tell me a little bit more			
	25:4	specifically, then, what you do in connection with			
	25:5	the support renewal sales function?			
	25:6	A. Okay. I ensure we – I'm responsible for			
	25:7	the renewal of our support maintenance contracts			
	25:8	with our – across our customer base. You know, I			
	25:9	get involved in conversations with customers			
	25:10	directly in support of my team when it is			
	25:11	appropriate for me to do so.			
	25:12	I also spend a lot of time talking to			
	25:13	customers to ensure that they are receiving all of			
	25:14	the value of support, all of the service elements			
	25:15	that we have in our service offer, and ensure			
	25:16	they're realizing that value. I also spend time			
	25:17	talking to customers about issues or incidents they			
	25:18	may have, working on plans to provide remediation			
	25:19	for those or working on plans to be proactive to			

25:20 ensure that they don't have issues.

5 43:7-43:10 Jones, Juan 2009-04-24 00:00:27 00:02:15 00:43:54

43:7 Q. Does — does every pricing decision that's

43:8 an exception from the existing contract that's being

43:9 renewed have to get approved by you?

43:10 A. I believe the answer is yes.

6 96:18-96:22 Jones, Juan 2009-04-24 00:00:17 00:02:42 00:43:27

Link > A367.1.1

96:18 Q. Mr. Jones, I'm showing you what's been

96:19 marked as Deposition Exhibit 367, which contains a

96:20 copy of an email from you to Chris Madsen and Rick

96:21 Cummins dated August 29, 2006. Would you take a

96:22 moment to look it over, please.

7 96:23-97:21 Jones, Juan 2009-04-24 00:01:22 00:02:59 00:43:10

96:23 A. Okay.

96:24 Q. Can you identify this document for the

96:25 record, please.

97:1 A. Yes. This document was a request for an

97:2 exception approval for Home Depot. Essentially the

97:3 proposal was asking for \$600,000 to be the support

97:4 renewal fee. And that would be a reduction from

97:5 what had been 1.3 million. And the positioning was

97:6 that it would — with this fee the customer would

97:7 receive break/fix pieces only and not have rights to

97:8 updates and upgrades.

97:9 Q. And you refused to approve that proposal,

97:10 correct?

97:11 A. That is correct. Yes.

97:12 Q. Do you recall this transaction?

97:13 A. Yes, I do.

Link > A367.1.6

97:14 Q. At the top portion of the first page of

97:15 Exhibit 367, you wrote, "It is clear that Home Depot

97:16 is committed to SAP." Do you see that?

97:17 A. Yes, I do.

97:18 Q. Did you mean, by that, that at that point

97:19 in time it was clear to you that Home Depot was

97:20 transitioning to SAP software?

97:21 A. Yes, that was my understanding.

8 97:22-99:2 Jones, Juan 2009-04-24 00:01:57 00:04:21 00:41:48

97:22 Q. And, in fact, you go on to say, in the very

97:23 next sentence, that you considered them a loss last

97:24 year. Do you see that?

97:25 A. Yes, I do.

98:1 Q. So by that were you saying that it was

98:2 clear to you even in the prior year that Home Depot

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

---o0o---

ORACLE CORPORATION, a
Delaware corporation, ORACLE
USA, INC., a Colorado
corporation, and ORACLE
INTERNATIONAL CORPORATION, a
California corporation,

Plaintiffs,

vs.

No. 07-CV-1658 (PJH)

SAP AG, a German
corporation, SAP AMERICA,
INC., a Delaware
corporation, TOMORROWNOW,
INC., a Texas corporation,
and DOES 1-50, inclusive,

Defendants.

Deposition of

JUAN C. JONES

Friday, April 24, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: JOHN WISSENBACH, RMR, CRR, CBC,
CLR, CSR 6862 01-418986

Merrill Legal Solutions
(800) 869-9132

09:42:20 1 Q. How long have you had responsibility for
09:42:23 2 that team?

09:42:27 3 A. That team I believe has been formed within
09:42:32 4 the past fiscal year, so maybe around a year, I
09:42:38 5 would say.

09:42:38 6 Q. As part of that team, are you responsible
09:42:41 7 for evaluating the PeopleSoft, slash, JD Edwards
09:42:49 8 acquisition results?

09:42:50 9 A. As part of that team, we look at those
09:42:52 10 results, yes, as it relates to the support services
09:43:00 11 metrics.

09:43:01 12 Q. For how long have you had responsibility
09:43:07 13 for the support renewal sales function?

09:43:14 14 A. I would say for -- for approximately four
09:43:18 15 years now.

09:43:18 16 Q. So back to approximately 2005?

09:43:23 17 A. Somewhere around there, yes.

09:43:25 18 Q. Can you place it in time with respect to
09:43:28 19 the PeopleSoft acquisition? It sounds like it was
09:43:32 20 about that same time?

09:43:35 21 A. I think right -- I think maybe six months
09:43:43 22 thereafter, or something like that.

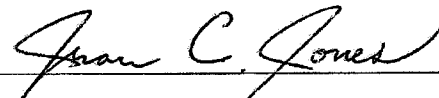
09:43:51 23 Q. Do you have responsibility for pricing
09:44:03 24 decisions in connection with support renewal sales?

09:44:10 25 MS. HOUSE: Objection; vague.

1 4:49 p.m.)

2 ---o0o---

3 I declare under penalty of perjury that the
4 foregoing is true and correct. Subscribed at
5 Pleasanton, California, this 15th day of
6 May, 2009.

7
8 
9 Signature of the witness

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Merrill Legal Solutions



INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making changes and /or corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

Please read your transcript carefully. If you find any errors or changes you wish to make, insert the changes and/or corrections on the errata sheet by listing the page and the line number reference and then the change you wish to make.

Please do not make any changes and /or corrections on the face of the transcript.

Please do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the Errata sheets to Merrill Legal Solutions at 135 Main Street, 4th Floor, San Francisco, CA 94105 or fax them to (415) 357.4301.

ERRATA SHEET

Page Line

____ ____

Change: _____

Reason: _____

____ ____

Change: _____

Reason: _____

____ ____

Change: _____

Reason: _____

Page Line

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

_____ Subject to the above changes, I certify that the transcript is true and correct.

☒ No changes have been made. I certify that the transcript is true and correct.


(signature)

5/15/09
(date)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

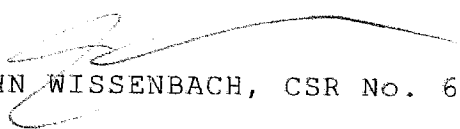
I, JOHN WISSENBAACH, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [X] was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: 4/26/09


JOHN WISSENBAACH, CSR No. 6862

RICHARD BLOTNER

July 23, 2008

HIGHLY CONFIDENTIAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a)
Delaware corporation, ORACLE)
USA, INC., a Colorado)
corporation, and ORACLE)
INTERNATIONAL CORPORATION, a)
California corporation,)

Plaintiffs,)

vs.)

) No. 07-CV-1658 (PJH)

SAP AG, a German corporation,)
SAP AMERICA, INC., a Delaware)
corporation, TOMORROWNOW,)
INC., a Texas corporation, and)
DOES 1-50, inclusive,)

Defendants.)

DEPOSITION OF
RICHARD BLOTNER

Wednesday, July 23, 2008

CONTAINS HIGHLY CONFIDENTIAL MATERIAL

REPORTED BY: CYNTHIA A. PACINI, CSR #6117, RMR, CRR
(01-411414)

Merrill Legal Solutions
(800) 869-9132

fa6333c2-5247-4156-8fef-c02a2d623366

1 them.

2 Q. I won't ask any questions about him then.

3 A. Technology anyway, so it doesn't matter.

4 So I -- his group went through 262.

5 Screven's group keeps going through 266 actually.
6 34266.

7 Q. Okay.

8 A. And 267, this is part of our corporate
9 organization, Larry Ellison's direct reports. So
10 Charles Phillips, for example, reports to him. And
11 the next page -- next two pages, 34268, 69, Safra
12 Catz's organization, they are non-sales related.
13 She's also our CFO. Various internal support
14 organizations.

15 And then on 34270, we have Charles
16 Phillips who is our president and manages all the
17 sales organizations globally for Oracle.

18 Q. Okay.

19 A. And then 271, Juergen Rottler and Juan
20 Jones report -- this is our support organization.
21 So I guess the official title that we talked about
22 earlier is Oracle customer services. I was saying
23 Oracle support before. Juan Jones runs support for
24 North America and the other individuals who are
25 labeled Latin America, EMEA, and I don't know if

1 there's one on here for Asia Pacific or not. But
2 the support renewals organization reports to Juan
3 Jones.

4 Q. For North America?

5 A. For North America. Might have -- in fact,
6 he might have global support renewals.

7 Q. Juan Jones?

8 A. Juan Jones, yeah. The next page goes back
9 to Edwards Screven who we already discussed, more
10 development-oriented, and 34273, John Wookey is in
11 transition out of Oracle.

12 Then we have 274, we hit the technology
13 development organization with Charles Rozwat. The
14 next page, 275, is our applications development
15 organization, Ed Abbo. As you can see, he has 6,211
16 people. They all didn't fit on the page. And the
17 following page, 276, is a breakout of Doris Wong who
18 works for Ed Abbo, and 277, further, 278.

19 Q. Let me just stop you first of all at
20 34276. There are a number of people listed on this
21 page as -- with titles relating to product strategy.
22 Is that a sales-related function?

23 A. No.

24 Q. What kind of function is that?

25 A. These are in the development organization.

1 I declare under penalty of perjury that
2 the foregoing is true and correct. Subscribed at
3 SAN FRANCISCO, California, this 23 day
4 of July 2008.
5
6
7
8
9



RICHARD BLOTNER

Merrill Legal Solutions



INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

This is the final version of your deposition transcript.

Please read it carefully. If you find any errors or changes you wish to make, insert the corrections on the errata sheet beside the page and line numbers.

If you are in possession of the original transcript, do NOT make any changes directly on the transcript.

Do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the transcript to your attorney.

ERRATA SHEET

Page Line

_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____

[A large diagonal line is drawn across the entire Errata Sheet section, starting from the bottom left and ending with a handwritten "B" at the top right.]

Page Line

_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____
_____	_____	Change: _____
		Reason: _____

RB

_____ Subject to the above changes, I certify that the transcript is true and correct.

X No changes have been made. I certify that the transcript is true and correct.

Richard Kite
(signature)

8/19/08
(date)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, CYNTHIA A. PACINI, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript ☒ was ☐ was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: 8/5/08

Cynthia A. Pacini
CYNTHIA A. PACINI, CSR No. 6117



RICHARD CUMMINS April 22, 2009
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a)	
Delaware corporation, ORACLE)	
USA, INC., a Colorado)	
corporation, and ORACLE)	
INTERNATIONAL CORPORATION, a)	
California corporation,)	
)	
Plaintiffs,)	
)	
vs.)	07-CV-1658 (PJH)
)	
SAP AG, a German corporation,)	
SAP AMERICA, INC., a Delaware)	
corporation, TOMORROWNOW,)	
INC., a Texas corporation, and)	
DOES 1-50, inclusive,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF RICHARD CUMMINS

APRIL 22, 2009

VOLUME II

(Pages 260 - 529)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

(REDACTED VERSION)

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#418086)

Merrill Legal Solutions
(800) 869-9132

96ff932b-1754-419d-85f4-9085bbd6f0d0

15:58:25 1 (Deposition Exhibit 352
15:58:26 2 was marked for identification.)
15:58:28 3 MR. McDONELL: Q. Showing you what's been
15:58:29 4 marked as Exhibit 352, which appears to be a group
15:58:32 5 of slides entitled "North America Support Services
15:58:37 6 Overview," and you are listed as one of the authors.
15:58:42 7 Do you have that before you?
15:58:43 8 A. I do.
15:58:44 9 Q. Can you tell us what this is?
15:58:46 10 A. Let me look through it.
15:58:51 11 This is a presentation that Kathy and I
15:58:53 12 gave to John Boucher's team regarding support.
15:58:59 13 Q. Who is John Boucher?
15:59:01 14 A. John Boucher is one of the leaders on the
15:59:03 15 license team.
15:59:04 16 Q. On the sales side?
15:59:06 17 A. Sales.
15:59:07 18 Q. What was the purpose of giving this
15:59:08 19 presentation?
15:59:10 20 A. To educate them on support sales, as well
15:59:13 21 as some of the things we were doing in regards to
15:59:22 22 TomorrowNow and some of the things that happened
15:59:24 23 with lifetime support.
15:59:26 24 Q. When did you give this presentation?
15:59:28 25 A. In late 2005. The date of the

15:59:31 1 presentation is in October, so roughly that time
15:59:34 2 frame.
15:59:35 3 Q. In what ways were your responsibilities
15:59:37 4 similar to or different from Kathy Lindsey's?
15:59:43 5 A. Kathy managed a group of support renewal
15:59:45 6 reps who -- she had a team very similar to mine now
15:59:49 7 that managed Oracle products at the time I was
15:59:55 8 managing PeopleSoft/JDEdwards products.
15:59:57 9 Q. Would you turn to the Bates page ending in
16:00:01 10 002, please?
16:00:11 11 A. Okay.
16:00:12 12 Q. Can you tell us what that slide is?
16:00:16 13 A. It's a slide discussing PeopleSoft
16:00:19 14 business practices.
16:00:35 15 Q. Here were you referring to PeopleSoft
16:00:39 16 practices pre-acquisition?
16:00:41 17 A. Yes.
16:00:49 18 Q. And when you make reference in the second
16:00:51 19 bullet point to "Maintenance pricing based on 'then
16:00:56 20 current' list pricing," that's what you told us
16:00:58 21 about before, that it was basically some kind of
16:01:02 22 percentage of then-current pricing?
16:01:04 23 A. Correct.
16:01:05 24 Q. And then what is meant by the "Annual
16:01:07 25 increases 10 to 15 percent based on the customer's

17:06:55

1

I declare under penalty of perjury the

17:06:55

2

foregoing is true and correct. Subscribed at

17:06:55

3

San Francisco, California, this 4th day

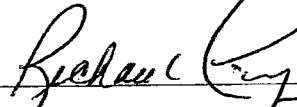
17:06:55

4

of May, 2009.

17:06:55

5



17:06:55

6

Richard Cummins

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

527

Merrill Legal Solutions



INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making changes and /or corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

Please read your transcript carefully. If you find any errors or changes you wish to make, insert the changes and/or corrections on the errata sheet by listing the page and the line number reference and then the change you wish to make.

Please do not make any changes and /or corrections on the face of the transcript.

Please do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the Errata sheets to Merrill Legal Solutions at 135 Main Street, 4th Floor, San Francisco, CA 94105 or fax them to (415) 357.4301.

ERRATA SHEET - April 22nd

Page Line

309 25

Change: should have read "calc" team not comp.

Reason: calc team is name of team - also stated in
later testimony

Change: _____

Reason: _____

Change: _____

Reason: _____

Page Line

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

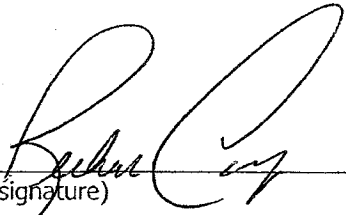
Reason: _____

Change: _____

Reason: _____

☒ Subject to the above changes, I certify that the transcript is true and correct.

☐ No changes have been made. I certify that the transcript is true and correct.


(signature)

6-4-09
(date)

1 CERTIFICATE OF REPORTER

2 I, SARAH LUCIA BRANN, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time and
9 place therein stated, and that the testimony of the said
10 witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;

12 That before completion of the deposition,
13 review of the transcript [X] was [] was not requested.
14 If requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed are
16 appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto.

22 DATED: May 4, 2009

23
24 Sarah Lucia Brann

25 SARAH LUCIA BRANN, CSR No. 3887

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

--00o--

ORACLE CORPORATION, a Delaware
Corporation; ORACLE, USA, INC.,
a Colorado Corporation, and
ORACLE INTERNATIONAL CORPORATION,
a California Corporation,

Plaintiffs,

Vs.

No. 07-CV-01658-PJH (EDL)

SAP AG, a German Corporation,
SAP AMERICA, INC., a Delaware
CORPORATION, TOMORROWNOW, INC.,
a Texas Corporation, and DOES
1-50, Inclusive,

Defendants.

VIDEOTAPED RULE 30(b)(6) DEPOSITION OF
ORACLE CORPORATION

Designee: RICHARD CUMMINS

Tuesday, September 16, 2008

Volume I, Pages 1 - 255

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412495

Merrill Legal Solutions
(800) 869-9132

e6a0856a-0ee4-4b35-a1bf-ca20af8a26bc

1 which is ORCL00034304.
2 A. Yes.
3 Q. What is this?
10:21 4 A. This is a North America view of Juergen
5 Rottler's organization.
6 Q. So then in terms of renewal sales, those are
7 all under Chris Madsen; is that right?
8 A. That's correct.
10:22 9 Q. And the other three individuals on this page
10 that report to Juan Jones are not involved with
11 renewal sales?
12 A. That's correct.
13 Q. Could you turn to the next page, which is
10:22 14 ORCL00034305? And can you tell us what this is?
15 A. This is the organization under Juan Jones who
16 is responsible for renewal sales.
17 Q. So this chart does include Jose Barbosa and
18 Paul Duggan. Does this appear current?
10:22 19 A. It's current except for Kathy Lindsey does
20 not report to Chris any longer.
21 Q. What's become of her?
22 A. Kathy reports to Juan Jones directly.
23 Q. Has someone taken over her position as senior
10:23 24 director support sales acquisitions?
25 A. No.

1 Q. Is that position vacant, to your knowledge?

2 A. Kathy is still involved with acquisitions but
3 reports directly to Juan. So there is not an
10:23 4 acquisitions person under Chris.

5 Q. What is the scope of Kathy Lindsey's job, if
6 you know?

7 A. Kathy is helping with the integration of
8 companies as we bring them into Oracle, the
10:23 9 integration into our renewals team. So if there are
10 concerns with contracts, concerns with how the data
11 is migrated into our system, those types of things.

12 Q. Which of the individuals on this page would
13 be involved with tracking competition between Oracle
10:23 14 and TomorrowNow?

15 A. Tracking?

16 Q. Or dealing with it in any way.

17 A. All of these individuals with the exception
18 of Sue, who is a project coordinator, would be
10:24 19 involved with renewals potentially, whether it's JD
20 Edwards or PeopleSoft involved.

21 Q. Could you turn to the next page, please?
22 Bates number ORCL00034316. Can you tell me what that
23 is?

10:24 24 A. This is an organization chart showing Chris
25 Madsen, who is responsible for renewal sales in North

1 MR. McDONELL: Counsel, I'm going to then
2 break for the day. See you next week. Thank you,
3 sir.

17:01

4 VIDEOGRAPHER: This marks the end of
5 videotape number four in the deposition of Richard
6 Cummins. Going off the record, the time is 5:02.

7 --o0o--

8 (Whereupon, the deposition was adjourned at
9 5:02 p.m.)

10 --o0o--

11

12 I declare under penalty of perjury that

13 the foregoing is true and correct. Subscribed at

14 Denver, Colorado, this 15th day of
15 October, 2008.

16

17

18

19

20

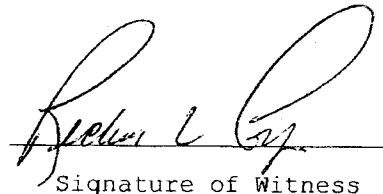
21

22

23

24

25

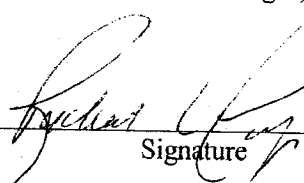

Signature of Witness

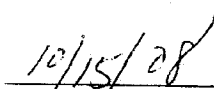
Errata Sheet

Deposition of Rick Cummins, September 16, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
41	21-22	Change "Juan's responsibility is service delivery manager." to "Juan is responsible for service delivery managers."	Clarification
124	14	Change "No, I haven't talked to customers." to "No, I haven't talked to hundreds of customers about TomorrowNow."	Clarification
151	1	Change "less" to "more"	Correction
174	23	Change "welcome" to "Oracle"	Correction
176	4	Change "Hutton" to "Hunt"	Correction
207	9	Change "McGee" to "Murquia"	Correction
219	22	Change "were new" to "renew"	Correction
232	4	Change "or doesn't" to "does or doesn't"	Correction
245	14	Change "IP" to "IT"	Correction

Subject to the above changes, I certify that the transcript is true and correct.


Signature


date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, WENDY E. ARLEN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

That before completion of the deposition, review of the transcript [☒] was [☐] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: October 2nd, 2008

Wendy E. Arlen
WENDY E. ARLEN CSR, No. 4355

RICHARD BLOTNER

July 23, 2008

HIGHLY CONFIDENTIAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a)
Delaware corporation, ORACLE)
USA, INC., a Colorado)
corporation, and ORACLE)
INTERNATIONAL CORPORATION, a)
California corporation,)

Plaintiffs,)

vs.) No. 07-CV-1658 (PJH)

SAP AG, a German corporation,)
SAP AMERICA, INC., a Delaware)
corporation, TOMORROWNOW,)
INC., a Texas corporation, and)
DOES 1-50, inclusive,)

Defendants.)

DEPOSITION OF
RICHARD BLOTNER

Wednesday, July 23, 2008

CONTAINS HIGHLY CONFIDENTIAL MATERIAL

REPORTED BY: CYNTHIA A. PACINI, CSR #6117, RMR, CRR
(01-411414)

Merrill Legal Solutions
(800) 869-9132

fa6333c2-5247-4156-8fef-c02a2d623366

1 starting 160553, there's a number of people who
2 appear under Mr. Boucher's name and several of them
3 have the letters GVP under their names.

4 What does GVP stand for?

5 A. Group vice president.

6 Q. Are those the senior vice presidents that
7 you referred to earlier?

8 MS. HOUSE: Objection. Overbroad.

9 THE WITNESS: In relation to what? The
10 North American sales level or the level below that?

11 MS. WALLACE: Q. I'm sorry. Yeah. Let
12 me clarify. So Mr. Boucher would be at the senior
13 vice president level. The people below that who
14 have GVP underneath their names, is that the first
15 level of VPs that you referred to under the senior
16 vice presidents?

17 A. Yes.

18 Q. And, I'm sorry, I forget. Was John
19 Boucher's organization the one that was organized
20 more along geographical lines?

21 A. Yes, it was.

22 MS. WALLACE: Let's mark this one as
23 Exhibit 5.

24 (Whereupon, Defendants' Exhibit 5 was
25 marked for identification.)

1 I declare under penalty of perjury that
2 the foregoing is true and correct. Subscribed at
3 SAN FRANCISCO, California, this 23 day
4 of July 2008.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



RICHARD BLOTNER

Merrill Legal Solutions



INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

This is the final version of your deposition transcript.

Please read it carefully. If you find any errors or changes you wish to make, insert the corrections on the errata sheet beside the page and line numbers.

If you are in possession of the original transcript, do NOT make any changes directly on the transcript.

Do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the transcript to your attorney.

ERRATA SHEET

Page Line

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

A handwritten signature, possibly "B", is written at the end of a long diagonal line that crosses through the "Reason" lines of the third and fourth entries in the errata sheet.

Page Line

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

Change: _____

Reason: _____

_____ Subject to the above changes, I certify that the transcript is true and correct.

X No changes have been made. I certify that the transcript is true and correct.

Richard Hitt
(signature)

8/19/08
(date)

1 CERTIFICATE OF REPORTER

2 I, CYNTHIA A. PACINI, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time and
9 place therein stated, and that the testimony of the said
10 witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;

12 That before completion of the deposition,
13 review of the transcript ☒ was [] was not requested.
14 If requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed are
16 appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto.

22 DATED: _____

8/5/08

23 Cynthia A. Pacini
24

25 CYNTHIA A. PACINI, CSR No. 6117

ORACLE USA, INC., ET AL

V.

SAP AG, ET AL

CASE NO. 07-CV-01658

SUPPLEMENTAL EXPERT REPORT OF PAUL K. MEYER

TM FINANCIAL FORENSICS, LLC.

FEBRUARY 23, 2010


PAUL K. MEYER

[REDACTED]

[REDACTED]
Vice President Customer Services, North America Support),

Juan Jones (Oracle Senior

[REDACTED]

From: <Kathleen.Lindsey>
To: <OSSINFO_US_APPR|Jim Stader>; <Chris Madsen>
Sent: Thursday, May 04, 2006 8:30 PM
Subject: [Fwd: Re: Situation at Haworth]

Jeff responded to this immediately.

----- Original Message -----

Subject: Re: Situation at Haworth
Date: Thu, 04 May 2006 13:29:15 -0700
From: Jeff Henley <jeff.henley@oracle.com>
Organization: Oracle Corporation
To: Craig Tate <craig.tate@oracle.com>
CC: John Boucher <john.boucher@oracle.com>, kathleen.lindsey <kathleen.lindsey@oracle.com>, tom.marth@oracle.com, "Smith, Sean" <SEAN.SMITH@oracle.com>, mike.schlingen@oracle.com, chaitovadi.sridhar@oracle.com
References: <200605042022.k44KMEuK026062@rgmgw1.us.oracle.com>

Got it. I agree we should try to salvage this account and not lose it to SAP. If we give them concessions we should probably ask for a multi year contract on support that they can't cancel to show good long term faith that they won't ultimately switch to SAP.

Craig Tate wrote:

Jeff,

Since you have acted in the capacity of Exec Sponsor in the past, I wanted to bring you up to speed quickly on Haworth. Attached you will find an Exec Briefing doc that spells out our history and the current issues. It's a bit lengthy, but it is a complex situation.

To net it out:

- To date, Haworth has spent over \$15m in net license
- They have deployed only 320 of the 2800 E-Bus users they are licensed for
- In their minds, they have over-spent \$1m/yr in Support over the past 5 yrs
- They have implemented SAP in Europe (originally acquired thru acquisition) and senior leadership views it as more successful than the Orcl project in North America - broader footprint, less time, less money
- They are facing a major directional decision on standardizing on one platform or the other going forward. Asia is the next major rollout
- They understand that many of the issues are of their own making, but feel there is enough blame on the part of Orcl that they are looking for us to help them out. 3 failed projects where Orcl played a major part: 12 sold thru Orcl, Global Payroll, Portal
- They are "asking" (strongly demanding actually) that we "park" the support on the balance of 2400 licenses they have on the shelf for now (up to 3 yrs, with a portion of them re-deployed each yr) and be allowed to bring them back without reinstatement fees/back support.
- We understand the revrec implications of this request but this goes beyond our accounting - there is a legitimate chance we could lose this account to SAP (who is pursuing them heavily with a very aggressive deal and offer to make a furniture buy). This would be a well-publicized loss and something we should work to prevent at all cost.

Again, the attached Exec Summary has more detail. I have tried twice to

Highly Confidential Information - Attorneys' Eyes Only

ORCL00272885

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	
Case No.	4:07-cv-01658 PJH/EDL
DEFENDANT Exhibit No. A-5997	
Date Admitted:	
By:	Nicole Heuerman, Deputy Clerk

escalate and get approval from HQAPP/OSSINFO. Many in the support org mgmt chain are also in agreement that this is a legitimate threat and the right thing to do.

Jeff - the reason I am giving you the heads-up is due to the likelihood you could be receiving a call shortly from Haworth's CEO. I know he has called you in the past when they were in a jam. We are working on yet another approval and to try to gain a compromise position with Haworth but I am concerned it won't be enough. Please let me know if Haworth reaches out to you and/or you would like to set up a briefing con call to discuss further.

Thanks,

Craig

Craig M. Tate
Group Vice President
North Central Applications

Oracle USA, Inc.
312 Elm Street
Suite 1525
Cincinnati, OH 45202

Phone: 513-629-2229 Mobile: 513-703-4529
Fax: 513-651-4463 Email: Craig.Tate@oracle.com

From: Mike Schlimgen [mike.schlimgen@oracle.com]
Sent: Friday, June 30, 2006 10:24 PM
To: Jeff Henley; Craig Tate
Cc: Keith Block; John Boucher; donna rahfs; Linda McFarland
Subject: RE: FW: FW: Phone conversation between Franco and Keith Block

Jeff/Craig:

FYI: I spoke with Jim Testa today, who is the lead from CSC working on the Haworth project (Jim is part of their Oracle practice, so he is on our side). He met with Ann yesterday at 5pm to get a status report on where things stand. He told me that she has really let her emotions take over her thought process (no... really?) and that, in his opinion, she has a personal vendetta against us, and that she will do anything to go the other direction.

This is nothing we didn't already suspect, however, it does triangulate the situation and further validates our action plan.

Regards,

Mike Schlimgen

-----Original Message-----

From: Jeff Henley [mailto:jeff.henley@oracle.com]
Sent: Friday, June 30, 2006 4:21 PM
To: Craig Tate
Cc: Keith Block; John Boucher; mike.schlimgen@oracle.com; donna rahfs; Linda McFarland
Subject: Re: FW: FW: Phone conversation between Franco and Keith Block

I don't intend to mention the Franco call unless she brings it up. The purpose is to get her feedback on what has transpired since she and Franco met us at lunch. If you guys want I can bring out our concern that she deck seems stacked against us, will we get a fair chance, etc. Otherwise, I will state that I'm just checking in to see how things are going and look forward to the weekly call (Mike knows the windows of time I be on a call). If she's true to form she will bitch and not be very positive. That will help me in the call with Franco.

The big problem is that the CEO will rarely overrule his team so if we torpedo her we probably guarantee we don't win but if we really aren't getting a fair shake and we're doomed to lose I think we should professionally let loose on Franco to try to show him what's really going on here.

Craig Tate wrote:

Thanks Jeff.

It was not unreasonable at all to expect that you could not make today's call given the late notice and small window, but we aren't dealing with a reasonable person. I didn't think it was unreasonable for me to suggest that Franco be extended an invitation to the calls as well but she blew a gasket when I did.

I think it is fine to reach out to her directly, just be careful. I am not sure if she is planning to be on the Franco call Monday. She was not on the email trail with Franco's admin, and I have been trying to keep it

Highly Confidential Information - Attorneys' Eyes Only

ORCL00747251

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
Case No. 4:07-cv-01658 PJH/EDL
DEFENDANT Exhibit No. A-6411
Date Admitted: _____
By: _____ Nicole Heuerman, Deputy Clerk

that way. I obviously don't want her on the call, but we need to be prepared that she may be on it if she finds out about it.

I'll send you and Donna the con call info. under seperate email

Regards,

Craig

From: Jeff Henley [<mailto:jeff.henley@oracle.com>]
Sent: Friday, June 30, 2006 3:59 PM
To: Craig Tate
Cc: Keith Block; John Boucher; mike.schlimgen@oracle.com; donna rahlf; Linda McFarland
Subject: Re: FW: FW: Phone conversation between Franco and Keith Block

I can be on the call Monday morning at 10 Calif time.

I could have been on the call today but I thought we should have a small team of people to clear the air and thrash through the initial list. Perhaps I should have been on the call but I doubt it would make a difference. The only time she gave us today was noon her time so I don't think it's unreasonable that I might have had something else at that one and only time slot today given the short notice.

I think I should also call Ann 1-1 as a followup to today's meeting. I'd suggest I try her Monday morning before our call with Franco. If she's true to form I'll probably just get voicemail but at least she can't say I didn't try to reach out.

Craig Tate wrote:

Jeff,

We have set up a call for Keith to talk to Franco on Monday at 10:00am PDT.

Please see my note below. On the weekly status call earlier today with Ann

Given your previous exposure to Franco and the tone of this conversation, I

Thanks,

Craig

-----Original Message-----

From: Keith Block [<mailto:Keith.Block@oracle.com>]

Sent: Friday, June 30, 2006 2:32 PM

To: Craig Tate

Cc: Linda McFarland; mike.schlimgen@oracle.com; John Boucher; Smith Sean P.

Subject: Re: FW: Phone conversation between Franco and Keith Block

i'd be willing to do this call in the morning next week whistler time.
fuck her. let's swing away. i think the approach should be if we are wasti

Craig Tate wrote:

Linda,

The response back from Franco's office was July 10th. I pushed back a Keith - I just got off a 1.5 hr status update call w/ the CIO and her I could be wrong, but I honestly don't think Franco has directed them Let me know what you think.

Craig

-----Original Message-----

From: Donna Walderzak [<mailto:Donna.Walderzak@Haworth.com>]
Sent: Friday, June 30, 2006 1:55 PM
To: Craig Tate
Subject: RE: Phone conversation between Franco and Keith Block

Craig,
Franco said he will talk with you on Monday from Italy.
Keeping the time difference in mind - he will be 6 hours ahead - what

Donna Walderzak
Executive Admin Assistant
One Haworth Center
Holland, MI 49423
Direct: 616.393.1959
Fax: 616.393.1033
Donna.walderzak@haworth.com

-----Original Message-----

From: Craig Tate [<mailto:craig.tate@oracle.com>]
Sent: Friday, June 30, 2006 1:32 PM
To: Donna Walderzak
Subject: RE: Phone conversation between Franco and Keith Block

Thank you!

Craig

-----Original Message-----

From: Donna Walderzak [<mailto:Donna.Walderzak@Haworth.com>]
Sent: Friday, June 30, 2006 1:28 PM
To: Craig Tate
Subject: RE: Phone conversation between Franco and Keith Block

Craig,
Franco is actually on vacation but I will be happy to forward your mes
Thank you.
Donna

Donna Walderzak
Executive Admin Assistant
One Haworth Center
Holland, MI 49423
Direct: 616.393.1959
Fax: 616.393.1033
Donna.walderzak@haworth.com

-----Original Message-----

From: Craig Tate [<mailto:craig.tate@oracle.com>]
Sent: Friday, June 30, 2006 1:26 PM
To: Donna Walderzak; Ann Harten
Subject: RE: Phone conversation between Franco and Keith Block

Donna,

Thanks for the response. My only concern is that Haworth is on a very

Regards,

Craig

-----Original Message-----

From: Donna Walderzak [<mailto:Donna.Walderzak@Haworth.com>]
Sent: Friday, June 30, 2006 12:16 PM
To: Ann Harten; Craig.Tate@oracle.com
Subject: RE: Phone conversation between Franco and Keith Block

That is correct. Franco will be leaving shortly after 2:00 PM today.
Monday, July 10, he could be available for a call at 6:00 PM EST.
Please advise.
Thank you.

Donna Walderzak
Executive Admin Assistant
One Haworth Center
Holland, MI 49423
Direct: 616.393.1959
Fax: 616.393.1033

Donna.walderzak@haworth.com

-----Original Message-----

From: Ann Harten
Sent: Friday, June 30, 2006 12:12 PM
To: 'Craig.Tate@oracle.com'; Donna Walderzak; Franco Bianchi
Subject: Re: Phone conversation between Franco and Keith Block

Craig

I am copying Donna to confirm that Franco is leaving today for Europe around 2:00 PM EST. Donna may be able to provide a suggested time for us to speak after he returns.

Ann

Ann M Harten
VP Global Information Services
Haworth, Inc.----- Sent from my BlackBerry
Wireless Handheld

-----Original Message-----

From: Craig Tate
To: Ann Harten
CC: mike.schlimmer@oracle.com
Sent: Fri Jun 30 11:52:33 2006
Subject: Phone conversation between Franco and Keith Block

Ann,

Keith has time between 3:30pm EST and 5:00pm EST today for a phone con

Craig

Craig M. Tate
Group Vice President
North Central Applications

Oracle USA, Inc.
312 Elm Street
Suite 1525
Cincinnati, OH 45202

Phone: 513-629-2229 Mobile: 513-703-4529
Fax: 513-651-4463 Email: Craig.Tate@oracle.com