

14 Q. Okay. Well, my name is Scott Cliff and I,
15 as you know, you've been talking with me trying to
16 set this up. I represent Northwest Direct and I'm
17 going to ask you some questions and then the
18 attorney Linda Marshall who's representing Mr.
19 Zweizig will have some questions for you as well.
20 And we may go back and forth a little bit until
21 we're both done with our questioning.

22 A. Sure.

23 Q. Could you spell your -- state and spell
24 your full name for the record please?

25 A. Sure. It's James, last name is Gedye, G
Arbitration

Taken On May 25, 2010 NRC File # 12564-2 Page 355
1 e-d-y-e. First name James. Common spelling.

2 Q. Okay. Thank you. And what is your
3 profession?

4 A. I am director of technical services for
5 Teleformix LLC.

6 Q. Okay. And could you just give us a brief
7 background of your education and vocational
8 experience, please.

9 A. Sure. I've been working in -- I have a
10 bachelors in science from Northern Illinois
11 University, computer science. I've been working in
12 the call center industry for over 15 years. The
13 last ten years that we've been in business with
14 Teleformix, we had a client where we were actively
15 using the EIF dialer, which is what Northwest Direct
16 uses. So we -- we integrated with that dialer and
17 we're, I would say, probably considered experts in
18 that matter.

19 Q. Okay.

20 A. And then we've since kind of gotten away
21 from that business because of downturn in outbound
22 telemarketing, but I'm still very familiar with
23 those platforms.

24 Q. Okay. And what sort of work have you done
25 personally regarding the computer -- the IT services
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 356
1 for the telemarketing industry?

2 A. In my previous position I basically ran,
3 not only all of the IT in our call center. I was
4 also in charge of all of our inbound telemarketing.
5 And since being with Teleformix, I have done
6 everything from the scripting to back end processing

7 to database administration. So I've -- hardware
8 network support. So I have a pretty broad
9 background across the spectrum, a pretty wide
10 spectrum.

11 Q. Okay. And I'm not sure I got the name.

12 What's the name of the employer you worked for
13 before you joined Teleformix?

14 A. It was -- at the time was -- oh, God.

15 What was it called? It -- Teleformix became -- kind
16 of merged out of that. United Marketing Group,
17 which is one of Northwest Direct's clients, became -
18 - they had the company I worked for prior to -- they
19 became part of United Marketing Group. So it was MC
20 Club Services. Before that I also worked for
21 Results Telemarketing. I also worked for AMOCO Oil
22 in their telemarketing facilities.

23 Q. Okay. And are you familiar with the types
24 of programs that are used to -- the types of
25 software that are used to write programs for the

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 357
1 telemarketing industry?

2 A. If you're in relation to the EIF dialer,
3 specifically, yes, I am.

4 Q. Okay. What sort of programs did they use?

5 A. That system is based off of either a dBase
6 3, which would be your FoxPro or FoxBase, depending
7 on which OS you're working on. Whether you're
8 working in a Windows environment or a UNIX
9 environment.

10 Q. Okay. Which is the FoxPro?

11 A. FoxPro is -- was Windows.

12 Q. Okay.

13 A. But the files are compatible so you can
14 write stuff on the UNIX servers, move them to
15 Windows, and vice versa.

16 Q. Okay. Let's talk about FoxPro. Is that a
17 program that was being used by some companies in the
18 telemarketing industry? We're now talking, of
19 course, back in the early 2000s, 2001 through 2003?

20 A. Yeah, different -- certainly different
21 versions of FoxPro were being used.

22 Q. Okay. Now, when -- when you write a
23 program in FoxPro, can you just kind of walk -- walk
24 us through what that entails in terms of writing a
25 program for a telemarketing client. Let's just say

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 358

1 for importing?

2 A. Well, I mean, it's pretty much the same.

3 I guess the general concept of any programming
4 language, you have your source data in some sort of
5 file, be it a flat file or some sort of text file,
6 Excel file, something, and then you use the APIs of
7 the programming language to read it into the
8 database engine, and in the case of the
9 telemarketing software, it was FoxPro or FoxBase as
10 the database engine.

11 Q. Okay. And again, we'll just be talking

12 about FoxPro in this case.

13 A. They're one in the same.

14 Q. Okay. So in your experience in the
15 telemarketing industry, given the number of -- the
16 amount of data that comes through, is it possible to
17 essentially manage that manually on a case-by-case
18 basis without writing programs that handle those
19 functions?

20 A. You could, but it would be extremely,
21 extremely tedious and very, very error prone.

22 Q. Okay. And let's say --

23 A. So in a -- any sort of programmer that's
24 even reasonable would write programs to do it.

25 Q. Okay.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 359

1 A. Especially if you had repetitive things
2 that were being done over and over and over again.

3 Q. Okay. And when you write such a program,
4 are there any sort of protocols for how you would
5 name that program, in particular the extension, that
6 is the last part?

7 A. Yeah, usually FoxPro I believe was dot
8 PRG. It also had a number of different ones relating
9 to forms. If you're using visual forms, reporting.
10 I don't remember what those are off the top of my
11 head.

12 Q. Okay.

13 A. But, yeah, there are specific extensions.

14 Q. And back -- do you do much in FoxPro
15 anymore?

16 A. No, not at all.

17 Q. Okay. Why is that?

18 A. We don't have any clients that use that
19 dialer anymore. And it is antiquated language.

20 Q. Okay. When was the last time you did work

21 in FoxPro that you can recall?

22 A. Probably 2004, 2005 maybe, at the latest.

23 Q. Okay. Taking you back to 2003, were you

24 still intimately familiar with FoxPro programming?

25 A. Absolutely.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 360

1 Q. Okay. Were you at some point retained by

2 Northwest Direct to perform some services?

3 A. I was not personally. Teleformix, as a

4 company, was retained by Northwest.

5 Q. Okay. And I'm just going to ask you for

6 the moment about your personal involvement.

7 A. Sure.

8 Q. When did you first become involved

9 personally in work -- doing work for Northwest?

10 A. I believe it was late November 2003.

11 Q. Okay. Just summarize for us what -- what

12 it was you were called upon to do and, you know,

13 what you did, where you did it, that sort of thing?

14 A. Sure, we were -- my boss had received a

15 call from Mr. Rote, basically knowing our experience

16 with the software, there were a couple of employees

17 with Northwest at the time that were familiar with

18 our company and what we do, and basically we were

19 called to ask for assistance in getting their sales

20 files out to their clients, getting reporting out to

21 their clients, because of, you know, whatever the

22 situation with their IT staff was, they needed

23 assistance.

24 So I -- basically what we did on -- with

25 in a 24-hour notice after talking to Tim, I was on a

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 361

1 plane to Eugene. Spent two or three days out there

2 working with -- I know I'm going to mess up his

3 name. Gunawan?

4 Q. Would it be Gunawan Darmadi?

5 A. Yes. I always called him G because it was

6 easier.

7 Q. Right.

8 A. Worked with him basically, and Tim, the

9 account manager, Brent. I don't remember his last

10 name. It started with a K.

11 Q. Kawiuk?

12 A. Yeah, that's it.

13 Q. Okay.

14 A. Basically worked with them on trying to

15 get specifications. No one seemed to have any of
16 the specifications on what these sales files, what
17 the format was supposed to be, what the -- you know,
18 fixed fields, what codes were supposed to be in to
19 the clients. We could not find any programs with
20 dot PRDs. We searched, not only the Call Manager,
21 which is what the dialing software is, but there I
22 believe there was a Windows machine as well. And we
23 looked for them. Couldn't find anything. So while
24 we were out there what I ended up essentially doing
25 was rewriting everything from scratch and -- and
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 362

1 then when I came back to Chicago I documented the
2 programs for Northwest to say here's how you can use
3 these going forward, you know, here's the code,
4 here's where they're at, all those components.

5 Q. Okay.

6 A. And then we continued to do some work, I
7 believe, for probably another month or two on and
8 off for Northwest basically consulting on anything
9 from scripting to some networking components to new
10 project development.

11 Q. Okay. I want to take you -- thank you for
12 that summary. That covers a lot of ground. I want
13 to ask some questions in a little bit more detail.

14 A. Sure.

15 Q. When you -- when you looked for the
16 programs you were describing, you described the PRG
17 extension. Did you search other extensions at the
18 time that might have been associated with FoxPro
19 programs?

20 A. I'm sure we probably did.

21 Q. Okay. It's been a long time ago so --

22 A. Like I said, I just don't remember what
23 those extensions all are anymore.

24 Q. Well, just to be clear, I'm not asking to
25 you speculate, but do you recall making an effort to
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 363

1 -- a diligent effort to find those programs?

2 A. Yes, I do.

3 Q. Okay. And at the time do you recall
4 making your best effort to find those searching
5 under whatever extensions you were aware of at the
6 time?

7 A. Yes, I did.

8 Q. Okay. And you didn't find any programs?

9 A. We did not. We found some output files,
10 so basically files that were created from programs
11 and we kind of used those as our template to reverse
12 engineer, as it were, the program so that we could
13 rewrite some of the code.

14 Q. Okay.

15 A. We didn't have really any documentation on
16 what the files were supposed to look like. One of
17 the clients, United Marketing Group, since it was
18 our sister company I was intimately familiar with
19 their layouts so I didn't really need a lot of
20 documentation. So that code I could pretty much
21 write without needing samples. But some of their
22 other clients we had to kind of -- we had to work
23 our way backwards.

24 Q. Did you find any sort of documentation of
25 client -- client needs regarding the IT department?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 364

1 A. Not that I recall.

2 Q. Any documentation regarding procedures for
3 serving client needs?

4 A. Not that I recall.

5 Q. Did you find any -- any indications that
6 there was some sort of a directory on the computer
7 that would have helped people find the FoxPro files
8 for these various clients?

9 A. Not that I recall either.

10 Q. Did any of the IT staff that you were
11 working with, or Mr. Kawiuk, were they at all
12 familiar with how to find these files, program
13 files? And I'm referring to programs now, not the
14 data files.

15 A. Sure. Brent certainly would not have
16 been. He wasn't even on-site, I don't believe. And
17 G was the only other person that I worked with. He
18 -- I mean, we were using, you know, Windows search
19 stuff. And I don't think he was familiar with the
20 finds we were doing the UNIX systems.

21 Q. Okay. Now, I can't recall the timing
22 here. Was -- was Chris Cox involved in any of this
23 at all, do you recall?

24 A. I believe he was gone by the time I got
25 out to Eugene.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 365

1 Q. Okay. Now, you mentioned that -- I being
2 you mentioned earlier in your narrative that you --

3 there was a -- I think you said a Windows-based
4 machine there as well. You mentioned you looked at
5 the -- you searched on the servers?

6 A. Correct.

7 Q. About you also searched another computer.

8 Do you recall that testimony just a few moments ago?

9 A. Yeah, it was the machine Tim had

10 identified where he believed the code should be or
11 was told that the code should be.

12 Q. Okay. And what -- what, if anything, did

13 you find on that machine in terms of FoxPro

14 programs?

15 A. Like I said, I think we found some of the

16 sample outputs on there but we did not find any

17 actual code.

18 Q. Okay. Okay. Well, I'm going to now take

19 you through some of the -- some of the exhibits in

20 this case. Do you have a packet of exhibits that I

21 sent to you yesterday?

22 A. I do.

23 Q. Okay. Turning your attention to Exhibit

24 97-1. That's 97, page 1.

25 A. Okay.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 366

1 Q. And looking down -- actually it starts on

2 page 2, the string starts. But it looks like -- can

3 you just summarize what -- what you were

4 communicating to Mr. Rote at this point. Was this

5 your -- as far as you recall, was this one of your

6 first communications with Mr. Rote about the

7 project?

8 A. This was -- no, this was actually probably

9 about a week or two later.

10 Q. Okay.

11 A. This was already after we had already -- I

12 had already been on-site and had then back to

13 Chicago and we had kind of -- I had worked with G on

14 figuring out hey, how do you scrub the national

15 lead? How do you load new leads into the dialer?

16 How do you run some of the things? How do you do

17 some of the scripting? Was some of the stuff that I

18 kind of referred to.

19 And then I spent time, you know, a lot of

20 phone support time on the phone with him as well,

21 just if he was asking questions or didn't quite

22 understand something.

23 Q. Okay. Turning to nine -- page 2 of 97, it
24 looks -- you state in the second paragraph from the
25 bottom there, it says, "An issue of great concern is
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 367

1 network connectivity. Right now the only way to
2 connect is via PC Anywhere or Microsoft Terminal
3 Services. Using those tools makes it extremely
4 difficult to do any scripting slash programming on
5 your system." What was your concern there?
6 A. Sure. Well, it was basic connectivity
7 into their system, be it into the Eugene facility or
8 the Dyersville facility, was how do we get access --
9 excuse me -- to their system to do work. I mean, we
10 needed all the inventories there, the phone numbers,
11 the programming, everything that you need to do is
12 on those machines to get it ready for the dialing.
13 And using PC Anywhere or Microsoft Terminal
14 Services, it was difficult because it was over a
15 dial up, I believe, connections would drop
16 occasionally or be really slow. So especially doing
17 Windows, it's graphical, you can't do that stuff
18 over a slow connection. It's just painful to do.

19 Q. Well, let me make sure I understand.
20 Which connection -- are you talking about the
21 connection into Northwest Direct?

22 A. Right, from our office in Chicago to their
23 office in either Eugene or Dyersville.

24 Q. So when you say it was dial up, was that
25 dial up because that's what you -- what you were
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 368

1 using at your end or that's all they had there?
2 A. That's what they had available. That's
3 kind of what I referenced in the -- in the e-mail
4 was we knew that they were a VPN. They had Internet
5 access into so we could do VPN, which is a virtual
6 private network so it's secure, into their site, so
7 now we're doing Internet speeds versus dial up over
8 a modem. But at that time she didn't know how to
9 get it working.

10 Q. Okay. So turning your attention to --
11 well, let me ask you. Can you -- can you identify
12 the -- the documents in Exhibit 97 through page 6.
13 Are those all e-mails in which you were a
14 participant?

15 A. Yeah, it looks like it.

16 Q. Okay. Do they all appear to be true and

17 accurate copies as far as you can tell or can
18 recall?

19 A. Yes, as far as I can tell.

20 Q. Okay. At some point did you discover --
21 make a discovery about the firewall for the Eugene
22 server?

23 A. Yeah, I do believe it was after -- I think
24 it was after I was on-site in Eugene and when we
25 were trying to figure out some of this connectivity
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 369

1 between Eugene and Dyersville, or then again, how
2 can we remotely support them. We did find that
3 there was a Windows machine that loads directly on
4 the Internet and found that there was no firewall
5 running on it. You could -- we could do remote
6 scans once we figured out what the IP address was
7 from our office and I could have essentially taken
8 control of that machine via, you know, some
9 malicious exploit of -- you know, that are out there
10 in the wild for Microsoft stuff.

11 Q. Which -- which machine was that? Was -- I
12 know there's been reference in --

13 A. I think it was just a Windows file server
14 they had on-site. It wasn't actually one of -- you
15 know, it was another server just like I would assume
16 in the office you're in now they have a file server
17 where they share documents and have printers set up,
18 that kind of thing.

19 Q. Okay. I just want to be sure I
20 understand. I think there's been testimony regarding
21 servers in this case which I understand may not have
22 actually -- was -- may not have actually been true
23 servers in the technical sense?

24 A. Sure.

25 Q. Just to be clear, was the machine that was
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 370
1 not firewall protected, was that one of the machines
2 that the programming was written on or should have
3 been on?

4 A. I don't believe that it was.

5 Q. Okay. Was there something that they
6 referred to as an administrative server?

7 A. That, I believe, was the machine that they
8 brought back. I'm not sure how they referenced
9 them. I don't remember.

10 Q. Okay. Well, I'm trying to get a handle on

11 which one didn't have the firewall. The one that
12 didn't have the firewall --

13 A. That could have been the administrative
14 one. I don't know how they were referred to them. I
15 don't remember anymore.

16 Q. Okay. Let me direct your attention to the
17 -- the document in front of you that would be marked
18 Exhibit 24, and actually 24 through 28.

19 Do you have those in front of you?

20 A. Yep, the invoices.

21 Q. Okay. Are these true and accurate copies
22 of invoices sent by your company Teleformix to
23 Northwest Direct?

24 A. Yes, they are.

25 Q. Okay. Did they -- as far as you can
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 371

1 recall, do they accurately represent services or
2 costs and fees billed by Teleformix to Northwest for
3 the services you were performing?

4 A. Yes, they do.

5 Q. Okay. Now, I forgot to ask you. Maybe
6 you mentioned this in your narrative. But did you -
7 - did you have any on-site visit to the Northwest
8 call center in Dyersville, Iowa?

9 A. Yeah, actually I believe I personally made
10 two visits out there, and during my second visit I
11 also brought one of our PC slash network engineers
12 along with as well.

13 Q. Okay. And during one or both of those
14 visits did you also search for any FoxPro programs
15 that might have been on those servers?

16 A. Yes, I did.

17 Q. Did you find any?

18 A. Nope. I do not remember finding any.

19 Q. Okay. And on that occasion did you also
20 search for any -- any extensions that you were aware
21 of at the time that might have been used for FoxPro
22 to --

23 A. Yeah, we did basically the same types of
24 searches that we did when I was in Eugene.

25 Q. Okay. Let me ask you this. In terms of
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 372

1 how a file is saved, can -- could I -- if I were in
2 your profession, could I basically file it under any
3 extension? In other words, can I make up my own
4 extension, dot STC for instance?

5 A. Sure you could.

6 Q. Okay. Were there -- at the time that you
7 were doing this, I recognize FoxPro, as you said, is
8 an archaic programming language or tool, but at the
9 time would there have been certain protocols as to
10 what you would name a file, a program file?

11 A. Yeah, especially with the Windows version
12 of FoxPro. Not so much on the UNIX side, but
13 Windows is very much geared off the extensions. And
14 so by default it's looking for -- and the GUI that
15 you use for the programming is looking for things
16 specifically.

17 Q. What's a GUI?

18 A. That's your Windows interface. Sorry.
19 Graphical user interface.

20 Q. Okay. So as someone working or doing
21 programming in FoxPro, would you expect that if you
22 wanted people to be able to find the programs you've
23 written that you would have used certain naming
24 protocols in terms of the extensions?

25 A. Yeah, I would have expected you to use the
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 373
1 standard ones for the language.

2 Q. Okay. Okay. Going -- going back to -- do
3 you recall a time period where Northwest essentially
4 had to stop performing services as a result of the
5 problems they were having with their -- their IT?

6 A. Yes, absolutely. That's -- when I went
7 on-site, that was the case.

8 Q. They had basically shut down and you were
9 there to help get them going?

10 A. Yep.

11 Q. Okay. How -- do you recall how many days
12 that was?

13 A. I believe I was out there for three days
14 and they might have been even shut down a day before
15 that.

16 Q. Okay.

17 A. Like as I was traveling. Because I didn't
18 -- if I recall, I didn't end up leaving until late
19 in the day on a Monday or Tuesday. So I was out
20 there like Wednesday, Thursday, Friday.

21 Q. Okay. Now, I think you said that you were
22 -- you explained that you were previously the IT
23 director for a telemarketing company. Did you --
24 and we haven't even talked about this, but did you

25 transition out that position and have someone else
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 374

1 fill in for you?

2 A. Yes, I did.

3 Q. Okay. Did you take any -- any measures to
4 make that transition smooth?

5 A. Sure, absolutely.

6 Q. Okay. What kind of measures did you take?

7 A. Well, besides sitting with the person and
8 -- and going through procedures, you know, hey,
9 explaining here's how you do things, here's how it
10 works, there was also documentation that would say,
11 you know, like you're going to create an output file
12 for we'll say UMG, here's how you do it. Run this
13 program. Here are the steps, here's how you
14 transmit it. Here's how you pick up anything from
15 them.

16 Q. Okay. And how about location of the
17 programs, what -- what, if anything, would you do to
18 assure that people following you after your
19 departure would be able to access programs you had
20 written?

21 A. I'd let them know where they were and make
22 sure that -- you know, that when they were run they
23 were generally meant to run out of a certain
24 directory. So they would need to be in that
25 directory or a similar structure for them to run
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 375

1 correctly.

2 Q. Okay. Did you find any -- any evidence of
3 any such measures having been taken by Northwest's
4 departing IT director when you came on-site in
5 Eugene?

6 A. Not that I recall.

7 Q. And how about Iowa?

8 A. Not that I recall there either.

9 MR. CLIFF: Okay. I have nothing further.

10 Thank you.

11 And Ms. Marshal will ask you some
12 questions now.

13 THE WITNESS: Okay.

14 EXAMINATION

15 BY MS. MARSHALL:

16 Q. Thank you, Mr. Gedye. I just have some
17 questions to make sure that I understand your
18 testimony.

19 I believe that you testified that you're
20 sort of an expert on the dialer programming; is that
21 correct?

22 A. That's correct.

23 Q. Okay. And is that what you were
24 predominantly brought in to do was to help out with
25 the programming and operation of the dialer?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 376

1 A. Well, that -- as part of that, not only
2 the dialer as well, but the programming to generate
3 the sales file. They kind of go hand in hand.

4 Q. Okay. So you were brought in to do both
5 of those; is that correct?

6 A. That's correct.

7 Q. Okay. And did you understand that -- I
8 think you testified that you were aware that Mr. Cox
9 had left the company at that time; is that correct?

10 A. I do believe Tim had -- he had explained
11 the situation.

12 Q. Okay. He explained what situation?

13 A. With the -- what had happened with his IT
14 folks, people leaving. You know, I didn't go into
15 the details. I don't think we really cared what the
16 details were.

17 Q. All right.

18 A. But, you know, Tim explained that he was
19 in a position where he needed our assistance and,
20 you know, being the -- the guy that my boss is
21 knowing some of the people that were also employed
22 with Tim and then knowing Tim as well through his
23 relationship with United Marketing Group, we decided
24 that we could help him out.

25 Q. You wanted to help him out; is that

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 377

1 correct?

2 A. Correct.

3 Q. Okay. Now, did Mr. Rote explain to you
4 that he had essentially had a three-person IT group
5 up until very shortly before you arrived?

6 A. I believe he did.

7 Q. Yeah. And were you aware that Mr.
8 Darmadi, who you refer to as G, was the least senior
9 and least experienced of that --

10 A. That was my understanding, yes.

11 Q. Okay. Did he explain to you that Mr. Cox
12 gave his notice of resignation in November and

13 insisted on leaving as a result of health reasons?
14 Did he tell you that?
15 A. I don't know if he ever explained why he
16 was leaving. I -- in through some of the e-mails
17 that Scott has sent me as the exhibits, you know, I
18 saw some of the e-mail trails going back and forth
19 but I don't know if we ever got into reasons why at
20 the time.
21 Q. Okay. Well, did he tell you -- did he
22 explain to you that Mr. Cox was the one that
23 primarily did the scripting programming that was
24 done and that he was the one that was focused the
25 most on that?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 378

1 A. I don't remember if he did or not.
2 Q. Okay. But you were --
3 A. At that time both of them were gone.
4 Q. Sure. And you were brought in in part to
5 help out with that part of the process, correct?
6 A. Sure. Yeah, so basically their -- the two
7 key components in a telemarketing operation --
8 there's three. First is loading the inventory or
9 phone numbers into the dialer. The second will be
10 actually making the calls with the scripts, so the
11 sales presentation. The third part will be taking
12 those sales and that information that's gathered
13 during the second part and transmitting it back to
14 the client.
15 Q. Okay. I want to just focus on the
16 scripting for a moment.

17 A. Sure.
18 Q. And the part that Mr. Cox had previously
19 been involved in. Did -- did you contact Mr. Cox to
20 -- to get some information from him as to how he did
21 his job?

22 A. I don't believe so.
23 Q. Okay. Were you looking on this computer
24 that Mr. Rote brought to you -- were you looking on
25 it for evidence of Mr. Cox's work product?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 379

1 A. No. I think we were on -- on the Windows
2 machine, we were looking specifically for FoxPro
3 programs in relation to sales generation or
4 inventory loading management. Any of the scripting
5 would have been done on the actual UNIX machine, the
6 call manager, with the EIF software because that's

7 what the scripts are written in.

8 Q. Okay. And that's what you're an expert
9 in, right?

10 A. Sure.

11 Q. And is -- is -- were you working with Mr.
12 Darmadi in both of those processes?

13 A. Yes.

14 Q. And trying to teach him both scripting and
15 programming?

16 A. I wouldn't say I was trying to teach him
17 programming because that's not something you can do
18 very easily over the phone. The scripting side is a
19 little easier to do. It doesn't take as much
20 technical abilities, I guess. And if I recall,
21 those scripts were actually fairly straightforward,
22 fairly simple, a lot of text, not a whole lot of
23 logic within the scripts themselves.

24 Q. Okay. But in any case you were working
25 with him on that process, right?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 380

1 A. Yeah.

2 Q. So part of your -- part of your bill --
3 part of your charges were essentially for working
4 with Mr. Darmadi to replace Mr. Cox's work product,
5 correct?

6 A. We were there to replace all of the work
7 products basically. So if that was part of it, then
8 yes.

9 Q. So the answer is yes. Okay.

10 And you -- you described the -- I believe
11 you said the other two parts of the -- the process
12 as -- as being the FoxPro programming part of the
13 operation; is that correct?

14 A. Yes.

15 Q. Okay. And within a short period of time,
16 you were brought in -- well, within two to three
17 days you were brought in to help out with
18 programming, FoxPro programming, right?

19 A. Correct.

20 Q. But that wasn't your expertise, was it?

21 A. Sure, that was as well.

22 Q. Okay. So you -- you were just as much of
23 an expert in FoxPro as you were in scripting?

24 A. Yep. Like I said, our previous clients
25 used the same platform for dialing as Northwest

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 381

1 Direct, so we had done that on a even much higher,
2 greater, broader scale. That client had 20 some
3 call centers that we were supporting as an
4 organization using those same platforms. So yeah,
5 I'm intimately familiar with not only the FoxPro
6 side but the dialer side as well.

7 Q. Okay. Well, I just want to speak with --
8 talk about the FoxPro side for just a moment. I
9 believe I heard you say that you -- that in FoxPro
10 that you saved your work product and directories and
11 files and there are common names for file
12 extensions; is that correct?

13 A. That is correct.

14 Q. Okay. And you looked for the ones that
15 you were aware of. I think that was your --
16 actually, no, what you said was you probably
17 searched for this file extensions that you were look
18 -- that you were aware of; is that correct?

19 A. That's correct.

20 Q. Okay. But today you can't be certain, can
21 you, as to which file extensions you've searched?

22 A. I haven't used the FoxPro program in over
23 six years probably. So no, I don't remember which
24 file extensions there are.

25 Q. Yeah. Now -- and you also commented that
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 382

1 Mr. Darmadi was not able to help you very much,
2 right?

3 A. Correct.

4 Q. Okay.

5 A. Like you said, his technical knowledge
6 wasn't that great.

7 Q. Okay. And it would have helped -- it
8 would have been helpful, wouldn't it, to have the
9 information about the -- the file extensions and
10 where to look, correct?

11 A. That would have been extremely helpful.
12 We wouldn't have had to rewrite all the codes if we
13 could have found the programs.

14 Q. Well, did you think about sometimes it's
15 more comfortable for IT people to talk IT person to
16 IT person. Did you think about picking up the
17 telephone and calling the former IT director and
18 just simply asking him what he called his file
19 extensions?

20 A. That wouldn't have been my call to make.

21 That would have been Northwest Direct.

22 Q. Okay. Well, did Mr. Rote ask you to do
23 that?

24 A. To call him? No, I don't believe so.

25 Q. Okay. Did you ask Mr. Rote if it would be
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 383

1 -- wouldn't it be helpful if you could do that?

2 A. No, I did not.

3 Q. Well, it would be helpful, wouldn't it, if
4 you could get that information from the person that
5 had actually written the programs and done the work
6 for a couple of years?

7 A. Sure. It would have been helpful.

8 Q. Okay. Now, you said that when you were an
9 IT director that there were clients that you were so
10 familiar with that you didn't have to have any
11 procedures. You just did the work; is that correct?

12 A. No, that's not correct.

13 Q. Well, let's see. I think you --

14 A. I think what I said was we had clients
15 that we were very familiar with that you did
16 repetitive work that you would have programs so you
17 didn't make mistakes and have to redo them. You
18 wouldn't do things from memory all the time. That
19 would be ludicrous.

20 Q. Okay. Maybe I misunderstood you. I
21 thought when you were talking about UMG you said
22 that you were so intimately familiar with them that
23 you did not need documentation?

24 A. Sure, for the file layout I did not --
25 because I knew -- I didn't need documentation from
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 384

1 Northwest because my company processes those files
2 for UMG, so all I would need to do is pick up the
3 phone and call one of my developers and say hey,
4 send me the layout. I wouldn't need to go to them
5 to get that.

6 Q. Now, you are not a forensic examiner, are
7 you?

8 A. I am not.

9 Q. Do you have any training at all in
10 forensic examination?

11 A. No.

12 Q. Or digital recovery?

13 A. Nope.

14 Q. Well, when a -- a program or a file or

15 piece of data is deleted from the hard drive of a
16 computer, you -- you understand that it's not really
17 gone all together; is that correct?

18 A. True. That is correct. Depends on the
19 case, but yeah, that is correct.

20 Q. Yeah, the computer just designates it as -
21 - in another space but it's all there and if you
22 know what you're doing and you get in there in a
23 reasonable time, you can recover it, right?

24 A. As long as their -- but you have no
25 guarantee as to what's possibly -- once it's marked
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 385

1 for deleted, that space is free and available. So
2 the minute you write another file on to that hard
3 drive, it may put it in the space where one of those
4 other ones were that was deleted. You don't know.
5 You don't have any control of that. It's all
6 controlled by the OS.

7 Q. Absolutely. And when were you doing your
8 work back in November of 2003, were you aware of
9 that?

10 A. Absolutely I was.

11 Q. Okay. And at the time you were doing your
12 work, you were also aware that there would likely be
13 litigation that arose out of these -- these
14 problems, correct?

15 MR. CLIFF: Objection. Lack of
16 foundation.

17 THE WITNESS: No, I was not.

18 BY MS. MARSHALL:

19 Q. Okay. So you were not aware of the
20 likelihood of litigation?

21 A. No.

22 Q. Okay. Did -- did you give Mr. Rote any
23 advice as to whether he -- how -- how or whether he
24 should preserve the hard drive that you were working
25 with?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 386

1 A. Not that I remember.

2 Q. Okay. But you were aware that because
3 that hard drive was being used that any evidence of
4 prior programs that you didn't discover were from
5 the -- I believe you said the moment you started
6 using the computer being over written; is that
7 correct?

8 A. Sure. That space that the file was

9 occupying on the hard drive, the moment it's
10 deleted, it's available to be rewritten over.

11 Q. Okay. And you really have no control over
12 what the computer rewrites over?

13 A. We have no control whatsoever.

14 Q. And the longer you use the computer, the
15 more gets over written, correct?

16 A. Sure.

17 Q. Now, I believe you testified that you gave
18 Mr. Rote some advice in terms of the -- the dial up
19 system being slow?

20 A. Yep, that's correct.

21 Q. Okay. And that you were having difficulty
22 using PC Anywhere; is that correct?

23 A. That it was difficult to use, yes.

24 Q. Okay. Have you used it before?

25 A. I had.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 387

1 Q. Okay. And had -- but here you were trying
2 to use it with a dial up service?

3 A. I've done it with both. And in both cases
4 it can be difficult to use when it's slow.

5 Especially when you're doing it over Windows with
6 the graphical interfaces, it makes it difficult.

7 Q. So -- but you understood that the prior IT
8 director, that that was -- that was basically the
9 system he was given to work with, correct?

10 A. I don't know what he was given to work
11 with. There was an Internet connection that was
12 there and as I said in that e-mail that there was --
13 we knew that there was some sort of VPN but no one
14 knew how to make it work.

15 Q. And you wanted to upgrade the system?

16 A. Well it's upgrading the connections.

17 Q. Upgrade the connection so it would not be
18 so slow for to you work with?

19 A. Correct.

20 Q. Now, you talked about a Windows machine in
21 one of the call centers that was -- that didn't have
22 a firewall. Do you remember that testimony?

23 A. Yes.

24 Q. That -- I guess it was in the Eugene

25 center. But I wasn't clear as to whether you were

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 388

1 saying that this particular machine was the one that
2 the prior IT director was using to download data

3 onto or whether it was being used for some other
4 purpose?

5 A. I don't know all the purposes that machine
6 was being used for. It was very possible it could
7 have been.

8 Q. Okay. But it's also very possible that it
9 wasn't, right?

10 A. If that was the -- that was the only
11 machine that had direct connectivity to the
12 Internet. So in my -- what I can assume at that
13 point is you would have been downloading stuff to it
14 because that would have been his -- his landing spot
15 from coming in from the outside.

16 Q. I think you said if that was the only
17 machine. Do you know or don't you?

18 A. I don't know.

19 Q. Okay. You testified that you were working
20 with Brent as well as with Mr. Darmadi; is that
21 correct?

22 A. That is correct.

23 Q. And that's Brent Kawiuk?

24 A. Yeah. If that's how you pronounce it,
25 I'll take your word for it.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 389

1 Q. Did you get current client specs from Mr.
2 Kawiuk to do your work?

3 A. No.

4 Q. Who did you get your specs from?

5 A. We didn't on some of them. Like I said,
6 the UMG one, I could get the specs from because
7 those came from Teleformix, because we were the
8 processor for UMG. For any of the other clients, we
9 had to kind of reverse engineer it from the data
10 files that we found.

11 Q. Okay. Well, didn't it occur to you that
12 by not getting current client specs from Mr. Kawiuk
13 that you might pick up obsolete specs and interject
14 them into this company's system?

15 A. Sure. I believe we asked him for them and
16 he didn't have them.

17 Q. Okay. You asked Mr. Kawiuk for current
18 client specs and he told you he didn't have them?

19 A. I believe so. I believe he said that he
20 had turned all that information over to -- I want to
21 -- I don't know how to pronounce his name. Max.

22 Because he would get that information and forward it

23 on to him.

24 Q. So Mr. Kawiuk told you that he had
25 absolutely no current client specs. Is that what
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 390
1 I'm understanding?

2 A. From what I remember, yes.

3 Q. When you were in the Eugene call center,
4 did you actually use the computer that had been used
5 by the former IT director?

6 A. The Windows machine? I think it -- Tim
7 refers to it in the documents as the Sony whatever,
8 the Sony Vaio, no, I did not use that machine. I
9 used the call manager, that's the dialer software.
10 And I had my own laptop that I used.

11 Q. Did you search that machine?

12 A. The Sony, yes, we did.

13 Q. Okay. But you didn't use it to do your
14 work; is that correct?

15 A. No.

16 Q. Who was using it at the time?

17 A. I don't believe it was being used. It was
18 there for reference to try and find it and turned
19 on. But if I remember correctly, G had his own
20 Windows machine that he used.

21 MS. MARSHALL: That's all the questions I
22 have.

23 EXAMINATION

24 BY MR. CLIFF:

25 Q. Okay. Mr. Gedye, I have just a few more
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 391

1 questions for you. Just to be clear. You were --
2 you were asked about, you know, whether you gave any
3 instructions to Mr. Rote or anyone else about
4 preserving machines or that sort of thing. What was
5 your understanding of your role when you came out to
6 Eugene and later to Dyersville?

7 A. Initially in going out to Eugene obviously
8 was to get them back up in business. Their business
9 had been -- they had to cease telemarketing. Our
10 job was to get them moving, get them moving forward
11 again. And then once we were back in our office and
12 then when we went out to Dyersville was to kind of
13 help them put the pieces back together on everywhere
14 else there were question marks. What they didn't
15 understand. What was still there. You know, to
16 kind of help the transition as Northwest looked to

17 find replacements.

18 Q. Did you have any -- any conception at all
19 that you -- that some or all of your job was to
20 compile evidence for litigation?

21 A. No, not at all.

22 Q. Okay. Now, there was a question -- I just
23 want to clear it up. Your -- your reference to
24 being intimately familiar with UMG's requirements,
25 was that in reference to what you needed to know in
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 392
1 order to write the programs?

2 A. Yeah.

3 Q. Okay.

4 A. As I explained, Teleformix is the data
5 processing arm for UMG.

6 Q. Okay. So --

7 A. We process all the data. We write the
8 specifications for the data. So I was involved in
9 all of that. So I wouldn't need to take specs from
10 like Brent because I could get what I needed from my
11 other developers in my office.

12 Q. Okay. So just to be absolutely clear,
13 just having that intimate knowledge of those
14 requirements, does that make it feasible for you to
15 do that sort of processing without a program that's
16 been written to -- to do that?

17 A. It made it feasible for me to write the
18 new program.

19 Q. Yes, but to process the data manually on a
20 case-by-case basis, is that feasible given the
21 volume that Northwest had at the time?

22 A. Oh, to do it manually, no.

23 Q. Okay. Now, you were asked questions
24 about, you know, what happens if a file is deleted.
25 Were you -- were you told -- did anyone tell you
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 393
1 that the former director had necessarily deleted
2 files?

3 A. No, I don't believe so.

4 Q. Were you simply looking to find out where
5 the files were, if anywhere?

6 A. Yep, that's -- I mean my -- my
7 recollection of when we were looking for the files
8 is Tim's understanding where the programs should
9 have been on that Sony machine, that's where, you
10 know, the source of the information should be.

11 That's what we looked for.
12 MR. CLIFF: Okay. I have no further
13 questions.
14 MS. MARSHALL: I have some --
15 THE ARBITRATOR: Okay.
16 MS. MARSHALL: -- recross.
17 EXAMINATION
18 BY MS. MARSHALL:
19 Q. Mr. Gedye, did you search the IT
20 director's computer for evidence that he had deleted
21 any files?
22 A. Not that I recall.
23 Q. Okay. Did you search for any evidence of
24 deletion of programs?
25 A. Not that I recall. I mean, that would be
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 394
1 the same thing. A file is a program.
2 Q. Or data?
3 A. Same thing. I don't believe we looked for
4 deleted files.
5 Q. Or code?
6 A. Same thing. Everything's a file on a
7 computer.
8 Q. Okay. So you did not find any evidence
9 that the IT director had actually deleted programs,
10 files, or code from his computer; is that correct?
11 A. That he -- that they were actually
12 deleted, no.
13 MS. MARSHALL: Okay. I have no further
14 questions.
15 MR. CLIFF: One quick clarification, if I
16 might?
17 THE ARBITRATOR: Go ahead.
18 EXAMINATION
19 BY MR. CLIFF:
20 Q. You didn't find them because that wasn't
21 what you were looking for, correct?
22 A. Correct.
23 MR. CLIFF: Okay. Thank you. Nothing
24 further. Thank you, Mr. Gedye.
25 THE WITNESS: Thanks.
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 395
1 (Whereupon the examination of Mr. Gedye
2 concluded at 11:33 a.m.)
3 THE ARBITRATOR: Back on