

14 BY MR. SCOTT:

15 Q. All right, sir, as I stated earlier, this will
16 be the deposition of the Lawrence Ellison pursuant to
17 Civil Investigative Demand No. 022793.

18 Do you have that in front of you, sir? It's
19 Exhibit 1 to your deposition.

20 A. Yes, I do.

21 Q. Have you had a chance to read through that?

22 A. In a cursory way, yes.

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1 Q. All right. So I'll just -- for the record, I
2 will point out to you on the back of it there is some
3 language, too, that's pertinent, which is the authority
4 and -- one of the authorities by which this is being done
5 and some of the laws that govern the taking of the
6 deposition.

7 You might just want to read through that, as
8 well, just to be sure you've got all the language. At
9 least you've had a chance to look at it, as you've said,
10 on a cursory basis.

11 Just let me know when you're finished.

12 A. I've finished.

13 Q. All right, sir. Now, this will be your
14 deposition pursuant to that CID.

3 Q. You understand you are testifying under oath?

4 A. I do.

5 Q. And pursuant to the statutes that's printed on
6 the back of the CID, Exhibit 1, to your deposition, in
7 addition to making truthful -- well, as part of
8 testifying under oath, do you understand that if I ask
9 you a question and you have any information pertaining to
10 that question and you say you do not know or do not
11 remember having any information, that would be a
12 violation of the oath?

13 A. Right.

14 Q. All right, sir, now, what's your current
15 position with Oracle?

16 A. I'm the CEO, chief executive officer.

17 Q. And your duties and responsibilities in that
18 position, what are they?

19 A. I'm a senior executive, senior management
20 executive in the company. All the other managers report
21 to me.

22 Q. Who are currently your direct reports?

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1 A. Jeff Henley's our chief financial officer; Safra
2 Catz is president in charge of operations; Chuck Phillips
3 is president in charge of our field; Chuck Rozwat is the
4 head of development of our technology products, that's
5 data base products; Ron Wohl is the head of development
6 of our application products; Mike Rocha is responsible
7 for support services.

8 Q. I've seen some references in some of the
9 documents that have been produced to Oracle in the
10 context of this investigation, references to the
11 executive committee.

12 Do you know what that is?

13 A. Yes, I do.

14 Q. Who -- well, first of all, what is the executive
15 committee and, secondly, who is currently on it?

16 A. It's a group of senior managers and that
17 includes all of the people I just mentioned, plus our
18 four heads of field sales on different geographic areas,
19 Sergio Giacoletto in EMEA, Europe, Middle East, Africa;
20 Luis Meizler in Latin America; Dereck Williams in Asia
21 Pacific; and Keith Block in North America.

22 Q. All right, sir, what is the purpose of the

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1 executive committee?

2 A. To review the status -- review what's going on
3 in the company and to make plans for our future
4 strategies and our -- and to execute on those plans.

5 Q. All right, sir, now, I've seen in the press
6 recently there's been some change within the company
7 regarding your position; is that right?

8 A. Yes.

9 Q. Could you describe for me what that change has
10 consisted of?

11 A. I used to be chairman of the board of Oracle of
12 the -- about half the time during Oracle's existence,
13 I've been chairman, about half the time I've not been
14 chairman. And Jeff Henley just took over chairman. I
15 believe the board believes a separation of chairman and
16 chief executive is good for our corporate governments. It
17 also gave us the opportunity to retain Mr. Henley for a
18 longer period of time than we otherwise might have if he
19 just remained as chief financial officer.

20 Q. As a result of this change, you -- I take it,
21 you're still on the board?

22 A. Yes, I am.

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1 Q. Have your duties and responsibilities, as they
2 relate to Oracle, changed with you having stepped down as
3 the chairman of Oracle's board of directors?

4 A. My management duties haven't changed at all.

5 Q. Did you give up any duties and responsibilities
6 as a result of the change?

7 A. I give up duties as chairman of the board.

8 Q. Which would consist of what, as opposed to what
9 you would just do as a member of the board

10 A. Running the board meetings.

2 Q. All right, sir, are you familiar with, I guess,
3 for want of a better term, an e-mail account within
4 Oracle called "HQ Apps"?

5 A. It's an approval account?

6 Q. Yes.

7 A. Am I familiar? I know it exists.

8 Q. By "approval account," what I meant in the last
9 question was an account where requests for approval of
10 non-standard contract terms or discounts above a certain
11 level are sent for review by people above, for example,
12 an application software, Mr. Block.

13 A. I think there are a lot of different HQ Apps
14 accountants [sic], including approval for purchase
15 requests, just buying a computer. It's basically our
16 approval system that includes all sorts of things that
17 require approval, including any exception to policy,
18 including discounts.

19 Q. So, for example, just to be sure we're clear on
20 where we are on this, if someone in Mr. Block's
21 organization sent up a request for approval of a discount
22 in a transaction dealing with application software that

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1 was above a specified amount, it would have to come to HQ

2 Apps for approval?

3 A. I don't know that for a fact, but it has to go

4 to Safra Catz for approval and HQ -- and I believe it

5 likely to go through HQ Apps.

6 Q. Do you ever approve or been involved in

7 approvals of non-standard contract terms or larger than

8 discounts that are --

9 A. Sure.

10 Q. Let me back up a minute.

11 Do you know what level Mr. Block is authorized

12 to grant discounts to?

13 A. I can get very close.

14 Q. All right. So why don't -- what is your

15 understanding of it?

16 A. I think he's at 70 percent right now.

17 Q. I think that's consistent with what he told us

18 at his deposition so.

19 Do you get involved in reviewing and approving

20 requests for discounts that go over that?

21 A. Occasionally.

22 Q. Are there particular types of transactions or

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1 circumstances that would lead you to get involved as

2 opposed to Ms. Catz?

3 A. If it's a particularly large transaction, an

4 interesting transaction, we're taking a different

5 structure, we're accepting more liability than what we

6 otherwise might, all of those might cause her to let me

7 know what she's approving. But typically she doesn't ask

8 for my approval, she just informs me that she thinks it's

9 a good idea or she'll want to get some comfort level that

10 I'm aware of what we're doing and I don't disagree.

11 Q. When you say a larger transaction may cause her

12 to come to you, do you have a specific number or range in

13 mind that would cause her to do that?

14 A. \$10,000,000.

15 Q. \$10,000,000 in license fee or something else?

16 A. \$10,000,000 in license fees. But anything --

17 but it might be a smaller deal, if it's a different

18 structure. But in terms of a discount in excess of

19 \$10,000,000, she might come to me, she might not come to

20 me on a \$10,000,000 deal. I don't think there's a firm

21 rule of when she chooses to let me know. It's what the

22 deal is.

1 Q. Now, in the context of the approval for
2 discounts in the area of application software, are there
3 any guidelines that have been given to Ms. Catz regarding
4 what you think would or would not be acceptable in the
5 way of granting additional discounts?

6 A. I think it's situational so --

7 Q. So there aren't any guidelines she's been given?

8 A. Well, there are -- to Ms. Catz?

9 Q. To Ms. Catz.

10 A. No.

11 Q. Is there any level of discount that you would
12 not approve in the area of application software?

13 A. I think, again, it's situational so -- but if
14 you ignore situations, could I imagine where we'd give a
15 hundred percent discount, the answer is yes. Can I
16 imagine where we'd give no discount, the answer's yes.
17 So I think that's the full range.

18 Q. That would seem to cover it.

19 Are there circumstances where you've given up to
20 a hundred percent discount on license fees?

21 A. More.

22 Q. "More" meaning what?

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- 1 A. "More" meaning a hundred percent discount in
- 2 license fees and some additional, some free consulting.

13 Q. Now, do your requests for discounts for approval
14 generally have to include information regarding the
15 justification for wanting to give an additional discount?

16 A. Again, I don't look at these documents so -- but
17 it certainly stands to reason that if you want to give a
18 large discount, you explain why.

19 Q. I mean, you certainly wouldn't want the salesmen
20 giving them if there wasn't a business reason for the
21 basis of it?

22 A. Well, we wouldn't approve it.

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1 Q. Now, in the context of the ones that you do get
2 involved in and whatnot, do you generally try to
3 understand what the competitive circumstances are that
4 justify the specific request?

5 A. Yes.

6 Q. And do the competitive circumstances that you
7 would find persuasive from the standpoint of granting a
8 request for discount above 70 percent, for example, in
9 the area of application software, would that include
10 information regarding what -- who the competition was and
11 the pricing they were offering?

12 A. Yes, sometimes. Again, it's a bit situational.

13 Q. Certainly one piece of information that you
14 would find relevant is who you're competing with in a
15 particular account and whether they're pricing in a way
16 that is higher than your folks can without your approval?

17 A. It's more complicated than that, but, yes.

18 Q. Does the issue of -- well, strike that.

19 You said it was more complicated than that. In
20 what way?

21 A. We'll determine whether the competitor is
22 actually a threat to us. So sometimes a competitor

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1 coming in with a very low price is a real competition,
2 sometimes a competitor coming with a real low price
3 doesn't have a competitive product, doesn't -- the
4 customer is largely committed to the Oracle data base and
5 they don't want to make a change.

6 There's a cost associated with changing from one
7 system to another, which might outweigh whatever, you
8 know, IBM might be offering a free data base, which they
9 do quite frequently, but there's a high cost in changing
10 what the customer's doing. So we might not have to meet
11 that price of zero that IBM is offering to that customer
12 to change.

13 So the dynamics are -- it's not like buying
14 lumber where, as long as lumber's good quality, the
15 cheaper you can buy, you buy the cheapest lumber. The
16 dynamics of the situation include lots and lots of other
17 things.

18 Q. Well, from the standpoint of determining whether
19 a particular -- strike that. Let me back up and be sure
20 the question's clear.

21 In the context of reviewing accounts or requests
22 in accounts for a special dispensation, either a higher

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1 discount or some other business term, you said that you

2 try to determine whether or not the offer that's being

3 reported from your competitor is really a threat or not.

4 A. Is a genuine competitive threat, that's correct.

5 Q. Other than the situations where you've talked

6 about a moment ago and the IBM situation in the data base

7 context where transitioning over would have some

8 implementation and transfer costs that have to be

9 factored into this, what other type of factors do you

10 look at to determine if a particular offer from a

11 competitor is a real threat?

12 A. Well, is the vendor there already an encumbant

13 at that customer, do they have products -- in other

14 words, are there a number of those vendor's products

15 already in place at that customer.

16 So let's say we're competing with SAP and we're

17 trying to replace SAP financials. SAP's an encumbant,

18 then that works against us. So we have to be much more

19 aggressive in our discounting than SAP would if we're

20 trying to actually replace SAP. Or one division is

21 running SAP financials and we're trying to replace, you

22 know, install our financials in another division. SAP is

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1 an encumbant. You're not replacing them, but they are an
2 encumbant vendor, so we might have to be more aggressive
3 in our pricing.

4 Q. Earlier also -- again, I'm not trying to
5 misstate you so if I get this wrong, just tell me -- you
6 indicated also you wanted to know if the competitor would
7 have a -- well, let's say in the application software
8 area for the moment because that seems to be more
9 pertinent to what we're doing here. You would want to
10 know whether the particular vendor who is making the
11 offer had a product that had the correct functional
12 requirements for the client; is that right?

13 A. Well, there are three products out there.
14 There's a lot of free ware out there, so there are free
15 products that we can't meet the price. So you could say,
16 well, if you can use this free product, it would have to
17 always be free because the customers would say, "I'll use
18 this free product instead of Oracle." So, therefore, our
19 price goes to zero all the time.

20 So we have to decide whether that free product
21 really is a contender and has the capability to take our
22 place, either to displace us or to win this deal because

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1 there's a lot of free ware out there.

2 Q. Would that same analysis take place in the
3 context if somebody you're competing with is not free
4 ware? For example, if someone came in, would you want to
5 look at their product and determine how close they could
6 get to the clients' needs and determine how big a threat
7 they are?

8 A. Of course.

9 Q. Why would you want to know that?

10 A. To see -- because, as we -- as we compete on
11 price -- we have to compete on price and capability. So
12 it depends on the credibility of the vendor, the ability
13 to provide service, the functionality of the product,
14 whether there's encumbancy or not. The existing
15 relationship we have with the customer, did the customer
16 think -- we've done a great job. Does the customer think
17 we've done a terrible job, and we have some making up to
18 do.

19 So there are lots and lots of factors before
20 they decide to make -- purchase enterprise software
21 because it's a long-term relationship.

22 These systems are highly durable and they --

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1 they're around for a decade. So they're not just buying
2 a product, they're buying into a company who's going to
3 constantly improve their product, provide related
4 services, provide related products. So they have a
5 certain amount of experience with us, which could have
6 been positive or negative.

7 I'm not trying to make it more complicated than
8 it really is, it really is that complicated.

9 Q. I understand. I understand.

10 Is what you're saying then, in analyzing whether
11 or not to give another discount, you're going to look at
12 the four corners of a particular transaction to determine
13 if short-term, whoever you're competitor is, has a
14 product that meets -- is as good for the client
15 functioning as yours and long term whether they have the
16 wherewithal, the budget, the presence in the market, to
17 give the customer the long-term relationship that they're
18 looking for because if they can't, you don't have to
19 price as aggressively?

20 A. Those aren't the only factors, but, yes. I
21 mean, they can be a small company with a fabulous new
22 product, like a Salesforce.com, or they could be a big

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1 company who can guarantee continuous investment, like a
2 Microsoft.

3 So these are two very different -- here are two
4 radically different potential competitors we could face
5 in the same deal. Here comes Microsoft with not that
6 good a product, a customer might say, "But my God,
7 Microsoft is going to make it better five years from now.
8 This is a long-term decision. I should go with Microsoft
9 because look at how much money they're investing, so I
10 should start with Microsoft now because that's the right
11 place to be."

12 Other people might say, "Well, look at
13 Salesforce.com. Their price is incredibly low. They've
14 been very innovative in what they've delivered. I should
15 go with Salesforce.com even though they're a small
16 company."

17 So it's a -- you know, there are different ways
18 companies compete in this market, some instances
19 innovation, some instances relationship.

20 IBM is the king of relationships. I've had a
21 30-year relationship with IBM. I play golf with the
22 sales guy every weekend, they're a company I can trust.

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1 I should -- they're the ones giving me guidance, so I

2 should buy that way.

3 So there are lots and lots of different things

4 that influence people to make buying decisions and we

5 have to, through some complex calculus, evaluate all

6 these things and decide how to price our product.

8 But in the circumstances that you are talking

9 about, I take it one initial threshold -- clearly, there

10 may be other factors in this -- is whether or not the

11 competitor that you're being told into an account, that

12 you're being asked to give a higher discount against, has

13 a product that can actually meet the customer's needs?

14 A. That's one factor.

15 Can it -- that's usually looked at over a

16 five-year period, at least a five- or ten-year period.

17 Q. To see --

18 A. Can this competitor -- for example, SAP says,

19 okay, here's the new version of our banking product. SAP

20 has just come out with a couple banking products. These

21 are brand new versions, but we're SAP and we'll

22 continuously make it better. It's very different if

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1 company "X" that no one ever heard of came out with a
2 brand new banking product.

3 Q. I understand.

4 A. You can rely --I know SAP is going to be around
5 and that they're an existing -- I buy products from SAP.
6 They're going to be around. Yes, it's a new product but
7 it's SAP, I know them, and they're going to make it
8 continuously better.

7 Q. You have in front of you what's been marked
8 Exhibit 6 to your deposition, which is a Form 8-K, dated
9 June 6, 2003, filed with the Securities and Exchange
10 Commission on behalf of Oracle Corporation.

11 Is that what you have in front of you?

12 A. Yes.

13 Q. All right, sir, if you would flip over within
14 the document to the fourth page. And if you want to look
15 through the document before that to look at something
16 specific to familiarize yourself with it, that's fine.

17 A. All right.

18 Q. So we're on page 4 of Exhibit 6 to your
19 deposition. It is a page that is actually numbered at
20 the top page 4 of 25, and we have about halfway down the
21 page an "Oracle to launch cash tender offer for
22 PeopleSoft for \$16.00 per share. Oracle fourth quarter

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1 preliminary earnings of 14 to 15 cents per share," which
2 appears to be a press release or news release issued by
3 Oracle.

4 Do you see that?

5 A. Yes.

6 Q. Are you familiar with that press release?

7 Again, take as much time as you need to read through it.

8 A. I've never seen it before but -- well, I don't
9 recall seeing it but, yeah, I'm certainly familiar with
10 the event and with the information it contains.

11 Q. Now, the press release itself, if you look at
12 the second paragraph, purports to quote you.

13 Do you see that?

14 A. Yes.

15 Q. Are you familiar with the language that's
16 contained there that's attributed to you?

17 A. Absolutely.

18 Q. Now, it -- first of all, let's skip down, if you
19 would, to the sentence that begins, "Although we will not
20 be actively selling PeopleSoft products to new customers,
21 we will provide enhanced support for all PeopleSoft
22 products."

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1 Do you see that?

2 A. Yes.

3 Q. The statement there, what did you mean by "We
4 will not be actively selling PeopleSoft products to new
5 customers"?

6 A. We were trying to explain a couple things -- we
7 would not have -- our sales force would not be selling
8 both the Oracle E-business suite and the PeopleSoft
9 products at the same time to new customers. We would be,
10 in fact, selling the Oracle E-business suite to new
11 customers.

12 Q. And when you say the Oracle E-business suite,
13 what is that product?

14 A. We would be selling the Oracle suite of
15 application products to new customers. So if there was a
16 customer who was not a PeopleSoft customer and not an
17 Oracle customer, in other words, they were -- they didn't
18 have products from PeopleSoft, they didn't have products
19 from Oracle. That's what I mean by "a new customer,"
20 someone who has neither Oracle applications nor
21 PeopleSoft applications.

22 In that case, our sales force would try to

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1 persuade that new customer to buy Oracle application

2 products, not PeopleSoft application products.

3 Q. In the context that you've talked about, a

4 customer who hasn't bought from either, as of the time

5 your salesman approached them, would they only offer them

6 the Oracle products for application software?

7 A. What do you mean by "offer"? They would try to

8 persuade -- what the sales force function is is to try to

9 persuade the customer to buy our products, in this case

10 buy the Oracle E-business suite products.

11 If the customers say, "Will you sell me the

12 PeopleSoft products?" of course, the answer is yes, of

13 course, we will sell them. We'll sell the PeopleSoft

14 products to whoever wants to buy them. But our marketing

15 campaigns and our sales organization, in terms of

16 persuasion, we would put our effort in to trying to

17 persuade people to buy the Oracle products.

18 Q. So we're --

19 A. I'm sorry to interrupt. My lawyers probably

20 don't like when I do that.

21 To avoid confusion --

22 Q. I don't mind.

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1 A. I know you don't.

2 But to avoid confusion, I want to be very clear
3 that our sales force is trained in selling our products,
4 that's the products they'll continue to sell. We won't
5 have a separate sales force selling PeopleSoft products,
6 we won't have our sales force trying to persuade people
7 to buy the PeopleSoft products. It does not mean that
8 existing PeopleSoft customers as opposed to new customers
9 we wouldn't sell to, we wouldn't be trying to sell to.
10 So that's why the issue is really new customers.

11 Q. Let me follow up on this to be sure I understand
12 what you said.

13 Now, we're talking in a world where the merger
14 would have been approved --

15 A. Yeah.

16 Q. -- and you acquire PeopleSoft. In those
17 circumstances it is your plans to have your sales force
18 actively marketing and selling the E-business suite of
19 Oracle?

20 A. Correct.

21 Q. Now, if your salesmen go into an account,
22 someone's who is not Oracle, has not been PeopleSoft in

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1 the past, is the plan to have them even mention the

2 PeopleSoft product or not?

3 A. Even mentioned? No. I mean, everyone will

4 know. I think most people would know we have both

5 products, they'd be on the price list. But, no, they

6 wouldn't even be trained to sell the PeopleSoft products.

7 Q. So by "trained to sell the PeopleSoft products,"

8 what type of training would normally be encompassed in

9 selling, for example, your product?

10 A. Understanding the features and the functions and

11 the details of our products, know to some degree what our

12 products do.

13 Q. And there are no plans to have a separate sales

14 organization or force that would be dealing with

15 PeopleSoft products and selling them post merger?

16 A. No, that's not correct. That's not correct.

17 We would be selling, actively selling the

18 PeopleSoft products to existing PeopleSoft customers. So

19 absolutely sell existing customers. But, again, given a

20 blank sheet of paper, customer doesn't use Oracle

21 applications or PeopleSoft applications, the applications

22 that we would be selling and we would be marketing --

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1 advertising, for example, we wouldn't be advertising the
2 PeopleSoft products.

3 Q. All right. Let me rephrase my previous question
4 because I think we just went past each other a little
5 bit. It's my fault and because I wasn't precise enough.

6 From the standpoint of actually having a sales
7 force that will be dedicated to selling to new customers,
8 PeopleSoft products, that will not exist?

9 A. That's correct.

10 Q. Post merger, you said you would sell additional
11 PeopleSoft modules or -- to existing PeopleSoft
12 customers; correct?

13 A. Absolutely.

14 Q. Who within Oracle would be responsible for
15 handling those sales and transactions?

16 A. Again, it would be our existing sales force, so
17 we wouldn't split into two sales forces. We might have
18 some specialists in telesales on PeopleSoft. We would
19 have specialists on PeopleSoft, but we would not have two
20 sales forces. We would have an application sales force
21 that would be able to sell the PeopleSoft products to
22 existing customers.

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1 Q. When you say you would have specialists in
2 telesales pertaining to PeopleSoft? What does that mean?

3 A. Oh, they they might know -- we're putting in the
4 latest tax tables for payroll, and making sure that our
5 PeopleSoft payroll customers got the latest updates.
6 It's not something we're likely to charge for, but
7 probably, you know, likely give that away for free.
8 But making sure that we remain in contact with PeopleSoft
9 customers and provide high quality support to PeopleSoft
10 customers.

11 So there would be PeopleSoft specialists
12 probably in telesales and clearly PeopleSoft specialists
13 in our support organization.

14 Q. Do you have a telesales group now?

15 A. Yes, we do.

16 Q. You're talking having certain people within that
17 designated as being PeopleSoft specialists?

18 A. Yes.

19 Q. Has any thought been given to how many you would
20 need to do that type of thing?

21 A. I don't think we have an exact number of how
22 many specialists we would need.

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1 Q. Approximation?

2 A. I don't know.

3 Q. Who within the company has been responsible for
4 making integration plans regarding how you would
5 integrate PeopleSoft business into Oracle?

6 A. At a very high level, I've been involved in the
7 integration plan.

8 Q. Who else?

9 A. Every one of my direct -- virtually every one of
10 my direct reports.

11 Q. Has there been a written integration plan
12 prepared pertaining to post merger?

13 A. Not that I know of.

14 Q. Can you describe for me to the extent to which
15 integration planning has already occurred?

16 A. We've certainly -- for example, one of the big
17 ones was deciding not to have two sales forces, how to
18 structure the sales force. What position to take
19 vis-a-vis new customers is extremely important, how we
20 would merge the PeopleSoft products and the Oracle
21 products in a new release; how -- our policy with
22 customers as to how long we would support the PeopleSoft

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- 1 products; how we'd structure the engineering teams; how
- 2 we'd structure the support teams, you know, what the
- 3 financial implications of the merger are.
- 4 All of those things have been outlined.

11 Q. All right, sir, again, looking at page 4 of
12 Exhibit 6, it states, "Furthermore, we will be
13 incorporating the advanced features from the PeopleSoft
14 products into future versions of the Oracle E-business
15 suite."

16 Do you see that?

17 A. Yes.

18 Q. Now, the Oracle E-business suite, again, is your
19 application enterprise software product?

20 A. Yes.

21 Q. What types of functions or modules are contained
22 within that product?

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1 A. Oh, just about everything: sales, service,
2 marketing, you know, accounting, finance, personnel,
3 payroll, supply chain automation, warehousing, logistics.

4 Q. Now, do -- do you have a software package or
5 suite that would be characterized as financial
6 management?

7 A. Yes.

8 Q. And do you have a software application suite
9 that could be characterized as having human resources
10 functionality?

11 A. Yes.

12 Q. Is the E-business suite a combination of those
13 two?

14 A. The E-business suite is the sum of most, but not
15 all, of our application products. We have clinical trial
16 products and adverse event reporting products for the
17 pharmaceutical industry, but they're not part of the
18 E-business suite. But E-business is -- most of our
19 applications are collected as the E-business suite that
20 works on top of a single data base.

21 Q. From the standpoint of the customer, if they buy
22 the E-business suite, they license and pay for whatever

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1 modules they particularly want out of that; is that

2 right?

3 A. Well, they have a choice. They can either just

4 buy general E-business Suite Users and use any of the

5 modules. So they can buy a thousand users to the

6 E-business suite and twenty can use marketing or they can

7 specifically and explicitly license the financial

8 component or the H.R. component or the manufacturing

9 component.

10 Q. Does it makes a difference price wise which they

11 do?

12 A. It's a little more expensive to have the

13 flexibility. If you know you're going to use financials

14 and only use financials, it's cheaper to just license

15 financials than to license the whole E-business suite.

16 Q. Couple of follow-up questions from earlier.

17 You indicated that you thought there might have

18 been some circumstances where you folks had sold

19 applications software at a zero licensing fee; correct?

20 A. Let me be a little bit more precise on that,

21 which is, yes, a given transaction with a customer. So

22 perhaps -- hypothetical -- where this might happen, we

00072

1 sold the customer some software. There was a consulting
2 project to put it in. The customer was not happy for
3 some reason with our consulting service. There's a
4 subsequent transaction to expand and we gave them the
5 additional software plus a million dollars of consulting
6 to help -- to improve the customer satisfaction.

7 Q. And there -- go ahead.

8 A. What I'm saying is, that's a more likely
9 scenario of a zero price, plus free consulting, what I
10 characterize as a less-than-zero transaction, that there
11 were other transactions with that same customer that
12 preceded that.

13 Q. I understand.

14 Have you also, though, in the context, for
15 example, of your offer to purchase PeopleSoft, told
16 customers that you will swap out software on a free
17 license basis, Oracle modules, equivalent Oracle modules,
18 for whatever PeopleSoft modules they have?

19 A. Right, so we said if you have PeopleSoft H.R.,
20 and you want -- and you want to -- and you want to
21 migrate to Oracle H.R., you can do so at no software fee
22 so -- and you can do that at a time of your choosing.

00073

1 You can do that now, you can do that five years from now.

2 Whenever you want to, you can make that migration.

3 Q. In a context like that, how do you price the

4 maintenance?

5 A. The maintenance would be whatever they were

6 currently paying for PeopleSoft. PeopleSoft has just

7 raised their maintenance fees for the J. D. Edwards

8 customers and so -- again, I'm volunteering information

9 which your question didn't ask but -- you know, I'm not

10 saying we would never raise maintenance fees.

11 We haven't raised maintenance fees recently, but

12 it would certainly start -- I want to be precise. It

13 would certainly start that your maintenance fees would be

14 whatever you're paying PeopleSoft. I'm not saying we

15 would never, ever raise that maintenance fee.

16 Q. When you say "what they're paying PeopleSoft,"

17 you mean the exact dollar amount?

18 A. Yeah.

19 Q. For example, if I'm a customer of PeopleSoft and

20 I swap off with you module for module --

21 A. Let's say -- let's say you bought the PeopleSoft

22 software for \$500,000 and you're paying \$100,000-a-year

00074

1 maintenance fee and you want to swap to Oracle, you
2 continue to pay the \$100,000 maintenance fee but you
3 don't have to buy the Oracle software, you can just move
4 across.

5 Q. And has a decision been made for how long those
6 prices for maintenance will remain in effect?

7 A. Indefinitely. I don't think we've said ten
8 years, but I think the answer would be indefinitely.

9 Q. Now, you said -- you've indicated that, as a
10 general matter, within Oracle, you have not raised
11 maintenance fees in sometime; correct?

12 A. We haven't --

16 MR. SCOTT: Q. You can answer the question.

17 A. I believe -- you know, I believe we haven't
18 made -- increased -- I've got to be very precise here.

19 Some customers got increases, the majority of
20 customers didn't, I believe that's correct, in terms of
21 maintenance fees.

22 Q. You lost me somewhere.

00075

1 A. I lost you because I'm not precisely sure how to
2 answer the question.

3 Q. Let me ask the question --

4 A. I don't want to make the assertion we have not
5 raised any customers' maintenance fees anywhere in the
6 world for the last couple of years.

7 Q. Let me ask the question.

8 For application software, enterprise software
9 that you folks sell, have you raised the maintenance fees
10 within the last three years?

11 A. For certain customers?

12 Q. I'll take that.

13 A. I don't know the answer.

18 For the people who are not J. D. Edwards
19 customers, have you made any decision as to how long
20 PeopleSoft customers that transfer over to Oracle
21 products post merger would receive the same maintenance
22 fees they were paying PeopleSoft as opposed to J. D.

00078

1 Edwards?

2 A. I believe we would treat the PeopleSoft
3 customers exactly like we treat existing Oracle customers
4 in terms of price increases or no price increases in our
5 maintenance fees.

6 Q. You've made no public pronouncements on that one
7 way or the other?

8 A. No.

9 Q. All right. Now, your -- going back to the
10 exhibit, Exhibit 6 to your deposition, it states here,
11 although -- "Furthermore," I'm sorry, in the paragraph 2
12 on page 4, "Furthermore, we will be incorporating the
13 advanced features from the PeopleSoft products into
14 future versions of the Oracle E-business suite."

15 Now, what features are you talking about there?

16 A. Well, I suppose the most conspicuous one is in
17 H.R. They have a pension system and in their human
18 resources system that we don't have and we would put the
19 pension system into the Oracle version of H.R. and, in
20 fact, we would look very thoroughly at all of the
21 features that PeopleSoft had and, as much as possible, if
22 they had features we didn't have, we would try to include

00079

1 those features in the next version of Oracle because
2 over -- what we like to offer Oracle customers and
3 PeopleSoft customers is an improved product.

4 So this is what I refer to as an emerged
5 product. So we take the PeopleSoft features and use the
6 PeopleSoft engineers to put those features into the next
7 version of Oracle H.R.

8 Q. Is this -- strike that.

9 Structurally or functionally how do you do that,
10 put those features in? Are you able to transfer code
11 over or what?

12 A. No, you cannot transfer code over. You have to
13 have the engineer -- but you can transfer knowledge, so
14 you can use the PeopleSoft engineering team and part of
15 the value of this acquisition is the engineering team.
16 You use the engineering team that built those features
17 for PeopleSoft to build those features into the next
18 version of Oracle H.R.

19 Q. Are any of these advanced features using the
20 terminology -- strike that.

21 Yeah, using the terminology in your -- on
22 your -- in the statement here in Exhibit 6, "advanced

00080

1 features," are any of those features that you would be
2 unable to duplicate and include in your Oracle products
3 absent this merger?

4 A. Unable is an interesting question. I can
5 make -- the reason we have not put the pension system
6 into our H.R. system is there's a very small market for
7 the pension system and it's not obvious that it's
8 economically justifiable to put that feature in, given
9 the size of that market. So we are technically able to
10 put it in, but the business case is marginal.

11 Q. All right. Let me understand what you're
12 saying.

13 In the context of the pension features that
14 you're talking about from PeopleSoft, Oracle is
15 functionally capable of developing that type of
16 functionality?

17 A. Yes.

18 Q. But from a business standpoint, you've made a
19 decision as of now not to do that?

20 A. Correct.

21 Q. And that is because of, you said, in business
22 cases --

00081

1 A. It's a very small market.

2 Q. So are you -- is what you're saying is the
3 investment in actually doing the engineering to develop
4 the pension system wouldn't be worth -- may not be worth
5 the volume of sales it would generate?

6 A. It's right on the -- yes, it's not clear that it
7 is.

8 Q. Now, would it be -- I'm not expecting exact
9 figures here --

10 A. Sure.

11 Q. -- but from a degree, how much cheaper would it
12 be to take it from and develop it from the PeopleSoft
13 product and reinstall it versus developing it on your
14 own?

15 A. It wouldn't be just cheaper, we'd have more
16 customers. Then as you have more customers, you have
17 more customers to amortize the development over. In the
18 sense that PeopleSoft makes us a bigger applications
19 company, we're then able to invest more money in
20 developing features.

21 Q. Other than the pension feature that we've been
22 discussing, are there other advanced features that you'd

00082

1 expect to include in the Oracle E-business suite post

2 merger?

3 A. That's the one large one. There are, you know,

4 little features here and there that we'd want to include

5 for purposes of upper compatibility.

6 We would like a PeopleSoft customer sometime in

7 the next, I'll just say five years, in the next five

8 years, running PeopleSoft 8 to move to the merged

9 product. We'd like to make that move as graceful as

10 possible. In other words, we don't want them to give up

11 any feature they had in PeopleSoft 8 and not have that in

12 Oracle Version 12.

13 So it should look like moving from -- so the

14 PeopleSoft customers and PeopleSoft 8 should look like

15 moving from PeopleSoft 8 to PeopleSoft 9. In fact, our

16 goal is to make it easier to go from PeopleSoft 8 to

17 Oracle 12 than going from PeopleSoft 7 to PeopleSoft 8,

18 so they can't give up features, so it's very important.

19 And that's one of the things we mean by that, to

20 take all of those features we don't have, even some of

21 the minor features, include those in the next version of

22 our H.R. product that should make it very grace to

00083

1 upgrade so you don't have to give up any features.

2 It's an easy upgrade and you not only get all

3 the features you had with PeopleSoft, you get all the --

4 you get a union of the -- of all of the Oracle advanced

5 features and all the PeopleSoft advanced features. You

6 get a more sophisticated, more advanced product.

7 Q. From the standpoint of the features that you

8 just described that would be transferred from

9 PeopleSoft's product into Oracle to make a transition

10 over to Oracle more palatable to PeopleSoft users, what

11 type of things are we talking about?

17 A. It's a matter of -- again, the big case, if you

18 had pension capability, you would not want to upgrade to

19 the Oracle product and lose the pension capability.

20 If you had a particular feature in PeopleSoft, I

21 can't think of any, they are -- you know, they have a

22 very sophisticated H.R. product.

00084

1 We think we're ahead of them in virtually every
2 other area, but if there was -- if we discover certain
3 specific features that we don't have, we don't want to
4 take those away from PeopleSoft customers because we want
5 them, again, to upgrade.

6 MR. SCOTT: Q. Has any work been done at this
7 point to identify features that you would want to
8 transfer from the PeopleSoft product to the Oracle
9 product to make it more a smooth or graceful transition
10 for people who are wanting to switch over?

11 A. I know of no such document.

12 Q. Whether there's a document or not, has anybody
13 been looking at that type of thing?

14 A. We always do competitive analysis so there's
15 been constant competitive analysis between us and
16 PeopleSoft, but we really don't have access to their
17 software. So until we look at their software in detail,
18 except at gross levels, where I can say -- the pension
19 system we just simply don't have, except in areas like
20 that, I really can't.

21 Q. I understand.

22 When you said that you do constant competitive

00085

1 analysis, presumably versus PeopleSoft, what do you mean

2 by that?

3 A. We have a specialist in H.R., his name is Tony

4 Kender, and we compete with them in the H.R. area. And

5 we know what they say about their products, why they

6 say -- they say you should buy PeopleSoft for these

7 reasons, and we talk to customers when they make

8 decisions and -- talked about it before. One of the

9 purposes of the competitive analysis and the win/loss

10 reports is to figure out why we lost. Was it a product

11 deficiency? Is there something we can do to improve our

12 products?

13 So we're constantly trying to figure out what

14 new features we should put into the product to be

15 competitive with a variety of companies or to gain

16 competitive advantages, what features they don't have,

17 which we should be talking about when we're selling our

18 products versus them.

19 Q. Mr. Kender, is he dedicated to doing this type

20 of work related to PeopleSoft only, this competitive

21 analysis, or does he have other vendors that he looks at?

22 A. He used to work at PeopleSoft so he, excuse me,

00086

1 he used to work at SAP, so he handles SAP. But he was
2 responsible for our H.R. team, so he had the
3 responsibility for H.R.

4 Q. From a competitive analysis standpoint or --

5 A. H.R. sales SWAT team. They were the experts
6 that got involved in selling H.R.

7 Q. So -- and in selling, being the special -- when
8 you said "SWAT team," what is that?

9 A. They would be flown into a crisis situation
10 where there was a decision being made on an H.R. purchase
11 and they would, you know, they would travel the world to
12 to try to persuade customers to buy Oracle.

13 Q. His work in that regard, is it directed just at
14 PeopleSoft or PeopleSoft and SAP or PeopleSoft, SAP and
15 others?

16 A. Anyone making an H.R. decision. And he'd have
17 to deal with people who are looking at outsourcing with
18 Fidelity.

19 H.R. is interesting. There are software
20 suppliers and there are service suppliers who directly
21 compete, so they might be considering buying Oracle or
22 just outsourcing all their H.R. to Fidelity.

10 Q. The question is, when you're looking at a
11 discount situation, does the fact of what type of product
12 is involved in a particular competitive transaction
13 matter to you?

14 A. Yes.

15 Q. In what way?

16 A. If we have a brand new product -- example right
17 now, we have a brand new product called Collaboration
18 Suite. We have almost no references. It's a brand new
19 product. It's very aggressively priced, yet we still
20 give huge discounts, trying to get references.

21 So, again, I'm going back to situational.

22 Here's a product -- we're trying to get large

00089

1 customers -- especially for a large customer, trying to
2 get large, credible references and, again, it's not
3 uncommon to even give the product away and even give
4 services away early on in the life cycle of the product,
5 to get a strong reference from an early adopter of that
6 technology.

7 Q. Would it matter to you in the context of a sale
8 involving application software, whether it was your H.R.
9 product or your financial services product or an ERP
10 combination of the two, from the standpoint of deciding
11 whether or not to approve a discount or other special
12 contract terms?

13 A. I don't think so. Back to -- it's back to
14 situational. I think you have to -- it's such a
15 complicated, complex dynamic. If it's --

16 Q. Let me give you an example.

17 A. We have strong competitors in virtually every
18 area.

19 Q. For example, if you were -- an account comes up
20 for approval of a higher discount over 70 percent and you
21 understood it was PeopleSoft you were competing with for
22 their H.R. product. Are you more likely to give a higher

00090

1 discount there than if it was SAP, for example?

2 A. No.

3 Q. You you indicated that you thought that

4 PeopleSoft had a very sophisticated H.R. product; right?

5 A. Yeah.

6 Q. And so does the sophistication of that product

7 in any particular account have any effect on whether or

8 not you give a higher discount?

9 A. The product is one factor causing the customer

10 to buy. Sometimes PeopleSoft can be a formidable

11 competitor because their product. SAP can be a

12 formidable competitor because their product is pretty

13 good. I don't think it's as good as PeopleSoft's,

14 actually, in H.R.

15 But SAP is a much stronger vendor and SAP has

16 the ability to invest at a much higher level than

17 PeopleSoft. So a lot of people will say SAP is the

18 encumbant supplier in an awful lot of places.

19 So, again, I'm back to this -- here's a

20 situation -- I'll take Oracle out of it. You're looking

21 at SAP as a possible supplier, you're looking at

22 PeopleSoft as a possible supplier, you're looking at

00091

1 Microsoft as a possible supplier. They all have
2 different characteristics. If you're an existing --
3 depending upon the kind of customer you are, you can make
4 decisions for any of those companies.

5 SAP has more encumbancy. They have more
6 customers than anybody in applications, so they're more
7 likely to have the encumbancy advantage. That can work
8 for or against you. You like the SAP product, you buy
9 more. Maybe PeopleSoft has a better product, but I think
10 SAP will pass them in five years.

11 Again, these are those long-term, highly durable
12 products that are constantly improved. And the vendor is
13 often more important than the product.

14 Q. When do you expect to have in place the
15 Oracle -- the Oracle business product that would include
16 the features of PeopleSoft that would make it a more
17 graceful transition for PeopleSoft customers?

18 A. Should the acquisition go through --

19 Q. Yes?

20 A. -- how long approximately would it take us?

21 Q. Yes, sir.

22 A. Couple years.

1 Q. In discussions earlier you said something about
2 you were hoping -- again, I'm not trying to -- I'm trying
3 to lay some foundation here in asking questions. If I've
4 got this wrong, feel free to tell me.

5 You indicated something along the line of you
6 were hoping that there would be a transition of
7 PeopleSoft customers to your product over a five-year
8 period?

9 A. We think --

10 Q. Or did I get it wrong?

11 A. Ideally, we said we would support the PeopleSoft
12 products for at least 10 years.

13 Q. Gotcha.

14 A. We would hope that, if we do our job well,
15 that -- our job includes two things, one is doing a very
16 good job of supporting the PeopleSoft customers as they
17 continue to use PeopleSoft product and continue to
18 enhance and improve that PeopleSoft product, high quality
19 service, highly improvements, which is what we did when
20 we bought the Digital RDB data, so we have a track record
21 of doing that, of treating customers well.

22 So if we can persuade them by providing a high

00093

1 quality of service that we're a supplier they want to

2 stick with, that's a good step one.

3 Step two would be to make improvements to our

4 products by including all of what I'm calling the

5 PeopleSoft features to make that migration to PeopleSoft

6 very easy and attractive. They'd have reason to make

7 that migration because they would be getting a better

8 system, and then providing no economic barriers for

9 making that transition by not charging them for going

10 from PeopleSoft software to the Oracle software.

11 Q. In the context of this type of transition,

12 you've indicated that you would do a trade-off with

13 PeopleSoft customers on a module-by-module basis,

14 whatever they had from PeopleSoft you would swap off for

15 an equivalent module from you --

16 A. At no charge.

17 Q. -- at no charge.

18 From the standpoint of implementation costs,

19 actually installing the software and insuring that it

20 works in a way consistent with the customers' needs, are

21 you in a position where you at Oracle have decided one

22 way or another whether or not you will assist PeopleSoft

00094

1 customers in that regard?

2 A. We sometimes assist our own customers in that
3 regard, migrating from one version to another. We have
4 package deals where sometimes we'll migrate them at no
5 fee if they become an outsourcing customer, for example,
6 if they outsource with us and run on our data center.

7 The overall plan for everybody is to make -- is
8 to minimize the cost of that migration. One of the
9 reasons -- I'll just cycle back.

10 One of the reasons we're making sure we have all
11 of the PeopleSoft features and we want to automate
12 migration from PeopleSoft 8 to Oracle Version 12, or what
13 we'll call the merged product, the Oracle/PeopleSoft
14 merged product, we want to automate that migration as
15 much as possible to minimize the labor cost. That's the
16 only thing that's going to make it really attractive to
17 customers because it is expensive to move from one
18 product to another if you don't have a high degree of
19 automation.

20 Q. Let me be sure I understand this. In the
21 context of customers, PeopleSoft customers transitioning
22 to Oracle, there may be a potential, if they are

00095

1 interested in becoming an outsource customer of Oracle's,
2 to do the transition at no charge from an implementation
3 standpoint?

4 A. Sure.

5 Q. For customers who do not -- are not interested
6 in doing the outsourcing, you're going to try to automate
7 as much as possible the implementation process to reduce
8 the cost to them?

9 A. Automate as much as possible. Understand, there
10 was a cost of going from PeopleSoft 7 to PeopleSoft 8,
11 there was a significant cost from going from PeopleSoft 7
12 to PeopleSoft 8. We would try to make it cheaper to go
13 from PeopleSoft 8 to the merged product than it was --
14 than the cost of going from PeopleSoft 7 to PeopleSoft 8.

15 So the companies understand that every period of
16 time, I'll just pick five years, for major releases, that
17 they're going to have to install a new version of the
18 software. They don't have to, we said we'd actually
19 support it for 10 years. If you stay with PeopleSoft,
20 you will not -- I guarantee you PeopleSoft will not
21 support PeopleSoft 8 for ten years. There will be a
22 PeopleSoft 9. The PeopleSoft customers will have to

00096

1 upgrade to PeopleSoft 9.

2 Upgrading from PeopleSoft 7 to PeopleSoft 8 was
3 a very expensive process. Upgrading -- there will be a
4 cost associated upgrading from PeopleSoft 8 to PeopleSoft
5 9. We don't think it will be any more expensive and
6 we're going to try through automation to make it less
7 expensive to go from PeopleSoft 8 to the merged product.

8 Q. Do you have any estimate of what it would cost
9 in the dollars or man hours to transfer from a PeopleSoft
10 product to your product post merger for an individual
11 customer?

12 A. If we do it right, it won't look like going from
13 a PeopleSoft product to an Oracle product, it will look
14 like from going to PeopleSoft 8 to PeopleSoft 9.

00098

22 Q. Will the enhanced Oracle product that you're

00099

1 hoping the customers will migrate to operate on anything

2 other than Oracle's data base?

3 A. I don't know.

4 Q. That decision hasn't been made?

5 A. That decision hasn't been made.

6 The answer is it's likely to only operate on an

7 Oracle data base.

8 Q. So for a customer who wants to migrate post

9 merger from PeopleSoft to Oracle who does not have Oracle
10 data base, what will that entail?

11 A. They would have to learn -- they would have to
12 have people trained in how to operate an Oracle data
13 base.

14 Q. Would you do anything with them from the
15 standpoint of trying to offset the cost of doing the
16 transfer?

17 A. There would be no -- we would provide the Oracle
18 data base for the merged product free of charge so there
19 would be no charge for doing that. Again, as I say, most
20 customers run the Oracle data base so --

21 Q. Are there implementation costs associated from
22 transferring from one data base to the Oracle data base?

00100

1 A. I don't think so. I think there are training --

2 you said implementation costs.

3 Q. Yes.

4 A. There could be some training costs and training
5 some DBA's. You would probably go out and hire people
6 experienced running Oracle. There's a large population
7 of people experienced in running Oracle.

8 Q. DBA's are what?

9 A. I'm sorry, data base administrators, the people
10 who operate the data base on a daily basis.

11 Q. So would there be plans post merger to issue or
12 come out with a PeopleSoft 9 product?

13 A. No -- yes, the PeopleSoft 9 is the merged
14 product, so there would be one team of people, we would
15 merge the PeopleSoft engineers with the Oracle engineers
16 and they would produce a merged product. You could call
17 that PeopleSoft 9 or Oracle 12, it's the same product.
18 It would have the union, it would have all the PeopleSoft
19 features and all the Oracle features.

20 Q. Are there plans to come out with a PeopleSoft 9
21 product that runs off of PeopleSoft code post merger?

22 A. No.

1 Q. Now, in the context of some of the discussions
2 that have taken place regarding what would happen with
3 customers post merger, there have been some indications
4 that you folks would keep engineers working on the
5 PeopleSoft product, as you said, support it for eight,
6 for ten years.

7 A. Ten years

8 Q. In the context of that, what type of -- have
9 decisions been made about the number of PeopleSoft
10 engineers that would be dedicated to that project?

11 A. No, it really depends on what features we're
12 putting into the product. I mean, everything from the
13 things -- there are statutory requirements to put in, the
14 tax tables, to make sure that we keep the payroll
15 withholding taxes are accurate for the next ten years, to
16 more exotic features like wireless capability, which we
17 would plan as new technologies emerge and new operating
18 systems emerge. We would plan to keep the PeopleSoft
19 products current with those technologies.

20 Again, it's really in our interest to keep these
21 customers very, very happy. I don't think -- I don't
22 think we'll get them to move to Oracle products through

00102

1 coercion.

18 Now, I don't know that I saw it in Exhibit 6 but
19 I've seen a reference from -- may have been quoted from
20 you or someone else, saying that post merger, while you
21 will not be actively marketing the PeopleSoft product to
22 new customers, if somebody called up on the phone and

00104

1 wanted to buy it, you're not going to turn away money.

2 A. Absolutely not.

3 Q. And exactly from that perspective, would it have
4 to be that type of circumstance, where somebody
5 approached you and said, "I want the PeopleSoft product,"
6 that you would sell it to them?

7 A. No, I said earlier that if you're an existing
8 PeopleSoft customer.

9 Q. I'm just talking about new customers now.

10 A. A brand new customer?

11 Q. Yeah.

12 A. Yeah, you'd you'd have to express an interest in
13 a PeopleSoft product to one of our salespeople.

14 Q. You also indicated, going to existing PeopleSoft
15 customers, that may -- wanted to buy additional modules
16 that they had not previously purchased from PeopleSoft,
17 that would be possible?

18 A. Of course. We would actively be trying to sell
19 those to those customers.

20 Q. Actively, who would be doing that?

21 A. Probably a specialized telesales organization
22 would be calling existing PeopleSoft customers and ask

00105

1 them if they needed more seats for an existing module,
2 more users for an existing module, or if they wanted to
3 use main modules.

4 Q. In the context of an existing or previously
5 existing PeopleSoft customer who is buying additional
6 modules, what would the policy be about how that purchase
7 would be priced?

8 A. I don't think there would be any difference in
9 policy versus selling existing Oracle customers new
10 modules. So I think the pricing -- we try to have a
11 pricing equivalency.

12 Q. "Pricing equivalency" meaning what in that
13 context?

14 A. If additional -- again, if an H.R., human
15 resources, seat cost -- I'm just picking a number out of
16 the sky -- \$2,000 for Oracle, we try to have a similar
17 price for the PeopleSoft component and discounting policy
18 for both would be the same.

19 Q. Would you plan on discounting additional
20 PeopleSoft modules to existing customers, discount them
21 in ways that would address any competition in that
22 account?

00106

1 A. Oh, of course.

2 Q. How would you go about that?

3 A. Same exact process as if Oracle is an encumbant

4 application supplier and Microsoft was coming in and

5 trying to displace us.

6 Q. Well, now, if you have a customer who has a

7 PeopleSoft H.R. system or applications and they are going

8 into the market -- this is, again, post merger -- for

9 financials management software, how would that play out

10 in the context of your company post merger?

11 A. I think at that point there's a PeopleSoft

12 product installed there, assuming there's not an Oracle

13 product installed at that customer, so I think we would

14 give the customer the choice of buying either Oracle

15 financials or PeopleSoft financials.

16 Q. At the same price?

17 A. Yeah, exactly.

21 You testified earlier, I believe something to

22 the fact -- in reference to PeopleSoft having a very

00107

1 sophisticated H.R. product.

2 A. Right.

3 Q. I think you said you felt that your folks, your
4 products, were ahead of them in all other areas with that
5 possible exception?

6 A. I said virtually all areas, all areas that I
7 knew about.

8 Q. What did you mean by that?

9 A. It means our manufacturing product, we think our
10 financial product is better than theirs and it has more
11 features. Doesn't mean they don't have some features
12 that we don't have, but we probably have more -- we have
13 more features than they do so we're a more feature-rich
14 product than they are, certainly in manufacturing and
15 supply chain and most other areas that I know of, save of
16 human resources.

17 Q. Would that be true for financial management, as
18 well?

19 A. Absolutely.

20 Q. How did you get to the point where you are in a
21 position where you have a more feature-rich product, with
22 the possible exception -- in all areas with the possible

00108

1 exception of H.R.?

2 A. We started on financials before they did so
3 we've been at it longer. We're larger than they are so
4 we invest more in it, and I think we've been more
5 innovative than they've been. We got to the Internet
6 first.

7 Q. From a standpoint of their H.R. product, how
8 does that compare to your H.R. product? Is it a question
9 of being more feature rich or something else?

10 A. They worked on H.R. before we did. That was --
11 that was their first product. That was their only
12 product for sometime. They invested more heavily in H.R.
13 and they started before us and they invested more heavily
14 in it.

15 Q. Now, has the gap between you and PeopleSoft and
16 H.R. remained constant over time from the standpoint of
17 feature richness?

18 A. No, I think we've caught up in most areas.

19 Q. What do you mean by that, "caught up in most
20 areas"?

21 A. I mean the features -- in fundamental H.R. I
22 would say we're approximately equivalent, my judgment is

00109

1 we're approximately equivalent, that they're really not
2 ahead of us at all.

3 Q. What period of time did it take you to get to
4 the point where you believe you are approximately
5 equivalent to PeopleSoft in H.R.?

6 A. Interesting question. Once we focused on it,
7 more than one, less than two years.

8 Q. How did you go about catching up with them?

9 A. Spent money, hired engineers and had them put in
10 features.

11 Q. Why did you do that in the context of catching
12 up with PeopleSoft in H.R.?

13 A. It's a big -- H.R. is a very, very large market.
14 Virtually every company has to deal with personnel and
15 payroll issues and it was a big business opportunity and
16 we wanted to have a very competitive product.

17 Q. Did the feature richness of their product before
18 you got to the point where you believe that you were
19 functioning equivalent with them, give them an advantage
20 of trying to sell that product to customers?

21 A. Sure.

22 Q. In what context? How did it give them an

00110

1 advantage?

2 A. Well, if you have more features -- if, for
3 example, you needed -- I'll go back to the thing we still
4 don't have.

5 If you need a pension system and Oracle doesn't
6 have it and PeopleSoft has it, you would buy PeopleSoft.
7 It's just a matter if that's something you need. There
8 are some features people don't need. Most companies
9 these days don't have pension systems, so for the vast
10 majority pension is not an issue.

11 Q. Can you give me some examples of features that
12 you've added over time to catch up to PeopleSoft in the
13 H.R. area?

14 A. Displaying job openings on the Internet.

15 Q. Anything else you can think of?

16 A. I can go back and check, give you a fairly long
17 list. But I'm really not sure about the specific
18 catalogue of features.

19 Q. Now, is it your perception that over time
20 PeopleSoft has made any efforts to catch up with you in
21 the area of financial management?

22 A. I think all vendors look at, you know, look at

00111

1 what the other companies are offering, and where there
2 are deficiencies they try to catch up. You try to cover
3 up deficiencies, close gaps, as we say, and gain
4 competitive advantage.

5 You try to innovate in certain areas to create
6 features no one has so you're the first company with this
7 new feature and you try to close competitive gaps.

8 Q. Was the feature richness of your product, your
9 financial management product, did that enable you to take
10 business away from PeopleSoft because they did not match
11 up with you functionally?

12 A. It's one of the factors I think. Vendor
13 credibility, again, is at least as big a factor.
14 Ability -- these decisions are made over long term so the
15 current state of our product is important, but our
16 ability to keep investing, the fact we're going to be
17 around as a vendor, we have had the financial ability to
18 keep investing, respond to technology changes, to add
19 features, I would say is at least as important as the
20 current, you know, the snapshot -- what's the state of
21 your product now? What's the state of their product now?
22 I don't think anyone looks at it that way.

00112

1 Q. Let me ask this --

2 A. That's extreme. Maybe some people do. I think

3 the vast majority of people look at a long-term, five- to

4 ten-year relationship with a supplier, how is that

5 product going to evolve and not just meet my needs today

6 but meet my needs two years from now, four years from now

7 or 10 years from now

8 Q. In the context of your financial management

9 package, do you think PeopleSoft has caught up with you

10 today from a functional standpoint?

11 A. I think they certainly -- they've added a bunch

12 of features. I think there's a bunch -- I think we

13 handle global companies a little bit better than they do,

14 something called Global Single Instance. There's still

15 things we do -- general ledger consolidations I think we

16 do better than anybody. So there are some things I think

17 we do better than PeopleSoft or any other supplier.

00114

21 misstating what you said. You used the term "leapfrog"

22 in the context of looking at competitors and deciding

00115

1 whether to discount or not, i.e., judging competitive

2 situation. What did you mean by that term?

3 A. Leapfrog?

4 Q. Yes.

5 A. Where they had a better product than you did

6 last year and now you have a better product than they do

7 so you went from being technically disadvantaged to

8 technically advantaged, you leap-frogged over their

9 technology.

10 Q. Have there been circumstances in the context of

11 your sales of ERP application software where you feel

12 that you have leap-frogged your competitors?

13 A. Yes.

14 Q. Could you give me, tell me what circumstances

15 they were?

16 A. We were the first company to go to the Internet.

17 We decided -- we went partially to the Internet as an

18 optional feature as released 10.7 of our applications,

19 and released 11 hours in Internet only applications. So

20 everyone who had that would be upgrading from client

21 server in terminal systems -- we had three versions, we

22 had a terminal system in the old days and then we had a

00116

1 client server system and then we moved to an Internet
2 system.
3 And we were considered slightly mad for
4 introducing the Internet system when we did. There was a
5 lot of negative press, there was a lot of conflict inside
6 of Oracle whether we should introduce an Internet-only
7 system, but we did, and virtually everyone followed.

22 Q. Have there been any circumstances where you

00117

1 think in the ERP application software arena where you've
2 been leap-frogged by any of your competitors?

3 A. Yeah. I think when SAP came out with their ERP
4 suite, a group of applications that worked together as a
5 unit, they had a main frame system called R-2 and then
6 they developed a new system called R-3, which was
7 designed to run on Unix and run on a relational data base
8 and they had all of the applications work together, and
9 so as they moved from R-2 to R-3. Now I think they then
10 leap-frogged our Unix open system relational
11 applications.

12 Q. Were you able to catch up to them based on that
13 leapfrog?

14 A. Well, the problem with them was that they --
15 because they're a European company they -- they've been
16 in business much longer than we were. They had been in
17 the applications business much longer than we were and
18 now they had the same Unix technology that we did and the
19 same open system technology, same relational data base
20 that we did. But they had a lot more experience in
21 building big multi-national systems.

22 So they were very good at building systems that

00118

1 ran in Germany and ran in France and ran in Japan and ran
2 in Brazil, adhered to all the local laws and all of those
3 things, and it took us awhile to catch up with all of the
4 multi-national features.

5 Q. Do you recall when you were able to catch up
6 with SAP from the standpoint they had multi-national
7 features?

8 A. It took us awhile, it took us a few years.

15 Q. If you were -- again, I'm talking ranges now, I
16 don't expect a precise number on this. If you were
17 comparing for a particular customer the cost to them over
18 the life of the product of an integrated ERP suite, such
19 as you or PeopleSoft or SAP sell, versus a best of breed
20 approach, what kind of cost differential are we talking
21 about?

22 MR. RILL: I'm going to object to the nature of

00138

1 the question, the character of the question. He didn't
2 say they were equivalent, SAP, PeopleSoft and Oracle.

3 MR. SCOTT: Your objection's noted and you can
4 take that into account in your answer.

5 A. Well, we think the suite might -- the best of
6 breed approach, I think is five times more expensive and
7 that's not the worst part. The worst part is because the
8 best of breed approach fragments all your data into
9 separate data bases and it's very hard to get good
10 information out.

11 If you look at Microsoft's Project Green, it is
12 a complete and integrated suite, which is absolutely --
13 unfortunately, they got it right. The people they
14 acquired at Great Plains are very smart. They've been in
15 business a long time and they are going to be a
16 complete -- they're very much like the Oracle E-business
17 suite.

18 Microsoft does a fabulous job of looking at
19 what's going on in the marketplace, getting high quality,
20 experienced people, and then copying -- closing gaps at a
21 very, very rapid rate. One of our biggest concerns now
22 is we have Microsoft coming into this market with a

00139

1 complete and integrated E-business suite, which if you

2 look at Microsoft's pricing history, you know, they're

3 going to price very, very aggressively.

4 If you look at what are Microsoft's limits for

5 competition, can they afford to price very aggressively?

6 Yes, they can. Can they afford to invest very heavily?

7 Yes, they can. Can they close gaps at a very, very rapid

8 rate, absolutely.

9 MR. SCOTT: Q. When you are talking about the

10 best of breed, when you say they've got individual data,

11 the data is in individual data bases --

12 A. Separate data bases. So if you had all these

13 things, you'd have an H.R. data base that was really part

14 of the PeopleSoft application, you'd have a Siebel data

15 base that was part of your call center, you'd have a

16 Salesforce.com data base that was part of your field

17 sales -- where your Sales field data was, you'd have an

18 accounting data base maybe within SAP, you'd have a

19 supply chain data base in i2.

20 These are literally separate data bases. Your

21 information about your business would be fragmented into

22 many different data bases.

00140

1 Q. Would it be possible for you to access the data
2 across the best of breed applications?

3 A. Staggering, yes, but staggeringly so difficult,
4 there's no good way to do it.

5 Q. Is it -- the best of breed type of suppliers, I
6 notice you mentioned Siebel?

7 A. Yes

8 Q. Would they be an example of one?

9 A. Well, they're so -- they're interesting because
10 they have a CRM suite.

11 I'll tell you what I believe, I believe the
12 long-term winners provide a complete E-business suite.
13 That's -- obviously, that's what we've done. That's how
14 we better our business.

15 We look at our current No. 1 competitor and what
16 are they doing? E-business suite. We look at our future
17 No. 1 competitor; what are they doing? E-business suite.

18 So we think that even Siebel, which does just
19 front CRM, front office, call centers, marketing, field
20 sales, those kinds of things, even they're going to have
21 a hard time in the long run.

22 I'll give you -- and they're terribly vulnerable

00141

1 both on the innovation side, from an innovative supplier
2 like Salesforce.com, and a suite supplier like Microsoft.
3 So a combination of those two, a company that competes
4 via innovation, Salesforce.com, a company that competes
5 using economics, the ability to invest huge amounts of
6 dollars and price very, very aggressively -- Microsoft's
7 favorite price being zero. They're the only ones whose
8 normal case is often zero. There's no one else like
9 that, puts a company like Siebel at a serious
10 disadvantage.

11 Q. Let me back up a minute. A couple things about
12 what you said about Siebel.

13 You said Siebel has a CRM suite?

14 A. A CRM suite, so they have all of the front
15 office pieces. Front office, just like the back office,
16 the ERP suite included manufacturing, accounting, H.R.,
17 payroll, several components in the back office.

18 The CRM suite would be marketing, sales and
19 service and call centers.

20 Q. Despite the fact that they may call this a CRM
21 suite, do you consider that product to be a best of breed
22 product?

00142

1 A. I do consider it to be a best of breed product.

2 Q. And why is that?

3 A. You would have to have at least one other --

4 again, it's on the borderline. You'd have to have --

5 you'd have to integrate it, that front office, the Siebel

6 front office products with somebody's accounting system

7 and someone's manufacturing system, someone's H.R.

8 system. Siebel doesn't do that. And that would have

9 -- and that system integration is going to be costly and

10 those costs over time are going to disadvantage Siebel.

11 Q. Now, has -- when you say that you believe that

12 the suite, the people who are selling the suite approach

13 as opposed to the individual best of breed approach are

14 going to be the eventual winners, over what period of

15 time do you think that's going to happen?

16 A. I think it's happening already.

17 Q. What makes you think that?

18 A. SAP is gaining market share already and

19 they've -- depending on how you slice the market up, if

20 you look at the oil and gas industry, which is important

21 to Texas, SAP has a hundred percent of it, clearly a

22 hundred percent market share.

00143

1 So as you look at industries -- and that's the
2 way the application business works, it's divided by
3 industry. So if you look at industries, you know, small
4 to large, everyone in oil and gas uses SAP. That's the
5 market for the oil and gas industry.

6 So they've been tremendously successful and
7 they're going to be a very formidable competitor. And
8 they invented the suite business with ERP and now they're
9 finishing the suite business as they've made entries into
10 call center, sales, marketing and service. So they are a
11 complete E-business suite company.

12 Q. Now, you indicated a moment ago -- strike that.

13 You think that the E-business suite companies --
14 I'm sorry -- are already taking share away from the best
15 of breed approach?

16 A. Yes.

17 Q. Do you think that the best of breed companies
18 have a long life who are using that approach?

19 A. I think a company like Salesforce.com, which has
20 been very innovative, can -- could have a second
21 generation best of breed company, which is very
22 interesting because --they're a very interesting company,

00144

1 worth looking at closely, because they're a tiny company
2 that came in and created an unbelievable price pressure
3 on Siebel. They priced their product at \$195 a month,
4 one-tenth of what Siebel costs and for Siebel to offer a
5 comparable product -- Siebel combined with IBM, quite a
6 tandem, to compete with Salesforce.com to have a
7 competitive product for \$70 a month. Quite amazing, and
8 what they're selling isn't exactly software, it's a
9 service to automatic -- a service on the Internet to
10 automate your sales force. So, in fact, it's better. It
11 has all the software characteristics but you don't have
12 to buy the computer or the network, you just use it on
13 the Internet.

14 So it's really, really low cost. It's a very
15 low implementation cost, very low per user cost. So
16 they've been tremendously innovative, however, they're
17 still best of breed. But they're kind of a second
18 generation best of breed.

19 You will see a second generation E-business
20 suite coming out, which is a service that integrates all
21 of the components, and you'll see that from Microsoft and
22 you'll see that from us and you'll see that from SAP.

00145

1 And we think, again, our No. 1 competitor right now is
2 clearly SAP and our No. 1 competitor 24 months from now is
3 clearly Microsoft.

4 That's our belief and those two major
5 competitors are both very large, have the ability to
6 invest very, very heavily, you know, and price
7 aggressively. But the key thing here is they're both
8 complete E-business suite suppliers. That's their
9 strategy.

10 Q. You believe that's the way the market's going?

11 A. I'm convinced. By the way, can I throw in one
12 more reason why I'm convinced?

13 Q. Absolutely.

14 A. The antitrust division, remember when there was
15 a P.C. software industry? There isn't one now. There's
16 Microsoft, and there used to be Ash & Tate with a data
17 base and there used to be Word Perfect with a word
18 processor, there was Lotus with a spread sheet. There
19 was Harvard with Graphics.

20 They were all replaced and completely wiped out
21 by an integrated suite called Microsoft Office. The
22 integrated suite always wins, so you don't have to look

00146

1 forward, you can look back. It's always the way.

2 Q. What other -- we've mentioned the Salesforce.com

3 and Siebel as best of breed suppliers out there.

4 A. Yes.

5 Q. Who else is there?

6 A. I mentioned i2, Manugistics, Commerce One,

7 Ariba.

8 Ariba was interesting to note because at the

9 height of the bubble, Ariba's market valuation, they're a

10 best of breed procurement, purchasing. All they do is

11 automate a little part of purchasing, but they had a

12 higher market value than Dimler-Chrysler at the height of

13 the bubble.

14 So you might look at what this best of breed is

15 worth now, Commerce One -- if you just look at what's

16 happened to best of breed over the last couple years,

17 you'll see they're in the process of vanishing.

18 Q. Now, based on some of your testimony, you

19 mentioned Microsoft more than a couple times in the

20 course of the conversation, I take it you are convinced

21 they're going to enter and start the market that you're

22 in and start competing with you, the sales of ERP

00147

1 software?

2 A. I take them at their word. I take them on --
3 the amount of money they're currently investing is
4 breathtaking. It's a little bit -- when someone -- like
5 when a country starts mobilizing their army, you get
6 nervous when people are putting all those people on your
7 borders, you pay attention.

8 Microsoft has got very -- has made two major
9 acquisitions in this area, Great Plains and Navision.
10 They've got a huge development organization and I know
11 some of the people who are running it who are very
12 talented.

13 They've adopted the E-business suite strategy,
14 so I think they're building the right products. They
15 have a lot of experience. They have two experienced
16 development teams they've acquired and they said they
17 plan to spend more money on R&D than Oracle, SAP,
18 PeopleSoft, Lawson, Cerner, you name it, on down the line
19 combined.

20 So, remember, I've been around here a long time.
21 I saw them enter the data base market and become very
22 competitive. I saw them start from nowhere, have zero

00148

1 market share in a browser market, to move to a hundred
2 percent market share. I saw them start with zero -- not
3 zero, they had the Mac. They had word processors on the
4 McIntosh.

5 They had five percent market share or ten
6 percent market share. I've seen them go from five or ten
7 percent market share in any number of areas to
8 approaching, not a hundred percent market share, 85, 95
9 percent market share over and over again.

10 Q. Is it your belief that without this transaction,
11 i.e., without your company being allowed to acquire
12 PeopleSoft, that you will be unable to compete with
13 Microsoft, assuming they do enter the ERP space?

14 A. Oh, absolutely.

15 Q. Why is that?

16 A. Because scale is hugely important in this
17 business. There are two things you compete on, one is
18 innovation -- that's very important -- and the other is
19 scale.

20 And Microsoft -- your ability, for example, one
21 of the things we have to do is be able to price against
22 Microsoft. So Microsoft shows up. They're always the

00149

1 price leader; right? Everything they do, aren't they the
2 price leader? I'm not allowed to ask you questions,
3 sorry. That's rhetorical. So Microsoft's going to price
4 extremely aggressively as they come out.

5 What is our ability to meet their pricing?
6 What's it based on? It's based on the size of our
7 business. We have -- the interesting thing about the
8 software business is that you have this huge fixed cost,
9 your R&D development, for the first version of your
10 product. Then there's no incremental cost, there's no
11 unit cost of selling the products. So somehow you have
12 to sell enough to cover your R&D costs or you can't -- as
13 prices come down, you better get bigger.

14 In other words, your ability -- Microsoft's
15 ability to sell at a low price is because they sell a lot
16 of software. That's exactly what enables them to sell at
17 a low price. Scale is what allows you to price very,
18 very aggressively, scale or innovation, one or the other.

19 And we have to have the scale, you know, at
20 least better scale than we currently have to compete
21 against Microsoft as they come in.

22 One of the things that's particularly scary is

00150

1 we saw -- and I know this is interesting because I think
2 it's an important part of the case -- I know people say,
3 well, we don't think Microsoft can enter what some people
4 are calling the high-end of the market very early. We'll
5 see competition from Microsoft at the low end of the
6 market early on, but it will take them a good long time
7 to get to what people are calling the high end of the
8 market.

9 And the lie of that, of that notion, is clearly
10 demonstrated by Salesforce.com. As they entered the
11 market, and a lot of people characterized them -- in
12 fact, Craig Conway, whose name's come up here before --
13 characterized Salesforce.com as a small company that will
14 forever be selling software to other small companies, a
15 small company that will stay small and always be selling
16 software to other small companies.

17 Well, he couldn't have been wronger. If you
18 look at Salesforce.com customer lists, they're selling to
19 some of the largest companies in the world. They came in
20 and immediately started selling to very, very -- not just
21 mid-size, not just small companies and mid-size
22 companies, but very, very large companies.

00151

1 So what you must understand is we build one
2 product and that one product is sold up and down the
3 line. And the product that Oracle sells to General
4 Motors is the identical product that we sell to a small
5 ABC toy company. There's no notion of building a
6 separate product for the high end. There's no notion for
7 building a separate product for the low end, at least we
8 don't have it.

9 SAP is the same, so -- PeopleSoft is the same.
10 Microsoft is building, you know, one suite of products.
11 Salesforce.com is the same. So they enter this market
12 pricing very aggressively, improving their product very
13 rapidly. We think they're going to get a substantial
14 share of the market and unless we get to scale, we're
15 going to have a very difficult time competing.

1 MR. SCOTT: Q. All right, sir, you indicated --
2 first of all, we're back from the break. You're still
3 under oath. If you need to take a break, let us know.

4 You indicated off the record there was something
5 you wanted to clarify.

6 A. Yeah. You asked me am I saying that if this
7 deal does not go through, the acquisition of PeopleSoft
8 doesn't go through, does that mean we won't be able to
9 compete. And I think what I'd like to say is -- I
10 quickly said "yes," and what I would like to say after a
11 little more consideration, it will make it harder, it
12 will make it harder.

13 I'm not ready to just say, "Boy, that's it, it's
14 over. We can't compete."

15 Q. So the record's clear, I think the question I
16 asked is, are you saying that if you don't get to do this
17 transaction and buy PeopleSoft, would you be unable to
18 compete with Microsoft if they come into the area where
19 they're selling ERP suites and other software comparable
20 to Oracle?

21 And your response is?

22 A. My response is, after some thought, it will make

00153

1 it a lot harder.

2 Q. In the context of that answer, what do you mean

3 by "a lot harder"?

4 A. The additional sale allows us to invest more in

5 R&D. It allows us to price more aggressively.

6 I think if you look, we have a very large fixed

7 R&D cost and our ability to discount is somewhat

8 mitigated by having to cover and pay back that R&D cost.

9 And Microsoft doesn't have -- Microsoft's profits are so

10 enormous, that they can give their software away for a

11 very, very long time without having to cover the R&D

12 cost. We don't have a similar advantage.

11 Q. Let's -- let me ask you if you would turn in the
12 document to page 54.

13 So we're on page 54 of Exhibit 7.

14 A. Okay.

15 Q. This appears to be a transcript of a financial
16 analyst day and there's a reference at the bottom of the
17 page where there's a statement, "Larry" and then some
18 narrative behind that.

19 Do you see that?

20 A. Yes.

21 Q. Let's flip over a little bit earlier in the
22 document to figure out what analyst day they were talking

00160

1 about, just to give you a little bit of context here.

2 All right, sir, if you would just look at page

3 28 of the exhibit, it appears to be the start of the

4 transcript on analyst day. It has "Oracle Financial

5 Analyst Day, Safra Catz and Chuck Phillips, Q & A."

6 Do you see that?

7 A. Uh-huh.

8 Q. Let's flip back into the document itself. And

9 we're back on page -- go back to page 54.

10 A. Okay.

17 Q. Now, there's a statement there where it said --
18 attributes you having said at some point that a lot of
19 smaller companies are act [sic] more features than actual
20 companies or products.

21 Do you see that?

22 A. Right. It goes right into what I was saying

00162

1 before, before we came to this document.

2 Take a company like Ariba and what they had was

3 the ability to enter an Internet purchase request --

4 enter a purchase request on the Internet and they built a

5 company out of that one little piece of automation, where

6 what people want to buy are what I believe is going to be

7 the winning strategy in applications are these complete

8 E-business suites.

9 It automates your entire back office, it

10 automates your entire front office. You're not going to

11 want to buy just one feature, the ability to enter

12 purchase requests on the Internet.

13 Now, if you're an innovator like Ariba was, I

14 mean, they were the first company to do that, to allow

15 you to enter your purchases on the Internet, interesting

16 first -- what's called a first-mover advantage; they were

17 the innovator. But people don't want to buy nifty new

18 features, they want to buy a complete working system, and

19 companies that are built around a small number of

20 features have no future.

21 And I've referred to those -- those aren't

22 companies, they're just features. They're not even

00163

1 one-product companies, they're one-feature companies, and
2 they're going to lose out to the suite companies and, in
3 fact, they are.

4 Having said that -- I'm not trying to make
5 everyone's life miserable here -- there's an example of
6 the second generation best of breed company like
7 Salesforce.com, which is a best of breed company but has
8 done such a good job on price and such a good job on the
9 technology, that even though -- they are, they're very
10 attractive and doing quite well.

11 Q. Now, in the context of -- let me ask you if you
12 would turn to page 57 in the document. About halfway
13 down, there's a -- fourth paragraph, third full
14 paragraph, starts, "And that's a symptom of a very
15 serious problem."

16 Do you see that?

17 A. Right.

18 Q. Goes on to state -- again, you can look, but
19 these are statements attributed to you -- "That's a
20 symptom of a very serious problem. And suites evidently
21 won. They will in our best of breed products and they'll
22 one feature companies, no one product companies. You've

00164

1 got PeopleSoft, J. D. Edwards, neither one of them are
2 like that. They actually have ERP systems and
3 PeopleSoft's funny, they're a little bit of a hybrid
4 because they are the best of breed H.R. supplier, as well
5 as being the being the number three ERP company."

6 Do you see that?

7 A. Yes.

8 Q. Who would you attribute being No. 1 and No. 2
9 ERP companies?

10 A. SAP was No. 1 and Oracle was No. 2.

11 Q. By "ERP," we're talking again here the
12 integrated suite, the back office operations?

13 A. Existing back office automation.

14 Q. Now, is that statement -- again, read whatever
15 you need to put it in context.

16 Is that a statement, PeopleSoft -- SAP is
17 No. 1, you're No. 2, No. 3, is that worldwide or in some
18 other smaller geographic area?

19 A. Worldwide.

20 Q. In the United States how would you rank?

21 A. In the United States where would Oracle rank?

22 Q. Yes, sir.

00165

1 A. No. 2 or No. 3.

2 Q. Now, when you use the terms -- again, read

3 whatever you need to put it in context.

4 When you talk about SAP being the No. 1 ERP

5 company, Oracle No. 2, and PeopleSoft No. 3 in the

6 context of this statement, measured by what?

7 A. By revenue.

22 Q. Now, in talking earlier today about when you are

00171

1 looking at a discount request and you'd try to determine
2 what companies are realistic threats before you let the
3 salesman give money away; right?

4 A. Right.

5 Q. Of the other ERP vendors in the United States,
6 which would you consider a realistic threat that you
7 would have to take seriously in the context of a discount
8 request?

9 A. We talked about -- Lawsons is probably the best
10 example. In certain industries -- again, this thing
11 tends to be industry-oriented, not -- I know the
12 government characterizes big company, small company
13 oriented. I don't think that's the way it really works,
14 I think it's industry-oriented, as I understand the
15 market.

16 Lawson would be very, very competitive in a
17 hospital, if you're trying to automate a hospital.
18 They've got a lot of good references in hospitals,
19 from very large to very small. Very tough competitor in
20 a hospital, stronger than we are. They're probably No.
21 1, very strong in state and local government. So
22 typically as you look around -- just like SAP, if we're

00172

1 competing with SAP in oil and gas, it's almost pointless,
2 you know, why bother.

3 Q. Why is that? Why would it -- why does SAP have
4 such an advantage over you in oil and gas?

5 A. Well, once you get critical mass, once -- this
6 is why our industry tends to cluster, SAP -- it's back to
7 scale.

8 Once you have a certain number of oil and gas
9 customers, you can afford to invest in interesting things
10 for oil and gas, even if it's just sales and marketing,
11 just special brochures and specially-trained salespeople,
12 people who speak the language, a special sales force.
13 You have a special sales force that just sells to oil and
14 gas and they can afford to create such special people
15 with specialized knowledge to sell to that market, where
16 we cannot afford that if we have two oil and gas
17 companies.

18 So once you get to critical mass, industry by
19 industry, you get -- you get companies that are very hard
20 to displace and the way this industry really petitions
21 itself up is not high end, low end, not big and small at
22 all, but it's by industry if you look at companies who

00173

1 are stronger and weaker inside this industry.

2 Q. Let's follow up on that.

3 You said that the market tends to act from

4 the -- down industry lines?

5 A. Yes, for applications.

6 Q. Application software. What did you mean?

7 A. Well, banks -- look at the entire sales process.

8 If you're an oil and gas company, you're going to ask for

9 references, and if my reference was J.P. Morgan Chase,

10 that's interesting, that's a big bank, but didn't I say

11 we were an oil and gas company? Weren't you listening to

12 me? I mean, who are your oil and gas references?

13 And people -- technology products are not easy

14 to understand, I don't care how smart you are. They're

15 very complicated. There's just lots and lots of details

16 and features. And one of the great litmus tests for

17 deciding whether to buy or not buy an application is, I'm

18 an oil and gas company. Can you show me another company

19 that successfully, just like mine, that successfully is

20 using this product? Show me a reference, if it works --

21 I'm Shell Oil, show me it works over at Chevron

22 or Exxon. Show me -- I'm not sure Chevron still exists.

00174

1 I lose track. So on a reference base, does your sales
2 force understand the notions of upstream exploration and
3 downstream distribution of oil. Can I even have a
4 conversation about my business? Are they specialized?
5 Do you have a special users group, where oil and gas
6 companies get together and decide what new features we'd
7 like to see in this application.

8 Once you get to critical mass, it gets more and
9 more difficult to compete in that market because you're
10 not getting any return out of your investment or a very,
11 very small return on your investment.

12 Q. Are there particular industries that you think
13 Oracle is strongest at similar to SAP in oil and gas?

14 A. Sure.

15 Q. What are they?

16 A. High tech, high tech manufacturing, for example.
17 We're extremely strong in high tech manufacturing.
18 That's an example.

19 Q. Any others?

20 A. Yeah, I think we're pretty strong in banking but
21 so is, you know -- SAP is pretty strong in banking,
22 retail banks.

00175

1 There are a lot of industries where we're pretty
2 competitive. But you said -- but nothing like SAP's -- I
3 mean, SAP can point to a few industries where it's more
4 or less over, we barely try to compete.

5 Q. What are the other ones SAP has other than oil
6 and gas?

7 A. Car manufacturers, I think they have all of
8 them, a hundred percent.

9 Q. Are there -- not necessarily to the level of
10 SAP, but other than high tech and banking, are there
11 other ones that you think you have, based on your
12 product, a particular advantage?

13 A. Oh, an advantage?

14 Q. Yes.

15 A. I think we have an advantage in a lot of
16 different industries, but it doesn't mean that we have
17 the market share. At a certain point you get such large
18 market share, that everyone buys because everyone else
19 bought.

20 Q. Are there any particular industries where you
21 believe PeopleSoft has the strength, not necessarily up
22 to SAP's level?

00176

- 1 A. No, SAP is unique. SAP has Microsoft's market
- 2 share in a few industries.

4 If you're a hospital, because Lawson's smaller
5 than we are and they're smaller than SAP and they're
6 smaller than PeopleSoft, but they have a very strong
7 reference base inside of hospitals, so they're able to
8 compete very, very effectively inside of hospitals, more
9 effectively than we are or PeopleSoft or SAP. They have
10 more market share. Their sales force is more specialized
11 in health care so they actually have a specialized sales
12 force for health care. They also have one for state and
13 local government.

14 Q. I've seen references in various places and
15 probably some of your documents, as well, for example, to
16 SAP being particularly strong in manufacturing generally.

17 Do you agree with that?

18 A. I think -- I think there are -- particularly
19 strong in manufacturing, actually, I don't. Even though
20 they have -- depends what you mean by "strong."

21 Q. Not up to the level perhaps that they are in oil
22 and gas, but their product seems to have a good fit in

00178

1 heavy manufacturing type of situations.

2 A. Now I know what the problem with my answer was,

3 I don't think their product is that good in

4 manufacturing, I think their market success has been very

5 good in manufacturing. And it's one of those

6 interesting -- that's how I was answering -- I read your

7 question as, do you think they're really good in

8 manufacturing?

9 What does "good" mean? Does "good" mean good

10 business success or good product? I think here -- I

11 think we're better in manufacturing than they are. I

12 know we're better in process manufacturing than they are

13 because they don't really have a process manufacturing

14 product, process manufacturing, pharmaceutical

15 manufacturing, food manufacturing.

16 But considering that they don't have a good

17 process manufacturing product -- they would disagree with

18 me, of course -- considering they don't have a very good

19 processing manufacturing product, they've been pretty

20 successful among -- they've been very successful, more

21 successful than we have with process manufacturers.

22 So if that Oracle statement means they are, you

00179

1 know, tough in manufacturing because they have a lot of
2 good references in manufacturing, they're tough to sell
3 against in manufacturing, I think we have the better
4 product. But the better product does not automatically,
5 by any means, get you the sale.

6 Q. Are there industries where you think you're
7 particularly tough to sell against because you have a
8 critical mass, not perhaps as much as SAP in some bids,
9 but you have a strong base of reference of customers?

10 A. Yeah, the computer industry in general. Sun's a
11 customer of ours, Cisco is a customer of ours. During
12 the madness of the dot net, the dot com boom, virtually
13 all of the dot com companies used Oracle applications,
14 got them all.

15 Q. Are there any particular industries where you
16 think PeopleSoft has particularly strong reference points
17 that gives it something of an advantage?

18 A. Again, not like SAP. They're much closer to us
19 than they are to SAP. In fact, they're not even as
20 close -- again, they're third in ERP. They're behind us
21 in ERP. A lot of their scale is in H.R. They've done
22 okay with service companies. They've done conspicuously

00180

1 poorly in manufacturing.

2 Q. By "service companies," could you give us an

3 example of what you're talking about?

4 A. Oh, an accounting firm, a computer consulting

5 firm.

19 Q. Now, you said a few times that currently you see
20 in the United States SAP as being the No. 1 competitor.

21 A. Yes.

22 Q. In the future, at some point in time, you see

00182

1 Microsoft potentially being it?

2 A. Within 24 months.

3 Q. Who's your No. 2 competitor in the United States

4 now for ERP?

5 A. PeopleSoft.

6 Q. And measured by what?

7 A. Revenue.

8 Q. Revenue being the size of PeopleSoft's revenue

9 or the revenue of the deals that you go head to head to

10 them in?

11 A. Both.

12 Q. Who would be No. 3?

13 A. Microsoft.

14 Q. No. 4?

15 A. I'm guessing so, do you want me to guess?

16 Q. Your best estimate.

17 A. Lawson. You're talking about the USA?

18 Q. Yes, sir.

19 On a going-forward basis, how would you compare

20 Lawson to, say, Microsoft from the standpoint of being a

21 competitor with you in the ERP space?

22 A. Lawson will be very competitive in certain

00183

1 industries. Microsoft would be competitive across

2 industries.

3 Q. Who would be your No. 1 competitor for sales of

4 your financial management product in the United States?

5 A. Unquestionably, SAP.

6 Q. No. 2?

7 A. PeopleSoft.

8 Q. And, again, are we measuring this based on both

9 the revenue of the individual companies as well as the

10 revenue that you go head to head for them for?

11 A. Yes.

12 Q. And from the standpoint of your financial

13 management product, who would be your No. 3 competitor?

14 A. Microsoft.

15 Q. And No. 4?

16 A. I don't know.

17 Q. On your human resources management application

18 product, who would be your No. 2 competitor in the United

19 States currently?

20 A. No. 2, SAP.

21 Q. All right, sir, and the No. 1 competitor? I'm

22 sorry, that was No. 1. The No. 2 competitor?

00184

1 A. No.

11 In the United States, from the standpoint of
12 competing in human resources application software,
13 PeopleSoft would be your No. 1 competitor?

14 A. Yes.

15 Q. And SAP would be No. 2?

16 A. Yes.

17 Q. No. 3 would be who?

18 A. Microsoft.

19 Q. And I'll hazard No. 4, who would that be?

20 A. I don't know. Probably one of the outsourcers.

21 I'm guessing it's going to be ADP or someone like that,
22 or Fidelity, though, often we never even see those deals.

00185

1 One of the interesting problems, to get back to
2 the competitive -- what's wrong with our competitive data
3 and why is it that I say it was wrong more often than
4 it's right, is sometimes if someone's considering a
5 service, an online service, rather than software, early
6 if they decide to buy a service and they never even
7 consider us, we're never really in the deal. We lost at
8 the conceptual level very, very early on. And they had a
9 beg off between ADP and Fidelity rather than between us
10 and our competitors.

11 Q. Let's talk about that a minute. ADP and
12 Fidelity are outsourcers?

13 A. Yes.

14 Q. So it's your testimony or based on your
15 experience in the industry, your understanding, that
16 often in the context of a customer looking on how to deal
17 with their human resources management, that they'll make
18 a choice early in the process that they want to go to the
19 outsourcer route rather than the software route?

20 A. Absolutely.

21 Q. What are the advantages that the software brings
22 over the outsourcer?

00186

1 A. Some companies really don't want to relinquish
2 control, if I can use that expression, to a third party
3 for their H.R. processes. They feel they can do it more
4 efficiently internally with their own people, and they
5 have to arm their people with high quality software to
6 automate the process but they want to do it with their
7 own people, they want to do it internally.

8 Other people say, no, I'm going to get the whole
9 thing, get rid of -- get rid of the people, get rid of --
10 outsource the process. I don't want to worry about the
11 computers, I don't want to worry about the network, let
12 someone else worry about the entire thing.

13 So they'll outsource purchasing or outsource
14 H.R. or they'll outsource payroll. Payroll is very
15 commonly outsourced. I think it's more common -- 25
16 years ago people were outsourcing their payroll.

17 Q. Is the type of outsourcing that you're talking
18 about here something that's referred to generically as
19 BPO outsourcing or something else?

20 A. No, it's BPO.

21 Q. Does the outsourcing that you can get through an
22 ADP or Fidelity, does it allow you to have the

00187

1 flexibility in customizing the process to your business

2 processes that you can get by buying your software?

3 A. I don't think so, no.

4 Q. Why is that?

5 A. Well, the outsourcer tries to have a uniform

6 process and benefit from economy of scale, so the reason

7 that the outsourcers are in this business is they can --

8 because they're going to have highly specialized labor,

9 benefit by economies of scale by processing thousands of

10 payrolls rather than just one. And if every company

11 insisted on their own processes, then that economy of

12 scale would be lost and their ability to deliver a high

13 quality, low cost service would evaporate.

14 Q. So in the context of a company who wants to use

15 a BPO, it has to fit its business processes to the slate

16 of services and functionalities that the BPO has rather

17 than vice versa?

18 A. Yeah, there's some adaptability but, yes,

19 there's a constrained set of things that they can handle

20 and you've got to pick from that menu.

21 Q. The BPO services we've been talking about here

22 so far, I think have been in the H.R. area?

00188

1 A. I think they were really pioneered in H.R. If
2 you look at payroll as an example of H.R., I can't think
3 of anything that got outsourced sooner, even small
4 companies outsourced their payroll to banks. So
5 payroll's been outsourced for a very long period of time
6 and H.R. is closely related to payroll. I think
7 that's -- my belief is that's the most outsourced
8 function currently in U.S. business.

9 Q. What about financial management type services,
10 are they commonly outsourced or not, based on your
11 experience?

12 A. Much less frequently outsourced than H.R.

13 Q. Why is that?

14 A. Interesting question. I'm not sure there were
15 many good -- I think it was more of a lack of good supply
16 than demand. People got into outsourcing of payroll and
17 there was all these brutal statutory requirements for
18 payroll. If you don't make your payroll on time, the
19 government comes and shuts you down, which is not
20 pleasant.

21 So people wanted to have these fail-safe
22 systems. That was the first to get outsourced. I don't

00189

1 think -- there wasn't much emphasis -- a lot people

2 didn't jump at the opportunity to outsource financial

3 management systems until relatively recently.

4 I would say the first part of financial

5 management -- I'm not sure you want to call it financial

6 management -- to be outsourced is purchasing.

7 Procurement is one of the first pieces to go. There are

8 a lot of aspects to financial management.

9 Q. It's been suggested, and I forget whose

10 deposition it was, that financial service -- financial

11 management aspect of this may not be quite as conducive

12 to outsourcing because of confidentiality concerns

13 relating to some of the financial data.

14 A. I think that's a bit of a red herring. It's one

15 of those things that sounds right. It's reasonable to

16 assert, but I really don't -- technology now can keep

17 your information very private, so I don't think it's a

18 privacy issue. It might be an appearance of privacy

19 issue. Again, as I said, there's lots of different

20 aspects of financial management.

1 MR. SCOTT: Q. All right, sir, you have in
2 front of you what's been marked as Exhibit 8 to your
3 deposition.

4 As I understand it, you're not sure if you've
5 ever seen that exhibit before; correct?

6 A. Correct.

7 Q. Let me just ask you to take a look at a couple
8 of things in here and maybe this will -- if you would
9 look on page 8 of the exhibit.

10 A. Yes.

11 Q. There's a chart here that says "Why Are We Doing
12 this," presumably talking about the offer for PeopleSoft;
13 correct?

14 A. Yes.

15 Q. Do you recall seeing this chart or anything
16 similar to it in the past?

17 A. Well, I'm certainly familiar with the reasons
18 enumerated in the chart but I don't know that I've seen
19 this particular slide.

20 Q. Fair enough. Let's talk about the reasons.
21 Whether you've seen the individual chart or not is not
22 really material.

1 A couple of them I did want to ask you about.
2 The statement here, "The highly-fragmented applications
3 market is right for consolidation," do you have any
4 understanding of what is meant by that?

5 A. Yeah, the industry is made up of a relatively
6 small number of what I'll call cross-industry players,
7 you know, the big companies that operate in many
8 different industries and then lots and lots of industry
9 specialist players. So they're very large. I don't know
10 how many companies, but there are hundreds of companies
11 that sell applications to large and small business around
12 the United States and around the world. So it's highly
13 fragmented and I think this is going to consolidate down
14 to a much smaller number of companies.

15 Q. The basis for that view is what, sir?

16 A. I think companies want to buy suites and
17 products. The software -- there are more software
18 companies than there are car companies. The software
19 market, there are just so many separate companies.

20 The life cycle of all industries looks like
21 this. They're used to be -- actually, I remember talking
22 to Michael Dell.

00195

1 I asked Michael -- there had to be 50 PC
2 companies in the United States in the beginning and
3 Michael said, no, there were 500, there were 500
4 companies making PC's in the U.S. Now how many are
5 there? There's HP, Dell IBM, Gateway and Apple; is that
6 a complete list? Then there's some white box
7 manufacturers that no one's ever heard of. But that's a
8 pretty complete list of brand manufacturers of PC's.

9 So we always start out with lots and lots of
10 suppliers and it whittles its way down. Car companies,
11 Chevrolet used to be separate. GM is nothing more than a
12 consolidation of lots of separate car companies. Used to
13 be lots of railroads.

14 Q. In the context of one of your previous answers,
15 you indicated there were only a few, I think you used the
16 word "cross-industry players."

17 A. Cross-industry players.

18 Q. Who are they and what is that?

19 A. A cross-industry player would be someone who
20 sells ERP to a variety of different industries.

21 I'll take my favorite example, SAP. SAP is in
22 the oil and gas industry where they compete with no one,

00196

1 arguably. They're in the high tech manufacturing
2 industry, where they compete with several players,
3 including us. They're in the hospital automation
4 industry, where they compete with Lawson. They're in
5 the -- and others. They're in the federal systems, you
6 know, they supply accounting systems to the U.S. Navy,
7 believe it or not, where they compete with AMS.

8 So there are some companies that compete in many
9 industries and there are some companies that have
10 specialized, the smaller companies tend to specialize in
11 specific industries because they don't have the financial
12 resources to go after all of them.

13 Q. Who are the companies currently out there, in
14 your view, that compete across a multitude of industries?

15 A. A multitude.

16 Q. Strike that.

17 A. ERP across a multitude of industries.

18 Q. Let's put it this way, who is out there that you
19 would not consider one of the specialty players, that
20 concentrates on one or two or three or a handful of
21 industries, who, as you put it, is a cross-industry
22 player?

00197

- 1 A. I think we've named them. The biggest
- 2 cross-industry players are SAP, Oracle, PeopleSoft,
- 3 Microsoft, those are the big cross-industry players.

10 Q. All right, sir, prior to making the offer for
11 PeopleSoft, were you, in fact, looking at other
12 companies?

13 A. We are now. We're still looking at companies.

14 Q. And in the application software arena?

15 A. Absolutely.

16 Q. Who, prior to making the offer for PeopleSoft,
17 who else did you have on your radar screen as a potential
18 acquisition?

19 A. Is this confidential?

20 Q. Yes, it is.

21 A. Cerner. We're still looking at them.

22 Q. What is the nature of their business?

00200

1 A. Cerner is very strong in the automation of
2 hospitals.

3 Q. All right. Anyone else? This is, again, prior.

4 A. Lawson. Oh, Lawson prior? Yeah, I think I've
5 looked at almost everybody. I'm not sure who I haven't
6 looked at.

7 Q. In fact, you were looking at J. D. Edwards at
8 one point?

9 A. We looked at them and decided not to do it, but,
10 yes.

11 Q. Anybody that you're currently looking at in the
12 application software arena?

13 A. I mentioned, obviously it depends on -- we're
14 looking at PeopleSoft. Sure, we're looking at Cerner and
15 if PeopleSoft does not go through, we're looking at other
16 application companies.

17 Q. Anybody in particular?

18 A. Sure, Lawson.

19 Q. Now, the third bullet point on the chart here
20 talks about "Management has held discussions with
21 PeopleSoft in the past and has been following the
22 developments at the company."

00201

1 A. By the way, to go a little further on this.

2 You've got these broad horizontal players who compete in

3 many industries.

4 Q. Right.

5 A. Then these brought horizontal players find

6 competitors in each of the verticals, as well. So

7 PeopleSoft competes in hospitals, so does Lawson compete

8 in hospitals, so does Cerner compete in hospitals.

9 If you looked in banking, you'd find specialist

10 companies in banking, specialist companies in insurance,

11 specialist companies in manufacturing, specialist

12 companies in all of these areas that compete, and that

13 gives you this mosaic of -- of -- this mosaic of how the

14 industry -- how the industry's software markets are

15 divided up.

16 Q. Who are the specialists in banking?

17 A. I don't even know their names, but I've actually

18 looked at them recently, looked at their products

19 recently. And we are, in fact, just full disclosure, we

20 are looking at the specialty companies in banking right

21 now as potential acquisitions.

22 Q. How about insurance, who are the specialty

00202

1 people there?

2 A. I don't really know the names of the specialty
3 companies. But we do have reports -- we are now going
4 through a process -- to give a full answer to your
5 previous question who are we looking at, we're looking at
6 a variety of specialist companies. If we can't buy --
7 there's two ways to attack this, to get to scale, you can
8 buy one of the big cross-industry players or you can buy
9 a number of the specialists. They are -- if you will,
10 there's some equivalency there.

11 Q. The -- when you said there's some equivalency
12 there by buying some of the smaller players, I'm not sure
13 what you meant.

14 A. If we can't buy PeopleSoft, for example, we can
15 buy Cerner and a banking specialist and an insurance
16 specialist and, you know -- if we feel -- if I feel we
17 need to get to scale to compete successfully with
18 Microsoft, and do I feel that, then if PeopleSoft doesn't
19 go through, we still have the same problem, we still have
20 to get to scale somehow to compete with Microsoft.

21 So we then have to change our acquisition
22 targets to be a series of different companies in specific

00203

1 verticals.

2 MR. SCOTT: Q. The fourth bullet point here
3 says, "J. D. Edwards transaction drove the timing,"
4 referring to the offer of PeopleSoft.

5 Do you have any idea what that means?

6 A. Oh, yeah, I know exactly what it means.

7 When PeopleSoft announced the acquisition J. D..
8 Edwards, our preference would have been to buy PeopleSoft
9 and not buy J. D. Edwards. That's what we wanted to do.
10 So we tried to buy PeopleSoft before J. D. Edwards
11 closed, that's what we attempted to do.

12 Q. Let me ask you, in the same document, Exhibit 8
13 to your deposition, to look at page 28. At the top
14 there's a chart there that refers to "Restructuring Plan
15 and Expenses."

16 Just so the record's complete, do you recall
17 having seen this chart or something similar to it
18 previously?

19 A. Well, I'm sure I've seen something similar to it
20 in terms of the overall plan for the acquisition, but I
21 don't think I've ever seen this specific presentation.

22 Q. All right. There's a number here that says

00205

1 "Oracle has budgeted for \$950 million, 15 percent of the
2 transaction value, for cash restructuring expenses." Then
3 it goes on and has some break outs of severance costs,
4 facility costs and retention packages.

5 Do you see that?

6 A. Yes, I do.

7 Q. Have you seen numbers similar to that in the
8 context of post-merger planning?

9 A. Yes.

10 Q. In what context have you seen such numbers?

11 A. The plan we submitted to the board of directors
12 to get their approval to make an offer to buy PeopleSoft.

13 Q. Do you know who developed those numbers? First,
14 let me back up.

15 Was the number that you saw for structuring
16 expenses 950 million?

17 A. That was -- that's the extreme worst case.

18 Q. I see at the bottom there's a range of 730 to
19 950 million --

20 A. That's correct.

21 Q. -- restructuring expenses.

22 That's what you understand the plan is?

00206

1 A. Yes.

2 Q. This part of the plan, the restructuring

3 expenses, who developed that?

4 A. Safra Catz.

22 Q. Are those discussion -- let me ask you to take a

00215

1 look over at Exhibit 11, which is also a multi-page
2 document. This one's headed "Executive Overview of Lake,
3 Prepared in Advance of 11/1/02 Meeting," and has
4 identification numbers ORCL-EDOC-00144396 through
5 ORCL-EDOC-00144409 and ask you if you've seen that
6 before?

7 A. Have not seen it.

8 Q. Now, the second document I gave you, Exhibit 11,
9 has a date of November 1st, '02 and refers to a meeting.

10 Is that the time frame that you folks were first
11 looking at Lawsons as a potential acquisition partner?

12 A. I'm not certain how soon we looked -- what the
13 soonest we looked at Lawson. I think I've been watching
14 them for a long time, I'm sure more than two years, or
15 more than -- more than two years so before this exhibit.

22 Have you had discussions with Ms. Catz from the

00216

1 period January 1, '03 to the present, about potentially
2 purchasing Lawsons?

3 A. Yes.

4 Q. And over what period of time were those
5 discussions ongoing?

6 A. Up to and including very recently.

7 Q. Has Lawsons been approached?

8 A. Again, I believe they are an eager seller.

9 Q. Why do you believe that?

10 A. That's what I was told.

11 Q. By Ms. Catz?

12 A. Yes.

8 A. Okay.

9 Q. Now, there's a summary part there that under it
10 has, among other things, what appear to be a description
11 of industries in which Lawsons focuses or has had some
12 success; health care, public sector, professional
13 services, particularly, this says, in the aerospace and
14 defense industries, financial services and retail.

15 Do you see that?

16 A. Yes.

00218

1 This question is, does this flesh out or help
2 you remember what sectors or industries Lawsons --

3 A. Yeah.

4 Q. -- is more of a player in?

5 A. I think I testified they were particularly
6 strong in health care and public sector, that's what I
7 said earlier

8 Q. Let me ask you to take a look at the page that
9 ends in 4378. I think it's actually numbered page 2.

10 There's a -- down at the -- it describes the
11 "Revenue Synergies." There's a heading there for that.
12 Below that there's a line item under point 2, where it
13 says "Mid Market, Lake," referring to "Lake's customer
14 base is segmented with the bulk of its strength in
15 companies having revenue between 100 million and 1
16 billion."

17 Do you see that?

18 A. Yes.

19 Q. Is that consistent with your understanding of
20 the customer base that Lawsons currently has?

21 A. Yeah, but I think that really applies to the
22 vertical that they're in. If you are very strong --

00219

1 again, they're in a number of industries, they're in
2 professional services, but if you look at their primary
3 industries, health care, there aren't any giant health
4 care hospitals, there aren't any giant hospitals,
5 hopefully there aren't any local giant governments.

6 Same thing, professional services. Again, so
7 their strongest industries, the first two, they're in a
8 variety of industries -- professional services, financial
9 services, retail -- the industries where they've been
10 most successful tend to not have giant companies in it.

11 Q. The term here "mid market," does that term have
12 any meaning to you in the context of software
13 applications?

14 A. Yes, it has meaning to me that I'd like to
15 explain what I think it means.

16 Q. Sure. That was going to be the next question,
17 what meaning does the term "mid market" have you to you
18 sir?

19 A. It means smaller companies or not the Fortune
20 1,000, not the Fortune 2,000, something like that.

21 The interesting thing about mid market is -- or
22 no one really develops products for -- I would argue we

00220

1 all develop one product and we sell that product to the

2 largest hospitals, the smallest hospitals, the largest

3 manufacturers, the smallest manufacturers.

4 So we tend to develop one -- PeopleSoft sells

5 the same H.R. product to the largest companies in the

6 world, General Motors, to the smallest company that buys

7 H.R. It's the same product.

8 So in the sense of product -- in the sense of

9 product, there is no distinction between large and small.

10 Q. From the standpoint --

11 MR. RILL: Let him answer, please.

12 MR. SCOTT: Q. Go right ahead.

13 A. From the point of view of marketing, who you

14 sell to, if you specialize -- if you specialize, you

15 might just for reduction of markets, specialize a certain

16 scale of company. But we all tend to develop one product

17 and sell that product up and down the line.

18 Q. Would a Lawson's product have the same

19 functional attributes that yours does from the standpoint

20 of what its ERP suite is capable of performing?

21 A. As I said earlier, they might be better suited

22 ERP wise for hospitals than we are for certain -- in

00221

1 certain industries, and we might be -- I know we're
2 better suited in other industries like high tech
3 manufacturing than they are. So some things we're better
4 at and some things they're better at.

5 I think if you drew a picture of the industry,
6 cross-industry players, you'd find industry specialists
7 that were quite strong with ERP suites in most of the
8 industries that we compete in.

9 Q. Does Lawsons have the capability to support
10 international operations to the level that yours do

11 A. Sure. Would they have the multi-currency and
12 multi-company capabilities that we have. The answer is
13 yes.

14 Q. Do they have that in as many countries as you
15 do?

16 A. I doubt if they have it in as many countries as
17 we do.

18 Q. Why do you doubt that?

19 A. We operate in some pretty obscure countries, but
20 I don't know for a fact that they don't.

6 MR. SCOTT: Q. All right, sir, you have in
7 front of you a document which has been marked for
8 identification purposes as Exhibit 15 to your deposition.
9 It is a document Form 10K for Fiscal Year ended May 31,
10 2000, Oracle Corporation.

11 And I don't know, in this time period were you
12 chairman or CEO or both?

13 A. Both.

14 Q. So you would have signed this on behalf of the
15 company?

16 A. Yes. I think this is present Sarbanes-Oxley.
17 I'm not sure we signed these in those days.

18 Q. In any event, it would have been reviewed by you
19 before it went out?

20 A. Absolutely.

21 Q. All right, sir, if you would look in the
22 document on page 9 of 66 and about under -- there's a

00232

1 No. 5, then there's a paragraph under that, it starts in

2 mid sentence, "The data warehousing market."

3 Do you see that?

4 A. Yes, I do.

5 Q. Below that there is -- about the third line,

6 about a quarter of the way in there's a statement that

7 says "In the application server market, competitors

8 include International Business Machines Corporation and

9 BEA Systems, Inc."

10 Do you see that?

11 A. Yes, I do.

12 Q. Those were people that you were competing with

13 in the -- in the data base side of the business?

14 A. Right. Those were our largest competitors,

15 that's correct.

16 Q. It goes on to state here, "In the business

17 application software market, competitors include J. D.

18 Edwards, PeopleSoft, Inc., and SAP," and I won't begin to

19 try to pronounce the German word that goes behind that.

20 A. Something "chellschaft".

21 Q. I'll take your word for it.

22 Do you see that?

00233

1 A. Yeah.

2 Q. Now, the business application software market

3 that's referred to there, what is that?

4 A. I think what's meant by this is ERP market, just

5 in context, because the CRM -- the ERP -- the largest ERP

6 players, because the CRM players and some of the other

7 players are identified separately in the next sentence.

8 Q. The next sentence goes on to state that the

9 company continues to compete in these traditional

10 markets. Is that the traditional market --

11 A. ERP is older than CRM.

12 Q. So that would be what you're referring to by

13 "traditional markets" here?

14 A. Yes, those are a list of our largest ERP

15 competitors.

16 Q. It goes on, says, "As well as some new rapidly

17 expanding markets like the CRM, procurement and supply

18 chain marketplaces where competition includes Siebold

19 Systems, Ariba, Inc., Commerce One, and i-2

20 technologies."

21 Do you see that?

22 A. Yes, I do.

1 Q. When it says here, "In rapidly expanding -- new
2 rapidly expanding markets like CRM procurement, supply
3 chain, marketplaces," what do you mean by "new" in the
4 context of this?

5 A. What do you mean by "markets"?

6 Q. What do you mean by "markets"? It's your
7 document.

8 A. The products, the CRM products, the software
9 products for automating sales forces, was pioneered by
10 Siebel so they came out with those products before anyone
11 else did.

12 Ariba pioneered a product that automated
13 entering purchase requests on the Internet. Commerce One
14 pioneered a product that allowed reverse auctioning for
15 buying things. I2 pioneered supply chain automation, so
16 they pioneered products. Sometimes we get products and
17 markets confused. These are product areas, as is ERP.

18 Q. All right. So now in this time period, 2000,
19 May 31, 2001, you say that J. D. Edwards, PeopleSoft and
20 SAP, were your largest competitors in the ERP products?

21 A. The largest companies that sold ERP in addition
22 to ourselves, yes.

1 Q. Who else were you competing with for ERP sales
2 in this time frame?

3 A. Okay. I'll go back to what I think is an
4 important point.

5 The largest ERP companies, by virtue of their
6 size, are able to compete in a variety of industries. If
7 you look at an Oracle or -- SAP is the largest, they'll
8 compete in the most industries. They'll be in oil and
9 gas and automobile manufacturing, they'll be in banking
10 and insurance. And they're the longest list of
11 industries in which they compete.

12 We're second, PeopleSoft is third, J. D. Edwards
13 is interesting, then Lawson competes in fewer industries.
14 So as the size of the company scales down, they're
15 economically able to compete in fewer and fewer
16 industries and you get a bunch of industry specialists,
17 down to the point -- so if you drew a picture of the
18 people who had ERP systems, you've got the big companies
19 who compete in many industries, then a variety of
20 different specialists that compete -- because they can't,
21 you know, they don't have the resources to compete in
22 every industry on earth, they'll specialize in a

00236

1 particular industry.

2 Q. When you say some of these companies like

3 Lawsons, for example --

4 A. Lawsons, as an example.

5 Q. Let me get the question out. We're talking over

6 each other now and she's going to get very upset with

7 both of us, if she hasn't already today.

8 When you're talking about a company like Lawsons

9 as not being financially able to compete in a lot of

10 industries, what do you mean by that?

11 A They're not big enough. They can't spend the

12 R&D dollars to compete in every industry. However, for

13 example, they are our most formidable competitor in

14 automating hospitals. They are among our most formidable

15 if not our most formidable in state and local government.

16 They're strong in retail as well, but -- there are some

17 others.

18 They will take a smaller number of industries to

19 compete in, down to some companies who compete in just

20 one industry: JDA, ReTech, Tomax, there are a variety of

21 companies that just compete in the retail industry.

22 Q. When you say they don't have the financial

00237

1 wherewithal to do the R&D necessary to compete in more
2 than one industry --

3 A. The R&D, the marketing, the sales. It's really
4 more than just the R&D

5 Q. Let's take the R&D piece of it. What is it
6 about, for example, Lawsons from the standpoint of its
7 R&D capability that keeps it from competing in more
8 markets, more industries than the ones you've described?

9 A. It probably is less a matter for them an R&D
10 issue. They could add, in fact, they used to compete in
11 more industries. It's a matter of your sales and
12 marketing resources.

13 You have to concentrate on a smaller number of
14 industries where you have good references back to the
15 sales cycle. You need to be a credible vendor, in order
16 to get to critical mass in the industry those references
17 are crucial in selling. You have to be able to care for
18 -- you have to train the sales force, have a concentrated
19 marketing program. It's very expensive to market your
20 products to 20 or 30 separate industries.

21 That's why we have a picture -- that's why the
22 picture looks like it does. The biggest company, SAP, is

00238

1 in the most industries. The second biggest, Oracle, is
2 the next second biggest ERP vendor. I believe we're the
3 second biggest ERP vendor. An awful lot of PeopleSoft
4 revenue comes from them being an H.R. specialist.

5 So as an ERP vendor, I think we're clearly No. 2
6 and we're in more industries than they are, then it would
7 go down.

8 Q. What you've described of Lawson, its financial
9 wherewithal and ability, therefore, to compete in a
10 number of industries, is that -- the question and answer,
11 I think, were framed in the context of talking about
12 sales of ERP.

13 A. Yes.

14 Q. Would those same principals apply to sales of
15 H.R. and financial management applications by themselves,
16 that if you don't have the financial resources available,
17 you can't compete across all industries?

18 A. It makes sense to specialize. In fact, that's
19 just what the industry -- what the industry map looks
20 like.

21 You have as relatively small number of
22 cross-industry players that we compete with, then a

00239

- 1 variety of specialists that we compete with. For
- 2 example, there are specialists -- I keep coming back to
- 3 Sweden, I don't know i pick on Sweden. There are
- 4 specialists who sell ERP in Sweden.

16 Q. It goes on to state that the company continues
17 to compete in these traditional markets, referring to
18 ERP, as well as in some newer markets, such as CRM,
19 procurement, supply chain, planning. Our competitors
20 include Siebold Systems, Ariba, Commerce One, Inc., and
21 i-2 Technologies.

22 Do you see that?

00244

1 A. Yes, I do.

2 Q. Can you think of anything that had occurred, any
3 change that had occurred from the previous year regarding
4 who you were seeing as a competitor from 2000 to 2001,
5 when your respective 10K's were filed?

6 A. Specifically in ERP?

7 Q. Yes, sir.

8 A. Not really.

9 In some years SAP got a little bit stronger,
10 some years SAP got a little bit weaker, same true of
11 PeopleSoft. I think, if anything, J. D. Edwards trended
12 weaker consistently over the years. Specialists, some of
13 of the specialist companies trended stronger. So the
14 retail specialists or a government, federal government
15 specialist or health care specialist, the specialists
16 have been tending to get a little bit stronger.

17 Q. Do you recall any new specialists coming online
18 between 2000 and 2001 when your respective 10K's were
19 filed?

20 A. I think -- I think about that time Tomax got
21 fairly strong in retail.

22 Q. All right, sir, you can put that one aside.

00245

1 (Marked Deposition Exhibit No. 17)

2 MR. SCOTT: Q. All right, sir, you have in
3 front of what's been marked for identification
4 purposes as Exhibit 17 to your deposition. It is a
5 multi-page document. It's 88 pages in length, the Form
6 10K for Oracle Corporation for the fiscal year ending May
7 31, 2002.

8 Do you see that?

9 A. Yes.

10 Q. If you would, turn over to page 9 of the
11 document. Now, it states here, "In the applications
12 software market, our primary --" under the heading
13 "Competition" "-- our primary competitors include SAP,
14 Siebel Systems and PeopleSoft."

15 Do you see that?

16 A. Yes.

17 Q. Do you know why J. D. Edwards is no longer
18 making an appearance?

19 A. Earlier I said J. D. Edwards was slowly trending
20 weaker, but I think we've -- the fact is what we really
21 did was -- we used to separate ERP and CRM and now we
22 just have ceased to make that distinction. We now have

00246

1 just business applications software and we have a habit

2 of always listing our three largest competitors.

3 So when you take the three largest competitors

4 across ERP and CRM, they are, in order, SAP, Siebel and

5 PeopleSoft. J. D. Edwards just didn't make the cut.

6 Q. Siebel, in this time frame, they weren't selling

7 a fully integrated ERP product?

8 A. They were selling -- they were selling CRM and

9 PeopleSoft was selling ERP.

10 Q. All right, sir.

11 (Marked Deposition Exhibit No. 18)

12 MR. SCOTT: Q. All right, sir, you have in

13 front of you a document, what's been marked for

14 identification purposes as Exhibit 18 to your deposition.

15 It's a multi-page document, 83 pages in length, a Form

16 10K for Oracle Corporation filed for the fiscal year

17 ending May 31, 2003.

18 Have you seen this before?

19 A. Yes.

20 Q. I guess now, by this time Sarbanes-Oxley is

21 there and you probably had to sign this one?

22 A. In blood.

00247

1 Q. All right. So, now, if you would look over in
2 the "Competition" section, it states there --

3 MR. RILL: What page?

4 THE WITNESS: Page number?

5 MR. SCOTT: I'm sorry, page No. 10. I'll start
6 again.

7 Q. If you would look at page 10 of Exhibit 18 where
8 it states, "In the highly fragmented applications market,
9 we compete against Microsoft, PeopleSoft, SAP, Siebel
10 Systems and many other applications providers, as well as
11 outsourced and in-house solutions for customers."

12 Do you see that?

13 A. Yes.

14 Q. Now, first of all, we seem now to have gone
15 beyond listing your top three competitors, haven't we?

16 A. Yes.

17 Q. Do you know why that is?

18 A. No.

19 Q. Do you know who drafted this portion of the
20 document?

21 A. No.

22 Q. Do you know why the wording has changed from

00248

1 previous years?

2 A. I could guess.

3 Q. Don't guess.

4 A. Okay. I won't guess.

5 Q. Do you know?

6 A. No.

7 Q. Did you review this language before you signed
8 the 10K?

9 A. I reviewed the language.

10 Q. And did you raise any questions about the
11 language as to why it had been changed from previous
12 years?

13 A. No.

14 Q. Now, had the degree of fragmentation in the
15 applications market changed from 2002 to 2003?

16 A. I don't think so. I mean, there are some small
17 companies disappeared and some new companies showed up
18 but I don't think it was any more fragmented, no.

19 Q. Had you begun -- had the competition you were
20 seeing from Microsoft changed from 2002 to 2003?

21 A. Yes.

22 Q. In what way?

00249

1 A. Microsoft had made two acquisitions. It was now
2 publically stating their strategy and talking about, you
3 know, Project Green to whomever would listen. So it
4 became very clear to us by now that Microsoft was taking
5 the ERP and CRM markets very seriously and they were
6 going to be -- they were spending a lot of money on it
7 and they were going to be a very formidable competitor
8 because we competing against Microsoft and data base and
9 they were now entering this market.

10 Q. To the extent to which you saw competition from
11 outsourcers change from 2002 to 2003?

12 A. Yes, definitely.

13 Q. To what degree?

14 A. I think business process outsourcing had become
15 a very hot topic, probably a hotter topic than actually
16 people signing big deals, but everyone was talking about
17 it. And that was a concern because if people outsource
18 their H.R., if they outsource purchasing, if they
19 outsource accounts payable, they're not buying any
20 software, they're buying the online service.

21 So that was the industry somewhat reshaping,
22 that, plus the entry of Salesforce -- the shocking

00250

1 success of Salesforce.com across the board, in very short
2 order.

3 And you can call them -- I mentioned there's
4 multiple kinds of outsourcing, that is not business
5 process outsourcing, that is computer outsourcing and
6 software outsourcing, the software's as a service.

7 That's not business process outsourcing, that's
8 software as a service where you don't buy the computer,
9 you don't install the software, just your employees use
10 the software online on the Internet as a service. Very
11 low cost of ownership, very aggressively priced, very
12 innovative idea.

13 So you combine business process outsourcing with
14 software as a service and we see a whole new generation
15 of competitors, very different than competitors we dealt
16 with in the past.

1 Q. Now, from the standpoint of if I wanted to
2 document from your records how much -- how much more
3 often you were seeing outsourcing as a competitive
4 alternative being raised to your potential customers for
5 application software, how would I do that?

6 A. I don't think you'd see it in our documents. I
7 think you would see it in the macro economy because, as I
8 said earlier, it's worth repeating, once someone decides
9 to outsource, they're not going to do a software
10 evaluation. They'll never call us in to evaluate -- it's
11 not a prospect that we will lose, we won't even be
12 considered and the other software companies won't be
13 considered.

14 Q. From the standpoint of the increase in
15 competition that you think is there from an outsourcer,
16 is that financial, in the financial area or the H.R.
17 area, or is there a difference?

18 A. It's actually specifically in both. Those are
19 the two most mature areas in software and those are the
20 two areas that we've seen aggressively outsourced.

21 Q. Where have you seen the most increase in
22 competition, financials or H.R.?

00253

1 A. The most increase, I would say the biggest
2 increase is in the procurement side of financials, then
3 H.R., then the rest of financials, so the buy side of
4 financials. But that's my sense of what's going on,
5 there are studies that document this.

6 Q. It states here in, again on page 10 of Exhibit
7 83 [sic], that you compete as well as with outsourcing,
8 in-house solutions for customers.

9 Do you see that?

10 A. Yes.

11 Q. What does that mean?

12 A. Depends a lot on the country, but if you go
13 to -- if you want to stick strictly to the United States,
14 big companies will build their own financial systems.
15 You'd be surprised how many very large companies, very
16 large companies are running on financials where they
17 wrote the software themselves. It's especially true in
18 Japan.

19 Q. So are you saying -- does this mean that you're
20 seeing customers looking at the option of building a new
21 system now or they have a system they built some years
22 ago?

00254

1 A. Not many are looking to build an in-house
2 financial system. They might be looking at building an
3 in-house web store. They still build a lot of in-house
4 products but I don't think that many build in-house
5 financials and in-house H.R.

6 Q. What about an ERP suite, do you think that -- do
7 you have -- are you running into potential customers are
8 building their own in-house ERP suite?

9 A. I don't think so.

10 Q. Why wouldn't they build their own, for H.R.
11 financial or --

12 A. It's just -- well, because you can buy adequate
13 products externally and I think in most countries that's
14 recognized, certainly in the United States it's
15 recognized.

16 Q. Would it be a cheaper proposition to buy rather
17 than build?

18 A. Oh, absolutely. Nonetheless, in Japan they
19 seem -- they continue to build a lot of stuff custom.

20 Q. Let me ask you to take a look, if you would,
21 back at Exhibit 17 to your deposition.

22 Look at page 8 of the document.

00255

1 A. Page 8, okay.

2 Q. Now, are you familiar with the term "General

3 Business Market Segment"?

4 A. Yes.

5 Q. What does that mean?

6 A. It's how we organize our sales force.

7 Q. And it states here in the document under the

8 heading "Key Market Segments, we sell our products in

9 three key market segments, the enterprise business

10 market, the government market, and the general business

11 market."

12 Do you see that?

13 A. Yes.

14 Q. And the "government market" means what? What

15 does that include?

16 A. It's how we organize our sales force. We have a

17 sales force that sells just to the government, we have a

18 sales force that sells to very large businesses, and then

19 we have a sales force that sells to everybody else.

20 Q. Does the government product that you sell, is

21 that functionally different from your commercial product?

22 A. No.

00256

1 Q. Not at all?

2 A. No.

3 Q. The enterprise business market --

4 A. Used to be, but it isn't now.

5 Q. What was the change, and what did it occur?

6 A. Years ago, our data base used to have special

7 security facilities just for intelligence agencies and

8 now all those facilities are in the standard version of

9 the data base.

10 Q. The documentation goes on to state here, that we

11 define the enterprise business market segment as those

12 businesses with total annual revenues over specified

13 amounts.

14 A. Right.

15 Q. These amounts vary by country, although we

16 define enterprise business in the United States as those

17 businesses with total revenues of more than a billion

18 dollars.

19 Do you see that?

20 A. Yes.

21 Q. It goes on to state, "In the enterprise business

22 market and government market segments we believe that the

00257

1 most important considerations for our customers are
2 performance, functionality, availability and product
3 reliability, ease of use, quality of technical support
4 and total cost of ownership including the initial price
5 and deployment costs as well as ongoing maintenance
6 costs."

7 Do you see that?

8 A. I do.

9 Q. Now, in that context what does the term
10 "functionality" mean?

11 A. What the products do. It's a pretty long list
12 of things that are -- everything that could be important,
13 other than I think the term "relationship."

14 Q. All right. It goes on to state in the next
15 sentence, "We define the general business market segment
16 as those smaller than the enterprise businesses. In the
17 general business market segment, we believe that the
18 principal competitive factors are strength and
19 distribution in marketing, brand recognition,
20 price/performance characteristics, ease of use, ability
21 to link with enterprise systems and product integration."

22 See that?

00258

1 A. I do.

2 Q. Why do you -- why do you define different
3 competitive factors for the two different aspects of
4 this, enterprise versus general business?

5 A. I think there are differences. I don't agree
6 with what this says, but -- I shouldn't say I don't
7 agree. I don't disagree either.

8 This is a fairly long list of things. It's a
9 funny answer. We organize our sales force into companies
10 that, more than a billion and companies less than a
11 billion.

12 Typically the reason we've separated the sales
13 force -- the reason we separate the sales force is a
14 large company goes through a much more detailed
15 evaluation process than the smaller companies. Smaller
16 companies let's say rely more heavily on references.
17 They haven't got the technical specialists to go ahead
18 and look at the products in detail.

19 Q. When you say the larger companies look at the
20 product in more detail, what exactly does that mean?

21 A. Well, they have a lot of computer scientists.
22 If you're General Motors, if you work for -- General

00259

1 Motors has lots and lots of people in engineering and
2 they spend a long time testing your product, looking at
3 the technical details of your product, fly out to
4 headquarters for meetings. They'll judge you on your
5 ongoing relationship over -- you have an existing
6 relationship with the company, the company is very, very
7 large. They'll judge you as a vendor and how well you
8 supported them in the past.

9 I'll call that relationship things. They have
10 experience with you. It's a very different sales process
11 selling to a large company where you have an ongoing
12 relationship versus a smaller company where they -- you
13 might have never done business with them at all. They're
14 seeing you for the first time, they don't have a lot of
15 technical specialists to do a deep-dive technical
16 evaluation of your product and they'll rely very heavily
17 on references.

18 So then I -- that's how I would describe the
19 differences in those markets. And the reason we have two
20 different sales forces is because the sales process is
21 different.

22 Q. The larger companies that you've talked about in

00260

1 the more detailed process, if it's a new customer in a
2 larger company, are they likely to go through the same
3 process with you?

4 A. We have no -- all large companies are Oracle
5 customers, just like all large companies are Microsoft
6 customers. Every large company in the world uses our
7 data base.

8 Q. I'm talking about the application software now.

9 A. So say, ask the question again.

10 Q. For the application software, if you're selling
11 application software to a large company, are they going
12 to go through the same detailed process of evaluating
13 your product?

14 A. Yes.

15 Q. That even though they may be a new customer to
16 you than somebody who'd had a relationship with you, the
17 type of -- the type of analysis that you described a few
18 moments ago?

19 A. The large companies will do a detailed
20 evaluation. All large companies are Oracle data base
21 customers. Large companies will do a detailed analysis
22 of the next version of our data base even though they

00261

1 have the rights to use it. They just have the resources
2 to do a technical evaluation and see if it's worth --
3 that they should bother to upgrade to the next version of
4 the product.

5 They have a much larger planning horizon.
6 You're dealing with a very large technical organization.
7 I don't know if I'm being clear, that they have an
8 impression of Oracle as a supplier and how good is our
9 support organization, how responsive is our selling
10 organization at getting questions answered.

11 It's a little bit what I'll call relationship
12 management selling. The sales cycles tend to be much
13 longer, the transaction sizes tend to be larger. You're
14 dealing with a large group of technical specialists in a
15 large company.

16 In a smaller company, it's a very different
17 sales process, they don't have that same depth of
18 technical knowledge inside of the company. They'll rely
19 more heavily -- they'll make their decisions more quickly
20 usually, they'll rely much more heavily on references,
21 trying to find a company that looks like theirs and if it
22 worked at that company, they'll -- they'll be -- they'll

00262

1 try it.

2 Large companies tend to be early adopters of new
3 technology. Government agencies tend to be aggressive
4 early adopters of new technology. One of our first
5 customers was the Central Intelligence Agency.

6 Q. The process that you've just described and large
7 companies looking at your product was in the context of
8 data base products; right?

9 A. Application products also, both, everything.

10 Q. Is there a difference between how the smaller,
11 the less than a billion dollar companies, review or go
12 through the sales process with your application software
13 as opposed to the larger companies?

14 A. Exactly what I said applies to applications and
15 technology, in one case we're really selling to -- we're
16 selling to a very wealthy, technically-sophisticated
17 group of people inside of a big company that will want to
18 do a detailed look and do their own analysis.

19 Smaller companies will have to rely on others to
20 have done that analysis for them. They might use
21 research reports, they might -- but primarily they'll
22 rely on references.

00263

1 Q. Is your sales force for application software
2 broken down between large and smaller companies using
3 this one billion dollar guideline that's in the 10K?

4 A. I'm not sure it's a billion dollars anymore, I
5 think we've moved that but the answer is yes. We have --
6 plus the quotas are different, the compensation packages
7 might be different. So it's just a very different
8 selling process. But, yes, we have one sales force that
9 sells to large companies, a different sales force that
10 sells to other companies because the sales process is
11 different. The product's identical.

12 Q. Is the customer's needs, the larger versus
13 smaller, identical? For example, are the larger
14 customers, using GM as an example, more likely to
15 customize your software to fit their business processes
16 than the smaller customers?

17 A. Absolutely.

18 Q. As part of the simple -- the more complicated
19 process that goes through the larger companies, at least
20 for the purposes of this 10K, the line was drawn a
21 billion dollars, is it then determining whether your
22 software can be modified to meet their business

00264

1 processes?

2 A. On the larger companies, yeah, they'll --
3 everyone's software -- I shouldn't say everyone -- not
4 the software that's offered as a service, but the pure
5 software companies, all the software can be modified. It
6 was designed for ease of modification.

7 Q. What I'm asking is, is the more complicated
8 process for purchasing application software in the larger
9 companies the over billion dollar companies, that process
10 is designed to determine how well your software can fit
11 its needs as part of the customization process?

12 A. Yeah. They'll do a gap analysis. They'll say
13 what we do, what features do they need, what features are
14 standard with our product and how easy is it, are there
15 any features missing. Those are gaps, and can those
16 features be easily put in, either by them or by us.

17 Q. Now, the companies, again, at least for the
18 purposes of the time frame of this 10K, Exhibit 17, are
19 we talking under a billion dollars?

20 A. Yes.

21 Q. They're not as likely to customize their
22 business processes?

00265

1 A. Too expensive.

2 Q. So they don't need to test as much?

3 A. They can't afford to do it. They can't afford
4 to do the -- they don't have that huge engineering team
5 that works for them, so without that huge engineering
6 team, they can't do the same kind of detailed evaluation.
7 They can't afford to heavily modify the software. It's
8 just a very different -- they've got identical software
9 both places, but they've got to evaluate it differently
10 and use it differently.

11 Q. Now, the people -- are there other differences
12 besides the customization aspect of the smaller companies
13 versus the larger ones? Again, at least as of the time
14 frame of Exhibit 17, you guys used one billion dollars as
15 a guideline?

16 A. From a technical standpoint?

17 Q. Yes.

18 I'm talking about application software sales.

19 A. Well, there's more of a willingness in a smaller
20 company to adapt their business processes to the software
21 as opposed to adapting the software to the business
22 processes.

1 Q. Is that a function of cost again?

2 A. Yeah. Well, the rich companies can afford to do

3 more to the software than the smaller companies.

4 Q. From the -- I'm sorry, go ahead.

5 A. So the same reason why the wealthy companies can

6 afford to buy best of breed products and integrate them

7 all together. They've got huge, huge I.T. budgets the

8 smaller companies don't.

9 Q. Now, in the context of the smaller companies,

10 again, at least as of Exhibit 17, using one billion

11 dollars as a cut-off and under it, are the smaller --

12 strike that.

13 Would it be, from the standpoint of the larger

14 companies, people who want to customize the software to

15 meet their business processes, since they are larger,

16 many of them multi-national, is it likely it would be

17 more expensive for them to change their processes than it

18 would be the companies of under a billion dollars of

19 revenue?

20 A. We're actually going through a C-change right

21 now where even the large companies -- it's been so

22 expensive for them. They've had two problems: One is

00267

1 they've made huge investments in customizing the software
2 and then they mind themselves marooned in the old version
3 of the software.

4 Let's say -- back to an earlier discussion we
5 had -- you bought PeopleSoft 7, made a lot of changes to
6 it. Here comes PeopleSoft with Version 8, good news,
7 better product. You'd like to move into PeopleSoft
8 Version 8. Unfortunately, there's no easy way to do that
9 because you're really not running PeopleSoft version 7,
10 you're running your own unique, heavily modified version
11 of PeopleSoft version 7.

12 So there's -- all that automation to help you
13 get from 7 to 8 is worthless because you're not running 7
14 you're running the General Motors version of PeopleSoft
15 7, which is heavily modified. And even the biggest
16 companies find it problematic, not about -- they can't
17 take advantages of new versions of software and that
18 is -- that's a damming situation to find yourself in so.

19 So our largest customers right now and our
20 largest customer's General Electric, and where we
21 automate say G.E. Medical or G.E. Power, they put in our
22 E-business suite with no modifications whatsoever.

00268

1 So you're seeing companies moving, having tried
2 best of breed and doing all that systems integration,
3 saying this is very unattractive, having tried heavily
4 modifying the software, saying this is very unattractive,
5 you know, and going -- so the new trend is to go to
6 suites and to go to unmodified software, what we call
7 vanilla.

8 Q. Is there any way to document within your company
9 how many of your customers are doing that?

10 A. My God, yes. In fact, we monitor that very
11 closely. At one time 85 percent of our customers, five
12 years ago -- these are rough estimates but they're pretty
13 close.

14 Five years ago 85 percent of our customers
15 modified our software. Now it's probably less than ten
16 percent, and that includes the largest companies in the
17 world. Alcoa, huge, huge company, no modifications.

18 Q. Let me ask you, in the context of the smaller
19 companies you talked about, the ones who never really
20 were looking at modifying it because of the cost, how did
21 they set up the systems to do what they needed them to
22 do?

00269

1 A. They would actually modify their business
2 processes, rather than modifying the software to fit
3 their business processes, they would modify their
4 business processes to fit the software. So they would
5 put in the standard package. So it's a little bit like
6 when you buy Microsoft Word, it does what it does, and
7 you want to do something else, you're out of luck until
8 the next version of Microsoft Word.

9 You don't go in and change Microsoft Word or you
10 don't go in and change Excel. The good news is Microsoft
11 Word is pretty cheap.

12 Q. Have you heard the term used "out of the box
13 solution" in the context -- is that what the smaller
14 companies have been buying?

15 A. Yes, unmodified software, out of the box,
16 vanilla, it means you haven't gone in and changed the
17 software.

18 Q. All right. So let me ask you to take a look, if
19 you would, at Exhibit 18 to your deposition. And, again,
20 turn -- ask you to take a look at page 8 of 18. And it
21 states under the heading, again, "Market Segments" --

22 A. Page 8?

7 MR. SCOTT: Q. We're on Exhibit 18, page 8,
8 under the heading "Market Segments" and in here -- this
9 is the 10K for the fiscal year May 31, 2003. Here again
10 it defines the enterprise market segment as those
11 businesses with total annual revenues over a specific
12 amount. In the United States they're defined as
13 businesses with total annual revenues of more than a
14 billion; correct?

15 A. Again, those segments are where there are --
16 specifically for using different sales processes, it's
17 how we partitioned our sales force but, yes.

18 Q. It goes on, beyond that it says that the -- "We
19 define the general business market segment as those
20 entities smaller than the enterprise businesses";
21 correct?

22 A. The key thing there is "We define." That's for

00271

1 our convenience for -- our sales process is a certain way
2 with smaller companies. We use a different sales force
3 and entirely different sales process with the larger
4 companies.

14 MR. SCOTT: Q. All right, sir, we were talking
15 about the product, the vanilla product, and some of your
16 larger apps customers.

17 A. Right.

18 Q. Does that product, you said people tend not to
19 customize that as much as they have in the past?

20 A. They don't modify the code.

21 Q. Is that product more configurable than the
22 products that you offered them in the past?

00272

1 A. Probably.

2 Q. And by configurable versus customization, could

3 you tell me what you understand those to mean?

4 A. It's features that are present that are turned

5 on and off as opposed to features that are missing.

6 Features that are present that are turned on or

7 off is configurable. Features that are simply missing.

8 Features that are present, can be turned on and off,

9 that's configuration. Features that are missing, they

10 can be added without -- without actually modifying the

11 code, are extensions. Features that can only be added by

12 modifying the code are modifications, and the

13 modifications are the things that make it very difficult

14 to upgrade from one version to the next and are very

15 costly because when you modify the code, the code might

16 stop working.

17 Q. Configurations, they don't have the same problem

18 from the standpoint of going from one version of software

19 to the next?

20 A. That's correct.

21 Q. Is one way that you've helped people who want

22 some flexibility in their software but don't want to run

00273

1 the risk of the customization by building more

2 configurability into your software?

3 A. Absolutely.

4 Q. For your larger customers, you've tended to

5 address their desires to have the software fit their

6 business processes by giving them more configuration

7 options?

8 A. Sure, more features, more configuration options.

9 Q. So, for example, you used G.E. as an example,

10 the product that you're selling them now that you

11 described as vanilla, has more switches that they can

12 throw, and allows them more flexibility configuring the

13 product to their business processes than did your product

14 in the past?

15 A. Yes.

16 Q. Now, is that something that you tell the

17 customers that you have available to them in attempt to

18 sell them product? For example, does that give you a

19 competitive advantage?

20 A. Well, again, industry by industry we -- a

21 company like G.E. will have a list of things that they

22 need. They'll test that against their existing

00274

1 processes. They'll look at simplifying their own
2 processes. But G.E., with our help, will make the
3 determination whether our product is a good fit for G.E.

4 Q. Along with other customers in the larger --

5 A. The larger companies will do that specific
6 mapping of the way they do business to what our product
7 actually can do.

8 Q. The more extensive set of configuration options
9 is to give you more flexibility in meeting their
10 processes rather than them having to change your
11 processes to meet your software's functionality?

12 A. Yes.

2 All right. So let me start with this, the
3 public sector is a very important area of business for
4 Oracle, isn't it?

5 A. It is, yes.

6 Q. In fact, I think you told us that your very
7 first customer was the federal government; is that right?

8 A. Yes, it was.

9 Q. When you gave the members of the executive
10 committee this morning, I think you named everyone. But
11 I thought that Kevin Fitzgerald was on the executive
12 committee.

13 A. My apologies to Kevin. Yes, Kevin runs our
14 government education and Health business.

15 Q. That, I think -- if I may ask you, does that
16 reflect the importance that the public sector has at
17 Oracle, that he's on the executive committee?

18 A. And that we have a group specialized in just
19 government, yes, it does. It is our largest business.

20 Q. In what way?

21 A. Revenue.

22 Q. And if I may ask you, it looks like the way your

00277

1 corporation is organized, you don't really have a sales
2 force that's organized for specific verticals, but you do
3 in the case of the Office of Government Education and
4 Health Care. That's correct; right?

5 A. Yes, it is.

6 Q. And why is that?

7 A. We feel that the sales process and the support
8 needs of government is different than most commercial
9 ventures.

10 Q. Why is the sales process different?

11 A. Well, the terminology -- when you're selling to
12 Central Intelligence Agency or the Department of Defense
13 or the State of Virginia or the State of Texas, you don't
14 talk about customers, you talk about citizens. It's just
15 the kind of systems -- citizen systems you put in are
16 really quite different than say the customer support
17 systems a manufacturer might put in or the service
18 systems a manufacturer might put in. The processes in
19 government, the terminology of government, the
20 procurement practices of government are quite different
21 than the commercial sector.

22 Q. How are the procurement practices different?

00278

1 A. Well, government typically -- not always -- but
2 typically has to go out for a competitive bid and there's
3 notification of award, there's a protest process, there's
4 a statutorily defined process for buying things in
5 government that doesn't exist in the commercial sector.

6 Q. How are the support needs different?

7 A. Well, the Department of Defense doesn't want to
8 hear the system will be down for an hour. It has to work
9 24 hours a day, seven days a week or people get upset.

10 The intelligence agencies are particularly
11 concerned that the information is secure. They don't
12 want to hear some hacker has come in and snapped up your
13 data. So security, there are security issues,
14 reliability issues that are unique to certain segments in
15 the government.

16 Q. You had indicated earlier that you're very much
17 involved in the budgeting and planning process at Oracle
18 Corporation; is that correct?

19 A. Yes.

20 Q. Now, is it correct that the Office of Government
21 Education and Health Care has been authorized to add
22 additional sales staff in the coming year?

00279

1 A. Yes, they have.

2 Q. Why is that?

3 A. Our business is doing very well inside of GEH

4 and there's opportunity, but it's not just salespeople

5 but certain service people, as well.

6 Q. I want to hand you what we've marked as Exhibit

7 19 to your deposition and also provide copies to counsel

8 and the federal government.

9 Exhibit 19 is a two-page document. It has the

10 document number ORCL-EDOC-00173101 to 102. I'll

11 represent to you that this came out of -- what we

12 understand came out of the files of Office of Government

13 Education and Health care. It did not specifically come

14 out of your files.

15 Do you believe you've seen this document before?

16 A. I have not.

17 Q. We've looked at documents like this earlier in

18 your deposition, for example, the one involving Barnes &

19 Noble.

20 Are you familiar generally with this form of

21 document?

22 A. Yes, I am.

00280

1 Q. And this lists, Exhibit 19 lists LJE as the
2 approver of a bid involving Los Angeles County ERP; is
3 that correct?

4 A. Yes.

5 Q. Now, is this one of those cases that you were
6 telling Mr. Scott about where you were not the actual
7 approver, it was Safra Catz?

8 A. That's correct.

9 Q. Do you think you had any involvement in
10 developing proposals and bids for Los Angeles County?

11 A. I don't think I was.

12 Q. If you'll turn to the second page, it says
13 "Submitted by," it has "Fitz and Garcia." Do you see that
14 at the very bottom of the page?

15 A. Yes.

16 Q. Who is that?

17 A. They're a couple of our sales representatives,
18 sales -- I think a sales manager and a sales
19 representative.

20 Q. Is Fitz, is that Fitzgerald?

21 A. Yes.

22 Q. Who is Garcia?

00281

1 A. I believe he is one of our people in state and
2 local government, but I'm not certain.

3 Q. And it's got some date legends at the bottom,
4 looks like, if I'm understanding the terminology here,
5 would you have any disagreement that this was prepared in
6 approximately April of 2002?

7 A. That's what it looks like to me.

8 Q. Now, you said this morning that there are
9 certain large bids that would come for review up through
10 the chain to Safra Catz on your behalf. This appears to
11 be one of those; is that correct?

12 A. Yes.

13 Q. What was large or different or interesting about
14 the Los Angeles County bid, if you know anything about
15 it?

16 A. I don't know much about the L.A. County bid.
17 Clearly, it's a very large government agency and
18 important potential customer for us, but I don't know
19 what was peculiar -- if there was anything particularly
20 unusual about it.

21 Q. I understand you've probably not seen this
22 particular document, but let me just call your attention

00282

1 to a couple of different things, if I could.

2 It looks like that Mr. Fitzgerald is asking for
3 approval of certain things. You see that near the top of
4 the document on the first page?

5 He's got four items that he's asking for
6 approval. I want to ask you sort of generally what these
7 may pertain to. He's asking for approval of a customer
8 definition.

9 A. Right.

10 Q. And employee population data points. Why would
11 he be asking for approval of something like that?

12 A. Our conventional licensing metric, what we sell
13 our users, so how many users we have in the system. We
14 sometimes sell by different metric which is how many
15 employees have you got. In fact, we're going to make
16 that a standard way of selling our software in the very
17 near future, but it wasn't and isn't at this time.

18 So he wanted to sell so much per employee rather
19 than so much per system user, much easier thing to
20 measure.

21 Q. The second thing is, looks like he's asking for
22 a rather large discount. Is 89.6 a rather large

00283

1 discount?

2 A. Yes, it is.

3 Q. The third item is, it says "Zero percent
4 technical support staff for the initial four support
5 renewal periods."

6 Did I read that correctly?

7 MR. RILL: You said "staff" not "cap."

8 MR. TOBEY: I didn't read that correctly.

9 Q. "Cap" instead of "staff." Now did I read that
10 correctly?

11 A. Yes. It means for the first four years that are
12 annual support fees cannot be increased.

13 Q. That's something that also would engender a type
14 of review at the higher levels of the company?

15 A. It's a non-standard term that needs approval.

16 Q. The fourth item says, "Support priced at 18
17 percent of net license fees," what was it about that or
18 what is it about that that might cause further high-level
19 review?

20 A. The standard support annual fee is 22 percent
21 and, again, under special circumstances, depending on the
22 size of the deal or special approval, could go down to 18

00284

1 percent.

2 Q. Is your percentage that's charged for support

3 costs always in terms of the net license fee?

4 A. Yes.

5 Q. There's a chart in the middle of the first page

6 that is "Deal Summary" and it has some information about

7 "Product Mix." I know you're not specifically familiar

8 with this document, but the "Deal Summary, Product Mix"

9 listed here, if you would look at that and say whether or

10 not that's a pretty representative list of the kinds of

11 products that large state and local entities might want

12 to have?

13 A. Yes.

14 Q. It appears that an aspect of this form that

15 we've marked as Exhibit 19 is that the presenter provides

16 some justification for these discounts or these

17 non-standard terms; is that correct?

18 A. Yes.

19 Q. In this particular case, the author of Exhibit

20 19 -- do you know who that would have been, by the way?

21 A. Who wrote this document?

22 Q. Yes.

00285

1 A. I don't know.

2 Q. I'm not going to ask you to speculate but in
3 this particular case, Exhibit 19, the author appears to
4 go into a lot of detail about, for example, the large
5 size of Los Angeles County.

6 Do you see that?

7 A. Yes.

8 Q. The large number of employees, 95,000 budgeted
9 employees. That makes this a very large customer; right?

10 A. Oh, yes.

11 Q. He also talks about and refers to what you were
12 saying a few minutes ago with respect to the Department
13 of Defense, but this is with regard to the County and
14 says that the county is charged with providing numerous
15 services that affect the lives of all residents.

16 Do you see that?

17 A. Yes.

18 Q. That's an important aspect of how -- of the
19 needs of state and local customers for your kind of
20 software, isn't it?

21 A. Yes, it is.

22 Q. Why would these things be an appropriate type of

00286

1 justification for a discount?

2 A. Well, I think -- I think this was not
3 necessarily a justification for discount, this was a
4 reminder of how important all state and -- all government
5 customers are. So this is the salesperson lobbying on
6 behalf of the customer in this proposal, they'd like to
7 get thing passed, and I guess they're afraid if we forgot
8 how important our government is to all us of, they're
9 reminding us here.

10 In general, the persuasive part of the argument
11 for the discount is the size of Los Angeles County, how
12 important they are to us as a customer and how important
13 they would be to us as a reference.

14 Q. I was going to ask you about that.

15 You said before that having large, credible
16 references is very important to commercial sector, to you
17 in the commercial sector; it's also important in the
18 public sector; correct?

19 A. Maybe, I think state and local it may be more
20 important.

21 Q. Why do you say it may be more important?

22 A. I think governments by their very nature are

00287

1 cautious. Some agencies, like the CIA, can afford to
2 experiment. Some agencies, you know, some government
3 agencies couldn't and shouldn't experiment. In fact,
4 most government agencies couldn't and shouldn't
5 experiment.

6 Q. So that some government agencies would really
7 like to see a reference that looks very much like them --

8 A. Yes.

9 Q. -- correct?

10 That is one area of the importance of a deal
11 like this to a company like Oracle; right?

12 A. That's correct.

13 Q. The next discussion in Exhibit 19 deals with
14 similar size deals.

15 First of all, just generally speaking, why would
16 a review of similar size deals be something that would be
17 relevant to your determination?

18 A. Well, we like to act equitably across customers.
19 So it's important that -- that we not have wildly
20 different pricing where one customer -- one government
21 customer gets price "X" and other customers pay three
22 "X." Customers don't like that, government customers

00288

1 specifically don't like that.

2 Q. Yes. The budget information category here talks
3 about the -- what's happened in the procurement thus far,
4 as I understand it, and it mentions something called an
5 RFI. I don't know that we've discussed that. What's an
6 RFI?

7 A. A request for information.

8 Q. How do government customers use an RFI?

9 A. They will submit it to potential bidders for a
10 particular government project or procurement. So they'll
11 pick a list of suppliers and they'll narrow it down after
12 they get the first phase of information back, they get
13 the response to the RFI's and then they'll issue an RFP
14 after that, a request for proposal.

15 So there's a multi-stage process for
16 procurement; first acquire information, then get a
17 specific binding proposal from the bidder.

18 Q. Does Oracle, in your experience, respond to a
19 lot of RFI's from public sector customers?

20 A. Yes, we do.

21 Q. Are a lot of -- generally speaking, are these
22 RFI's, do they usually require a fair amount of effort in

00289

1 order to respond to them?

2 A. Yes, they do.

3 Q. Now, in this particular case, it appears that

4 Oracle, SAP and PeopleSoft were the ones that responded

5 to the RFI. And whoever wrote Exhibit 19 refers to these

6 companies, Oracle, SAP and PeopleSoft, as the "Big

7 Three."

8 Have you heard that term before?

9 A. Has to do with auto makers.

10 Q. Have you heard that with regard to ERP software?

11 A. No, but it's accurate.

12 Q. How is it accurate?

13 A. We're the three largest ERP suppliers in the

14 world.

15 Q. Is it accurate with regard to the public sector?

16 A. As I mentioned earlier, there are some

17 specialists in the public sector, but even in the U.S.

18 public sector, I believe we are the three largest

19 suppliers in the U.S. public sector.

20 Q. Now, at the last sentence of the paragraph

21 entitled "Budget Information," the author states that the

22 County has hired GFOA to run the procurement and the word

00290

1 to the vendors is that the County is expecting the
2 software to be priced at around \$10,000,000.

3 Is that the kind of information that you or the
4 people that run your office of Government Education and
5 Healthcare would try to get with regard to a particular
6 procurement?

7 A. We certainly like to know what the winning bid
8 is going to be. I don't know if anyone can really tell
9 you that. It's very -- it's theoretically impossible to
10 know. But we have to arrive at some kind of number to
11 put on our final bid and we certainly don't know what
12 PeopleSoft bidding and we don't know what SAP is
13 bidding.

14 Q. Again, if this number were in the neighborhood
15 of \$10,000,000 for the software and support license, that
16 would make this a big deal even for Oracle; right?

17 A. Oh, yes.

18 Q. And that would justify this higher level of
19 review even under the standards that you articulated this
20 morning if it were not a public sector company; correct?

21 A. Yes.

22 Q. In fact, what was said is that this is a very

00291

1 big and visible project. Would you have any
2 understanding or appreciation of what might be meant by
3 "a visible project" here?

4 A. Other counties, other municipalities are looking
5 very, very closely at it, Chicago, Philadelphia. We have
6 a bill installation in Chicago and Philadelphia. It's
7 likely to influence other municipal, large municipal and
8 county buyers.

9 Q. We talked a little bit about the sales process
10 in the public sector and how it's different. The next
11 sentence in Exhibit 19 talks about, "We've been calling
12 on the customer for years."

13 Is that something that you understand may take
14 place in the government sector?

15 A. That's exactly -- again, with large institutions
16 or very large -- whether it's a General Electric or Los
17 Angeles County, the very large customers need a lot of
18 care and feeding. So they expect to have their requests
19 for information answered promptly. They expect to
20 receive a high quality of service. Even if they don't
21 buy anything from you for four or five years, they expect
22 you to continue to service that account.

00292

1 Q. You do that and, likewise, PeopleSoft and SAP do
2 that; correct?

3 A. As does IBM and Accenture and a variety of other
4 companies, yes.

5 Q. Now, down in the next paragraph, it talks about
6 something called an RFP evaluation. What is an RFP?

7 A. Request for proposal. It's the next phase in
8 the acquisition process, where you're asking the vendors
9 to give binding offers to sell their products and
10 services, a description of their products and services
11 and a contractual form, along with the price -- the
12 pricing terms and conditions.

13 Q. The various vendors who wish to compete for the
14 project will submit something in response to the RFP;
15 correct?

16 A. Yes.

17 Q. The first sentence of the paragraph that has the
18 heading "Our Position," talks about additional, one or
19 two additional rounds before the best and finals are
20 accepted.

21 Do you have any understanding of what that might
22 refer to?

00293

1 A. The procuring party might look at the proposals
2 and ask for -- find them all unacceptable, have meetings
3 with the different bidders, a bidders conference, and ask
4 for improvements of the proposal, as the government works
5 to get the best possible deal leading up to what's called
6 the best and final phase, where the bidders are told this
7 is your last shot, you better give us your best price and
8 best terms and conditions because, based on this last
9 version of the proposal, the government's going to make a
10 decision.

11 Q. You've been on the receiving end of this
12 particular tactic, but my understanding is that in some
13 government or public sector type requests for proposal
14 negotiations, actually more than one company will be
15 asked to give a best and final offer; correct?

16 A. Absolutely.

17 Q. Sometimes it might be two or three companies, is
18 that in your experience?

19 A. More sometimes.

20 Q. So in this particular one, whoever prepared
21 Exhibit 19 -- and certainly we'll explore this further
22 with Mr. Fitzgerald if we get the opportunity -- thought

00294

1 that this deal, if I can refer you to that section on the
2 second page of Exhibit 19 that talks about competition,
3 thought it would come down to SAP and Oracle, but he
4 could not rule out the possibility that PeopleSoft would
5 be involved.

6 A. Right.

7 Q. Is that something you would take into account or
8 Safra Catz on your behalf in reviewing and authorizing
9 and approving -- "approving" is right -- and approving a
10 bid to be given in this kind of context?

11 A. Certainly if it's a competitive -- to us there's
12 only two kind of deals: There are competitive deals and
13 non-competitive deals.

14 So whether we have four competitors or 20
15 competitors and who the competitors are -- again, first
16 let me say, if it's a genuine competitor, a company that
17 really can do the job, a genuine competitor -- our job is
18 to figure out what we have to bid to win the deal. No
19 magic here.

20 So the second one, in a competitive procurement
21 like this, we have to figure out -- again, it's a bidding
22 process. We would like to win the bid. How little can

00295

1 we afford to bid to win this deal and still hopefully eek
2 out some little profit from the government.

3 Q. And, clearly, SAP and PeopleSoft are genuine
4 competitors?

5 A. Yeah. Then there are others, AMS is certainly a
6 genuine competitor, as well.

7 Q. So in response to a bid where you know you're
8 competing against genuine competitors for a procurement
9 that is very large and very visible, is that one where
10 you would really sharpen your pencil and try do eo the
11 best bid possible?

12 A. Up to the point of losing money. If you're
13 building a building or providing software, you try to
14 figure out what your costs are going to be in providing
15 it and try to give the lowest bid possible while still
16 making a profit.

17 Q. If I could direct you to the first page of
18 Exhibit 19, there's a paragraph about a fourth of the way
19 down the first page called "Comments from Kevin
20 Fitzgerald Approval."

21 A. Yes.

22 Q. Do you see that?

00296

1 A. Yes.

2 Q. He says the discount here is extreme; is that
3 true?

4 A. What does "extreme" mean? It's certainly an
5 aggressive discount. Given the circumstances, given it's
6 a large government customer, it's a highly visible
7 project, I don't think it's extreme.

8 Q. He further says that we are not aiming to flout
9 the direction on discounting the suite, but given
10 historical comparisons, we believe that this is where we
11 need to come on pricing.

12 Do you see that?

13 A. He wants to win.

14 Q. And do you have any understanding or
15 appreciation of what he means by "flout the direction on
16 discounting the suite"?

17 A. Well, we are discounting on the E-business suite
18 as opposed to components. We had 70 percent discounting
19 before approval on the components and I think 60 percent
20 discounting on the suite. So it's actually we're more
21 reluctant to discount the suite than we are the
22 components.

00297

1 Here he's asking -- here we try to control the
2 discounting on the E-business suite more rigorously than
3 the separate parts of E-business suite, and he's a little
4 embarrassed to come back and say, gee, I know, you want
5 me to discount E-business suite less, but this is what
6 it's going to take to win, these are the realities of the
7 marketplace."

8 Q. He wants to win and Oracle wants to win; right?

9 A. Oracle definitely wants to win.

10 Q. I'll try to do this efficiently and quickly.

11 Mr. Scott, on behalf of the Justice Department,
12 went through some things with you this morning and this
13 afternoon that would be important for a customer on the
14 commercial side, but what I want to ask you about is in
15 the context of a large customer like Los Angeles County
16 to consider.

17 Do you have any reason to believe that large
18 public sector ERP customers would not in the same way
19 that commercial ones or -- let me strike that and start
20 over.

21 Do you have any reason to believe that large and
22 complex state and local customers like L.A. County would

00298

1 have a different view of whether their proposed vendor
2 would be able to provide a product that was continuously
3 updated?

4 A. I'm not sure I understood the question.

5 Q. Let me try it again.

6 A. Okay.

7 Q. This morning and this afternoon we talked about
8 that what customers are looking for from a vendor such as
9 Oracle, one of the things they're looking for are or a
10 factor is the ability to keep the product updated as far
11 as technology.

12 Do you remember that?

13 A. Yes.

14 Q. Is there any reason to believe that a large
15 public sector customer would feel differently about that
16 point?

17 A. I think almost more so. I think the durability
18 of these products inside public sector is actually longer
19 than inside commercial accounts. So vendor viability,
20 the vendor's ability to invest and constantly improve
21 their product is critical. And that's one of my big
22 arguments as to why customers would be better served by

00299

1 this merger than not having this merger, because it would
2 result in a company, you know, better able to serve its
3 customers, better able to invest on improving the
4 product.

5 Q. Is there any reason to believe that a public
6 sector, large public sector customer, would feel
7 differently about having its vendor be able to add the
8 latest and additional functionality that might be needed
9 for that customer?

10 A. My experience is they feel stronger about it
11 than the commercial customers.

12 Q. Do large public sector customers feel any
13 differently about the costs and the problems created by
14 the -- by integrating best of breed solutions?

15 A. Again, I think if anything, they're slightly
16 more sensitive to that.

17 Q. I think we talked about this before, there would
18 be no reason to believe that a large public sector
19 customer would be -- would find having strong credible
20 references less important?

21 A. No.

22 Q. Even more so?

00300

1 A. Even more so, once again.

2 Q. You talked about Lawson Software. Do you

3 remember that?

4 A. Yes.

5 Q. We had some discussion.

6 Do you know what their largest public sector

7 customer is?

8 A. I don't, no.

9 Q. Do you know with regard to another company, AMS,

10 what their product offerings are?

11 A. Yes.

12 Q. What are they?

13 A. They have a complete finance package for the

14 government and H.R., as well.

15 Q. Do you know whether or not AMS has made any

16 sales of its H.R. product to new customers in the last

17 five years?

18 A. I do not know.

19 Q. Do you know whether AMS actually offers a

20 product in the financial management area in the federal

21 sector?

22 A. I believe they do.

00301

1 Q. Do you know whether they offer a product in the

2 federal sector in human resources?

3 A. I believe they do.

00308

21 Q. Now, when a person goes the outsource route, is
22 that based on the outsourcer being able to perform

00309

1 functionally in a way that's consistent with what the
2 customer wants?

3 A. Yes.

4 Q. If the outsourcer cannot do that, does the
5 outsourcer's price really make a difference?

6 A. No.

7 Q. If the outsourcer's not capable of providing the
8 functional requirements of a customer, if you raised your
9 price ten percent, that outsourcer is still not going to
10 be an option to meet those functional capabilities;
11 correct?

12 A. Correct, but it's an impossible situation which
13 could never occur.

14 Q. Why is that?

15 A. The outsourcer will always be able to meet the
16 requirements because the outsourcer can buy our software
17 or PeopleSoft software or Siebel's software or anyone's
18 software they want. So the outsourcer is always an
19 option.

20 Q. In the context of the type of outsourcers who
21 buys, your software package, then sells the service to
22 the particular vendor --

00310

1 A. Yes.

2 Q. -- to the customer, I mean?

3 A. Yes.

4 Q. In the context of outsourcers that do not buy
5 your software, who have a standardized function that they
6 provide such as an ADP, if that does not satisfy the
7 customer's functional needs does your price make a
8 difference to the customer's choice?

9 A. No.