

EXHIBIT 8

**Foundation for
A-5997**

Defendants' Trial Exhibit A-5997 – Foundational Support

- Joint Pretrial Statement – Undisputed facts section (identifying Jeff Henley as Oracle's chairman of the board)
- ORCL00034267 (Oracle organizational chart identifying Jeff Henley as Oracle's chairman of the board)
- ORCL00160564 (Oracle organizational chart identifying Craig Tate as Oracle GVP (group vice president))
- Ellison Nov. 8, 2010 Trial Tr. at 781:10-14 (Larry Ellison testifying that Mr. Henley is Oracle's chairman of the board)
- Blotner July 23, 2008 Depo. Tr. 118:4-5 (Rule 30(b)(6) testimony indicating that, at Oracle, "GVP" stands for group vice president)
- A-6411 (Oracle production document listing Craig Tate as Oracle Group Vice President, North Central Applications in 2006, located at ORCL00747255)

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TomorrowNow, Inc.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

22 ORACLE USA, INC., *et al.*,

23 Plaintiffs,

23 v.

24 SAP AG, *et al.*,

25 Defendants.

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

JOINT PRETRIAL STATEMENT

Date: May 24, 2012
Time: 2:30 pm
Place: 3rd Floor, Courtroom 3
Judge: Hon. Phyllis J. Hamilton

1 99. Charles Phillips was the Co-President of Oracle from some time in 2004 to 2010

2 100. Safra Catz is the President of Oracle and has held this position since 2004.

3 101. Safra Catz was the Chief Financial Officer of Oracle from 2005 to 2008.

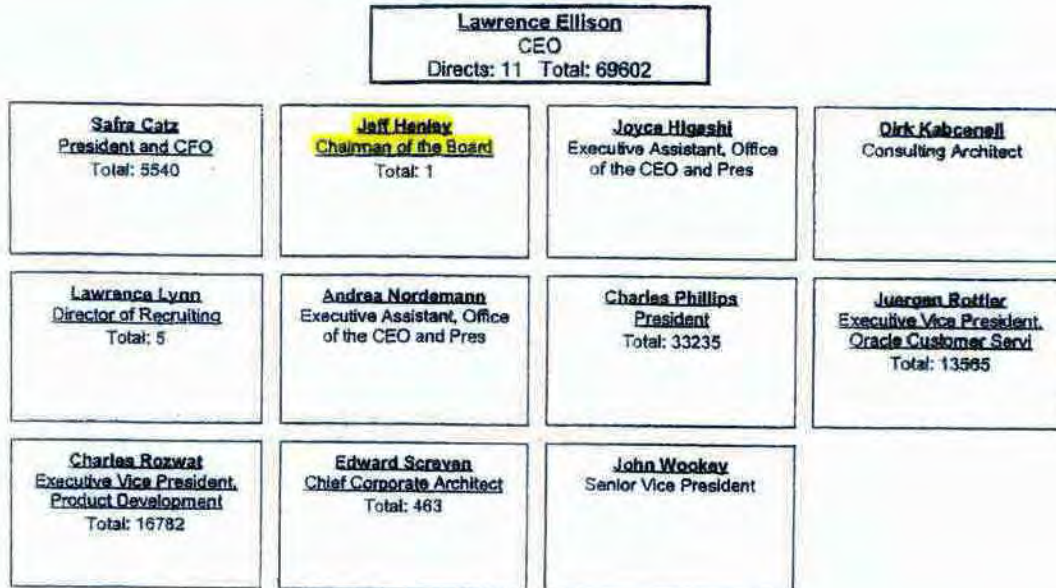
4 102. Jeff Henley is Oracle's Chairman of the Board and has held this position since
5 2004.

6 103. On or about January 8, 2009, Defendants produced a customer report of financial
7 information with the file name "SAP-OR 00603615_SAP Customer Report.xls" in connection
8 with the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL).
9 That document, bates-stamped SAP-OR00603615, is a true copy of an SAP business record that
10 was: (a) made at or near the time of the occurrence of the matters set forth therein, by, or from
11 information transmitted by, a person with knowledge of those matters; (b) kept in the course of
12 regularly conducted business activity; and (c) made by the regularly conducted business activity
13 as a regular practice.

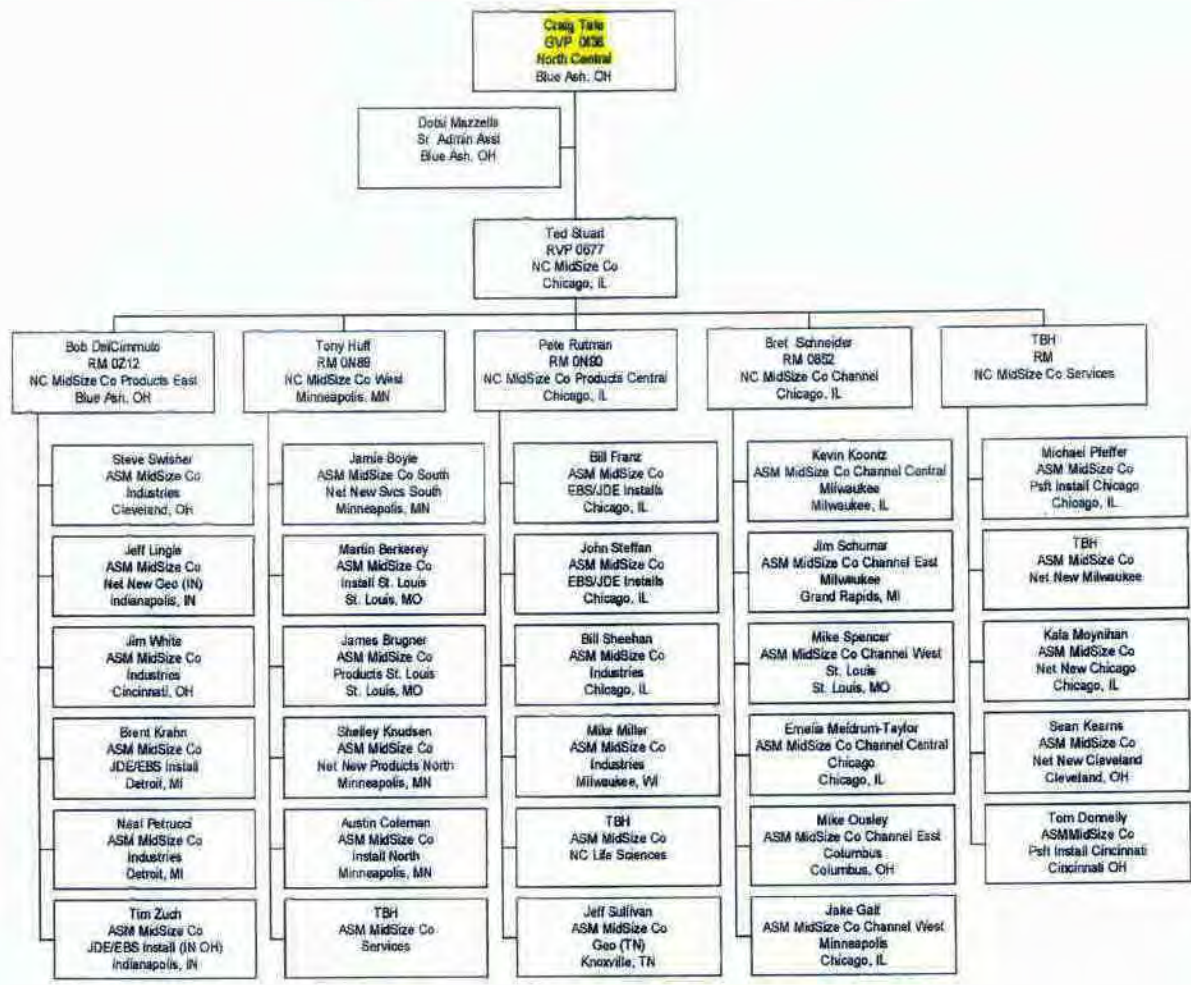
14 104. On or about July 15, 2009, Defendants produced a customer report of financial
15 information with the file name "SAP Customer Report July 2009 Update.xls" in connection with
16 the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658 PJF (EDL). That
17 document, bates-stamped SAP-OR00789887, is a true copy of an SAP business record that was:
18 (a) made at or near the time of the occurrence of the matters set forth therein, by, or from
19 information transmitted by, a person with knowledge of those matters; (b) kept in the course of
20 regularly conducted business activity; and (c) made by the regularly conducted business activity
21 as a regular practice.

22 105. On or about November 4, 2009, Defendants produced a customer report of
23 financial information with the file name "SAP Customer Report Updated 10-30-09.xls" in
24 connection with the litigation *Oracle USA, Inc. et al. v. SAP AG, et al.*, Case No. 07-CV-01658
25 PJF (EDL). That document, bates-stamped SAP-OR00841587, is a true copy of an SAP
26 business record that was: (a) made at or near the time of the occurrence of the matters set forth
27 therein, by, or from information transmitted by, a person with knowledge of those matters; (b)
28 kept in the course of regularly conducted business activity; and (c) made by the regularly

ORACLE Aria People Search



NA Commercial Apps Organization ERP North Central MidSize Co



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE CORPORATION, ET AL.)	JURY TRIAL
)	
PLAINTIFFS,)	NO. C 07-01658 PJH
)	
VS.)	VOLUME 5
)	
SAP AG, ET AL.,)	PAGES 754 - 946
)	
DEFENDANTS.)	OAKLAND, CALIFORNIA
)	MONDAY, NOVEMBER 8, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:

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REPORTED BY:

RAYNEE H. MERCADO, CSR NO. 8258
DIANE E. SKILLMAN, CSR NO. 4909
RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR (510) 451-7530

1 Q. IF YOU WOULD TURN IN YOUR BINDER TO A4089.

2 A. (REVIEWING DOCUMENTS.)

3 Q. ARE YOU THERE, SIR?

4 A. I AM.

5 Q. THANK YOU.

6 AND YOU SEE THAT THAT'S AN EMAIL EXCHANGE BETWEEN
7 JEFF HENLEY AND MS. CATZ, AND YOU'RE COPIED THERE.

8 YOU SEE THAT?

9 A. I DO.

10 Q. WHAT WAS MR. HENLEY'S JOB AT THE TIME? THIS IS MARCH OF
11 2005.

12 A. HE WAS THE CHAIRMAN OF OUR BOARD OF DIRECTORS.

13 Q. SO TO THE EXTENT YOU HAVE A BOSS, HE WAS YOUR BOSS?

14 A. CORRECT.

15 Q. AND MS. CATZ, SHE WAS REPORTING DIRECTLY TO YOU AT THE TIME?

16 A. THAT'S CORRECT.

17 Q. SHE STILL DOES?

18 A. YES.

19 Q. SOMEBODY YOU TRUST AND RELY ON, I ASSUME.

20 A. YES.

21 MR. LANIER: YOUR HONOR, WE MOVE ADMISSION OF 4089.

22 MR. BOIES: NO OBJECTION.

23 THE COURT: ALL RIGHT. ADMITTED.

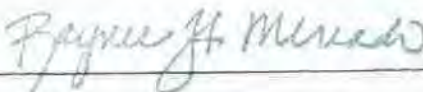
24 (DEFENDANTS' EXHIBIT A4089

25 RECEIVED IN EVIDENCE)

1
2
3 CERTIFICATE OF REPORTER

4 WE, RAYNEE H. MERCADO AND DIANE E. SKILLMAN, OFFICIAL
5 REPORTERS FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF
6 CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN
7 C07-01658PJH, ORACLE USA, INC., ET AL. V. SAP AG, ET AL., WERE
8 REPORTED BY US ON, MONDAY, NOVEMBER 8, 2010, CERTIFIED
9 SHORTHAND REPORTERS, AND WERE THEREAFTER TRANSCRIBED UNDER OUR
10 DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL,
11 COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY US AT
12 THE TIME OF FILING.

13 THE VALIDITY OF THE REPORTER'S CERTIFICATION OF
14 SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL
15 FROM THE COURT FILE.

16
17 

18 RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR

19
20 

21 DIANE E. SKILLMAN, CSR, RPR, FCRR

22
23 TUESDAY, NOVEMBER 9, 2010
24
25

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)

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(800) 869-9132

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.)

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I declare under penalty of perjury that
the foregoing is true and correct. Subscribed at
San Francisco, California, this 23 day
of July 2008.



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: _____

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Page Line

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RB

____ 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.

Richard Det
(signature)

8/19/08
(date)

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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

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 rahifs; Linda McFarland
Subject: RE: FW: FW: Phone conversation between Franco and Keith Block

Jeff/Craig:

FY: 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 rahifs; 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 rahfs; 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.schlimgen@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