

Timothy C. Rote

From: Timothy C. Rote [tim@nwdirectmarketing.com]
Sent: Tuesday, November 11, 2003 4:34 PM
To: Max Z
Cc: John Weil
Subject: RE: I'm coming out.

At the time did you understand his computer to be on top of (the) that you could not back (up)

As you know Max, the last time I came out your hard drive crashed, a coincidence I do not want to repeat or risk. I'm sure we will have key files on the hard drive and I don't want the computer showing up broken, anticipating you will be blaming that on the shipping company. It is worth it to me to come out.

However, you can minimize your time with me by copying the entire contents of your harddrive and transferring it to the Eugene server, where a computer consultant will be waiting to review the contents of your files.

Make a list, as of right now, of the files you have transferred to the Eugene server as mandated over one week ago and e-mail it to me.

I will be in at 11 am. I expect you to meet me tomorrow afternoon at 1 PM to go over the product of your extraordinary contribution to the company over the past two years.

John Weil can not communicate with you, as you know. You should e-mail your own attorney.

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

From: Max Z [mailto:max@nwtelemarketing.com]
Sent: Tuesday, November 11, 2003 3:45 PM
To: Tim Rote
Cc: JWeil@hoooplw.com
Subject: RE: I'm coming out.
Importance: High

After giving this a lot of thought, I do not think you coming here is a good idea. From the day I informed you of illegal activities at Northwest, your behavior in my opinion, has been very erratic. You have continually berated me with verbal abuse and have accused me of running a "scam" here.

Quite frankly, the idea of meeting you alone at an airport hotel is very intimidating under the circumstances, nor am I inviting you to my home for the same reasons.

It is unfortunate that our working relationship is ending in such a manner. This email is not intended to anger you, but again, I feel that it would be inappropriate for us to meet.

With regards to Northwest's equipment, I propose that I send it to your lawyer's office with a complete inventory and an acknowledgment of receipt. He will then make a copy and send me back the signed original. As an officer of the court, I trust him to be forthright about what he has received back from me. Of course, I will thoroughly document everything sent on my end.

I will of course need your fed-ex account number to get this done, along with the address of your attorney.

Arb Ex 1
Page 251

**DEFENDANT'S
EXHIBIT**
521

NTIAL

Unknown

From: Max Z [max@nwtelemarketing.com]
Sent: Tuesday, November 11, 2003 5:06 PM
To: Timothy C. Rote
Subject: RE: I'm coming out.

ok

I am giving you your computer with your files on it. There is no "transfer". Knowing what I know of your history I do not feel at all safe meeting with you.

You may send anyone but yourself to my house and I will bring the computer to curbside and they may place it in their vehicle, along with everything else I have that belongs to Northwest. Please let me know a specific time and date to expect them.

They will need to sign an acknowledgement of receipt for the inventory they take.

or

I will ship the computer to Eugene. All the data that exists on this computer also exists either in Dyersville or Eugene. I have nothing else.

difference between data and program?

For someone to take over what I do they would need to be at a similar skill level as I am. They would then get all recent client specs, and do the work as I did the first week I came here. I don't know why I have to keep telling you there is no magic program that does all of this, it is a skill.

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

From: Timothy C. Rote [mailto:tim@nwdirectmarketing.com]
Sent: Tuesday, November 11, 2003 7:13 PM
To: Max Z
Subject: RE: I'm coming out.

Max, I'm coming out to meet and go over the extent of the files you have on your computer, to make sure they are transferred, etc. Its no different than demanding you come here, except that I'm coming to you and meet in a conference room at the Sheraton Hotel.

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

From: Max Z [mailto:max@nwtelemarketing.com]
Sent: Tuesday, November 11, 2003 3:45 PM
To: Tim Rote
Cc: JWeil@hooplaw.com
Subject: RE: I'm coming out.
Importance: High

After giving this a lot of thought, I do not think you coming here is a good idea. From the day I informed you of illegal activities at Northwest, your behavior in my opinion, has been very erratic. You have continually berated me with verbal abuse and have accused me of running a "scam" here.

Quite frankly, the idea of meeting you alone at an airport hotel is very intimidating under the circumstances, nor am I inviting you to my home for the same reasons.

It is unfortunate that our working relationship is ending in such a manner. This email is not intended to anger you, but again, I feel that it would be inappropriate for us to meet.

o Northwest's equipment, I propose that I send it to your lawyer's office e inventory and an acknowledgment of receipt. take a copy and send me back the signed original. As an officer of the court, be forthright about what he has received back from me. Of course, I will uement everything sent on my end.

DEFENDANT'S
EXHIBIT

521

1 forms and programs for work that has been requested.
2 So Mr. Rote had been requesting this, and you were
3 responding to that back in May of 2003?

4 A. That's true. This is the only time that
5 Mr. Rote had requested this this way. He requested
6 that they be zipped up and sent to him and to Brett.

7 Q. Okay. So you understood that, and you
8 were able to honor that request at that time, and
9 this was before -- well, already -- obviously, back
10 in May of 2003?

11 A. Okay. I --

12 Q. Did you ever respond to Mr. Rote in a
13 similar fashion on any of the other occasions in
14 which he was requesting you provide these programs
15 --

16 A. No, I -- I've already answered no with an
17 explanation, and my attorney will give me an
18 opportunity, I imagine.

19 Q. Okay. Now, turning back to Exhibit 251.

20 MR. CROW: Exhibit 251?

21 BY MR. CLIFF:

22 Q. I'm sorry, Exhibit 1, Page 251.

23 A. Okay.

24 Q. Mr. Rote on that occasion proposed that
-- one option would be to transfer the computer

**DEFENDANT'S
EXHIBIT**

521

Naegeli Reporting
"The Deposition Experts"

(800) 528-3335
NaegeliReporting.com

Serving all of Washington, Oregon, Idaho and the Nation
Selected "Best Court Reporting Firm"

1 files without having to physically do it?

2 A. Um-hum.

3 Q. Okay. "Just to minimize your time with
4 me, by copying the entire contents of your hard
5 drive and transferring it to the Eugene server."
6 Okay.

7 Now, you didn't -- you didn't do that, did
8 you?

9 A. I may have talked to Tim about this. I
10 don't know. But I think -- isn't there an e-mail
11 answering this saying something about there is no
12 transfer?

13 Q. Right, the following page.

14 A. Okay.

15 Q. You told Mr. Rote there is no transfer?

16 A. Um-hum.

17 Q. Okay. So you understood that he was
18 coming out to preserve -- because he was concerned
19 about the integrity of the data that you had in your
20 possession, correct?

21 A. I understood that's what he was saying.
22 It didn't make a lot of sense, but I understood
23 that's what he was saying. And I have two different
24 strings to this e-mail.

Q. I want you to focus on Exhibit 252.

**DEFENDANT'S
EXHIBIT**

521

Naegeli Reporting
"The Deposition Experts"

(800) 528-3335
NaegeliReporting.com

Serving all of Washington, Oregon, Idaho and the Nation
Selected "Best Court Reporting Firm"

1 A. Okay.

2 Q. You told him -- and I am sorry, Page 252.

3 All the -- all the data that -- however you
4 pronounce it -- that exists on this computer also
5 exists in either Dyersville or Eugene.

6 A. Okay, right.

7 Q. Now, you understand the difference between
8 data and programming, correct?

9 A. May I have an opportunity to --

10 THE COURT REPORTER: I'm sorry. Between
11 data and what?

12 MR. CLIFF: Programming.

13 A. Programming and data.

14 BY MR. CLIFF:

15 Q. Yes. So you were telling Mr. -- Mr. Rote
16 was saying I want your programs, among other things,
17 and your response was all the data that you knew
18 exists in these locations, correct?

19 A. That is what I said.

20 Q. Okay, thank you.

21 A. With an explanation.

22 Q. Okay. Now --

23 A. Would you --

24 MR. CROW: No. You answered the question.

THE WITNESS: Okay.

DEFENDANT'S
EXHIBIT

521

Naegeli Reporting
"The Deposition Experts"

(800) 528-3335
NaegeliReporting.com

Serving all of Washington, Oregon, Idaho and the Nation
Selected "Best Court Reporting Firm"

1 BY MR. CLIFF:

2 Q. You agree that Mr. Rote did not come to
3 your house to physically pick up the -- the
4 equipment that you've discussed until November 13;
5 is that correct?

6 A. Yes. Yes, sir, that's correct.

7 Q. Okay. And I assume it's your testimony
8 that you did not delete any files from any of the
9 equipment you had in your possession; is that
10 correct?

11 A. That's also correct.

12 Q. Okay. And at that time, you didn't, for
13 lack of a better term, re-reformat the 120-gig
14 drive, correct?

15 A. Correct, sir.

16 Q. Okay. And the e-mails that you sent and
17 received related to Northwest Direct, both when you
18 had the -- the 120-gig drive in the machine, and
19 also when you had the 60-gig drive, those were all
20 sent and received on -- on the Sony Vaio machine; is
21 that correct?

22 A. That is correct. Yes, it is.

23 Q. So when the -- when the 120-gig drive
24 failed, you would have lost access to those e-mails,
rect?

DEFENDANT'S
EXHIBIT

521

Naegeli Reporting
"The Deposition Experts"

(800) 528-3335
NaegeliReporting.com
Serving all of Washington, Oregon, Idaho and the Nation
Selected "Best Court Reporting Firm"