

1 NO. 380-810-99
 2 ELECTRONIC DATA SYSTEMS) IN THE DISTRICT COURT
 CORPORATION,)
 3)
 Plaintiff,)
 4)
 VS.) COLLIN COUNTY, TEXAS
 5)
 NICHOLAS E. CHENOWTH,)
 6)
 Defendant.) 380TH JUDICIAL DISTRICT
 7
 8
 9
 10

11 ORAL DEPOSITION OF
 12 TIMOTHY MICHAEL GOODWIN
 13 AUGUST 9, 1999
 14
 15

16 ORAL DEPOSITION of TIMOTHY MICHAEL
 17 GOODWIN, produced as a witness at the instance of the
 18 plaintiff, and duly sworn, was taken in the above-styled
 19 and numbered cause on the 9th of August, 1999, from 9:11
 20 a.m. to 3:03 p.m., before Stacy Jordan, CSR, in and for
 21 the State of Texas, reported by machine shorthand, at
 22 Windhaven Village Apartment Complex, 6201 Windhaven
 23 Parkway, in the City of Plano, County of Collin, State
 24 of Texas, pursuant to the Texas Rules of Civil Procedure
 25 and the provisions stated on the record.

1 A P P E A R A N C E S
 2 FOR THE PLAINTIFF:
 Mr. Chris D. Carlson
 3 Attorney at Law
 Electronic Data Systems Corporation
 4 5400 Legacy Drive
 Plano, Texas 75024
 5

6 FOR THE DEFENDANT:
Mr. Geoffrey S. Harper
7 LYNN, STODGHILL, MELSHEIMER & TILLOTSON, L.L.P.
750 North St. Paul Street, Suite 1400
8 Dallas, Texas 75201

9

10 ALSO PRESENT:
Ms. Marla Thornton

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1 PROCEEDINGS

2 TIMOTHY MICHAEL GOODWIN,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. CARLSON:

6 Q. Can you state your full name for the record.

7 A. Timothy Michael Goodwin.

8 Q. And, Tim, can you give us your address,

9 please.

10 A. (Deleted for reasons of privacy)

11 Q. And do you have a business phone?

12 A. Yes.

13 Q. What's the phone number?

14 A. (972) 353-3745.

15 Q. And what is your home phone?

16 A. (Deleted for reasons of privacy)

17 Q. Do you understand that you just took the oath

18 which is the same oath that you would take as if you

19 were sitting in a courtroom giving testimony in the
20 trial of this case?

21 A. Yes.

22 Q. And do you understand that there is a lawsuit
23 which has been filed by EDS against Nick Chenoweth and
24 that your deposition today is being taken so that it may
25 be used as evidence in the trial of that case?

5

1 A. Yes.

2 Q. You're doing a good job so far, but please
3 continue to answer verbally. The court reporter can't
4 take down nods of the head or shakes of the head. So
5 far you've said yes and I take it you also say no, which
6 is better than uh-huh or huh-uh which is difficult for
7 her to get down as being yes or no. Do you understand?

8 A. Yes.

9 Q. Is it correct that you're here today by
10 subpoena?

11 A. Yes.

12 Q. Let me hand you what we'll have the court
13 reporter mark as Exhibit 1 and ask if you recognize
14 that.

15 (Exhibit No. 1 marked.)

16 A. Yes.

17 Q. Is that a copy of your — of the subpoena for
18 your appearance here today?

19 A. Yes.

20 Q. Did you used to work for Richardson Bike Mart?

21 A. Yes, I did.

22 Q. When did you work for Richardson Bike Mart?

23 A. February of '92 until October 31st of '98.

24 Q. Where did you work before February of '92?

25 A. University Cycle.

1 Q. Which is another bicycle store?

2 A. Yes.

3 Q. Is it correct that Richardson Bike Mart is a
4 bicycle store?

5 A. Yes.

6 Q. What does Richardson Bike Mart sell, in
7 general?

8 A. Bicycles, bicycle equipment, clothing, soft
9 goods.

10 Q. When you worked at Richardson Bike Mart — and
11 is it also sometimes referred to as Bike Mart?

12 A. Yes.

13 Q. If I say Bike Mart, will you understand that I
14 mean Richardson Bike Mart?

15 A. Yes.

16 Q. When you worked at Bike Mart, what was your
17 title?

18 A. General manager.

19 Q. And what were your responsibilities as general
20 manager?

21 A. Overseeing the day-to-day operations,
22 payables, forecasting future purchases, purchasing.
23 Pretty much the run of the company.

24 Q. How long have you been working in the bicycle
25 industry?

1 A. 23 years.

2 Q. Are you fairly familiar with the pricing of
3 various different bicycle-related products?

4 A. Yes.

5 Q. And fairly knowledgeable or familiar about the

6 origins of products and their availability on the
7 market?

8 MR. HARPER: Objection: form.

9 A. Yes.

10 Q. Are you familiar with the origins of
11 bicycle-related products?

12 MR. HARPER: Objection: form.

13 Q. You can go ahead and answer. Geoff may make
14 some objections; I may make some objections. You can
15 ignore our objections and just go ahead and answer.
16 Later the judge will make a ruling about the objection.

17 I think the question was: Are you
18 familiar —

19 A. Yes.

20 Q. — with origins of bicycle products, where
21 products are made or where they come from?

22 A. Yes.

23 Q. Also, are you familiar with the various
24 different distributors associated with certain brands of
25 products?

8

1 MR. HARPER: Objection: form.

2 A. Yes.

3 Q. Are you also familiar with distributors for
4 various different brands or makes of bicycle products?

5 A. Yes.

6 Q. Did Richardson Bike Mart have corporate
7 accounts?

8 A. Yes.

9 Q. Can you describe to me what kinds of corporate
10 accounts Richardson Bike Mart had?

11 A. Larger companies that would do volume

12 purchasing, such as Texas Instruments, EDS, Frito-Lay at
13 times. They would have people come in that was
14 affiliated with the company. We would either, A, charge
15 them, if it's personal merchandise, or we would bill
16 them. EDS was the only account that we truly ever
17 billed. Everything else, through the other
18 corporations, was paid up front.

19 Q. Did various bicycle teams have accounts at
20 Richardson Bike Mart?

21 A. Yes.

22 Q. What are some of the bicycle teams that had
23 accounts at Richardson Bike Mart?

24 A. EDS.

25 Q. Any others?

9

1 A. Not really, no.

2 Q. And the corporate account that EDS had at
3 Richardson Bike Mart, was that also the Team EDS
4 account?

5 A. Yes.

6 Q. Is it correct that Team EDS is a bicycle
7 racing team that was sponsored by Electronic Data
8 Systems Corporation?

9 A. Yes.

10 Q. Were there discounts given to some of these
11 corporate account holders at Richardson Bike Mart?

12 A. Yes.

13 Q. And would the purchasers under those accounts
14 receive that discount whether they paid cash or with a
15 credit card or if they put something on the account and
16 then it was billed?

17 A. Yes, they would get the same discount.

18 Q. In general, was there ever an advantage to

19 somebody buying a product at Richardson Bike Mart to pay

20 cash?

21 A. No.

22 Q. What could somebody purchasing under one of

23 the corporate accounts buy at Richardson Bike Mart?

24 A. Anything.

25 Q. What sort of paperwork would be associated

10

1 with purchases on the corporate account?

2 A. A computer-generated cash register receipt is

3 the normal procedure.

4 Q. For how long has Bike Mart had an ability to

5 generate computer-printed receipts?

6 A. Since 1990 — '91. Prior to me even being on

7 board.

8 Q. Is there ever an occasion when a purchase at

9 Bike Mart is not entered into the computer system that

10 the store has for making out computer-generated

11 receipts?

12 A. Well, it's a yes-and-no question. Yes — no,

13 in the end result they are always run into a computer,

14 end result. The yes part of that would be if I'm not

15 in, because I basically headed up that whole — the

16 whole project. If I was gone, someone would write down

17 on a piece of paper basically used as a memo to me to

18 generate a cash register-type receipt through the

19 computer account.

20 Q. The handwritten receipt that you've talked

21 about being generated when you're gone, would that be

22 something that would be given to you?

23 A. Yes.

24 Q. Would that handwritten receipt be given to the

25 person making the purchase?

11

1 A. Not really, because it's kind of useless

2 paper.

3 Q. When did Team EDS open an account at

4 Richardson Bike Mart?

5 A. Just guessing, '94 I think it was.

6 Q. Do you know who opened that account?

7 A. Nick Chenoweth.

8 Q. And who at Richardson Bike Mart handled the

9 Team EDS account?

10 A. The first two months, Brett Hydrick.

11 Q. And then after those first two months, who

12 took over the handling of that account?

13 A. Me.

14 Q. Was there a discount associated with purchases

15 made using the Team EDS account?

16 A. Yes.

17 Q. And was that discount the same whether the

18 person purchased with cash or credit card or by putting

19 the purchase on the account and then having the purchase

20 billed for and paid later?

21 A. No advantage.

22 Q. So there was never an advantage to use cash

23 for purchases when you were purchasing through use of

24 the Team EDS account at Richardson Bike Mart?

25 A. Correct.

12

1 Q. What could — who could use the Team EDS

2 account at Richardson Bike Mart?

3 A. At first, anybody associated with Team EDS.

4 Q. At some point did that change?

5 A. Yes.

6 Q. And when was it that it changed?

7 A. The first six months Skip, which was the

8 coach, and I —

9 Q. Skip Cutting?

10 A. Skip Cutting, which was the coach, and I

11 figured out that too many people were coming and going,

12 and we couldn't figure out who was taking what, and

13 there was too much paperwork going all over the place,

14 so we centralized buying basically through Skip.

15 Almost all of it was purchased through

16 Skip. He would give me a list of equipment he needed,

17 and I would get the equipment, call him, he would pick

18 it up or send somebody to pick it up, but it was always

19 being picked up by a person, not multiple people. The

20 exception to the rule would be Nick. He would come in

21 occasionally, but not very, very often, to buy stuff.

22 Q. And is it true after the first six months that

23 the account was opened is when things changed so that

24 you were mostly working with Skip?

25 A. Yes. 90 percent of my purchases with EDS were

13

1 through Skip.

2 Q. How often do you recall Nick Chenoweth making

3 purchases through the EDS account or otherwise at

4 Richardson Bike Mart?

5 A. That I dealt with, two, maybe three times at

6 the most.

7 Q. How often — what was your working schedule at

8 Richardson Bike Mart?

9 A. Six days a week and sometimes seven days a

10 week, from 7 in the morning until late in the evening,

11 so I was there a good 12 hours every day.

12 Q. And is the size of the store such that you can
13 see the people that come into the store?

14 MR. HARPER: Objection: form.

15 A. In most cases, yes. I mean, obviously, not
16 always.

17 Q. Did you work the cash register at Richardson
18 Bike Mart?

19 MR. HARPER: Objection: form.

20 A. Yes, in most cases, not all.

21 Q. Who else, that you know of, would help Nick
22 with purchases at Richardson Bike Mart?

23 A. Typically, clothing. Mostly the stuff he
24 bought was just simply clothing. That would be Rhonda
25 because she knows clothing. She's our clothing buyer.

14

1 Q. And do you have knowledge as to how those
2 purchases were accomplished?

3 A. Uh-huh.

4 Q. And how were they accomplished?

5 A. She would — anything that was billed to EDS
6 was written on a sheet of paper and then given to me.
7 She told me about them, and I would write them down and
8 then bill them accordingly.

9 Q. So those purchases were made by putting the
10 purchases on the account and then it would be billed to
11 EDS?

12 A. Exactly.

13 Q. When a person — a member of Team EDS made a
14 purchase on the Team EDS account at Richardson Bike
15 Mart, did they get a receipt?

16 A. Not always because it wasn't — if someone
17 picked it up — if Skip picked — Skip Cutting picked

18 the equipment up. Typically, I always send a receipt
19 with that, and then I would fax his office, also, our
20 monthly statement of all the different invoices that
21 were left open.

22 Q. Have we covered all the ways in which you kept
23 records of the purchases on the Team EDS account?

24 A. Yes.

25 Q. Can you kind of walk me through the process of

15

1 how it would work and ultimately result in a bill being
2 sent to EDS.

3 A. Two different scenarios. Skip — this is how
4 the majority of the time it happened. Skip would call
5 over and give me essentially a purchase order for X, Y,
6 Z products, and I would then round them up or order them
7 accordingly, because a lot of times they were special —
8 special products that we did not stock. I would get all
9 the equipment in pretty much at one time. He would come
10 in when he was in town, pick up the merchandise, then I
11 would bill them accordingly.

12 Q. Okay. How about when a rider would come in
13 and purchase something? What would be the process
14 there?

15 A. Either — this is — this didn't happen all
16 the time. Either they would come in and pick the stuff
17 up — I would — I would write it down in a book and
18 then bill it out when I have more time or when I get off
19 the floor and have them sign for it.

20 The other would be they would come in,
21 they would pick out all the stuff that they would
22 need — a set of winterwear so we could get the sizing
23 and stuff so it would fit right — then they would put
24 it in a big box. Then I would bill Skip accordingly and

25 just get Skip to pick all the equipment up.

16

1 Q. Do you ever recall any of the members of Team
2 EDS paying with cash or paying with a credit card in
3 order to buy things from Richardson Bike Mart?

4 A. Yes.

5 Q. How often did that happen?

6 A. Very little. Very few times.

7 Q. Do you have a recollection as to the sort of
8 history of the Team EDS account, the types of things
9 that were purchased over the years and the volume of
10 dollars involved?

11 A. Yes.

12 Q. Can you talk a little bit about that?

13 A. The first — the first, I guess, six to eight
14 months — I think it was mid-season when we first set
15 this up — it was \$10,000, \$15,000, maybe \$20,000 worth
16 of merchandise purchased.

17 The next year was the biggest year. That
18 was in '95, I think it was. There was about \$50,000,
19 \$60,000 worth of merchandise purchased. Those — those
20 things were components, specialized bicycles for the
21 road team, mainly girls'. A Medicic aluminum bike
22 for — I think it was Linda Kruse, some wheels.

23 Q. Do you remember what brand of wheels?

24 A. Campi wheels. Most of them were Campi. Bora.
25 They were Campi and Bora wheels, and those were for some

17

1 of the sprinters, I guess.

2 Q. Track wheels, then?

3 A. Yes.

4 Q. Okay. That gets us through '95. How about

5 '96?

6 A. '96, basically, Brett Hydrick left Richardson
7 Bike Mart to form his own company. Do I need to say the
8 name of it?

9 Q. What was the name of the company?

10 A. Texas Racing Works.

11 Q. Okay. How did that affect the business that
12 EDS was doing with Richardson Bike Mart?

13 A. It dropped off. The stuff that Brett could
14 not find and I had access to was purchased through us.
15 The purchasing went down to \$15,000, maybe \$20,000 at
16 the most per year after that.

17 From, let's say, '97 to '98, it was
18 almost nothing, and I tried to actually rekindle
19 the — the account. I mean, I was soliciting business
20 from Skip at the time to try to recover some of the lost
21 sales.

22 Q. Do you recall Nick Chenoweth ever paying cash
23 at Richardson Bike Mart for any purchases?

24 MR. HARPER: Objection: form.

25 A. I can't say — I can't say that I do.

18

1 Q. Has anyone ever told you that Nick Chenoweth
2 paid cash for purchases at Richardson Bike Mart?

3 A. No.

4 Q. Did Nick Chenoweth ever pay with his personal
5 credit card for purchases at Richardson Bike Mart?

6 MR. HARPER: Objection: form.

7 A. Yes.

8 Q. And how do you have knowledge of those
9 purchases?

10 A. Because I received money from him. I took the

11 credit card from him.

12 Q. Do you recall what kind of credit card it was?

13 A. American Express.

14 Q. And do you remember the number of times

15 that — well, let me back up a little bit. Did Nick

16 ever use a credit card to make purchases at Richardson

17 Bike Mart?

18 A. Yes.

19 Q. Approximately how many times did he do that,

20 to your recollection?

21 A. Two to three times that I remember.

22 Q. And did you handle those — those transactions

23 personally?

24 A. Yes.

25 Q. What types of items was Nick purchasing?

19

1 A. Clothing.

2 Q. Do you remember what type of clothing it was?

3 A. Shorts, some basic jerseys, some women's

4 clothing.

5 Q. Did you know who he was purchasing these items

6 for?

7 A. Not really. I didn't get into his personal

8 life.

9 Q. Does Richardson Bike Mart let customers

10 handwrite out their own receipts for purchases?

11 A. No, because it has to go through the cash

12 register, which is a computer system.

13 Q. Has — did Richardson Bike Mart ever handwrite

14 out a receipt for a purchase at the store?

15 A. Used as a receipt, no.

16 Q. What would it be used for, if there was a

17 document that was handwritten out?

18 A. Memos. Basically, if for some reason I am
19 gone at lunchtime or out of the store or a day off and
20 someone from EDS came in to pick stuff up, typically
21 they would write the information on a sheet of paper
22 such as, like, a special order form or a — well,
23 special order forms typically is what was used because
24 that was what was convenient to get because they were by
25 the register. That information, then, went to my desk.

20

1 Then, the next morning when I come in, I would then
2 enter that stuff into the cash register for billing
3 purposes.

4 Q. So when people would send you memos about
5 these types of purchases, they would be purchases that
6 were going on the EDS account?

7 A. Yeah. Typically, those things — they were
8 written up only when stuff was in stock or — yeah,
9 pretty much whenever stuff was in stock that someone
10 came in from EDS and picked up.

11 Q. And the memo would reflect a purchase that was
12 supposed to be billed to EDS?

13 A. Correct.

14 Q. The memo would not reflect a purchase that had
15 been paid for with cash or by use of a credit card; is
16 that correct?

17 A. I can't say that never happened because no
18 one — no one would know how to handle the transaction,
19 if someone came in and paid cash.

20 Q. Did you ever witness Nick Chenoweth handwrite
21 out a Richardson Bike Mart receipt for purchases that he
22 had made at the store?

23 A. No.

24 Q. Did Nick Chenoweth ever give you a handwritten
25 Richardson Bike Mart receipt for something that he was

21

1 trying to buy or had bought at the store?

2 A. No.

3 Q. Did Nick ever give you any type of handwritten
4 document for you to use in connection with the EDS
5 account at Richardson Bike Mart?

6 A. No.

7 Q. When did Brett Hydrick work at Richardson Bike
8 Mart?

9 A. I don't know this — I don't know this
10 firsthand because I wasn't there. I think from the
11 early '70s or late '60s until '95.

12 Q. So Brett left and started Texas Racing
13 Works —

14 A. Right.

15 Q. — sometime in — late '94, early '95, is
16 your recollection?

17 A. It's one of the two, yeah. It's been a few
18 years.

19 Q. What was Brett Hydrick's role at Richardson
20 Bike Mart? What did he do?

21 A. Service manager.

22 Q. Meaning he worked on the bikes?

23 A. Yes. He basically — as service manager, he
24 delegated all service duties within that department.

25 Q. Did he get involved in the sale of new bikes

22

1 and clothing?

2 A. Yes.

3 Q. Was that something that he did a lot of?

4 MR. HARPER: Objection: form.

5 A. First — the first two or three months, yes.

6 Q. What was — what was Brett Hydrick's principal
7 role at Richardson Bike Mart?

8 A. Service.

9 Q. Did he get involved in the sale of equipment
10 or clothing?

11 A. On a real small level.

12 Q. What was Brett's role with the Team EDS
13 account? You mentioned that he handled it for the first
14 two months that it was at Bike Mart.

15 A. Right.

16 MR. HARPER: Objection: form.

17 A. His role basically —

18 Q. Let me fix my question because I made it
19 compound. What was Brett's role with the Team EDS
20 account at Richardson Bike Mart?

21 A. His main purpose was to take care of all the
22 service needs of Team EDS.

23 Q. And by service, do you mean working on the
24 bikes?

25 A. Yes, repair and service. You know, service

23

1 meaning working on the bikes.

2 Q. Are all purchases at Richardson Bike Mart
3 accounted for in some type of accounting system?

4 A. Yes.

5 Q. Can you describe what that system is?

6 A. Yes. Basically what we would do — obviously,
7 every single purchase I did not bill immediately. What
8 I would do is create an account for them, take that —
9 take that information in the account once a month,
10 sometimes every two to three months, depending on

11 purchases — once the account built up to \$3,000 or
12 \$4,000 at one given time, I would then bill Skip for
13 that, and then that information would get sent to
14 D'Rinda, and then Nick and Skip would go over the
15 billing. Then, hopefully, we would get a check.
16 Sometimes it took longer.

17 Q. How about for purchases that weren't
18 associated with a corporate account, such as Team EDS'
19 account? Are all of those accounted for in some type of
20 accounting system?

21 A. Oh, yes.

22 Q. Can you explain what that system is?

23 A. That system is a little different in
24 one — one way; that is, that we would bill them
25 immediately. We wouldn't have an ongoing dollar —

24

1 dollar amount generated, because the activities for some
2 of the other accounts just didn't warrant that.

3 Q. And what type of documents are generated in
4 connection with the sale of that nature?

5 A. A computer receipt. We'd either — it comes
6 out of the — a cash register receipt or it would be a
7 computer printout receipt.

8 Q. From the time when the Team EDS account was
9 opened through the first quarter of this year, did
10 Richardson Bike Mart's price to Team EDS for things such
11 as tires or track groupos remain fairly constant?

12 MR. HARPER: Objection: form.

13 A. There was never a track groupo purchased at
14 Richardson Bike Mart, and the tires were somewhat
15 minimal. I think in 19 — when Brett Hydrick was there
16 was the only time they ever purchased tires, and that

17 was the spring of '95, if I'm not mistaken, and that was
18 the only time.

19 Q. Let me go back and ask some of these
20 questions. Mr. Harper entered an objection, so I want
21 to make sure I get your answer in in a usable form. Did
22 Richardson Bike Mart ever sell to any member of Team EDS
23 or anyone using the EDS account at Richardson Bike Mart
24 a track groupo?

25 A. No.

25

1 MR. HARPER: Objection: form.

2 A. No. To my knowledge, never.

3 Q. So Richardson Bike Mart never sold EDS any
4 track groupos?

5 A. No.

6 Q. Did Richardson Bike Mart sell Team EDS tires?

7 A. Yes.

8 Q. What kinds of tires did Richardson Bike Mart
9 sell Team EDS?

10 A. Continental Sonderklasse, Special Class.

11 Q. Any other tires?

12 A. An occasional Clement Pista Corsa.

13 Q. And what type of volume of purchases are we
14 talking about?

15 A. It was 50 to 60 Sonderklasse. Six to 10
16 Clement Pistas.

17 Q. Do you remember when these purchases took
18 place?

19 A. It was when Brett was there, when Brett was
20 employed there, because Brett's the one who put the deal
21 together.

22 Q. Was it a one-time purchase or —

23 A. One-time purchase.

24 Q. And was that the extent of the tires that you
25 recall being purchased?

26

1 A. That was pretty much all the tires that were
2 truly purchased.

3 Q. Are you familiar with the prices for
4 Continental tires?

5 A. Yes.

6 Q. And you've mentioned Continental Sonderklasse,
7 the Special Class. Are you familiar with the price of
8 these tires?

9 A. Yes.

10 Q. Has the price of those tires remained pretty
11 much the same from '94 until — through today?

12 A. Yes.

13 MR. HARPER: Objection: form.

14 Q. Do you know — strike that.

15 Are you familiar with the prices of
16 various track groupos?

17 A. Yes.

18 MR. HARPER: Objection: form.

19 Q. Can you explain what a track groupo is?

20 A. A groupo is parts that a particular
21 manufacturer makes that you put on a bicycle.

22 Q. So such as the bottom bracket and the cranks
23 and the pedals and the seat post, the stem, the headset,
24 gears, brakes, gearshift levers?

25 A. Brakes don't come on track bikes. Stems

27

1 aren't made by the manufacturer of bars. Basically,
2 it's a smaller — it's a little smaller than that. It's
3 bottom bracket, cranks, hubs, seat post, and chain rings

4 and headset. That's what makes a groupo.

5 Q. And are you familiar with the price of various
6 different track groupos?

7 A. Yes.

8 Q. Have the prices of track groupos remained
9 fairly constant from '94 through today?

10 A. Correct.

11 MR. HARPER: Objection: form.

12 Q. Does Richardson Bike Mart sell Corima
13 products?

14 A. Yes, they do.

15 Q. What is Corima?

16 A. It's a bicycle and wheel manufacturer.

17 Q. And where is Corima located?

18 A. France.

19 Q. Is Corima a high-end bicycle?

20 A. Yes.

21 Q. A very high-end bicycle?

22 A. In most cases, yes.

23 Q. And a very specialized bicycle?

24 A. Very specialized.

25 Q. Is a Corima bicycle something that Bike Mart

28

1 had in stock?

2 A. Two ever in the history, and one is still
3 there.

4 Q. Okay. So at some point did Richardson Bike
5 Mart begin selling Corima bicycles?

6 A. Yes.

7 Q. When was that?

8 A. Two years ago.

9 Q. 1997, then?

10 A. Yeah. Late '97, fall of '97.

11 Q. And how many Corima bicycles has Richardson
12 Bike Mart sold?

13 A. One.

14 Q. Only one Corima bicycle?

15 A. One.

16 Q. Do you recall who sold that bike?

17 A. Me.

18 Q. Who did you sell it to?

19 A. To a friend of mine in Oklahoma.

20 Q. And when did you sell it to your friend in
21 Oklahoma?

22 A. Two weeks after it was purchased, so the fall,
23 in October — let's see. September, October of '97.

24 Q. What kind of Corima bicycle was it?

25 A. A Corima road bike.

29

1 Q. Okay. Now, I've said bicycle, but I guess
2 when we're talking about Corima, we're only talking
3 about the frame and the fork?

4 A. It was a complete bicycle.

5 Q. So you sold him the frame and fork, which were
6 made by Corima, and then the various other parts,
7 groupo, which we've talked about, to make up a complete
8 bicycle?

9 A. Yes.

10 Q. Do you recall what the price was for the
11 Corima frame and fork?

12 A. I think it was sub \$2,000. Just guessing, it
13 was under \$2,000.

14 Q. And it was a Corima road bicycle?

15 A. Yes, which is a lot less costly than the other
16 ones.

17 Q. What are the other ones?
18 A. Time trial bike, sprint bike, triathlon bike.
19 Q. Which of those are track bikes?
20 A. The sprint bike.
21 Q. What kind of bicycle was the other Corima
22 bicycle that you mentioned Richardson Bike Mart has?
23 A. A road bike.
24 Q. And Richardson Bike Mart still has that road
25 bicycle?

30

1 A. Yes, they do.
2 Q. And is it just a frame and fork?
3 A. Frame and fork.
4 Q. Have you ever been involved in a bicycle
5 equipment manufacturer's sponsorship of a bicycle racing
6 team?
7 A. Yes.
8 Q. And why is it that bicycle equipment
9 manufacturers get involved in sponsoring bicycle racing
10 teams?
11 A. To further their cause in business.
12 Q. And how are these sponsorship arrangements
13 usually worked out?
14 MR. HARPER: Objection: form.
15 Q. Do you have any knowledge as to how
16 sponsorship arrangements are handled between equipment
17 manufacturers and bicycle racing teams?
18 A. Yes.
19 Q. Do manufacturers sometimes give to teams
20 equipment?
21 A. Correct, yes.
22 Q. At no charge?

23 A. Yes.

24 Q. Do they also sometimes give discounted prices
25 to the teams?

31

1 A. Yes.

2 Q. Did Team EDS have a sponsorship arrangement
3 with Corima?

4 A. To my knowledge, yes.

5 Q. And did Team EDS or EDS, pursuant to that
6 sponsorship arrangement, receive a number of track
7 frames and road frames from Corima at no charge?

8 MR. HARPER: Objection: form.

9 A. To my knowledge, yes.

10 Q. Did Team EDS receive from Corima discounted
11 prices on Corima equipment pursuant to its sponsorship
12 agreement with Corima?

13 MR. HARPER: Objection: form.

14 A. That, I don't know. I don't know.

15 Q. Do you know any reason why Team EDS or EDS
16 would buy Corima equipment from Richardson Bike Mart
17 when they could get it for free from Corima or at a
18 discount from Corima?

19 MR. HARPER: Objection: form.

20 A. Never did, so I don't know.

21 Q. So your answer to that question is, Richardson
22 Bike Mart never sold Corima equipment to Team EDS or
23 EDS?

24 A. Correct.

25 Q. Are you familiar with a bicycle manufacturer

32

1 or a bicycle frame called the Lotus frame?

2 A. Yes.

3 Q. Where is the Lotus frame made?

4 A. I want to say Italy. It's Italy or France.

5 It's one of the two.

6 Q. Has Richardson Bike Mart ever sold a Lotus
7 bicycle frame?

8 A. Never.

9 Q. Are you familiar with a bicycle manufacturer
10 or bicycle model called an FES?

11 A. Yes.

12 Q. What kind of bicycle is that?

13 A. One — the ones that I know about are sprint
14 bikes.

15 Q. Where are they made?

16 A. Germany.

17 Q. And are they sold to the general public?

18 A. No.

19 Q. Who rides them?

20 A. The German national team.

21 Q. Has Richardson Bike Mart ever sold an FES?

22 A. No.

23 Q. Have you ever seen an FES bicycle in the
24 United States?

25 A. Yes.

33

1 Q. When was that?

2 A. The World Cup, when the German national team
3 was here.

4 Q. When was that?

5 A. June or July of this year. I've seen them on
6 TV, and that's about the closest I've ever seen one.

7 Q. Have you ever seen anyone from Team EDS ride
8 an FES frame set?

9 A. Never.

10 Q. Have you ever seen anyone from Team EDS even
11 have possession of an FES frame set?
12 A. Never.
13 Q. Are you familiar with a device known as an
14 SRM?
15 A. Yes.
16 Q. What is an SRM?
17 A. It is a device put on a crank set to measure
18 power outage, output.
19 Q. Can you explain what a crank set is?
20 A. A crank set is basically the part that you put
21 the change rings and the pedals on to pedal the bicycle.
22 Q. And what's the purpose of having this SRM on
23 the crank set?
24 A. To measure outage output for performance
25 training.

34

1 Q. What are the components that make up an SRM?
2 A. Obviously, a computer system, an aluminum
3 disc, which picks up the actual power from the crank
4 set, the actual crank set itself, and a bicycle, the
5 rest of the bicycle.
6 Q. Okay. But when one speaks of an SRM, are you
7 talking about essentially two items: the computer
8 that's mounted on the handlebars and then the strain
9 gage aluminum disc that's mounted on the crank set?
10 A. Yes.
11 Q. And is it correct that an SRM is not a packet
12 of components that you can put onto a bicycle frame —
13 A. No.
14 Q. — and create a rideable bike?
15 A. No.

16 Q. So it wouldn't be correct to refer to an SRM
17 as an SRM groupo?

18 A. No.

19 Q. Are you familiar with the equipment that was
20 used by the members of Team EDS?

21 A. Very much.

22 Q. How is it that you're familiar with that
23 equipment?

24 A. I sold it to them for the group rides and knew
25 what they had.

35

1 Q. Did you ever have an occasion to watch members
2 of Team EDS race?

3 A. Yes.

4 Q. I take it you saw some of the equipment that
5 they were using in those races?

6 A. Yes.

7 Q. Did you ever receive any of the Team EDS
8 calendars or literature that had pictures of the
9 equipment or talked about the equipment?

10 A. Yes.

11 Q. Did Richardson Bike Mart work on the equipment
12 that Team EDS used?

13 A. Yes.

14 Q. I think you mentioned — did you ever train
15 with members of Team EDS?

16 A. I rode with them. What I did wasn't
17 training.

18 Q. Have you ever raced with any members of Team
19 EDS?

20 A. No.

21 Q. Are you sure?

22 A. I'm trying to think. Yes, I have. Yeah.

23 Q. And I take it at those races or on those rides
24 you saw the equipment that was being used by the Team
25 EDS riders?

36

1 A. Yes.

2 Q. During any of these events that you have
3 talked about, did you ever see any member of Team EDS,
4 including Nick Chenoweth, use an FES frame or a Lotus
5 frame?

6 A. Never.

7 Q. Is it sometimes necessary at Richardson Bike
8 Mart to special-order equipment?

9 A. Yes.

10 Q. And what's the process of special-ordering
11 equipment?

12 A. Skip would come in with a want list and give
13 me the list, and I, 100 percent, have always found all
14 the things he wanted.

15 Q. What forms are used in connection with a
16 special order of equipment?

17 A. I would write up a special order form for
18 special orders.

19 Q. Who fills out the special order forms?

20 A. In almost all cases, with very few exceptions,
21 me.

22 Q. Who would fill out these exceptions that you
23 mentioned?

24 A. Rhonda or Jim Hoyt, but very rarely.

25 Q. Is it ever the occasion that the customer

37

1 would fill out the special order form?

2 A. No.

3 Q. When someone special-orders equipment, when is
4 it paid for?

5 A. Typically, it's always billed. It's really
6 never paid for right then. On a normal given customer,
7 we always ask for special orders to be paid for in full,
8 but on Team EDS, they had a charge account, so it was
9 not necessary.

10 Q. Did Nick Chenoweth ever special-order any
11 equipment?

12 A. To my knowledge, no.

13 Q. If Nick Chenoweth had special-ordered some
14 equipment, who would he have worked with in order to
15 accomplish that?

16 A. Me.

17 Q. Did Richardson Bike Mart ever arrange for a
18 manufacturer of bicycle equipment to sell equipment to
19 Team EDS directly?

20 A. Never. It would destroy the relationship.

21 Q. So did Richardson Bike Mart ever arrange for
22 Continental to sell tires directly to Team EDS?

23 A. Never.

24 Q. Did Richardson Bike Mart ever arrange for
25 Corima to sell equipment directly to Team EDS?

38

1 A. No.

2 Q. Did Richardson Bike Mart ever arrange for the
3 manufacturer of these FES frames to sell equipment
4 directly to Team EDS?

5 A. No.

6 Q. Did Richardson Bike Mart ever arrange for the
7 manufacturer of the SRM device to sell those devices
8 directly to Team EDS?

9 A. No.

10 Q. Did Richardson Bike Mart ever arrange with
11 Campagnolo to sell equipment directly to Team EDS?

12 A. No.

13 Q. And did Richardson Bike Mart ever arrange for
14 Shimano to sell equipment directly to Team EDS?

15 A. No.

16 Q. Did Richardson Bike Mart ever arrange to sell
17 equipment to Team EDS and have the manufacturer deliver
18 that equipment to Team EDS at the manufacturer's
19 location?

20 A. No.

21 Q. Has Richardson Bike Mart ever sold equipment
22 to EDS or Team EDS and that equipment was delivered in
23 Germany?

24 A. No.

25 Q. Has Richardson Bike Mart ever sold equipment

39

1 to Team EDS and the equipment was delivered in East
2 Germany?

3 A. No.

4 Q. Has Richardson Bike Mart ever delivered
5 equipment to Team EDS in France?

6 A. No.

7 Q. Has Richardson Bike Mart ever delivered
8 equipment to Team EDS in Mexico?

9 A. No.

10 Q. Has Richardson Bike Mart ever delivered any
11 equipment to Team EDS in Manchester, England?

12 A. No.

13 Q. Did you ever work to acquire products from
14 Mexico, bicycling products, for sale to Team EDS?

15 A. No.

16 Q. What size bicycle store operation is
17 Richardson Bike Mart?
18 A. Large.
19 Q. What's the volume of sales, generally
20 speaking, for —
21 A. 6 to 8 million a year.
22 Q. And does Bike Mart generate a large number of
23 invoices each day —
24 A. Yes.
25 Q. — that it is open?

40

1 A. That's left open?
2 Q. That it's open.
3 A. Open account?
4 Q. No. Let me rephrase the question. Does Bike
5 Mart generate a large number of invoices each day it's
6 open for business?
7 A. Yes.
8 Q. Approximately how many?
9 A. 300 to 500.
10 Q. Does Bike Mart generate a large number of
11 special orders each day that it's open?
12 A. No.
13 Q. How many special orders do you estimate Bike
14 Mart creates each day that it's open?
15 A. Three to five, at the most.
16 Q. What are Richardson Bike Mart's operating
17 hours?
18 A. From 10 until 7, Monday through Friday. 9 to
19 6, Saturday. 12 to 5, Sunday.
20 Q. Is Bike Mart open Sunday year-round?
21 A. Typically, no.

- 22 Q. When is Bike Mart open on Sundays?
- 23 A. Nine months out of the year.
- 24 Q. And what are those nine months?
- 25 A. Spring, so that would be March to fall — I

41

1 think it's easier to name the closing months.

2 Q. Okay. Well, what months is Bike Mart not open
3 on Sundays?

4 A. October and January and February.

5 Q. And has that schedule been consistent since
6 1994?

7 A. No, nothing is consistent there on the
8 scheduling. It's — it's the most — in most cases,
9 yes. Sometimes, if we have a good winter, we'll stay
10 open on Sundays. Very rarely, though.

11 (Exhibit No. 2 marked.)

12 Q. Tim, I've just handed you what's been marked
13 as Exhibit 2 to your deposition. Can you identify the
14 documents that make up that Exhibit 2?

15 A. It's Tim's folder.

16 Q. So it's your folder?

17 A. Yes.

18 Q. And did you create the documents that make up
19 Exhibit 2?

20 A. Yes, in almost all cases.

21 Q. And was it normal for you or the other
22 employees of Bike Mart that created the documents that
23 make up Exhibit 2 to create those in Richardson Bike
24 Mart's normal business operations?

25 A. Yes.

42

1 Q. Were you a custodian of the documents that

2 make up Exhibit 2?

3 A. Yes.

4 Q. Did you maintain the documents that make up
5 Exhibit 2?

6 A. Yes.

7 Q. And were the documents that make up Exhibit
8 No. 2 made at or near the time of the events recorded
9 within them?

10 A. Yes.

11 Q. And were they made by a person with personal
12 knowledge of the items or actions recorded within them?

13 A. Yes.

14 Q. And does that look to you like a true and
15 accurate copy of the original file that you maintained
16 while you worked at Richardson Bike Mart?

17 A. Thumbing through it, yes.

18 Q. Is it Richardson Bike Mart's practice to keep
19 its original documents on its premises?

20 A. In most cases, yes.

21 Q. Why don't you take a minute and look through
22 that and just sort of refresh your recollection of what
23 all is in it, and then I'll have some questions for
24 you.

25 A. That was all. All of this was in my folder.

43

1 Okay.

2 Q. Tim, does Exhibit 2 look like the complete
3 contents of a folder that you maintained in connection
4 with the Team EDS account that you managed?

5 A. Yes.

6 Q. In looking through there, did you find a
7 document that represents the type of receipt that would
8 be generated in connection with a purchase on the Team

9 EDS account at Richardson Bike Mart?

10 A. Yes.

11 Q. Could you find one of those, please, and —

12 okay. You're showing me a document from Exhibit 2

13 that's Bates-numbered EDS002306; is that correct?

14 A. Yes.

15 Q. And explain, if you would, please, exactly

16 what that is.

17 A. It's a cash register tape receipt.

18 Q. Is that the type of computer-generated or

19 computer-printed —

20 A. Yes.

21 Q. — receipt that would be created when someone

22 made a purchase at Richardson Bike Mart, whether or not

23 it was on account to be billed or it was paid by cash or

24 credit card?

25 A. Yes. There's two different kinds in there.

44

1 Q. Okay. You mentioned two different kinds.

2 What's the second kind?

3 A. The second one is — typically was generated

4 at my desk because it was done off of a computer

5 printer.

6 Q. Okay. And is that an invoice?

7 A. Yes. In most cases, yes. It would be either

8 this as an invoice or this as an invoice, and then I

9 would make a separate invoice because EDS wanted it done

10 separately.

11 That is — that's one in the same.

12 Instead of having an itemized list, they would ask me to

13 fax this over and then create an additional invoice for

14 invoice number 6 to pay off that dollar amount, and then

15 we give a brief description of the items that were
16 listed.

17 Q. Okay. The second document that you mentioned,
18 the invoice that was created with the use of a computer,
19 it's Bates-numbered EDS002307; is that correct?

20 A. Correct.

21 Q. And this would be the type of document
22 generated after a number of purchases had been made on
23 the Team EDS account at Richardson Bike Mart?

24 A. Yes. What I would do is keep adding to it and
25 then charge it out. Charge it out, meaning I would do

45

1 an accounts receivable invoice. The accounts receivable
2 invoice would look like this here. Typically, at the
3 bottom it says, charged amount.

4 Q. Okay. The number at the bottom where it says,
5 charged amount, is that EDS002306? Is that right?

6 A. Yes. And what that would do is close out
7 invoice — invoice number 48289. That would be the end
8 of that invoice. Then, I would tie — I would tie that
9 invoice number over to this here.

10 Q. Okay. And all of this work that you're
11 talking about is done on an electronic cash register and
12 on a computer system?

13 A. Yes.

14 Q. So there's no handwritten documents involved?

15 A. No. This would be the only other one. It's
16 computer-generated, also. We didn't have the computer
17 capability at the time to do this. I did this on a
18 typewriter.

19 Q. Okay. Now, the third document that you've
20 talked about is numbered EDS002316, and is it correct
21 that it is a consolidated invoice that does not contain

22 all the details of the items purchased?

23 A. Correct.

24 Q. Just the amount there?

25 A. Correct.

46

1 Q. Okay. So would the process, then, generally
2 be a number of purchases would be made on the account
3 over time, and you'd make records of those, and then you
4 would create the cash register receipt, which is this
5 first document we've talked about, EDS2306?

6 A. Correct.

7 Q. And then from that, you created an invoice,
8 which is the third — second document we've talked
9 about, and it's numbered EDS2307?

10 A. Close. This potentially — this document and
11 this document are one and the same. It's done off of
12 two different type of printers. The cash register
13 receipt printer is actually a printer, okay? If I was
14 at the cash register, that's what I would get. If I was
15 at my desk creating invoices, that's what I would get.

16 Q. Okay. So then you would take any of the cash
17 register receipts that hadn't been paid yet or any of
18 the computer-generated invoices that hadn't been paid
19 yet and create this third document, which is EDS2316,
20 which would essentially be a bill for an amount that you
21 would send to EDS for payment?

22 A. Correct.

23 Q. And then what would be the result of your
24 sending out the invoice, which is EDS2316, the third
25 document we've talked about?

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1 A. We would hope to get a check.

2 Q. Was there ever an occasion where, in response
3 to you sending out one of these consolidated invoices,
4 Nick Chenoweth came in and paid the invoice by cash?

5 A. No.

6 Q. Why don't you take a look through that and see
7 if you'd agree with me that most of the purchases
8 reflected in those documents are relatively small-ticket
9 items.

10 MR. HARPER: Objection: form.

11 A. Yes. That's relative, but — yeah.

12 Q. Well, how would you describe the types of
13 purchases that are reflected in the documents that make
14 up Exhibit 2?

15 A. In our industry, they're — they're sizable,
16 but they're not enormous. You know, they're to —
17 anywhere from \$1,000 to \$5,000 purchases before I close
18 each invoice out. They want — typically, we try to
19 never ever make any invoice more than \$5,000, ever.

20 Q. Why was that?

21 A. That's what I was told to do.

22 Q. Who told you that?

23 A. It was either Skip or Nick. I think it was
24 more Skip. Skip said, just run — close each invoice
25 out around \$5,000.

48

1 Q. Did Skip tell you why that was something that
2 he wanted you to do?

3 A. No, I just — he didn't.

4 Q. Did Skip ever indicate to you that Nick had
5 told him that he should tell you that?

6 A. I don't know.

7 Q. Did anyone ever communicate to you the reason

8 why the invoices should be kept under \$5,000?

9 A. Yes, but no. Yes, but it was hearsay to me.

10 Q. What were you told —

11 A. I was told —

12 Q. — was the reason?

13 A. I was told to keep the invoices under \$5,000

14 so it would be easier to get the checks processed

15 because only one person would have to sign off on it.

16 Q. Did you ever get an indication as to who the

17 one person was that would have to sign off on it?

18 A. Yeah, Nick. I mean, he was the end result.

19 Basically — well, the history — not to make it sound

20 bad — the history of EDS paying their bills — don't

21 take this personally — was extremely slow and anything

22 that — for us, as a shop, these big invoices — because

23 they were big to us — these big invoices was basically

24 our cash flow.

25 I mean, we had to collect on these

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1 invoices in somewhat of a timely manner, and if it

2 slowed things down, then it would slow our payables

3 down. At this time, Richardson Bike Mart wasn't the

4 healthiest bike shop in the country.

5 Q. Why was that?

6 A. Poor management.

7 Q. Is it correct that the \$1,000 or \$2,000 or

8 even \$5,000 amounts that you've mentioned are made up of

9 many different purchases?

10 A. In most — in most cases, yes.

11 Q. Is the majority or the greater volume of the

12 purchases reflected in these documents the purchase of

13 smaller-priced items —

14 A. Yes.

15 Q. — or lesser-priced items?

16 A. Yes.

17 Q. What types of items account for most of the
18 purchases that were done on the account?

19 A. Clothing, some groupos, but they were road
20 groupos, which are different from the track groupos that
21 you asked about, some wheels, food. A lot of food.
22 Energy food, you know, drinks. And some broken parts,
23 you know, cranks, wheels, rims, helmets.

24 Q. Look through those and see if you can find any
25 receipt or invoice or bill that doesn't have cents

50

1 associated with it.

2 MR. HARPER: Objection: form.

3 A. Cents, meaning?

4 Q. Pennies.

5 A. Pennies.

6 Q. See if you can find any invoices in —
7 invoices or receipts in Exhibit 2 that don't have any
8 cents associated with them.

9 A. This one here, which was a nontax giveaway.
10 Of course, all of EDS' stuff was nontaxed.

11 Q. Okay. So you've identified a document labeled
12 EDS002326. Let's try to keep these in order. See if
13 you can find any others.

14 A. That pretty much would be the only one because
15 of the discount. The discount would turn, you know,
16 even even dollars into dollars — any of them with
17 cents —

18 Q. Okay. Give a —

19 A. — attached to it.

20 Q. Give a quick look and just satisfy yourself

21 that that's the case.

22 A. Okay.

23 Q. Because of discounts and tax, you normally
24 expect to see cents associated with invoice amounts,
25 receipt amounts?

51

1 A. In all cases, yeah. This one here has no
2 cents because it was just — it was a one-item purchase,
3 an even dollar amount.

4 Q. Okay. You found one other, which is
5 EDS002411, which is a purchase that does not have any
6 cents associated with it?

7 A. It was just a single-item purchase, so — that
8 was the purchase. This is another one, which is
9 service, just nothing but repair work.

10 Q. So on document 2427 — EDS002427, there's a
11 cash register receipt document —

12 A. Yeah.

13 Q. — that doesn't have any cents associated with
14 it?

15 A. Yes.

16 Q. Now, there's a fourth document, which is
17 labeled EDS002434, that doesn't have any cents
18 associated with it, and it's a cash register receipt; is
19 that right?

20 A. Yes. Here's another one.

21 Q. And we've got a fifth document, EDS002437,
22 which is another cash register receipt with no cents
23 associated with it. You've gone through all of them and
24 you've found, I think, five; is that correct?

25 A. Yeah.

52

1 Q. And your file consists of purchases made over
2 a number of years; is that correct?

3 A. Yes.

4 Q. Okay. Exhibit 2 consisted of approximately
5 161 pages of receipt and invoice-type documents?

6 A. Yes.

7 Q. And out of all of those pages, we found five
8 purchases that had a purchase price with no cents
9 associated with it; is that right?

10 A. Yes.

11 Q. When did Richardson Bike Mart move to its new
12 location at Coit and Campbell?

13 A. Tough question. '98, January the 2nd. We
14 opened the doors January 2nd.

15 Q. And did the various documents of Richardson
16 Bike Mart begin to reflect the Coit and Campbell address
17 as opposed to the previous address of Dal-Rich Village?

18 A. We tried to. I think there was three or four
19 days that we slipped, but very rarely we would. Let's
20 just say the transactions were so minimal because of the
21 time of year. There wasn't a lot of receipts generated
22 with the old address.

23 Q. So the old address may have showed up on
24 receipts three or four days after January 2nd, 1998?

25 A. Yes. It's — yes, '98.

53

1 MR. CARLSON: Let's take a break.

2 (Recess 10:23-10:35.)

3 (Exhibit No. 3 marked.)

4 Q. I've just handed you what has been marked
5 Deposition Exhibit No. 3. Why don't you take a moment
6 to look through the documents that make up that exhibit
7 and let me know if you recognize those documents.

8 A. No.

9 Q. You don't recognize those documents?

10 A. Nothing that was generated by me or my staff
11 at Richardson Bike Mart.

12 Q. There's some handwriting on a number of what
13 appear to be preprinted forms. Do you recognize the
14 forms upon which that handwriting has been placed?

15 A. No.

16 Q. Okay. In looking through the pages that make
17 up Exhibit 3, do you see where there is the handwritten
18 entries to the forms?

19 A. Yes.

20 Q. Take a moment and look through that and tell
21 me if, in your opinion, the handwriting is all the
22 same.

23 MR. HARPER: Objection: form.

24 A. Yeah.

25 Q. Does the handwriting on the documents that

54

1 make up Exhibit 3 appear to you to be the same
2 throughout the exhibit?

3 MR. HARPER: Objection: form.

4 A. Yes.

5 Q. Do you recognize the handwriting —

6 A. No.

7 Q. — on the documents that make up Exhibit 3?

8 A. No.

9 Q. The handwriting on the documents that make up
10 Exhibit 3, is it your handwriting?

11 A. No.

12 Q. Are you familiar with Jim Hoyt's handwriting?

13 A. Yes.

14 Q. Who is Jim Hoyt?
15 A. Owner of Richardson Bike Mart.
16 Q. Did you work with him closely while you worked
17 at Bike Mart?

18 A. Yes.

19 Q. Did you review or use many documents upon
20 which he had written?

21 A. All of them. All of them that related to
22 EDS.

23 Q. Did you work with many documents besides those
24 related to EDS —

25 A. Yes.

55

1 Q. — upon which Jim Hoyt had made handwritten
2 entries?

3 A. Yes.

4 Q. Does the handwriting on the documents that
5 make up Exhibit No. 2 appear to you to be Jim Hoyt's
6 handwriting?

7 MR. HARPER: Objection: form.

8 A. No, it's not.

9 Q. Are you familiar with the handwriting of
10 various employees of Richardson Bike Mart —

11 A. Yes.

12 Q. — who create receipts and other types of
13 handwritten documents?

14 A. Yes.

15 Q. Does the handwriting on the documents that
16 make up Exhibit 3, is that handwriting that you
17 recognize as being that of any of the employees at
18 Richardson Bike Mart?

19 MR. HARPER: Objection: form.

20 A. No. I've never — never seen it.

21 Q. Have you ever seen the handwriting on the
22 documents that make up Exhibit 3?

23 MR. HARPER: Objection: form.

24 A. No. There's too much information. I very
25 rarely ever got this much information noted on the other

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1 exhibits.

2 Q. Is there something that you find peculiar with
3 the entries that are handwritten onto the documents that
4 make up Exhibit 3?

5 A. Yes.

6 Q. What is that?

7 A. There's more detail than I normally ever got
8 from anybody that would write receipts, or memos, I
9 guess you would call it, because they really aren't
10 receipts.

11 Q. Are the documents that make up Exhibit 3 a
12 type of receipt used by Richardson Bike Mart?

13 A. No.

14 Q. Are the documents that make up Exhibit 3 a
15 type of invoice used by Richardson Bike Mart?

16 A. No.

17 Q. Do the documents, without the handwritten
18 entries, appear to be preprinted forms?

19 A. No, they're not preprinted — preprinted
20 forms, meaning just the form itself without the
21 information?

22 Q. Yes.

23 A. Yes.

24 Q. Do they have various numbers associated with
25 them, such as invoice numbers or receipt numbers or

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1 special order form numbers?

2 A. Yes. It's the tracking number.

3 Q. Take a moment to look through the documents

4 that make up Exhibit 3, with particular attention to the

5 numbers and also the dates.

6 Okay. You've taken a moment to look

7 through those. Does Bike Mart issue receipt documents

8 or invoice documents with tracking numbers associated

9 with them?

10 A. Only on the — on the cash register receipts

11 that are printed, because that's an invoice number.

12 Q. Okay. And with respect to those tracking

13 numbers, invoice numbers — are they issued

14 chronologically over time —

15 A. Yes.

16 Q. — so that an invoice that's issued on

17 Wednesday is going to have a higher number than one

18 issued on Monday?

19 A. Yes.

20 Q. And is it true that it should never be the

21 case that an invoice number associated with an invoice

22 issued on Wednesday would have a smaller one than one

23 issued previous to that date?

24 A. Yes. It would be impossible.

25 Q. Were invoices ever issued in blocks to a

58

1 particular corporate account holder at Richardson Bike

2 Mart?

3 A. No.

4 Q. I think earlier you testified that Bike Mart

5 generated hundreds of invoices and receipts a day?

6 A. Correct.

7 Q. Have you ever seen an occasion where an
8 invoice to a particular account holder was followed
9 immediately by the next numbered invoice to that same
10 company?

11 A. In some cases, yes.

12 Q. But generally that should not be the case?

13 A. Generally, no, that's not the case.

14 Q. Can you explain why?

15 A. If an invoice exceeded \$5,000 — of course,
16 the slow pay was in mind there — I would generate
17 another invoice for other merchandise that was purchased
18 and then that would be the only exception, provided
19 someone else within the company didn't get on the
20 computer terminal and get the next invoice number before
21 me, which could potentially happen.

22 Q. Were there a number of people at Richardson
23 Bike Mart working with the computer system generating
24 invoices and receipts?

25 A. Yes.

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1 Q. And would you expect, because of Richardson
2 Bike Mart's large volume of sales, that there shouldn't
3 be a group of consecutively numbered invoices or
4 receipts to the same purchaser or account holder?

5 MR. HARPER: Objection: form.

6 A. No.

7 Q. Why wouldn't you expect to see a group of
8 consecutively numbered invoices going to the same
9 customer or account holder?

10 A. Could you repeat?

11 Q. Why would — why would you generally not see a
12 group of consecutively numbered invoices going to the
13 same purchaser or corporate account holder at Richardson

14 Bike Mart?

15 A. If another salesperson entered — logged into
16 the computer before me to create the next invoice
17 number. It — it — it would be within two to three
18 invoice numbers.

19 Q. Have you ever seen where a corporate account
20 holder made up a block of, say, 20 or 30 consecutively
21 numbered invoices?

22 A. Never.

23 Q. Why is it you've never seen that?

24 A. Because it doesn't happen.

25 Q. Why doesn't it happen?

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1 A. Because I know — I don't know of ever
2 invoicing that many invoices at one time to EDS or
3 any — any corporate account.

4 Q. Why wouldn't it happen in Richardson Bike
5 Mart's normal course of business?

6 A. We've never generated that many invoices to
7 EDS at one given time. Never. I think the most I've
8 ever done in one day was two to three.

9 Q. Take a moment now to look through the
10 documents that make up Exhibit 3, with attention to the
11 purchase prices associated with the purchases.

12 A. Well —

13 Q. And with attention to the cents, again, like
14 we did with Exhibit 2.

15 A. Just that invoice — just picking through any
16 given one, that particular one, that is wholesale cost
17 to us from the manufacturer of the product.

18 Q. Okay. You're referring to EDS025975?

19 A. Yes.

20 Q. Which reflects — well, someone's handwritten
21 in there information about 60 Continental Sonderklasse,
22 165 German delivery via Bike Mart. Looks like the unit
23 price is \$82, and the total amount for the purchase
24 is —

25 A. Does that work? It's fifty — I don't know.

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1 MR. HARPER: Can you do that? 60 times

2 \$82.

3 MS. THORNTON: \$4,920.

4 MR. HARPER: That's what I got, too.

5 A. That's wholesale costs. I personally couldn't
6 do it for that. I wouldn't release anything unless we
7 made some type of profit off of it because of the time
8 spent associated with the EDS account because we can't
9 do it for free.

10 Q. Do you recall selling to EDS 60 Continental
11 Sonderklasse tires in October of 1996?

12 A. No, no.

13 Q. Okay. Now, the purchase price, again, I think
14 we settled on \$4,920 and zero cents; is that right?

15 A. That's what —

16 Q. Does that total price make sense to you, the
17 fact that it comes out to zero cents?

18 A. No.

19 Q. Is there any tax reflected on that document?

20 A. I don't see it.

21 Q. Or a discount associated with that document?

22 A. Obviously, the price of the tires is a
23 discounted price.

24 Q. Look through the rest of these documents that
25 make up Exhibit 3 and see if you can find any documents

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1 that have cents associated with the purchase price.

2 A. So far, I haven't seen any, no. That one

3 looks like it has tax associated with it.

4 Q. Okay. You've handed me what is numbered

5 EDS05840, which is a document that has a price on it

6 that includes 10 cents.

7 A. Do I need to keep these in the exact order?

8 Q. That would be good.

9 A. Can you decipher that one?

10 Q. You've handed me what is numbered EDSDT008806,

11 and does that look to you like a document that has an

12 amount of money on it which includes some amount of

13 cents?

14 A. It looks — it appears that way, but —

15 Q. Okay. Did you find any others?

16 A. No.

17 Q. Okay. So as opposed to the documents that we

18 went through earlier that make up Exhibit 4, out of

19 which we found a total that had —

20 A. 2.

21 MR. CARLSON: Excuse me. Change that to

22 3 — 2. 4 should be 2.

23 Q. Tim, as compared to the documents that we went

24 through earlier that make up Exhibit 2, where over a

25 number of the years we found only five amounts on either

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1 receipts or invoices that did not contain cents, here in

2 these documents with handwriting on them that you don't

3 recognize, you only found two documents that had amounts

4 on them that included cents; is that right?

5 A. Yes.

6 Q. Does the fact that the amounts on the

7 documents that make up EDS Exhibit 3 only contain two
8 amounts that contain cents appear odd to you for
9 purchases of bicycle-related products?

10 A. Yes.

11 Q. Why is that?

12 A. Just the way invoices and stuff are done and
13 the way discounts are done. They usually — they very
14 rarely involve, you know, just whole dollar amounts.
15 The only time that is the case is when we're dealing
16 with one of an expensive good. One of the instances in
17 Exhibit 2 was a Para-Olympics track frame for the
18 Olympics.

19 That's just a one-shot deal framewise and
20 it was one price, and it just happened to be even
21 dollars. There were no percentage discounts associated
22 with it. It was just a straight-across-the-board
23 discount.

24 Q. Is one of the types of preprinted forms,
25 taking out for now the handwriting on them, an invoice

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1 form that's preprinted?

2 A. It's not an invoice.

3 Q. Okay. What is this document? I'm looking at
4 EDS026279.

5 A. It's a bicycle ticket used in the early 1990s.

6 Q. Okay. So up here where it says INV period,
7 does that stand for inventory?

8 A. It's actually invoice number or inventory
9 number. It would be more related to an inventory number
10 associated with a tag. There's a tag, that I don't see
11 here, that's attached to this, and that is attached to
12 the particular bicycle that it's associated with, so it

13 allows you to pull in your card catalog file the
14 bicycle's — the right ticket associated with the right
15 bicycle.

16 Q. Okay. So this would be an inventory tag?

17 A. Right.

18 Q. And is that the way that we should refer to
19 this preprinted form, taking out, for now, the
20 handwriting that's on it?

21 A. Yes.

22 Q. Okay. Did Bike Mart keep on its premises a
23 large number of these inventory tags?

24 A. Yes.

25 Q. And are they all numbered consecutively?

65

1 A. Yes.

2 Q. And are they kept in one place at the shop?

3 A. No. It's kind of scattered out. We just use
4 them for — actually, we use them more for scratch paper
5 or for a used bicycle that came in.

6 Q. Are they ever used for receipts?

7 A. Only, like, in the case of a used bicycle. In
8 other words, something that really didn't matter. But,
9 no, they're not used as receipts because they need to be
10 run through the cash register. Even used bicycles get
11 run through the cash register. Then, the cash register
12 receipt typically would be stapled to the back of this
13 inventory tag.

14 Q. Looking now at what's numbered EDS026249, this
15 appears to be a different type of form, with, again,
16 handwriting put into it, from the inventory tag. What
17 kind of form is this?

18 A. A special order form.

19 Q. And did Richardson Bike Mart have on its

20 premises a number of preprinted blank special order
21 forms?
22 A. Yes.
23 Q. And what were they used for?
24 A. Special orders. Whenever we had a customer
25 come in for an item we did not have in stock at the time

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1 we needed to get it to him, that's how we did that.
2 Q. Were special order forms ever used as receipts
3 for purchases?
4 A. No, because they're not receipts. They're
5 just exactly that: special order forms.
6 Q. Tim, let me show you now what's numbered
7 EDS026161, which looks like a third type of form, again,
8 with some handwritten entries onto it. What kind of
9 document is that, or what kind of form is that that the
10 handwriting has been put onto?
11 A. That's an even older bicycle ticket. That's a
12 generic — this is —
13 Q. So, again, it's a type of inventory form?
14 A. Actually, what this form truly was used for
15 and why was for writing up insurance policy — insurance
16 claim estimates. That's truly all we used it for
17 because it wasn't — it has to be run through the cash
18 register and then the correct cash register receipt is
19 then generated for it to be a receipt.
20 Q. Okay. So this older type of inventory receipt
21 was used for work associated with bikes on which
22 insurance was going to pay for the repairs?
23 A. Right. That or —
24 Q. And it was never used —
25 A. — it was used as an estimate.

1 Q. And it was never used as a receipt?

2 A. Not while I was at Richardson Bike Mart.

3 Q. And it's older than the first document that we
4 identified as an inventory form?

5 A. Same age. I think they were using these at
6 the same time.

7 Q. Did Bike Mart have a number of these — this
8 second type of inventory form preprinted and blank
9 around the store?

10 A. Uh-huh.

11 Q. So I think we only got three types of
12 documents: an inventory form, a special order form, and
13 then a second type of inventory form that was used in
14 connection with insurance work?

15 A. Right.

16 Q. So if someone was run into by a car and the
17 bike was damaged, the driver's insurance would cover the
18 repairs for the bike?

19 A. Right.

20 Q. And when that was the case, you would use this
21 second type of inventory form to —

22 A. Write up an estimate.

23 Q. — write up an estimate for the repair work?

24 A. Yes.

25 Q. Let me show you now what's marked EDS025842.

1 It looks like a fourth type of document, again, on which
2 there's some handwritten entries. What type of document
3 is that? What was it used for?

4 A. I've never seen this document. It doesn't
5 exist in Richardson Bike Mart's arsenal of receipts. So

6 we have several of them with pages. I know what that's
7 from. That's a sticker for a bicycle. That's what we
8 put on all bicycles.

9 Q. And I'm looking at it a little bit closer. It
10 looks like it's crooked?

11 A. Right.

12 Q. Would you expect there to be a crooked logo at
13 the top of a Richardson Bike Mart receipt-type document
14 or really any type of document that Bike Mart puts a
15 logo on the top of?

16 A. No.

17 Q. Have you ever seen a crooked logo on the top
18 of any type of Richardson Bike Mart document?

19 A. No. And that logo was not done very long. It
20 was — it wasn't very clear. We changed the logo after
21 we figured out that that logo wasn't very good.

22 Q. This document has a handwritten date on it of
23 August 5th of '97. Was this logo being used at that
24 time?

25 A. Not at all. There's a box of stickers

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1 somewhere in the store for bicycles, but we changed it
2 up.

3 Q. There's another logo at the bottom of this
4 fourth type of document that we found, one with a
5 sticker on the top of it, numbered EDS025842. It says
6 the Redi Form. Do you think that is the — —

7 A. The Redi Form.

8 Q. — the business forms company that may have
9 manufactured this?

10 A. Redi Form is a manufacturer of forms.

11 MR. HARPER: Objection: form.

12 Q. Do you know what Redi Form is?

13 A. Yes.

14 Q. What is it?

15 A. It's a manufacturer of forms.

16 Q. And is Redi Form's logo at the bottom of

17 this — bottom of this fourth type of document,

18 EDS025842, on which we've got — it looks like

19 Richardson Bike Mart's sticker?

20 A. Yes.

21 Q. Did Bike Mart get its business forms from Redi

22 Form?

23 A. No.

24 Q. I'm looking back at the three other types of

25 documents that we've identified, and I don't see on any

70

1 of them the Redi Form logo.

2 A. They all come from Sutherlands Forms, which is

3 manufactured forms for bicycles — for bicycle companies

4 across the United States.

5 MR. HARPER: Objection: nonresponsive.

6 Q. What is Sutherlands?

7 A. Sutherlands is a form manufacturer for bicycle

8 shops. They exclusively work through bicycle shops.

9 Q. Did Bike Mart get its forms from Sutherlands?

10 A. Yes.

11 Q. As opposed to Redi Form?

12 A. Yes.

13 Q. Bike Mart did not get its business forms from

14 Redi Form; is that correct?

15 A. Correct.

16 MR. CARLSON: Let's take a break for a

17 minute.

18 (Off the record 11:08-11:11.)

19 Q. Tim, let me show you a fourth document I'd
20 like to ask you about. It's EDS025750. It looks like a
21 special order form to me. Is that what it appears to
22 you to be?

23 A. That's what it is.

24 Q. Has it been altered in some way?

25 MR. HARPER: What document number? I'm

71

1 sorry.

2 THE WITNESS: 025750.

3 Q. Referring to the special order form that we
4 identified earlier, and I don't see the special
5 orders —

6 A. Special orders.

7 Q. — language.

8 A. I'm going to assume, yes. I don't have the
9 actual document. If I'm not mistaken, on the white —
10 there's three copies to the special order form. You
11 have a green copy, a hard green copy. You have a green
12 second copy, which is the center page. Then, you have a
13 white outer copy. I don't know 100 percent if the white
14 copy has special written on it. I'm going to say it
15 does in grey-black writing. I don't know that to be
16 exact.

17 Q. Who is supposed to get the three parts of the
18 form? Does one stay with the store and one goes with
19 the customer?

20 A. Well, here's the deal. With this form with
21 EDS, this form basically was written by me or Jim, and I
22 would — if there was any special orders that needed to
23 be done, what I would do is not to — I guess we need to
24 back up and redescribe how this exact form is really
25 used.

1 If this form is used the way it's
2 supposed to be, not as a receipt, but to order parts,
3 the form would — I would get a list of stuff from
4 Skip. I would then get all the stuff that I had in
5 stock, then write down on the special order forms all
6 the merchandise that needed to be special-ordered.

7 Then, I would give it to my buyers or I
8 would do the ordering myself. In most cases I would do
9 the buying myself on this. The white copy, which is the
10 top copy, then would either, A, go in the garbage, in
11 most cases, because they don't use the white copy. It's
12 kind of a useless copy. And then everything would go
13 through our normal distribution channel. Does that
14 make sense? Does that —

15 Q. I think I understand the process you've
16 described. Was one of the copies the customer's copy?

17 A. The customer would never get it because if I
18 had a — just a list on a —

19 Q. Okay. Well, for the EDS account, the customer
20 would never get it, but for someone else who walked in
21 the store to buy something that needed to be special
22 ordered —

23 A. Sometimes.

24 Q. — which copy would they get? The green one?
25 The white one?

1 A. The white one.

2 Q. And did it say on it, customer copy?

3 A. No.

4 MR. CARLSON: Off the record for a
5 minute.

6 (Off the record 11:14-11:16.)

7 Q. Here's a fifth type of document that I'd like
8 to show you. It's similar to the third one, the one
9 that you said looked like it had a Bike Mart sticker
10 that was supposed to go on a bicycle at the top of it,
11 but it looks a little different. It, again, has the
12 handwritten entries on it. Are you familiar with that
13 document, and can you tell us what it was used for?

14 A. This is the same document as the one we
15 write —

16 Q. Insurance —

17 A. — insurance estimates on.

18 Q. Okay. So this is similar to the number 2
19 document — or number 3 document. It's the second type
20 of inventory form. Was it ever used for a receipt?

21 A. No.

22 Q. And finally, here's the last one, the sixth
23 type of document. It's numbered EDS025745, and there
24 are a couple of receipts on this document, but there's
25 one that does say Richardson Bike Mart. It looks like

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1 maybe it's stamped on it, and this is one with
2 handwritten entries in it. Is that a document that
3 you're familiar with Richardson Bike Mart using?

4 A. No.

5 Q. What does that look like to you?

6 A. A generated receipt. It doesn't appear to be
7 a receipt. It's not a receipt in Richardson Bike Mart.

8 Q. It looks like Richardson Bike Mart's name is
9 on there.

10 A. That's a stamp that's at the front counter.

11 Q. That looks to you like a stamp that was

12 located at the front counter of Richardson Bike Mart?

13 A. Yeah.

14 Q. Where the cash register was located?

15 A. Yeah. We — it's a new — it has to be a new
16 stamp because it's a — it was when Richardson Bike Mart
17 was at their new store, at the new location.

18 MR. HARPER: Can we take just a break? I
19 can't hear a word he's saying.

20 MR. CARLSON: Yes.

21 (Off the record 11:19-11:20.)

22 Q. It looks like there's a stamp on the top of
23 it?

24 A. It is a stamp.

25 Q. Okay. How do you know that?

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1 A. Because I ordered the stamp.

2 Q. Okay.

3 A. This is to — this stamp was designed to put
4 on the back of consumer brochures. That's why it was at
5 the front counter.

6 Q. Had you noticed — did you notice when you
7 worked at Bike Mart that that stamp was ever missing?

8 A. Things go missing there all the time. The
9 front counter things get moved around, but, no. To my
10 knowledge, no.

11 Q. Were there a number of stamps such as this
12 one?

13 A. There were — I ordered three or four, I
14 think. Three. One for each one of the registers.

15 Q. Do you know who Christi Simmons is?

16 A. Blond girl? Okay. Same — same person, I
17 guess. Yes.

18 Q. Do you know a blond Christi Simmons?

19 A. Yes. There you go. Yes.
20 Q. Is she Nick Chenoweth's girlfriend?
21 A. Yes.
22 Q. Does she work at Bike Mart?
23 A. Yes.
24 Q. When did she start working at Bike Mart?
25 A. Do you want an exact date?

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1 Q. If you don't know an exact date, if you could,
2 give me an approximate date.
3 A. Springtime, I guess, of this year. Yeah,
4 spring. Yeah, I think it was springtime of this year,
5 of '99, because I've been gone since October. She
6 started sometime after, so I'm going to say early
7 spring. February, March.
8 Q. There also appears to be a number of some
9 sort, a tracking number or a document number, associated
10 with this document that I've been asking you about
11 that's got the handwriting on it and the Bike Mart
12 stamp.
13 Take a moment and compare this number
14 with all the other numbers on the other Bike Mart forms
15 that we've talked about. Is it consistent with any of
16 those other numbers?
17 A. No, not at all.
18 Q. The various different types of documents that
19 we just talked about that are contained within Exhibit
20 3, were they located at various different places around
21 the store?
22 A. Yes.
23 Q. And were they kept secure so that if somebody
24 wanted to, they couldn't take some of them?

25 A. No. I mean, anybody had access to them.

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1 Everybody. Even a customer could reach over the counter
2 and grab them.

3 Q. Was Nick Chenoweth a well-known Richardson Bike
4 Mart customer?

5 MR. HARPER: Objection: form.

6 A. Yes.

7 Q. Was Nick in the Richardson Bike Mart store
8 frequently?

9 A. Every now and then, yes.

10 Q. Did most of the employees of Bike Mart know
11 that Nick was on the EDS cycling team —

12 A. Yes.

13 Q. — and that he was one of the people
14 authorized, even after the account usage became more
15 restricted — who had the ability to use the EDS or Team
16 EDS account to make purchases?

17 MR. HARPER: Objection: form.

18 A. Yes.

19 Q. Was Nick able to walk around the store
20 unescorted, more freely than other customers in Bike
21 Mart?

22 MR. HARPER: Objection: form.

23 A. Yes.

24 Q. Why was that?

25 A. Because he was Nick.

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1 Q. Can you explain what you mean by that? Why
2 was Nick allowed to walk around the store more freely
3 than other customers?

4 A. Because Nick was head of EDS, and they gave

5 him kind of a carte blanche to do anything he wanted

6 because EDS was a very good account of ours.

7 (Exhibit No. 4 marked.)

8 Q. Did you have something you wanted to mention
9 about one of those?

10 A. Later.

11 Q. Let me show you what's been marked as
12 Deposition Exhibit No. 4. Do you recognize the forms
13 that are copied onto the pages of Exhibit 4?

14 A. Yes.

15 Q. What are those?

16 A. These are the forms that we would use for
17 insurance purposes.

18 Q. Okay. So these are —

19 A. Like, a blank version.

20 Q. — blank forms that don't have any handwritten
21 entries on them, correct?

22 A. No. Correct.

23 Q. These are blank?

24 A. Right.

25 Q. And, again, they're the type of document that

79

1 you use to do estimates on worked bicycles that were
2 going to be covered by insurance?

3 A. Typically, yes. Typically.

4 Q. Okay. And they're numbered, aren't they?

5 A. Yes, they are.

6 Q. There's six of — five of them on those two
7 pages of Exhibit 4, correct?

8 A. Correct.

9 Q. Do you know how Nick Chenoweth came to have
10 these documents in his files at EDS?

11 A. He probably got them off of the counter or

12 just whatever.

13 MR. HARPER: Objection: nonresponsive.

14 Q. Did Bike Mart ever give blank business form
15 documents that it used to its customers?

16 MR. HARPER: Objection: form.

17 A. Yes. In certain cases, yeah. Just if someone
18 asked for a receipt, you know, just a blank receipt for
19 whatever various reasons, yeah, I'm sure, because it
20 didn't have anything to do with us or our computer
21 system because they're meaningless forms to us. At
22 Richardson Bike Mart, they are meaningless forms.

23 Q. Did you ever give these forms, these blank
24 forms that are part of Exhibit 4, to Nick Chenoweth?

25 A. Yes.

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1 Q. When did you do that?

2 A. Two years ago, maybe.

3 Q. And why did you do that?

4 A. Because he asked for them.

5 Q. Did he explain to you why he needed them?

6 A. No.

7 Q. How many of them did he give to you? I'm
8 sorry. How many of them did you give to him?

9 A. I think three or four, maybe.

10 Q. Is it possible you gave him more than that?

11 A. No. To my understanding, three to four, from
12 what I remember, because it was only one time, and I
13 didn't ask a reason. I didn't ask why. It really
14 wasn't none of my business.

15 Q. Have you ever given any forms such as these or
16 other types of forms that were blank that Richardson
17 Bike Mart used in its business to any other members of

18 Team EDS or EDS?

19 A. No.

20 Q. Did Skip Cutting ever ask you for any blank

21 business forms?

22 A. No.

23 Q. We've talked about a number of other types of

24 forms. Did Nick ever ask you for any of those other

25 types of forms?

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1 A. No, no.

2 Q. Are you aware of whether Nick asked anyone

3 else for blank special order forms or the bike ticket

4 forms —

5 A. Inventory forms.

6 Q. — or the inventory forms?

7 A. No.

8 Q. Do you recall the numbers that were printed on

9 the forms that you gave to Nick, the tracking numbers?

10 A. No. It — no.

11 Q. In your opinion, would it have been possible

12 for Nick to obtain some of the other forms that we've

13 talked about by simply taking them where they were kept

14 at Richardson Bike Mart?

15 MR. HARPER: Objection: form.

16 A. Yeah.

17 Q. Looking through Exhibit 3 and the various

18 documents that make up Exhibit 3, do you recall selling

19 to Nick Chenoweth or Team EDS or EDS any of the equipment

20 that's described in the handwritten entries on any of

21 those documents?

22 A. None of them.

23 MR. HARPER: Objection: form.

24 A. None of them. I can actually elaborate even

25 more.

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1 Q. Okay. We'll get into it in more detail in a
2 minute. Let me — the equipment that is described in
3 the handwritten entries in the documents of Exhibit —

4 A. Which one?

5 Q. — 3, do you recall selling any of that
6 equipment to Team EDS?

7 MR. HARPER: Objection: form.

8 A. No.

9 Q. Earlier we talked about Continental tires. If
10 you would, take a minute, please, and flip through the
11 documents that make up Exhibit 3, with attention to
12 handwritten entries about Continental tires. Try to
13 keep them in order. Do you recall selling that number
14 of Continental tires to Team EDS?

15 A. No.

16 Q. How many members of Team EDS were there?

17 MR. HARPER: Objection: form.

18 A. As a whole, that I was aware of?

19 Q. Yes. How many members of Team EDS were you
20 aware of, in general, as a whole, from 1994 until the
21 spring of this year, 1999?

22 A. Eight to 12 people, that I'm aware of.

23 Q. And were you familiar with the racing schedule
24 of the members of Team EDS?

25 A. Yes.

83

1 Q. How long does a tire typically last on a track
2 racing bicycle?

3 A. Actually, continual use — training, three to
4 four months, like the Sonderklasse, if you use it all

5 the time. Racing, you could probably get — just use
6 it — for just solely racing, probably two per year for
7 race wheels, you know, to make the tires competitive.
8 If they last longer, yes, they could.

9 Q. All right. So there were approximately nine
10 members of Team EDS who would need two pairs of race
11 wheels with tires each year. That would be four
12 tires — or eight tires to last them throughout the
13 year, two on each set of wheels?

14 A. Yes.

15 Q. So eight tires per rider times nine riders.
16 72 tires?

17 MR. HARPER: Objection: form.

18 Q. Does my math sound correct to you?

19 A. Yes.

20 Q. And then you said training tires would last
21 three months?

22 A. Three to four months, yeah.

23 Q. So one set of training tires per rider?

24 A. Two, at the most.

25 Q. Which is 36 tires per three-month period for

84

1 the entire team?

2 MR. HARPER: Objection: form.

3 A. Yeah.

4 Q. Times four?

5 A. But you're not training all year long. Just
6 three — two to three months.

7 Q. Well, let's assume —

8 A. Exactly, in extreme cases.

9 Q. — there would be 144 tires for the total team
10 in the way of training tires. Does my math sound

11 correct to you?

12 A. Yes.

13 Q. But you think 144 is too large because you

14 don't really use that many tires, since the training

15 season varies?

16 A. Right.

17 Q. So how many of the 144 do you think is really

18 a good number for training tires?

19 MR. HARPER: Objection: form.

20 A. 100.

21 Q. 100. So then we're at 172 tires per year for

22 the entire time?

23 A. And that's excessive.

24 Q. That sounds too large to you?

25 A. Yeah.

85

1 Q. Okay. Well, how many do you think would be

2 appropriate?

3 MR. HARPER: Objection: form.

4 A. 125 to 150, because your racing tires, when

5 they get old, turn into training tires. At the most,

6 150 per season.

7 Q. Did Richardson Bike Mart stock Continental

8 Olympic tires?

9 A. Never.

10 Q. Did Richardson Bike Mart stock Continental

11 Sonderklasse, or Special Class, tires?

12 A. Two to four at a time, at the absolute most.

13 Q. You've looked through the documents now that

14 make up Exhibit 3, and is it correct that there are a

15 number of orders of tires in those documents?

16 A. Yes.

17 Q. Have you seen any orders for tire glue?

18 A. No.

19 Q. Is it correct that the type of tire that we're
20 talking about has to be glued to the rim of the wheel?

21 A. Yes.

22 Q. And is it true that Continental, the maker of
23 these tires that are being ordered, makes a special glue
24 for the Continental tires?

25 A. Yes.

86

1 Q. Is it strange to you that there's no glue
2 being ordered in connection with all of these tires?

3 A. With the dates associated with these tires and
4 the things that are here, yes. Yes.

5 Q. Would you normally expect that when people are
6 buying tires in bulk, they would also at the same time
7 order the glue that would be needed to glue the tires to
8 the rims of the wheels?

9 MR. HARPER: Objection: form.

10 A. Yes.

11 Q. Looking through the documents that make up
12 Exhibit 3 and the types of equipment that is described
13 in the handwritten entries on the forms that we've
14 talked about, whose job would it have been at Richardson
15 Bike Mart to arrange for the purchase of the type of
16 equipment that's described in those handwritten entries?

17 A. Me.

18 MR. HARPER: Objection: form.

19 A. In almost every instance, anything that was
20 special ordered for EDS through Richardson Bike Mart,
21 99 percent of the time I ordered all of their stuff.

22 MR. HARPER: Objection: nonresponsive.

23 Q. Who handled the special orders for Team EDS?

24 A. Me and Mike Schmiedeke.

25 Q. And how much of the special-ordering did you

87

1 handle versus Mike Schmiedeke?

2 A. 99 percent of it. And anything that Mike

3 Schmiedeke ordered, I basically — I supervised it

4 because I asked him to order it.

5 MR. HARPER: Objection: nonresponsive.

6 Q. If Mike Schmiedeke handled any special orders,

7 would he have told you about the orders?

8 A. Yes, because I wrote the special order up.

9 Q. The documents that make up Exhibit 3 are

10 roughly in chronological order. Let me ask you to look

11 at the last couple of pages of the documents that make

12 up Exhibit 3 and ask you if the address that is listed

13 on those documents for Richardson Bike Mart appears to

14 be, for that time, the correct address?

15 A. This particular address is incorrect. Of

16 course, we never reprinted this form. It was just a

17 dead form.

18 Q. Okay. You've identified document EDS025744,

19 and it's dated July 25th of '98?

20 A. Right.

21 Q. And it lists the address at Dal-Rich Village.

22 That — that's not the correct address for that time

23 period, is it?

24 A. Right.

25 Q. I think you earlier testified that Bike Mart

88

1 moved to Coit and Campbell on January 2nd of 1998?

2 A. Yes.

3 Q. And that only three days thereafter did Bike

4 Mart use documents that didn't have the Coit and

5 Campbell address on them?

6 A. No, not exactly. The cash register-generated
7 receipts may be two days afterwards. This is just a
8 form that we used just to use up. We just had boxes of
9 them. I mean, instead of throwing them away, we used
10 them as insurance claim forms or estimate forms.

11 Q. Okay.

12 A. Does that make sense?

13 Q. Yes. Are there a number of other documents
14 that make up Exhibit 3 that, for the time period, have
15 the incorrect address on them?

16 A. They are — they are all correct for the time
17 frames.

18 Q. Okay. I'd like to now go through pretty much
19 page by page the documents that make up Exhibit 3 and
20 ask you questions about the handwritten entries, the
21 dates, the tracking numbers, or numbers upon them.

22 So starting with the first document,
23 EDS026279 — first, I want to ask you if it appears odd
24 to you that despite the fact that both of the documents
25 that are on this page are dated January 31st, '94, the

89

1 tracking number —

2 A. Uh-huh.

3 Q. — is significantly separated one from the
4 other? Does that make sense to you?

5 A. If these forms were used in the manner that
6 they appear, yeah, it would be.

7 Q. Explain what you mean by that.

8 A. These forms, not being used in the manner that
9 they look here, you could just rummage through a box and
10 pull these invoice, or inventory number, receipts out

11 and just basically get the numbers that you want.

12 Q. Okay. But I take it that you're saying that
13 they appear to be used for something different than that
14 here with these handwritten entries on them?

15 A. Right.

16 Q. And here it appears that after the handwritten
17 entries have been placed upon them that they are being
18 used as some type of receipt?

19 A. That's what it appears.

20 Q. And are you saying that generally you'd expect
21 receipt numbers to be —

22 A. Sequential.

23 Q. — sequential if they were both issued on the
24 same date?

25 A. Correct.

90

1 Q. And not separated by — I can't tell if it's a
2 944 or an 844.

3 A. It's a 944.

4 Q. It's a 944. So it's separated by 78 invoice
5 numbers or inventory numbers?

6 A. Right.

7 Q. Referring you now to the one that is 52944,
8 it's the inventory number, it's got handwritten on it,
9 one pair of H.E.D. wheels, rear 700c disc,
10 900-millimeter — I'm sorry — 19-millimeter rims, front
11 deep-dish 24-hole rim, 19-millimeter, and it's \$235
12 each. Is that —

13 A. They were never purchased from Richardson Bike
14 Mart because we do not sell H.E.D. wheels.

15 Q. Okay. Even assuming that you did sell H.E.D.
16 wheels —

17 A. Okay.

18 Q. — would that be a correct price for a rear
19 disc and a front deep-dish spoke wheel?

20 A. No.

21 Q. Would it be too high or too low?

22 A. Extremely too low.

23 Q. Let's move on to the next bike inventory
24 document that's been made to look like a receipt. It
25 talks about one Shimano track groupo. Has Richardson

91

1 Bike Mart ever carried track groupos made by Shimano?

2 A. Even today, no.

3 Q. And does the price of \$489 appear to you to be
4 correct for a Shimano track groupo?

5 A. No.

6 Q. And would it be too high or too low?

7 A. Too low, especially for the time frame.

8 Q. Let's move on to the next page, which is
9 EDS026272, and there are three documents which have been
10 made to look like receipts on that page; is that
11 correct?

12 A. Uh-huh.

13 Q. And is it correct that despite the fact that
14 these documents are dated later in time than the first
15 set —

16 A. Yes.

17 Q. — the invoice or the tracking numbers or the
18 numbers that are associated with them are smaller than
19 the first?

20 A. Yeah.

21 Q. And does that appear to you to be out of the
22 ordinary?

23 A. Yes.

24 Q. Out of order?

25 A. Yes.

92

1 Q. One of the documents says, Shimano track

2 groupo. Again, did Bike Mart carry Shimano track

3 groupos?

4 A. No.

5 Q. One of the other ones says, one Excel track

6 disc with track axle. Has Bike Mart ever carried Excel

7 track discs?

8 A. No.

9 Q. And, again, the price for the Shimano track

10 groupo is \$437. Does that appear to you to be an

11 incorrect price for a Shimano track groupo at the time?

12 A. Oh, yes. It's below wholesale. It's

13 impossible for a bike shop to sell it for less than what

14 they paid for.

15 Q. So it's way too low?

16 A. Yes.

17 Q. So it's below what Bike Mart would have had to

18 pay for a Shimano track groupo at the time?

19 A. That's correct.

20 Q. Are you familiar with the prices for Excel

21 track discs?

22 A. Yeah.

23 Q. Does the price of \$478 appear to you to be

24 correct?

25 A. No, it's too low.

93

1 Q. Going on to the third page, EDS026249, there

2 are two documents on this page that have been made to

3 look like receipts; is that correct.

4 MR. HARPER: Objection: form.

5 A. Yes.

6 Q. These are actually special order forms?

7 A. Yes.

8 Q. How many numbers are the two order forms
9 apart?

10 A. Two.

11 Q. Or there's one in between them?

12 A. Yes, one in between them.

13 Q. Okay. How many days are they apart?

14 A. Two.

15 Q. Would Bike Mart have had other special orders
16 during the two-day interim period?

17 A. Yes.

18 MR. HARPER: Objection: form.

19 Q. So do the documents appear to be out of order
20 to you because of that?

21 A. Yes.

22 Q. I also note on both of the documents there's
23 an entry, store copy?

24 A. Uh-huh.

25 Q. Can you think of a reason why Bike Mart would

94

1 have given a store copy to somebody as a receipt?

2 A. Impossible, because if they're special orders,
3 the only way for them to get an order was that copy
4 would go to the buyer.

5 Q. The second document on the page has a
6 handwritten entry concerning the purchase of four
7 specialized road helmets at \$122 apiece. Does that
8 price appear to you to be correct?

9 A. No, not at the time, not in '94. They've

10 never made a \$122 helmet in 1994.

11 Q. So the price appears to be far too high?

12 A. Yes.

13 Q. Moving on to the fourth page, EDS026250, and
14 here is it correct that the order numbers are one apart
15 but the dates are five days apart?

16 A. Correct.

17 Q. And I take it you believe that's out of order?

18 A. Yes.

19 Q. The first document has a handwritten entry on
20 it concerning H.E.D. track, rear disc, 19-millimeter.
21 Has Bike Mart ever sold such a piece of equipment?

22 A. Never.

23 Q. And are you familiar with the prices of H.E.D.
24 disc wheels at the time?

25 A. Yes.

95

1 Q. And I note that this document is dated August
2 30th of '94. I want to compare it against the first
3 document that we talked about, the very first page,
4 EDS026279. It was also referencing a purchase of a
5 H.E.D. rear disc, and if you'll recall, the price there
6 was \$235.

7 A. Uh-huh, for both front and rear wheels.

8 Q. Right. Were you aware of the price of H.E.D.
9 wheels changing at the time and going down —

10 A. No.

11 Q. — in that degree over the course of seven
12 months?

13 A. No. Those prices that are even listed here
14 are half of the wholesale cost.

15 Q. The second document on EDS026250 talks about
16 three Silca floor pumps for \$147 each. Does that price

17 appear to you to be correct?

18 A. No.

19 Q. Does that price appear to you to be too high

20 or too low?

21 A. Definitely high.

22 Q. High by the magnitude of maybe —

23 A. Three times plus.

24 Q. Or four times or maybe five times?

25 A. Yes. A typical track pump was \$39 at the time

96

1 that the — there may be a more expensive one today, but

2 not —

3 Q. Okay. Well, if —

4 A. This one here is the one that they made at the

5 time.

6 Q. Okay. Well, let me just — I'm looking at a

7 catalog, the Colorado Cyclist catalog. Are you familiar

8 with that?

9 A. Yes.

10 Q. It's a catalog for a large variety of

11 cycling-related equipment; is that right?

12 A. Yes.

13 Q. And it has pretty competitive pricing?

14 A. Very competitive.

15 Q. And if I represent to you that in the Colorado

16 Cyclist catalog there's a Silca track pump listed for

17 \$32.99, does that sound to you like a fair price even

18 for August 30th of — I'm sorry — September 6th of

19 1996?

20 A. Yes.

21 Q. Significantly lower than \$147?

22 A. Yes.

23 Q. Let me ask you about the next page. It's

24 26241. Did Bike Mart ever sell Campi rear disc wheels

25 to EDS?

97

1 A. Almost, but, no.

2 Q. Why do you say almost?

3 A. They were wholesale to me from friends in

4 Italy, if you could find them. They were impossible to

5 get. They were three — \$3,100 each, which is not \$929,

6 but, no, we never sold them because they were just too

7 expensive for the budget.

8 Q. So the price listed on EDS026241 for a Campi

9 rear disc is \$929, and in your opinion, that's far too

10 low?

11 A. Yes.

12 Q. And what is your knowledge concerning the

13 price of the Campi rear disc wheel?

14 A. Significantly high.

15 Q. What price are you — do you believe a Campi

16 rear disc would be?

17 A. \$3,100, if you can find them.

18 Q. I want to ask you to look at the special order

19 number on document 026241. Compare it to the date. Is

20 it correct that the date on this special order is a

21 number of days or months beyond earlier special orders,

22 yet it has a lower special order number?

23 A. Yeah, it's odd.

24 Q. Does that appear to you to be out of order?

25 A. Yes.

98

1 Q. Did you ever offer to sell Campi track discs

2 to EDS or to Nick Chenoweth at a 40 percent discount if

3 he paid cash?

4 A. Never.

5 Q. Let's move on to the next page, EDS026239.

6 The handwritten entry on here concerns an SRM track

7 groupo. Does that entry make sense to you?

8 A. Not at all.

9 Q. Why?

10 A. Because SRM doesn't make groupos. They make a

11 component.

12 Q. Does the amount associated with this SRM make

13 sense to you?

14 A. Not at all.

15 Q. And why?

16 A. It's too high. I think on previous pages it

17 was half the cost of that. There's another page in

18 one — that's in this —

19 Q. You've seen one of the other documents in

20 Exhibit 3 —

21 A. Yes.

22 Q. — concerning an SRM, and the price was

23 significantly different than that listed on EDS026239?

24 A. Yes.

25 Q. Let's move on to the next page, which is

99

1 026237. Is it correct that this document is dated one

2 day later than the previous one, yet the special order

3 number is greater by 33?

4 A. Yes.

5 Q. And does that appear to you to be out of

6 order?

7 A. Yes.

8 Q. Did Bike Mart ever offer to sell to EDS or

9 Nick Chenoweth specialized track tri-spokes with track

10 axles at a 40 percent discount if EDS or Nick Chenoweth

11 paid by cash?

12 A. No.

13 Q. Moving on to the next page, which is

14 EDS026235, this special order number is one greater than

15 the preceding page, but it's dated 13 days later. Does

16 that appear to you to be out of order?

17 A. Yes.

18 Q. And on this document is written, one Corima

19 sprint frame, Euro version, factory direct, 62

20 centimeters. Has — did Richardson Bike Mart ever sell

21 to EDS or Nick Chenoweth a Corima track sprint frame?

22 A. No.

23 Q. Do you have any idea what a Euro version of a

24 Corima track sprint frame is?

25 A. No.

100

1 Q. Are you aware of whether or not there's a

2 difference between a Euro version or an American

3 version —

4 A. They're all the same.

5 Q. — or even if there is any kind of version?

6 A. They're one and the same. They're custom-made

7 one off for the sprint frames.

8 Q. And did you ever arrange for EDS or Nick

9 Chenoweth to wire this \$1,997 to Marty Nothstein in

10 Germany to pick up this sprint frame in Germany?

11 A. No.

12 Q. Has Bike Mart ever arranged a purchase for EDS

13 where the item was being picked up at the factory direct

14 such as is stated on this document?

15 A. Never.

16 Q. Moving on to the next document, EDS026233, the
17 handwritten entry on this one is for one Corima sprint
18 track frame, factory direct, 60 centimeters. Did Bike
19 Mart ever sell such an item to Nick Chenowth or EDS?

20 A. Nope.

21 Q. And, again, Bike Mart never arranged for a
22 factory-direct purchase?

23 A. No.

24 Q. Moving on to the next document, EDS026231.
25 This document is dated two days later than the one that

101

1 we just talked about, yet it is the immediately
2 preceding special order number. Does that make sense to
3 you?

4 A. No.

5 Q. You'd expect that there would have been some
6 special orders since the last; is that correct?

7 A. That's correct.

8 Q. On this document is the handwritten entry, one
9 FES track sprint frame, East Germany, delivery/pickup
10 Munich, Germany, 62 centimeters. Did Richardson Bike
11 Mart ever sell such a piece of equipment to Nick
12 Chenowth or EDS?

13 A. No. It's signed Jim Hoyt, which is not his
14 handwriting. It's not the way he would put J. Hoyt on
15 there.

16 Q. And there's also handwritten on this document
17 J. Hoyt. Are you familiar with how Jim Hoyt puts his
18 name on documents?

19 A. Uh-huh.

20 Q. Is the way that J. Hoyt is on this document
21 consistent with the way Jim puts his name on documents?

22 A. No.

23 Q. And is the writing on this document Jim

24 Hoyt's?

25 A. No.

102

1 Q. Has Bike Mart ever picked up any equipment in

2 East Germany for EDS or Team EDS?

3 A. No.

4 Q. Do you recall when the German unification

5 occurred?

6 A. No, can't say that I do.

7 Q. You are aware that at some point East Germany

8 as a country ceased to exist?

9 A. Right.

10 Q. And is it possible that that happened prior to

11 November 7th of 1994?

12 MR. HARPER: Objection: form.

13 A. Actually, yeah.

14 Q. Do you believe that the unification of Germany

15 happened such that East Germany as a country ceased to

16 exist prior to November 7th of '94?

17 MR. HARPER: Objection: form.

18 A. Yes.

19 Q. Moving on to the next document, EDS026255,

20 the handwritten entry on this one, again, is, one SRM

21 track groupo, German program via Mexico City. Does that

22 entry make any sense to you?

23 A. Not at all.

24 Q. Why?

25 A. For one, we didn't get involved with Europe

103

1 for race — race schedules. Having something for the

2 German program in Mexico doesn't make sense for us.

3 Q. Has Bike Mart ever acquired equipment for Team
4 EDS via Mexico City?

5 A. No.

6 Q. Has Bike Mart ever sold equipment to something
7 known as the German program?

8 A. No.

9 Q. Are you familiar with some German program from
10 which SRM track groups can be acquired?

11 A. No.

12 Q. And is it correct that there's no such thing
13 as an SRM track groupo —

14 A. Yes.

15 Q. — as the groupo is generally understood in
16 the sport of cycling?

17 A. Yes.

18 Q. Moving on to the next document, EDS026227, on
19 this document is written, one pair Spinerger road wheels,
20 12-speed, 12-21.

21 A. Impossible if you do.

22 Q. Is there such a thing as a 12-speed pair of
23 Spinerger road wheels, as of — the document has written
24 on it the date November 12th, 1994?

25 A. Never existed, regardless of that date.

104

1 Q. Okay. Assuming that that deficiency didn't
2 exist with what's written here, does \$425 reflect a
3 correct price for a pair of Spinerger road wheels?

4 A. No.

5 Q. Doesn't just a rear Spinerger road wheel alone
6 cost at least \$425?

7 A. If not more.

8 Q. Moving on to the next document, EDS026223, is

9 it correct that that document is dated just two days
10 later than the previous but has a special order number
11 that is greater by 12? Is that right?

12 A. Yes. That would be incorrect.

13 Q. Does that make sense to you?

14 A. The numbers sequentially could possibly
15 happen.

16 Q. Well, I guess, given the number of special
17 orders that you talked about Bike Mart making each day,
18 this one could work out?

19 A. Yes.

20 Q. Okay. So let's talk about the handwritten
21 entry concerning the equipment. One SRM track groupo,
22 170-centimeter cranks, used, Mexico.

23 A. Costs more than the new ones.

24 Q. Okay. So the price is not correct. Has Bike
25 Mart ever sold to EDS an SRM?

105

1 A. Never.

2 Q. Is there such a thing as an SRM track groupo?

3 A. No.

4 Q. And have you ever seen a pair of
5 170-centimeter cranks?

6 A. No. They're as long as this table.

7 Q. Would it be physically possible to even ride a
8 bicycle that had a pair of 170-centimeter cranks?

9 A. Impossible.

10 Q. And has Bike Mart ever delivered equipment or
11 acquired equipment for EDS via Mexico?

12 A. No, never.

13 Q. And I guess you have — maybe this was a
14 document you were thinking about when we talked about
15 the previous one concerning the SRM. I think the sixth

16 page of Exhibit 3 had written on it, one SRM track

17 groupo. The price for it was \$1,747.

18 The one on this document, EDS026233,

19 compared to the one that I just mentioned on EDS026239

20 is about \$1,000 more, even though it's used. Does that

21 make any sense to you?

22 MR. HARPER: Objection: form.

23 A. No.

24 Q. Can you think of any reason why a used SRM

25 would cost \$1,000 more than one purchased approximately

106

1 a month later?

2 MR. HARPER: Objection: form.

3 A. No.

4 Q. Moving on to the next document, EDS026220, the

5 handwritten entry here is five Mavic rear disc wheels,

6 track hub, two cogs, via France. Has Richardson Bike

7 Mart ever delivered to EDS equipment in France or

8 obtained directly from France equipment for EDS?

9 A. Never.

10 Q. Did Bike Mart ever sell five Mavic rear disc

11 wheels to Team EDS?

12 A. Nine.

13 Q. Nine of them?

14 A. Nine.

15 Q. When was that sale?

16 A. Can I go through here, and I'll give you the

17 exact because I have it documented here? Those nine

18 discs that we did sell them came from France, which

19 were — they don't make that many of them, and that was

20 a special favor, so I know that they did not — they

21 weren't able to produce more than what I got from them

22 because it was a huge ordeal, absolutely huge. I want
23 to say it was in '95. Can we, just for now, say late
24 fall, winter of '95?
25 Q. Your recollection is that there was a purchase

107

1 of nine Mavic rear disc wheels that you handled
2 personally in late '95?

3 A. Yes.

4 Q. And that purchase was for Team EDS?

5 A. Yes.

6 Q. You don't recall any purchase prior to that,
7 such as in late 1994?

8 A. Nope.

9 Q. All right. Getting back to Exhibit 3 and the
10 next page, EDS026218. It appears to me that this
11 document indicates that you sold this equipment to Nick
12 Chenoweth.

13 A. Where?

14 Q. It says, sold by, and it looks like it says,
15 Tim, there.

16 A. That's me.

17 Q. Is that the way you sign your name?

18 A. No.

19 Q. Do you recall ever having Nick Chenoweth fill
20 out a document such as this concerning the sale of
21 equipment to him?

22 A. No.

23 Q. Would SRM be a special order item, if
24 Richardson Bike Mart was to have sold it or wanted to
25 sell it to anybody?

108

1 A. No. We didn't sell it.

2 Q. Okay. If you did sell it — excuse me. If
3 you wanted to sell it, would you have to special-order
4 it?

5 A. Yes.

6 Q. This is not a special order form, though, is
7 it?

8 A. No, it's not.

9 Q. And the handwritten entry here is, SRM system
10 hardware, cables, wiring, bottom bracket, 165-centimeter
11 cranks set, chain ring; pickup, Munich, Germany. Did
12 Bike Mart ever sell to Nick Chenoweth or Team EDS an SRM?

13 A. No.

14 Q. Have you ever seen a pair of 165-centimeter
15 cranks?

16 A. Never.

17 Q. Is such a length of crank arm made?

18 A. No.

19 Q. Or physically possible?

20 A. Impossible.

21 Q. And have you ever arranged for Nick Chenoweth
22 or EDS to pick up equipment that Bike Mart ordered or
23 purchased in Munich, Germany?

24 A. No.

25 Q. Did you ever work with Jim Martin to pick up

109

1 equipment for Texas — for Team EDS that Richardson Bike
2 Mart had purchased for the team?

3 A. No. I don't know who Jim Martin is.

4 Q. Moving on to the next page, EDS026216, again,
5 this has got your name on it. Did you create this
6 document?

7 A. No.

8 Q. Did you handle the sale that this document's

9 been made to reflect as having occurred?

10 A. No, I did not. This did not occur, even the
11 purchase of the tires, even if I did write the document
12 up.

13 Q. If Bike Mart wanted to sell 45 Continental
14 Sonderklasse tires to anyone, would that have had to
15 have been special ordered?

16 A. Yes, it would.

17 Q. This is not a special order document, is it?

18 A. No, it's not.

19 Q. Do you have any knowledge as to how many
20 Continental Sonderklasse tires are sold in the U.S. each
21 year?

22 A. Yes.

23 Q. How do you have that knowledge?

24 A. The people at Continental, the sales manager,
25 national sales manager, is a close friend of mine.

110

1 Q. Have you ever talked to him about how many
2 Continental Sonderklasse tires are sold in the U.S. each
3 year?

4 A. Yes.

5 Q. What did he tell you?

6 MR. HARPER: Objection: form.

7 A. Very few. Less than 200.

8 Q. Are you aware of how many Continental
9 Sonderklasse tires are sent to the U.S. each year for
10 distribution?

11 A. Yes. Less than 200.

12 MR. HARPER: When would be a good point
13 for a break?

14 Q. Tim, do you want to take a break?

15 A. Sure.

16 Q. I'm was trying to hurry along.

17 A. I know. It's just cold in here.

18 Q. Okay. Let's take a break and try to handle
19 that.

20 MR. HARPER: Just give me less than five
21 minutes.

22 (Recess 12:18-12:25.)

23 Q. Tim, are you familiar with the price of
24 Continental Sonderklasse tires?

25 A. Yes.

111

1 Q. The handwritten price on this document is \$92
2 each. Is that a price that you believe is correct?

3 A. No.

4 Q. What is the price that you believe is
5 correct? Higher than that or lower than that?

6 A. Higher.

7 Q. And approximately what price would you believe
8 to be correct?

9 A. At that time, they were \$170 a piece.

10 Q. Now, why don't you make a note of this price,
11 \$92, and those are for Sonderklasse. I think earlier we
12 discussed the fact that you testified that from '94
13 until the first quarter of this year, the price of
14 Continental tires was fairly consistent?

15 A. Uh-huh, within \$10 of a price change.

16 Q. Did you ever arrange for a tire purchase that
17 was picked up in Munich, Germany?

18 A. No.

19 Q. And do you recall selling 45 Sonderklasse
20 tires to Nick Chenoweth or Team EDS in December of 1994?

21 A. No.

22 Q. On, I believe, every document that we've
23 talked about so far there is a notation paid or paid in
24 full. Is that something that Bike Mart ever writes on
25 any kind of receipt document?

112

1 MR. HARPER: Objection: form.

2 A. Yes, actually.

3 Q. When is that done?

4 A. On bicycle tickets, and then the receipt is
5 stapled to that to back that up.

6 Q. Let's move on to the next document, which is
7 EDS026213. On this document is written, one Corima
8 58-centimeter road frame, road groupo with Shimano sti,
9 170-centimeter cranks; pick up in Germany. Has Bike
10 Mart ever sold to EDS a Corima road bike?

11 A. Nope.

12 Q. Has Bike Mart ever carried a Corima
13 58-centimeter road bike?

14 A. No.

15 Q. Do you recall the size of the one Corima road
16 frame that you sold to your friend in Oklahoma?

17 A. It was a 59 or a 60.

18 Q. And do you recall the size of the Corima
19 frame — the one other Corima frame that Richardson Bike
20 Mart has and still has today?

21 A. 56 centimeters.

22 Q. This is not a special order form, is it?

23 A. No.

24 Q. If Corima were to want to sell a 58-centimeter
25 Corima road frame to somebody, would that be a special

113

1 order item?

2 A. Yes.

3 Q. Corima is a French company, correct?

4 A. Correct.

5 Q. Are you aware of sales of Corima's where they
6 were picked up in Germany?

7 A. No.

8 Q. Did you ever arrange for a pickup of a Corima
9 road bike by EDS or Nick Chenowth in Germany?

10 A. No.

11 Q. And have you ever heard of a 170-centimeter
12 crank?

13 A. No.

14 Q. Moving on to 026211, on this document is
15 written, one Corima 58-centimeter track racing frame
16 with components, headset, bars, stems, bottom bracket;
17 pickup, Germany. I guess the first question, again, is:
18 Have you ever sold a Corima track racing frame and
19 components to Nick Chenowth or EDS?

20 A. No.

21 Q. Does the price of \$3,200 appear correct to
22 you?

23 A. Not close.

24 Q. What would the price be for a Corima
25 58-centimeter track frame with all the components, if

114

1 Bike Mart wanted to sell such a bike?

2 A. 10 grand. Actually, \$8,000 to \$10,000. The
3 frame alone is \$5,000.

4 Q. And are the Corima track frames custom-made?

5 A. Yes.

6 Q. So every one was custom-made?

7 A. Yes.

8 Q. And the Corima factory, where is it located?

9 A. In France.

10 Q. Can you think of any reason why you would need
11 to pick up a custom-made Corima track bike in Germany?

12 MR. HARPER: Objection.

13 A. No.

14 Q. Did you ever arrange for a Corima track bike
15 sold to EDS by Bike Mart to be picked up in Germany?

16 A. No.

17 Q. Do you recall the first time you ever saw a
18 Corima road bike or track bike in the United States?

19 A. In '95, '96.

20 Q. End of '95, early '96?

21 A. I think so.

22 Q. And what was the occasion? Do you recall?

23 A. The first time I'd saw one was a Bike Mart
24 run.

25 Q. And who was riding it?

115

1 A. You.

2 Q. Okay. So with respect to any document that
3 we've already talked about concerning a purported sale
4 of a Corima road or track bike — and I think maybe this
5 document, 026209, is the first time we talk about a
6 track bike, but if the date is prior to the end of '95,
7 early '96, that would be another reason why you would
8 not — why you do not believe that the document is in
9 order?

10 A. Right.

11 Q. The next document is nearly identical:

12 026209. One Corima track bike, 61-centimeter with full
13 package components, headset, bars, stems, bottom
14 bracket, 170-centimeter, cranks and pedals; pickup,

15 Germany trip. Did anyone from Bike Mart ever make a
16 trip to Germany to pick up some bikes?

17 A. No.

18 Q. Are you aware of anyone from EDS making a trip
19 to Germany to pick up some bikes?

20 A. No.

21 Q. Did Bike Mart ever sell to Nick Chenoweth or
22 EDS a 61-centimeter Corima track bike with a full
23 package of components?

24 A. No.

25 Q. And are you aware of any manufacturer that

116

1 makes a 170-centimeter pair of cranks?

2 A. No.

3 Q. Moving on to EDS026201, Corima 56 track bike
4 with bottom bracket, handlebars, stem, and cranks. Do
5 you believe that Bike Mart ever sold such a bike to Nick
6 Chenoweth or EDS?

7 A. No.

8 Q. You mentioned that Bike Mart sometimes writes
9 on receipt-type documents that they have been paid?

10 A. Uh-huh.

11 Q. Is that done only when cash is paid?

12 A. In all cases.

13 Q. Any type of payment it's written on them?

14 A. On bicycle tickets.

15 Q. On bicycle tickets?

16 A. Yeah.

17 Q. It's never written on a receipt?

18 A. No, because it's on your actual receipt. It's
19 already on there: credit card, what kind of credit
20 card, if it was cash, check, or charge.

21 Q. Are the bicycle tickets given to the bicycle
22 purchaser as a form of receipt?

23 A. No, it's not the actual receipt.

24 Q. Are the bicycle tickets given to the bicycle
25 purchaser at all?

117

1 A. The top copy is, but these aren't bicycle
2 tickets, is my point.

3 Q. Okay.

4 A. These are old bicycle tickets that don't —
5 they have no use. We don't even —

6 Q. It's not a document that Richardson Bike Mart
7 has used for a number of years?

8 A. For seven, eight years, nine years, no.

9 Q. Moving on to EDS026199. SRM monitor, two
10 hardware track applications, 170-centimeter cranks;
11 delivery, Manchester, England. Has Bike Mart ever sold
12 an SRM to Team EDS?

13 A. Nope.

14 Q. Do you know what is trying to be described
15 here when it says, track applications, hardware track
16 applications?

17 A. No.

18 Q. Is there such a type as 170-centimeter cranks?

19 A. No.

20 Q. And has Bike Mart ever delivered anything to
21 EDS in Manchester, England?

22 A. No.

23 Q. Document 026197 discusses a Corima
24 61-centimeter track bike, again, 170-centimeter cranks.

25 Do you believe that Bike Mart ever sold such a bike to

118

1 Nick Chenoweth or Team EDS?

2 A. No.

3 Q. EDS026195. I ask you to compare this document
4 with EDS026223. I'll show it to you. Is it correct
5 that EDS026195 is dated —

6 A. 11/14.

7 Q. — 11/14 of '94? Actually, EDS026195, the
8 document I'm asking you about, is dated March 8th of
9 '95. I wanted you to compare it to an earlier document
10 that's dated November 14th of '94, but it appears to
11 raise a problem because the special order number on the
12 later dated document is smaller than the earlier by four
13 months, almost, the special order document that we
14 talked about earlier. Is that something that should
15 never happen, in your view?

16 A. Yes.

17 Q. And then the handwritten entry on here is, 36
18 Conti 165 track tires. Did you ever sell such tires to
19 Team EDS?

20 A. Nope.

21 Q. Or did you ever make this — such a sale as
22 the sale that's reflected in this document to Team EDS?

23 A. No.

24 Q. The price is \$89.95, and earlier we had talked
25 about a purchase of Conti 165 track wheels. The 165s

119

1 are the Sonderklasse; is that right?

2 A. That's correct.

3 Q. Well, earlier in a document we saw a price of
4 \$92.

5 A. Right.

6 Q. And here the price is \$89.95, and it's only a
7 couple of months apart. Are you familiar with whether

8 or not the price has changed such that we should see

9 this price difference?

10 A. No, did not change.

11 Q. Okay.

12 A. Are you looking for that page?

13 Q. I guess earlier it was on EDS026216 that we

14 saw a price of \$92, and it's dated just three months

15 prior to this one where the price is lower.

16 A. Uh-huh.

17 Q. And you're saying that you're not aware that

18 the price did, in fact, decrease; is that right?

19 A. Yes, that's correct.

20 Q. Now, referring to EDS026193, the entry here

21 is, specialized road frame with components, wheels,

22 cranks, stems, handlebars, cables, and brakes, M2, team

23 price. And it's a single bike, and the amount is

24 \$3,238. Is that a correct amount, in your opinion?

25 A. Not at all.

120

1 Q. And is it way too high?

2 A. Way too high.

3 Q. Did you ever ask for cash up front from Nick

4 Chenoweth before you would order this specialized M2 road

5 frame?

6 A. No.

7 Q. Did you ever ask for cash up front from Nick

8 Chenoweth or from Team EDS for any special order or order

9 that you were making for equipment for the team?

10 A. No.

11 Q. The next document is 026191, with pretty much

12 the same written entry regarding equipment as the last.

13 Again, is the price too much?

14 A. Too much.

15 Q. Do you believe that these sales in these last
16 two documents, 026193 and 026191, ever took place on
17 these dates for these amounts?

18 A. Nope.

19 Q. Let me ask you a little bit different
20 question. Did Nick Chenoweth ever ask Richardson Bike
21 Mart to accept documents such as these as indications of
22 payment in exchange for providing other equipment to
23 EDS?

24 MR. HARPER: Objection: form.

25 A. No.

121

1 Q. Do you believe that EDS ever paid for the
2 equipment reflected in these last two documents?

3 MR. HARPER: Objection: form.

4 A. No. What's the date on that? There's no
5 date. Do you have dates? Because they only bought M2s
6 one time.

7 Q. When was that?

8 A. When Linda and Jennifer and Karla ordered —
9 or had to have new road bikes. Was that '95? I think
10 so.

11 Q. You think it was in '95?

12 A. I think it was in '95. Well, let me get back
13 to this because it's all documented here, when they
14 actually bought the M2s. That would be November 20th of
15 '95, so it would be '95, '96, and '96 is when Linda
16 Kruse got hers, so...

17 Q. Late '95, early '96?

18 A. Yeah, it would be November — if you want
19 exact, November 16th, '95. 1995.

20 Q. Is that when EDS purchased a number of

21 specialized M2 road bikes?

22 A. Yes. There's the groupos that went on them.

23 Q. Okay. That's probably a good enough answer.

24 A. Okay.

25 Q. Did — does Bike Mart only create invoices and

122

1 inventory-type documents and receipts for equipment that

2 it actually sells?

3 A. Yes.

4 Q. Has Bike Mart ever created documents

5 concerning equipment that it did not sell?

6 A. No.

7 MR. HARPER: Objection: form.

8 Q. Did Nick Chenoweth ever ask Richardson Bike

9 Mart to create false documents?

10 A. Not to my knowledge. Not to me.

11 Q. And are you aware of whether he asked anyone

12 else at Richardson Bike Mart to do that?

13 A. No, I'm not.

14 Q. Have you been told by anyone else that he

15 asked?

16 A. No.

17 Q. Moving on to EDS026174, the document reads, 20

18 Continental 165 track Sonderklasse. Here the price is

19 \$82.50 each. Do you believe that to be an accurate

20 price?

21 A. No.

22 Q. Is it significantly lower than the prices

23 we've seen previous, which I believe were \$89.95 and

24 \$92?

25 A. Yes.

123

1 Q. And are you aware of any change in the prices
2 over time that would account for this difference in
3 price?

4 A. No.

5 Q. Below that is an entry regarding 20
6 Continental Comp GP 19-millimeter tires; \$74.50 each.
7 Is that an accurate price, in your view?

8 A. Not using EDS' discount. It's too low.

9 Q. What do you believe should be the price for
10 those tires as charged to EDS?

11 A. Probably \$10 more. I think they were \$85 or
12 \$87.

13 Q. Earlier on document 026249, which is just the
14 third page of these Exhibit 3 documents, there were six
15 Comp GP Continental track tires purchased where the
16 price was \$78.50. Are you aware that Continental
17 lowered its price from August of '94 until,
18 approximately, a year later?

19 A. They didn't.

20 Q. They did not?

21 A. They did not.

22 Q. Moving on to document 026172, this one
23 contains a handwritten entry regarding two Shimano track
24 groupos, headset, bottom bracket, 165-centimeter cranks,
25 seat stem, handlebar stem; \$1,525 each. Does that

124

1 appear to you to be a good price for a Shimano track
2 groupo?

3 A. No.

4 Q. And does Shimano make 165-centimeter cranks?

5 A. No.

6 Q. And does a Shimano track groupo contain two

7 stems, such as are — is mentioned in the handwriting on
8 this document?

9 A. No.

10 Q. Does a Shimano groupo contain a stem at all?

11 A. No.

12 Q. Does Shimano even make a stem?

13 A. Yes.

14 Q. When did they start doing that?

15 A. '70s.

16 Q. Okay. Is the — the stem that Shimano makes
17 part of their track groupo?

18 A. They don't make a stem that's track-related
19 because it is a special size.

20 Q. The next document is 026170. Three Mavic
21 Comet 19-millimeter discs with track axles; \$1,492
22 each. Do you believe that EDS — Richardson Bike Mart
23 ever sold to EDS the three Comet track discs mentioned
24 in this document?

25 A. Yes, they did.

125

1 Q. And when did that happen?

2 A. The same answer to the previous.

3 Q. You mentioned before that —

4 A. '95 or '96, I think.

5 Q. Late '95 or early '96 —

6 A. Yes.

7 Q. — Bike Mart sold nine Mavic discs to EDS?

8 A. Yes.

9 Q. Were those special ordered?

10 A. Yes.

11 Q. Is this a special order form?

12 A. No.

13 Q. Does this document reflect that purchase of

14 nine discs?

15 A. No, it does not.

16 Q. Were those purchased by Nick Chenoweth wherein
17 he paid for them either in cash or with his credit card?

18 A. No.

19 Q. Were they handled by a bill that went to EDS
20 for the discs?

21 A. Yes.

22 Q. Is this price, \$1,429 each, a good price for a
23 Mavic Comet disc?

24 A. No.

25 Q. Is it too high or too low?

126

1 A. Well, too high for the disc that I think y'all
2 have.

3 Q. What is your recollection of the price that
4 Richardson Bike Mart charged EDS for the Mavic discs?

5 A. It was \$1,100 or \$1,200.

6 Q. Moving on to document 026161, the entry here
7 is, one tandem track groupo, headset, and bottom
8 bracket, 170-centimeter crank, arms, Shimano. Is that
9 something that Bike Mart ever sold to Nick Chenoweth or
10 to Team EDS?

11 A. No.

12 Q. Does Shimano make a tandem track groupo?

13 A. No.

14 Q. I take it, then, this price is not correct?

15 A. No.

16 Q. Is it correct that most tandem bikes are built
17 up with the use of groupos made for standard track
18 bikes?

19 A. Correct, with an additional set of cranks.

20 Q. And what is the retail price, to your
21 recollection, or what is the price that EDS would have
22 been charged for a Shimano track groupo if at the time
23 Richardson Bike Mart sold Shimano track groupos?

24 A. No more than \$1,500, \$1,600.

25 Q. And adding one pair of cranks would have

127

1 increased that price by how much?

2 A. That would be with the cranks included.

3 Q. Okay.

4 A. That would be us making a track groupo, so to
5 speak.

6 Q. Moving on to 0262159, this one reads: one
7 Corima track bike frame, 62-centimeter, without groupo.
8 Has Bike Mart ever sold to EDS a Corima track bike?

9 A. No.

10 Q. And does the price of \$3,792, to you,
11 represent a good price for a Corima track bike?

12 A. Yes, that's a good price. That's the wrong
13 price, but that's a good rice.

14 Q. I'm sorry. My question wasn't very clear.

15 What is the price for a Corima track bike in

16 62-centimeter size?

17 A. The complete bike is eight to 10 grand. The
18 frame is \$5,000. The frame would be \$5,000.

19 Q. Okay. Are you familiar with the sizes of the
20 bikes ridden by the riders of Team EDS?

21 A. Yes, I am.

22 Q. Who on Team EDS would ride a 62-centimeter
23 bike?

24 A. Two people.

25 Q. Who would those be?

128

1 A. You and Nick, and I think yours was always
2 smaller than what you should have been on.

3 Q. The next document is EDS026157. 40
4 Continental Comp GP racing tires, 19-millimeter, and the
5 price is \$89.95. Does this document reflect a sale of
6 tires that you believe Richardson Bike Mart made to Nick
7 Chenowth or Team EDS?

8 A. It does not — it's — it's — no, we never
9 made this sale.

10 Q. Again, the price this time for the Comp GP
11 tires is \$89.95. I think previously we've seen
12 prices of —

13 A. \$75.

14 Q. — \$78.50 and \$74.50. To your knowledge, did
15 Continental raise its prices to the extent demonstrated
16 in the writing that's on EDS026157?

17 A. No.

18 Q. The very next document —

19 A. They're all 19-millimeter tires. Is that the
20 one you're looking for?

21 Q. Okay. The next document has, I guess, a
22 partial base number. It must have got obscured by
23 something in the copying process. Just for
24 identification purposes, at the top it's written in
25 thick black marker, req, R-E-Q, number sign, 450601286

129

1 for Nick Chenowth. Tim, do we have the same document?

2 A. Yes, we do.

3 Q. Okay. This one has written into it, 48 Comp
4 GP Continental 19-millimeter tires; Germany; \$89.50
5 each. Does this document reflect a sale of tires by
6 Richardson Bike Mart that you think was ever made to EDS

7 or Team EDS?

8 A. No.

9 Q. On a number of these documents regarding tires

10 that we have seen so far, the tires have been

11 19-millimeter tires; is that correct?

12 A. Yes.

13 Q. Is that a size tire that is commonly used by

14 riders?

15 MR. HARPER: Objection: form.

16 A. No.

17 Q. Are you familiar with the types of tires that

18 were used by the members of Team EDS?

19 A. Yes.

20 Q. Did the members of Team EDS frequently use

21 19-millimeter tires?

22 A. No, no.

23 Q. Are you familiar with the types of tires that

24 are used by cyclists, in general?

25 A. Yes.

130

1 Q. Do cyclists, in general, use 19-millimeter

2 tires?

3 MR. HARPER: Objection: form.

4 A. No.

5 Q. What are 19-millimeter tires generally used

6 for and when?

7 A. Time trials and endurance events such as

8 pursuit time trials, road time trials, because this

9 actually is a road tire. It's not a track tire.

10 Q. How many time trials for endurance riders were

11 there on Team EDS that would have occasion to use

12 19-millimeter tires?

13 A. Two, maybe three. Four, at the most, if you
14 do a team pursuit.

15 Q. Did Team EDS ever do — strike that.

16 The number of tires that we've seen in
17 this 19-millimeter size, is it far more than, in your
18 opinion, would be required by the members of Team EDS?

19 A. Yes.

20 Q. All right. The very next document, EDS026142,
21 there's actually two forms that have handwritten entries
22 on them here. One is for 25 Continental Sonderklasse
23 racing tires. The other one is for 25 Continental Comp
24 GP competition training tires. Do these two documents
25 reflect sales of tires by Richardson Bike Mart to EDS or

131

1 Team EDS or Nick Chenoweth that you believe ever
2 occurred?

3 A. No.

4 Q. And, again, are we seeing a price fluctuation
5 that, in your opinion, has no basis of fact?

6 A. Yes.

7 Q. I want to also call your attention to the
8 inventory numbers and dates on that document. The date
9 is July 21st of '95 and July 22nd of '95. The inventory
10 numbers are 52950 and 52952. I think earlier on
11 document EDS026209 we saw a date of January 6th, '95 but
12 an inventory number that was five thousand three
13 hundred — I'm sorry — 53601, so an earlier dated
14 document by a year and a half but that has an inventory
15 number that is greater than the document dated July 21st
16 of '95. Does that make any sense to you?

17 A. No.

18 Q. Should that ever happen?

19 A. No, unless you got to go to the bottom of the

20 box.

21 Q. The very next document, EDS026135, is dated
22 August 28th of '95, so one month later than the
23 documents that we just finished talking about, the two
24 dated 7/21/95 and 7/22/95, and this time the inventory
25 number is only greater by one. Does that make any sense

132

1 to you?

2 A. No.

3 Q. Would you expect that the inventory number on
4 the later-dated document by a month would be
5 significantly greater than the earlier one?

6 A. I would hope so.

7 Q. This document 026135 has written on it, one
8 Corima track frame, replacement for damaged frame, 60
9 centimeters, center to center; pickup, Manchester,
10 England. Is that a sale that you believe Texas —
11 Richardson Bike Mart ever made to Nick Chenoweth or Team
12 EDS?

13 A. No.

14 Q. Did Bike Mart ever do any warranty work for
15 Corima equipment?

16 A. No.

17 Q. And has Bike Mart ever arranged for Nick
18 Chenoweth or Team EDS to pick up equipment in Manchester,
19 England?

20 A. No.

21 Q. The next document is 026131. The entries here
22 are, one Lotus time trial track frame with bottom
23 bracket and headset, 56 centimeters; delivered to
24 Manchester for pickup. Is that a sale of equipment that
25 you believe Richardson Bike Mart ever made to Nick

1 Chenoweth or Team EDS?

2 A. No.

3 Q. Has Bike Mart ever sold a Lotus time trial

4 track frame?

5 A. Never.

6 Q. The next document is EDS026098. This document

7 is dated November 2nd of '95. The preceding document

8 that we just talked about, the one with the Lotus time

9 trial bike, was dated August 28th of '95, so

10 approximately a month earlier. However, the inventory

11 number on the later-dated document is 11 smaller than

12 the earlier one. Does that make any sense to you?

13 A. No.

14 Q. And 026098 has written on it, three Shimano

15 track groupos, 170-millimeter cranks, stem and bottom

16 brackets; \$677 each. Has Bike Mart ever sold Shimano

17 track groupos?

18 A. Yes, they have sold them.

19 Q. When has Bike Mart sold Shimano track groupos?

20 A. Past year and a half —

21 Q. Okay. But not as —

22 A. Since the track has been built.

23 Q. Okay. Since the EDS Superdrome opened?

24 A. Yes.

25 Q. But not in November of '95, which is the date

1 on this document?

2 A. No.

3 Q. Today, are Shimano track groupos an item that

4 needs to be special ordered from Bike Mart?

5 A. Yes.

6 Q. Is this a special order form?

7 A. No.

8 Q. Moving on to 026100, 25 Continental 165

9 Sonderklasse tires, 22 millimeters; Germany. Do you
10 believe Richardson Bike Mart ever sold these tires at
11 this time to Nick Chenowth or Team EDS?

12 A. No.

13 Q. And, again, we're seeing a price fluctuation.

14 Based on the purchase price, I've calculated that these
15 were sold at \$89.95 each. Is that a price difference
16 from the previous document that we've seen that you know
17 can be explained by Continental changing its prices?

18 A. No.

19 Q. No?

20 A. I can't explain why they — because it didn't
21 happen.

22 Q. Moving on to the next document, 026102, this
23 one has written, 25 Continental Comp GP 22-millimeter
24 tires; Germany; \$91.50 each. Is that a sale of tires
25 that you believe ever was made by Bike Mart to Nick

135

1 Chenowth or EDS in this time frame?

2 A. No.

3 Q. And is that a price that you believe is
4 accurate?

5 A. No.

6 Q. Is it a price that's significantly different
7 than the prices we've seen earlier for Comp GP tires?

8 A. Yes.

9 Q. And in your view, can that be explained by
10 changes in pricing by Continental?

11 A. No.

12 Q. Moving on to EDS026068. Now, we've got 50

13 Continental Sonderklasse tires; Germany; \$91.50 each.
14 And there are, I guess, two documents with handwritten
15 entries here. The second one is for 40 Continental Comp
16 GP training and practice tires, 22 millimeters, 700c;
17 \$82.50 each. Are either of those sales that you believe
18 occurred at the time for that price to EDS or Nick
19 Chenoweth by Richardson Bike Mart?

20 A. No.

21 Q. You've been writing down some numbers in the
22 amount of tires that have been purchased over a time
23 period. Earlier you said that you had been told that
24 Continental sold 200 Sonderklasse tires in the U.S. each
25 year?

136

1 A. Less than that.

2 Q. Less than that?

3 A. The most they have ever done was 200 in a
4 year.

5 Q. Okay. Have, through these documents, we
6 already exceeded 200 Sonderklasse tires?

7 A. Close. Yes.

8 Q. We have exceeded 200?

9 A. Yeah.

10 Q. I think that will do. The next one is a
11 duplicate.

12 A. Do you want me to take mine out?

13 Q. No, leave them in there. I think that one is
14 a duplicate, also.

15 A. I haven't seen this one yet.

16 Q. I think we should be on EDS026050. There are
17 two documents copied here that have handwriting on them.

18 Again, more tires. 18 Comp GP, 22 millimeters. This

19 time, \$80 each. Racing and training tires; French
20 delivery. Is that a sale that you think ever occurred
21 by Bike Mart to Nick Chenoweth or Team EDS?

22 A. No.

23 Q. Continental is a German company; am I correct?

24 A. Correct.

25 Q. Vittoria would be the French — I'm sorry,

137

1 Italian company. Dugast would be the French tire
2 company. Did Bike Mart ever arrange for some reason to
3 have tires that were made in Germany to be delivered to
4 Team EDS in France?

5 A. No.

6 Q. And this price of \$80, is that a price that
7 you believe is an accurate price?

8 A. No.

9 Q. Moving over to the document next to that one,
10 written on there is, one Corima time trial frame, 59
11 centimeters. Looks like CIA. Do you know what that
12 might stand for? Center to axle? Do you have any idea
13 what CIA stands for?

14 A. I have no idea.

15 Q. Okay. Time trial bars, 165-centimeter
16 cranks. Did Richardson Bike Mart ever sell such a bike
17 to Team EDS or Nick Chenoweth?

18 A. No.

19 Q. Are you aware of any company that makes
20 165-centimeter cranks?

21 A. No.

22 Q. Does the price of \$3,250 represent to you a
23 good price for a Corima time trial frame?

24 A. Too low.

25 Q. And when it says Corima time trial frame and

1 then 165-centimeter cranks, can you conclude from that
2 whether or not they're talking about a track frame or a
3 road frame?

4 A. It's definitely a track frame.

5 Q. Why do you say that?

6 A. Because of the crank length. Typically, a
7 time trial road bike would use much longer cranks for
8 someone who rides a 59-centimeter bicycle.

9 Q. Okay. And then, again, the price of a Corima
10 time trial frame — track time trial frame would be
11 approximately how much?

12 A. It's custom. It's so unique. It's not — at
13 least — it would at least be \$5,000 to \$6,000.

14 Q. The next document is EDS026033. That's dated
15 April 8th of '96, and the number on it is 1334. I'd
16 like to contrast that with the document that is on
17 EDS026161, which is dated May 22nd of '95, so
18 approximately a year earlier but has a document number
19 of 1330. Does that make sense to you?

20 A. No.

21 Q. The document on 026033, the one dated April
22 8th of '96, is for — what is written in, one Corima
23 track fork, 62 centimeters. Is that something that you
24 believe Richardson Bike Mart ever sold to EDS or Nick
25 Chenoweth?

1 A. No.

2 Q. Are forks sold by sizes such as 62 centimeter?

3 A. No.

4 Q. Normally, they're sold by the millimeter
5 length of the steer tube; is that correct?

6 A. Correct.

7 Q. Does it appear to you that somebody who
8 doesn't know much about bikes made this document out?

9 A. Yes.

10 Q. Would anyone at Richardson Bike Mart ever put
11 that type of language in there when they were trying to
12 describe the size of a fork?

13 A. No.

14 Q. And we've also talked a lot about crank
15 lengths: 170-centimeter, 165-centimeter.

16 A. Uh-huh.

17 Q. Would anyone at Richardson Bike Mart ever put
18 down a crank length in centimeters?

19 A. No. Only if — only on accident one time,
20 not —

21 Q. Not over and over again as we've seen in these
22 documents?

23 A. Right.

24 Q. Nick Chenoweth was a pretty good bike racer,
25 wasn't he?

140

1 A. Uh-huh.

2 Q. But he didn't know a whole lot about the
3 equipment, did he?

4 MR. HARPER: Objection: form.

5 A. No.

6 Q. Did you ever see him work on his own
7 equipment?

8 A. Never.

9 Q. Moving on to EDS026027, I just want to confirm
10 that —

11 A. This one is the same.

12 Q. — the document there — it's got a number on
13 it, 1334 — is the same as the one that I just asked you
14 about?

15 A. Uh-huh.

16 Q. So if Richardson Bike Mart did ever make that
17 sale or someone made that sale to Nick Chenoweth or Team
18 EDS, they only made it once?

19 A. Right.

20 Q. Okay. But it's not a sale that you believe
21 Richardson Bike Mart ever made to Team EDS —

22 A. It never happened.

23 Q. — or Nick Chenoweth?

24 A. Right.

25 Q. Has Richardson Bike Mart ever sold Corima

141

1 forks?

2 A. No. They're too expensive.

3 Q. How much does a Corima fork cost?

4 A. Wholesale is \$400.

5 Q. And so does the price in the document 026027
6 appear to you to be a correct price for EDS?

7 A. No.

8 Q. Would it be below your cost, below Bike Mart's
9 cost?

10 A. Including freight, yes.

11 Q. And did Bike Mart ever sell to Team EDS
12 equipment at below Bike Mart's cost?

13 A. No.

14 Q. Moving on the EDS026024, this document is
15 dated May 13th of '96, and there's a second document
16 copied on this page dated May 10th of '96. Let me ask
17 you about the first one. It's got an inventory number
18 of 52955. I think earlier we saw an earlier-dated

19 document that was only one number lower than that.

20 A. Right.

21 Q. Does that make any sense to you?

22 A. No.

23 Q. You'd expect that Bike Mart, if these were
24 sales receipts, would have made a large number of
25 sales —

142

1 A. I would hope so.

2 Q. — between this time period — the time period
3 between these two documents? Let me ask you about the
4 date and number on the second document. It's dated May
5 10th of '96. I think a year earlier, a document dated
6 May 22nd of '95, had a number of 1330, indicating that
7 there had been five — these are receipts — only five
8 receipts issued in that one-year period of time. Does
9 that make any sense to you?

10 A. No.

11 Q. Now, the May 13th document, 52 Continental
12 Sonderklasse, 165, and \$80 each. A new record low
13 price.

14 A. Yeah.

15 Q. Does that price appear correct to you?

16 A. No. It's kind of like the stock market.

17 Q. Can that price fluctuation in any way be
18 explained by Continental's changing its prices?

19 A. No.

20 Q. Is that a sale that you ever took part in and
21 that you believe ever took place between Richardson Bike
22 Mart, Team EDS, and Nick Chenoweth?

23 A. No.

24 Q. The next document, 5/10/96, has also copied on

25 that same page, one Corima time trial frame,

143

1 59-centimeter, center to center; \$2,300. Now, earlier

2 we had one that was priced fairly low, but I think this

3 one is even lower.

4 A. \$3,200 was the other one.

5 Q. Okay. Does the price \$2,300 appear to you to

6 be correct for a Corima time trial frame?

7 A. No.

8 Q. And would a Corima time trial frame, if

9 Richardson Bike Mart wanted to sell one, be a special

10 order item?

11 A. Definitely.

12 Q. And this document that this writing is on

13 stating, one Corima time trial frame, is that a special

14 order document?

15 A. Yes, this form here. No. To answer your

16 question, no.

17 Q. That form is not a special order form?

18 A. That is not. I have in here a special order

19 document for bicycles only. It's a whole other form.

20 Q. So Richardson Bike Mart did have a special

21 form for ordering bicycles that we haven't seen in any

22 of these documents that make up Exhibit 3 —

23 A. Correct.

24 Q. — is that correct? And if —

25 A. That's a special order document done by me for

144

1 a tandem bicycle. That is what they look like.

2 Q. Okay. And this came out of Exhibit —

3 A. 2.

4 Q. — 2, and it's EDS002423. So any of the

5 Corima bikes that we have talked about so far where
6 there was writing in pages of Exhibit 3 making documents
7 appear to be receipts for purchases of the Corima bikes,
8 all of those would have been special ordered; is that
9 correct?

10 A. They would have been on this form.

11 Q. And they would be on that form?

12 A. Yes.

13 Q. But none of them have been on that form,
14 right?

15 A. Right.

16 Q. And is that the only special order form that
17 you've got in your entire file for — your EDS file?

18 A. No. I think there were some one-timers that
19 we did.

20 Q. Okay. But as far as bicycles, is that the
21 only special order for a bicycle?

22 A. Yes. To my knowledge, yes.

23 Q. Moving on to EDS025988, August 15th of 1996,
24 is a Campi groupo, 165 cranks for \$453. Is that a good
25 price for a Campi track groupo?

145

1 A. No.

2 Q. And this just says Campi groupo. It could be
3 a road groupo. Would it be a fair price for a Campi
4 road groupo?

5 A. No.

6 Q. Too small? Too high?

7 A. In both cases too low.

8 Q. Way too low?

9 A. Yes.

10 Q. I think I asked you about Shimano track
11 groupos. Has Bike Mart ever sold Campi track groupos?

12 A. Yes.

13 Q. When did Bike Mart start selling Campi track
14 groupos?

15 A. Forever ago, but I know who bought most of
16 them.

17 Q. Who bought most of them?

18 A. I bought two of them.

19 Q. You bought them?

20 A. Yeah.

21 Q. Do you believe that the sale that this
22 document is made to appear as having occurred ever
23 actually happened between Bike Mart and Nick Chenowth?

24 A. It did not.

25 Q. EDS025975, dated October 10th of '96, we've

146

1 got 60 Continental Sonderklasse, 165; German delivery
2 via Bike Mart; \$82. Is that a good price for
3 Continental Sonderklasse tires?

4 A. That's a bad price.

5 Q. So it's too little?

6 A. Yeah.

7 Q. The price should be significantly higher than
8 that, shouldn't it?

9 A. Yes, it would.

10 Q. And do you believe this sale ever took place
11 between Bike Mart and EDS or Nick Chenowth?

12 A. It did not.

13 Q. Has Bike Mart ever delivered Continental tires
14 to EDS in Germany?

15 A. No.

16 Q. And is this price, again, different from all
17 of the other prices we've seen listed for Sonderklasse

18 tires?

19 A. Yes.

20 Q. The very next document, EDS025970, is for four

21 track groupos, 165, 167, and then 170 — looks like

22 there might be two of the 170, and I'm not sure what

23 that means — cranks, headsets and bottom brackets. The

24 price for each is \$1,056.

25 A. That can't be groupos. 167s don't exist

147

1 because they've never been made.

2 Q. Okay.

3 A. It's just —

4 Q. Does Shimano make a 167?

5 A. The new stuff, yes. The old stuff, no.

6 Q. Okay. When did the new stuff come out?

7 A. The stuff that I'm aware of, a year and a half

8 ago.

9 Q. So it wouldn't have been out as of October

10 22nd of 1996?

11 A. To my knowledge, yes.

12 Q. It was out?

13 A. It was not.

14 Q. It was not?

15 A. No.

16 Q. Thank you. How about the price? Is that an

17 accurate price for a Shimano track groupo?

18 A. For EDS, yes. It's getting better.

19 Q. Is this a sale of track groupos that you ever

20 believe occurred between Bike Mart and EDS or Nick

21 Chenowth?

22 A. No.

23 Q. Okay. Let's go to EDS025954. Is that the

24 document you've got?

25 A. Uh-huh.

148

1 Q. This one has written on it, one SRM hardware
2 system track. The price is \$310, and this is December
3 15th of '96. Is that a good price for an SRM unit?

4 It's a very good price for an SRM unit, right?

5 A. I agree.

6 Q. Is it the correct price for an SRM unit?

7 A. No.

8 Q. Again, what do you believe the price should be
9 for an SRM system?

10 A. I honestly have no idea. I have never sold
11 one.

12 Q. It's in the thousands of dollars, isn't it?

13 A. Yes, it's definitely that.

14 Q. The next document is EDS025947. It's for —
15 written on it is, one 58-centimeter road Corima with
16 bottom bracket, headset; color to be determined. Is
17 this a sale of a Corima that Richardson Bike Mart ever
18 made to EDS or Nick Chenoweth?

19 A. No.

20 Q. Is the price of \$2,572, in your opinion, a
21 correct price for this equipment?

22 A. For a road bike, possibly.

23 Q. Let me have you flip one page back in
24 Exhibit 3 to EDS025954.

25 A. Uh-huh.

149

1 Q. All right. The document with the
2 58-centimeter road Corima is dated January 20th of '97;
3 is that correct?

4 A. Yes.

5 Q. And the immediately preceding document is
6 dated December 15th of '96; is that right?

7 A. That's correct.

8 Q. So 35 days separate the two?

9 A. Uh-huh.

10 Q. Yet the tracking number or the number
11 associated with the later-dated document is actually
12 smaller than the earlier-dated document. Is that,
13 again, out of order?

14 A. Provided these were receipts, yes.

15 Q. Right. If Bike Mart issues its receipts in
16 sequential order by date such that the numbers get
17 bigger as the dates move forward —

18 A. Correct.

19 Q. — you should never have a later-dated receipt
20 with a number on it that is smaller than an earlier
21 receipt, correct?

22 A. Correct.

23 Q. Now, going to EDS025945 — and, again, I think
24 we've got an out of order document here. This is a
25 receipt, which — do you agree it's been made to look

150

1 like by the handwriting on it?

2 A. Yes.

3 Q. This one is dated January 20th of '97. It's
4 EDS025945, but earlier, the document that had
5 handwritten on it four track groups, it was dated
6 October 22nd of '96; its number was 1355, whereas this
7 later-dated document is smaller than that. It's 1339.

8 A. Right.

9 Q. That shouldn't happen, correct?

10 A. Should not.

11 Q. The next document is EDS025943. Written on
12 this document is, five Corima road wheels, two pair —
13 oh, two rear, three front; \$550 per wheel rear and \$519
14 per wheel front with axles. Is that a sale of equipment
15 that Richardson Bike Mart ever made at that time to Team
16 EDS or Nick Chenowth?

17 A. No.

18 Q. The next document is EDS025939. Written on
19 this document is, two SRM heart rate monitors with
20 software, wireless function, and the price is \$422.50.
21 Is that a sale of equipment that you ever believe —
22 that you believe ever took place between Richardson Bike
23 Mart and either Team EDS or Nick Chenowth?

24 A. No.

25 Q. Is there — is there such a thing, distinct

151

1 from an SRM, called an SRM heart rate monitor?

2 A. No.

3 Q. Isn't a heart rate monitoring function
4 integral to the SRM device?

5 A. No. Is it? I don't know.

6 Q. Okay.

7 A. I don't know.

8 Q. If this was supposed to represent a price for
9 an SRM, \$422, would that be an accurate price?

10 A. For just the heart monitoring portion of it?

11 Q. If there is such a thing.

12 A. Right.

13 Q. I guess you don't know if there is?

14 A. Right.

15 Q. So you probably don't know about the price
16 either?

17 A. Right.

18 Q. I want to go back to that document. So is it
19 accurate that you've never heard of an SRM heart rate
20 monitor with software, wireless function?

21 A. Never heard of it.

22 Q. I think that was a duplicate of the last one
23 we talked about, so the next one is EDS025936. And more
24 tires. 50 Sonderklasse 165 Continental racing tires,
25 silk; German delivery. \$89.50. Have we seen that price

152

1 before?

2 A. \$89.50, no. Close. No.

3 Q. Is that an accurate price for the Conti
4 Sonderklasse tire?

5 A. No.

6 Q. And is this a sale of tires that you believe
7 ever took place between Bike Mart and EDS or Nick
8 Chenoweth?

9 A. Did not. Did not happen.

10 Q. Moving on to EDS025932, is handwritten on a
11 Bike Mart — this is one of the insurance inventory
12 documents?

13 A. '32, not '52.

14 Q. I'm sorry. 025932. I skipped one because
15 there was a duplicate, I think. Is this one of the
16 insurance inventory tags?

17 A. Yes. Yes, it is.

18 Q. Okay. And handwritten on this insurance
19 inventory tag is, one Lotus time trial frame track —
20 maybe special or specs — 58-centimeter —

21 A. Right.

22 Q. — with bottom bracket; \$2,419. Is that a —
23 has Bike Mart ever sold a Lotus time trial bike?

24 A. No.

25 Q. Is this a sale that you believe ever took

153

1 place between Richardson Bike Mart and either Nick

2 Chenoweth or Team EDS?

3 A. No.

4 Q. Is \$2,419 an accurate price for a Lotus time

5 trial frame?

6 A. No.

7 Q. It's far too low; is that correct?

8 A. Far too low.

9 Q. Tim, let me ask you about EDS025914.

10 A. Okay.

11 Q. Another Bike Mart insurance inventory

12 estimate, or insurance estimate form, on which is

13 written language to make it appear to be a receipt

14 reading, one SRM wattage measuring, Germany, with cranks

15 and pedals. The price is \$4,273. Is that a sale that

16 you believe Bike Mart ever made to either Team EDS or

17 Nick Chenoweth?

18 A. No.

19 Q. And is that price significantly different than

20 any other price that we've seen associated with an SRM?

21 A. Yes.

22 Q. Moving on to EDS025916, again, language

23 written on an insurance work estimate form of Bike

24 Mart's to make it appear to be a receipt for a purchase

25 of equipment. The language being 28 19-millimeter

154

1 Continental Olympic track tires; Germany; \$135 each. Is

2 that a sale that Bike Mart ever made to either Nick

3 Chenoweth or Team EDS?

4 A. No.

5 Q. Does Bike Mart carry Olympic track tires?

6 A. No. They go all to the U.S. National Team.

7 Q. So it's a very rare tire, is it not?

8 A. Yes.

9 Q. Very difficult to obtain?

10 A. Yes.

11 Q. Have you ever seen one?

12 A. Yes.

13 Q. When was that?

14 A. Erin Hartwell's bike.

15 Q. Erin Hartwell is a member of the U.S. National

16 Team and former Olympic medalist and rode for a while on

17 Team EDS; is that right?

18 A. Correct.

19 Q. And the bike that he was riding was one of the

20 special Olympic team bikes; is that right?

21 A. Correct.

22 Q. And was it on that bike that you saw the

23 Continental Olympic tires?

24 A. Yes.

25 Q. Have you ever talked to your friend at

155

1 Continental about how many Conti Olympics are sent over

2 to the U.S. for distribution?

3 A. No.

4 Q. Moving on to EDS025908, again, another Bike

5 Mart inventory work estimate form on which is written

6 some language making it appear to be a receipt for the

7 purchase of the following equipment. There's a

8 handwritten description, one Shimano track groupo, used,

9 170-centimeter crank with bottom bracket; \$704. Did

10 Richardson Bike Mart ever sell to EDS or Nick Chenowth a

11 used Shimano track groupo?

12 A. No.

13 Q. Has Bike Mart ever sold anyone a used Shimano
14 track groupo?

15 A. I would have to sell it one time to be able to
16 sell it again, so, no.

17 Q. And does the price, \$704, represent to you an
18 accurate price for a used Shimano track groupo?

19 A. No.

20 Q. Too much money?

21 A. Too much money.

22 Q. Okay. Moving on to EDS025874 and the
23 Richardson Bike Mart insurance repair estimate work
24 form, it has some equipment described in handwriting on
25 it. Two Corima 26-inch rear track wheels and 25 Olympic

156

1 sprinter track tires; Germany, 26-inch. Is that a sale
2 of equipment and tires that Bike Mart ever made to
3 either Nick Chenowth or Team EDS?

4 A. No.

5 Q. Is there even such a thing as an Olympic
6 sprinter track tire that's 26-inch?

7 A. No. Sprint wheels are not 26 inches.

8 Q. Sprint wheels are generally —

9 A. 700 millimeters, which is 27 inches.

10 Q. Sometimes referred to as 27 inches?

11 A. Right.

12 Q. Let's move on to EDS025851, and let me ask
13 you, is it correct that this Richardson Bike Mart
14 inventory — insurance work estimate — it's dated July
15 8th of '97. It has a smaller number on it, 940, than
16 one dated two years earlier —

17 A. Yeah.

18 Q. — that's reflected on EDS026161, dated
19 5/22/95, and it has a number on it of 1330. That's
20 probably the biggest discrepancy we've seen yet, right?

21 A. Yeah.

22 Q. And it makes absolutely no sense, does it?

23 A. No.

24 Q. Back to 025851. More tires. 32 Continental
25 Sonderklasse tires, 164 pista; Germany — or German

157

1 delivery; \$80 this time, which I think matches the
2 best-ever price we've seen so far. Is that an accurate
3 price for Continental Sonderklasse tires?

4 A. No, it's not.

5 Q. Is this a sale of tires that you think Bike
6 Mart ever made to either Nick Chenoweth or Team EDS?

7 A. No.

8 Q. EDS0285851 is dated July 8th of '97 —

9 A. Uh-huh.

10 Q. — and I think it's correct, is it not, that
11 it is dated nine months later than an earlier receipt
12 that's reflected on EDS025970 dated October 22nd of '96,
13 but, again, this later-dated receipt has a smaller
14 tracking number or number on it than the earlier-dated
15 receipt by a significant number; is that correct?

16 A. Yes.

17 Q. Again, something that makes no sense, right?

18 A. Correct.

19 Q. Written on this later-dated document — 025853
20 is the page — is, one specialized MT frame and Shimano
21 groupo, 54-centimeter, 165 cranks with bottom bracket,
22 and the price is \$3,130. Is that an accurate price for
23 that bicycle at that time period?

24 A. Not for what you'd pay for it.

25 Q. Is the price too high?

158

1 A. Too high.

2 Q. Okay. Now we get to EDS025840, which is the
3 Redi Form document.

4 A. '40 or '842?

5 Q. 025840.

6 MR. HARPER: '842 is the next document.

7 I've got '840. There's one right before that.

8 THE WITNESS: Huh-uh.

9 MR. HARPER: You don't have it?

10 A. I've got '50. We're looking for '40?

11 Q. Mine's got the Richardson Bike Mart receipt on
12 it and the Walden Books receipt on it, also. Then, we
13 can —

14 MR. HARPER: Do you need a copy made?

15 MR. CARLSON: Do we have another set of
16 these?

17 A. Let me see that.

18 Q. See if Geoff will give you his and make a
19 copy.

20 MR. HARPER: Sure.

21 A. Can we come back to it?

22 Q. He'll be done in a minute.

23 MR. CARLSON: Let's go off the record.

24 (Off the record 1:53-1:55.)

25 Q. Okay. Tim, let me ask you about EDS025840,

159

1 and I think this is a type of document that we had
2 earlier identified as being one of the Redi Form
3 preprinted forms that Bike Mart does not use that

4 appears to you to have been a Bike Mart sticker placed
5 on it in order to make it appear to be a Bike Mart
6 document; is that correct?

7 A. Correct.

8 Q. And then handwritten on the document is, one
9 Corima 54-centimeter track bike with groupo and bottom
10 bracket. Is that a sale of a bike that you believe Bike
11 Mart ever made to either Team EDS or Nick Chenowth?

12 A. No.

13 Q. And do you believe that document to be a
14 document that someone manufactured to look like a Bike
15 Mart document?

16 A. Yes.

17 Q. And does the price, \$2,782, represent an
18 accurate price for a Corima track bike?

19 A. No.

20 Q. Is it significantly too low?

21 A. Significantly too low.

22 Q. Okay.

23 A. Two different prices.

24 Q. Okay. I guess you've pointed out to me that
25 there's two different prices on 025840. There's \$2,782

160

1 at the top and then down at the bottom it's \$2973.10. I
2 think this was also one of the documents we found that
3 had cents on it. One of two, I think, that we found.

4 Okay. Thanks for pointing that out.

5 We've got a very similar document reflected on page
6 025820. Again, it's the Redi Form document that you
7 testified Bike Mart does not use, which appears to have
8 the sticker placed on it to make it look like a Bike
9 Mart document; is that right?

10 A. Correct.

11 Q. And this one has handwritten onto it, 30
12 Continental Sonderklasse tires, German delivery, 165,
13 and silk. The price is \$87.50, which I believe is,
14 again, a new and different price than what we've seen on
15 the other documents reflecting sales of Continental
16 Sonderklasse.

17 I think we've seen at least 12 other
18 documents evidencing sales of Continental Sonderklasse,
19 so we've got quite a large number of different prices.
20 Can those with be explained by Continental having
21 changed their prices frequently?

22 A. No, not at all.

23 Q. Moving on to EDS025750, there are two what
24 look like the special order forms that you've described
25 on this page. One reads, one tandem racing groupo,

161

1 Shimano, 170-centimeter — 170cc cranks. Does 170cc
2 represent something to you?

3 A. No.

4 Q. Is that a way of describing a crank plank?

5 A. No.

6 Q. I guess it'd be nice to have a tandem that had
7 a 170cc engine on it. It might help you win some races.
8 Is there such a thing as a tandem racing groupo made by
9 Shimano?

10 A. No.

11 Q. So I take it this is not a sale that you
12 believe Bike Mart ever made to Team EDS or Nick
13 Chenowth?

14 A. No.

15 Q. And the price is \$3,270. As I understand it,
16 Bike Mart creates Shimano parts for a tandem bicycle by

17 putting together —

18 A. A groupo and with two extra crank sets.

19 Q. Right. A groupo with two extra crank sets.

20 That being the case, is this an accurate price for a

21 tandem groupo made by Shimano?

22 A. No.

23 Q. Is it significantly too high?

24 A. Yes.

25 Q. The next document on the same page reads, four

162

1 Campi track wheels, 27c deep-dish; Germany; \$3,823. Is

2 27c a proper way of defining a size of wheel?

3 A. No.

4 Q. There's 700c; is that correct?

5 A. Correct.

6 Q. Which is the same as 27 —

7 A. Inches.

8 Q. — inches. Would someone at Bike Mart ever

9 write 27c to describe a 700c wheel?

10 A. No.

11 Q. Did Bike Mark ever sell four Campi track

12 wheels, 27c deep-dish —

13 A. No.

14 Q. — in Germany to EDS or Nick Chenowth as

15 reflected in this document?

16 A. No.

17 Q. And would \$3,823 be an accurate price for four

18 Campi track wheels?

19 A. No.

20 Q. Is what someone has tried to describe here

21 spoked track wheels?

22 A. They're not discs. I wouldn't have known. I

23 was thinking of discs.

24 Q. Okay. Looks like deep-dish, so the deep-dish
25 rims?

163

1 A. Like the Bora.

2 Q. Right. So it's spoked wheels?

3 A. Yeah.

4 Q. Okay. Well, four Campi spoked wheels. Is
5 \$3,823 an accurate price, in your view, for that type of
6 wheel?

7 A. Yeah. On Shimano, yeah. Is this one of the
8 same? Yes, this is one of the same, right?

9 Q. That is that, so I think we skipped, like, two
10 pages. I think the next document would be — covers
11 EDS025743. I think two of these were duplicates.
12 They're more complete copies of the earlier ones.

13 Tim, the Bike Mart special order form
14 132868, which has written on it, 95 Continental
15 Sonderklasse tires, 165-centimeter, it looks like really
16 there were only 36 sold based on the price in this
17 parenthetical here, so I'm not sure what the 95 M3
18 means. Do you have some idea?

19 A. Could be 3M adhesive?

20 Q. I have no idea.

21 A. Yeah.

22 Q. Do you have any idea?

23 A. None. I have no clue.

24 Q. Okay. I think we're talking about 36
25 Continental Sonderklasse tires; German delivery, and

164

1 here the price is \$95, which I think is our new high

2 price thus far; is that right?

3 A. Right.

4 Q. Are you aware that Campagnolo — I'm sorry.

5 Skip the question.

6 The new price here is \$95; is that right?

7 A. Yes.

8 Q. Have we seen that price before?

9 A. No.

10 Q. Are you aware whether or not Continental
11 changed their price to that extent?

12 A. No.

13 Q. And did Bike Mart ever arrange for Nick
14 Chenoweth or EDS to buy and pick up in Germany
15 Sonderklasse tires?

16 A. No. To answer the question accurately, from
17 the previous, remember, I wasn't 100 percent sure. This
18 is the white copy here and the special order is written
19 on the white copy.

20 Q. Okay. Thank you. All right. So here we have
21 on EDS025744 a Bike Mart insurance repair estimate
22 form —

23 A. Uh-huh.

24 Q. — on which somebody has put some handwritten
25 entries making it appear to be a receipt for the

165

1 purchase of equipment; is that right?

2 A. Yes.

3 Q. And, again, it's dated July 25th of '98, with
4 a number of 1144. Is it correct that that's way out of
5 sequence, that that number is significantly smaller than
6 earlier —

7 A. Yes.

8 Q. — similar documents? Is that yes?

9 A. Yes.

10 Q. Is it also true that this document is listing
11 an address which is incorrect for the time?
12 A. Correct.
13 Q. Now, the handwritten entry is, one Shimano
14 track groupo, 165-centimeter cranks, Euro headset, 27.5
15 seat post, 16.0 stem with pedals, and the price is
16 \$1,382. Has Bike Mart ever sold to EDS such a Shimano
17 track groupo?
18 A. No.
19 Q. Is there such a thing as a Shimano Euro
20 headset?
21 A. No.
22 Q. Are headsets defined as either Euro or —
23 A. No.
24 Q. — Asia or U.S.?
25 A. No.

166

1 Q. They're pretty much all the same, aren't they?
2 A. Pretty much.
3 Q. And this size here for a seat post, 27.5, is
4 there such a size?
5 A. Never existed. Never.
6 Q. Isn't the standard size 27.2?
7 A. Yes, on a typical bike.
8 Q. Has anyone at Bike Mart ever put down 27.5?
9 A. No.
10 Q. And then this stem, 16 — 16.0. It's an
11 extraordinarily long stem, is it not?
12 A. Yes, it is.
13 Q. Have you ever sold a 16-centimeter stem?
14 A. Yes.
15 Q. How many of these have you sold?

16 A. Let's see, in the 23 years, one, for a time
17 trial bike.

18 Q. And then 165-centimeter cranks, is that
19 something that's even made?

20 A. No.

21 Q. Okay. Let me ask you about EDS025745 and the
22 handwritten document. We've talked about this one
23 earlier. It's got the Richardson Bike Mart stamp on it
24 that you ordered a number of. It's for six Bike Pro
25 bike bags, transport model, extra large, and the price

167

1 is \$450 each for a total of \$2,700. Did Bike Mart, in
2 July of '98, sell to Team EDS six Bike Pro bike bags?

3 A. No. At that time, y'all weren't even using
4 Bike Pro products. You were using Tri All 3.

5 Q. How about the price? Is the price for each
6 Bike Pro bag an accurate price?

7 A. For the double bag, it's about 50 bucks less.
8 Give or take, yeah, \$50, that's accurate.

9 Q. Now, there's a second document on this page
10 025745 — I guess you made a special note to yourself
11 about that document. Why did you do?

12 A. That's female clothing.

13 Q. Is that the type of cash register receipt that
14 is generated in connection with a purchase at Bike Mart?

15 A. No. That's just a credit card statement
16 receipt which is printed.

17 Q. So if someone pays for equipment or clothing
18 with a credit card at Bike Mart, this is the type of
19 receipt they're getting?

20 A. Yes.

21 Q. As opposed to all the other documents that
22 we've talked about today that had some writing put on

23 them to make them appear to be receipts; is that right?

24 A. There's an itemized receipt that comes along

25 with that with all the stuff.

168

1 Q. That would actually set forth what was

2 purchased?

3 A. What was purchased.

4 Q. And we haven't seen any of those in any of

5 these documents, have we?

6 A. No.

7 Q. Do you recall this sale of —

8 A. Yes.

9 Q. — women's clothing?

10 A. Yes. That's the day that I told Nick that I

11 may be leaving the company.

12 Q. What did he buy on that date?

13 A. Clothing.

14 Q. And was it women's cycling clothing?

15 A. Yes.

16 Q. Was it for some woman on Team EDS?

17 A. No.

18 Q. Do you know who it was for?

19 A. Somebody he was dating, I guess. I don't — I

20 didn't get into what her name was. I met her once.

21 Q. Do you recall if it was Christi Simmons?

22 A. Yeah, I think so.

23 Q. In handling the EDS account at Richardson Bike

24 Mart, did you ever become familiar with the account

25 number for EDS' American Express corporate card?

169

1 A. No. I was given it, and I told them, I don't

2 want it; each purchase needs to be made individually. I

3 didn't want that responsibility.

4 Q. Let's move on to EDS025693. There are two
5 special order forms reflected on this page. Both are
6 dated January of '99. One's January 19th of '99, and
7 one is January 16th of '99. Let me ask you about the
8 one on the top of the page. First of all, it reflects
9 an incorrect address for the time; is that correct?

10 A. No. Coit and Campbell.

11 Q. Okay. I'm sorry. I apologize. The
12 handwriting on this document concerns two SRM Computrack
13 cycle computers, used, and then an abbreviation for
14 Germany. Is this a sale of SRMs that you believe Bike
15 Mart ever made to EDS or Nick Chenoweth?

16 A. No.

17 Q. Does the price appear to you to be correct for
18 two SRMs?

19 A. No, not for two.

20 Q. Is it too low?

21 A. Too low, but they're used, so...

22 Q. Has Bike Mart ever sold used SRMs?

23 A. No.

24 Q. Bike Mart's never sold SRMs at all, used or
25 otherwise?

170

1 A. Right.

2 Q. Do you know what an SRM Computrack cycle
3 computer is?

4 A. Huh-uh.

5 Q. Isn't Computrack the name of a different type
6 of —

7 A. Computrainer.

8 Q. — different type of training device from an

9 SRM?

10 A. Yes.

11 Q. So is there such a thing as an SRM Computrack
12 cycle computer?

13 A. No.

14 Q. Would anyone at Bike Mart write such a
15 description —

16 A. No.

17 Q. — on a Richardson Bike Mart document?

18 A. No.

19 MR. HARPER: Objection: form.

20 Q. Moving down to the document dated 1/16/99, the
21 writing on that document states, one repaired damaged
22 top tube and bottom bracket with seat post, 27c, all
23 carbon fiber kevler. Do you have any idea what that
24 means?

25 A. I have no clue. It would — it means nothing.

171

1 Q. Has Richardson Bike Mart ever done any carbon
2 fiber kevler repair work?

3 A. Yes.

4 Q. When did Bike Mart do that?

5 A. Several different times, but never on anything
6 that EDS would ever ride. Mostly on road bikes, and the
7 repair was \$150 on each one of those bikes, not \$1,400.

8 Q. Okay. Thank you. Let's move forward to
9 EDS025694. This is another Bike Mart special order
10 form. This one, dated January 29th of 1999, reflects
11 the sale of 30 Continental 165 Sonderklasse, silk racing
12 tires/track, and there's a parenthetical, which I can't
13 read.

14 A. I want to say blemished. It's blim.

15 Q. Okay. And then the price is \$97.50 each,

16 which I think is our all-time high price. No, it's the
17 same price as the last one we saw. Oh, no, it is a new
18 all-time high price.

19 A. Does that say Berlin? Did y'all race in
20 Berlin?

21 Q. To your knowledge, did we ever race in Berlin?

22 A. No. I have no clue.

23 Q. Okay. Is this a sale of Continental tires
24 that you believe ever took place between Bike Mart and
25 either Nick Chenoweth or Team EDS?

172

1 A. No.

2 Q. How about this price, \$97.50? Is that an
3 accurate price for Continental Sonderklasse tires?

4 A. It's getting better, but, no.

5 Q. It is, again, different this time, a little
6 bit more significantly, than the earlier prices that
7 we've seen; is that right?

8 A. Correct.

9 Q. Are you aware that Continental changed their
10 price in this time period that would explain this new
11 and all-time higher price?

12 A. Not on that product.

13 Q. Having gone through all these documents —
14 let me ask you specifically about tires. Do you know of
15 any team that has ever purchased or would need that
16 number of tires in the time frame that we've talked
17 about?

18 A. No.

19 Q. To your knowledge, did Continental even
20 distribute in the U.S. the number of Continental
21 Sonderklasse —

22 A. No.

23 Q. — reflected in the documents that we've

24 talked about?

25 A. No.

173

1 Q. In your opinion, is there any way Team EDS

2 could have even used the number of tires that have been

3 reflected in the documents that we've talked about?

4 A. No.

5 MR. HARPER: Objection: form.

6 Q. Were you familiar with the number of Corima

7 bikes and the types of those bikes as used by Team EDS?

8 A. Yes.

9 Q. Are the Corima bikes that are reflected in the

10 documents that we've just talked about in Exhibit 3

11 consistent with the bikes that Team EDS —

12 A. No.

13 Q. — had used?

14 A. No.

15 Q. How many Corima road bikes did Richardson Bike

16 Mart sell to EDS?

17 A. None.

18 Q. How many Corima track bikes did Richardson

19 Bike Mart sell to Team EDS?

20 A. None.

21 Q. How many SRMs did Richardson Bike Mart sell to

22 Team EDS?

23 A. None.

24 Q. How many Lotus frames did Richardson Bike Mart

25 sell to Team EDS?

174

1 A. None.

2 Q. How many FES frame sets did Richardson Bike
3 Mart sell to Team EDS?

4 A. None.

5 Q. And how many track groupos did Richardson Bike
6 Mart sell to Team EDS?

7 A. None.

8 Q. And did Richardson Bike Mart sell any of the
9 equipment that I just listed in my last six questions to
10 Nick Chenowth?

11 A. No.

12 Q. Did Richardson Bike Mart sell to or provide
13 any of the equipment listed in any of the documents that
14 make up Exhibit 3?

15 A. None, except for the one —

16 Q. And that's the one computer-generated receipt
17 that's reflected on —

18 A. 025745.

19 Q. — on page EDS025745? Thanks. Are any of the
20 form numbers that appear on the documents that make up
21 Exhibit 4 contained within Exhibit 3?

22 A. This is solely from memory. No. They're
23 close, but not the ones that I can recall.

24 Q. To your knowledge, did Nick Chenowth ever pay
25 any of the amounts reflected in any of the documents

175

1 that make up Exhibit 3?

2 A. No — yes. Excuse me. Let me qualify that.
3 This one document here with the cash — or the computer
4 receipt, he did pay for that, that I know of.

5 Q. With a credit card?

6 A. With a credit card.

7 Q. And do you remember if it was an American
8 Express credit card?

9 A. Yes, it was.

10 Q. And do you know whether or not it was the EDS
11 American Express corporate card or his personal card?

12 A. I don't know. That, I don't remember, but the
13 credit card number is right there so you can always
14 check.

15 MR. CARLSON: Let's go off the record
16 and take a little break.

17 (Off the record 2:35-2:36.)

18 (Exhibit No. 5 marked.)

19 Q. Tim, I just handed you what has been marked as
20 Exhibit 5 and ask you to take a look at the Bike
21 Mart-related documents and the pages that make up
22 Exhibit 5 and tell me if you can identify what those
23 Bike Mart documents are.

24 A. They're just credit card vouchers.

25 Q. For purchases that took place at Richardson

176

1 Bike Mart —

2 A. Uh-huh.

3 Q. — using a credit card?

4 A. Yes.

5 Q. Can you tell what kind of credit card?

6 A. American Express, it says right there.

7 Q. And can you tell what account number American
8 Express was used?

9 A. Looks so far two different ones. There's two
10 different ones. On both occasions — or on multiple
11 occasions it's the same credit card number; or there's
12 two different credit card numbers, but they're the same
13 two throughout.

14 Q. Is there one that starts 3783?

15 A. Uh-huh.

16 Q. And then there's one that starts 3713; is that
17 right?

18 A. Correct.

19 Q. Now, I asked you earlier about the EDS
20 corporate card. Do you know which one of those, if
21 either, is the EDS corporate card?

22 A. I don't know. I don't know which one is
23 which.

24 Q. Let me show you — let me show you that, and
25 then take a look at that.

177

1 A. The other one he used was silver. It was a
2 platinum card.

3 Q. Okay. So the one that he was using was green,
4 and I've got a card here that's an American Express
5 corporate card?

6 A. Right.

7 Q. What color is it?

8 A. It's green.

9 Q. Tell us what the first four digits are.

10 A. 3783.

11 Q. And this is a corporate card, right?

12 A. Uh-huh.

13 Q. Is 3783 the number that starts off some of the
14 numbers listed on the receipts in Exhibit 5?

15 A. Yes. Now you've got me looking.

16 MR. HARPER: I pulled mine out, too.

17 Q. Have you, as we have been reviewing these
18 documents, taken notice of the signature for Nick
19 Chenoweth?

20 A. Yeah.

21 Q. What?

22 A. Yes, I have.

23 Q. And what about some of the documents in

24 Exhibit —

25 A. 3.

178

1 Q. — 3? Did you notice some of the signatures

2 in those documents?

3 A. Uh-huh.

4 Q. Are there signatures in Exhibit 5 on the

5 American Express charges that appear to you to be

6 consistent with the signatures that you've seen in these

7 other documents —

8 A. Yes.

9 Q. — for Nick Chenoweth? Are — is there a

10 signature in Exhibit 5 that does not appear to be

11 consistent with —

12 A. Yes.

13 Q. — the ones that you've seen for Nick

14 Chenoweth?

15 A. The first page here.

16 Q. Any other pages?

17 A. This page here.

18 Q. Okay. So you've seen it twice; is that right?

19 A. Three times. This page here.

20 Q. Can you tell from any of these documents if a

21 store employee made a purchase?

22 A. No. There's signatures — no, because it

23 wouldn't — it couldn't have been an employee because

24 the policy that was set up for phone call-type orders —

25 it basically says phone order across the top, and if you

179

1 look through all of the Richardson Bike Mart receipts

2 for all orders for anybody that called in merchandise,
3 you'll see phone order for phone sales and whoever the
4 individual is, if that makes sense.

5 (Exhibit No. 6 marked.)

6 Q. Let me show you now what's been marked as
7 Exhibit 6, and if you'll turn to page — it's three from
8 the back. There's a page entitled verification.

9 A. Yes.

10 Q. It's got a signature on it by Christi L.
11 Simmons?

12 A. Uh-huh.

13 Q. Does the handwriting that is in Christi L.
14 Simmons' signature in Exhibit 6 look similar to you to
15 the handwriting that is in the three signatures in
16 Exhibit 5 that, to you, do not appear to be consistent
17 with that of Nick Chenoweth?

18 MR. HARPER: Exhibit 6 — I can't believe
19 I said that. Objection: form. I'm sorry. My mind is
20 in a different place.

21 A. Yes.

22 Q. Okay. The Bike Mart documents that are
23 reflected in Exhibit 5, are they the types of receipts
24 that a person gets when they make a credit card
25 purchase —

180

1 A. Yes.

2 Q. — at Bike Mart?

3 A. Yes.

4 Q. And it's just one form of the receipt; is that
5 correct? There's a second receipt —

6 A. Yes.

7 Q. — that you would also get?

8 A. An itemized receipt.

9 Q. And are there some examples of that in Exhibit

10 5?

11 A. Yes, there was. The sidewinder gloves here.

12 Q. Okay. And what is the stamped number on that

13 page that you're looking at?

14 A. EDSDT010934.

15 Q. Okay. And is it the document in the middle at

16 the bottom of the page?

17 A. Yes.

18 Q. And the total is \$131.63?

19 A. Correct.

20 Q. And does that correspond with the document

21 that's at the top of the page, also for \$131.63, which

22 is the credit card receipt?

23 A. Yep.

24 Q. Okay. So the one at the top of the page is a

25 credit card receipt and the one at the bottom in the

181

1 middle of the page is —

2 A. The itemized receipt.

3 Q. — is the itemized receipt of what was

4 actually purchased?

5 A. Right. And then the next page on EDSDT010935,

6 the Cliff bars for \$9.66, he paid cash.

7 Q. Is there an —

8 A. Yeah, that's one more.

9 Q. — additional example?

10 A. Yeah.

11 Q. What's the number on it?

12 A. EDSDT010942. Two examples, but these are

13 all — 010942 and 010940.

14 Q. And what about 010941?

15 A. What page is that on?

16 Q. Looks like the third from the back of the
17 Exhibit 5. It looks like a credit card receipt for
18 \$174.63, and then right next to it is the corresponding
19 itemized receipt for \$174.63?

20 A. Right. I thought we were just talking about
21 itemized receipts.

22 Q. Okay.

23 A. And there was one more on the very last page,
24 008074, for some food for \$9.

25 Q. And does that look like a sale that you

182

1 handled?

2 A. Yeah.

3 Q. It's got, have a nice day; Tim G., on the
4 bottom of it. Does that stand for Tim Goodwin?

5 A. Yeah.

6 Q. Do you recall anyone using Nick's American
7 Express card to make a purchase at Richardson Bike Mart
8 other than Nick?

9 A. No.

10 Q. And are these the — some of the purchases
11 that you remember Nick making with his credit card? Is
12 that a yes?

13 A. Yes. I'm sorry.

14 THE WITNESS: You don't take down nods,
15 do you?

16 (Exhibit No. 7 marked.)

17 Q. Tim, let me ask you now about what's been
18 marked as Exhibit 7. Can you identify what these are?

19 A. These are invoices that I generated some time
20 back.

21 Q. Do you recall if each of these invoices is
22 included within what we've already identified as Exhibit
23 2?

24 A. I did not see them, because I worked on trying
25 to get these paid on for two months, and then when my

183

1 time was up, I was told by D'Rinda that — she promised
2 that she would get these taken care of. I don't know if
3 they were taken care of or not.

4 Q. All right. Let me ask you some questions
5 about these. Were these made in the normal course of
6 Richardson Bike Mart's business?

7 A. Yes.

8 Q. Were you the custodian of these records?

9 A. Yes.

10 Q. Were they made at or near the time of the
11 events recorded within them?

12 A. With the dates on them, yes.

13 Q. And were they made by persons with knowledge
14 of the acts or events, I guess in this case sales,
15 reflected in them?

16 A. Yes.

17 Q. And do they appear to you to be true and
18 accurate copies of the documents, originals of which
19 would be at Richardson Bike Mart?

20 A. Yes.

21 Q. Let me ask you about Exhibit — let me ask you
22 the same series of questions about Exhibit 5, Tim. Were
23 these documents generated in the normal course of
24 Richardson Bike Mart's business?

25 MR. HARPER: Objection: form.

184

1 A. These here?

2 Q. Yes.

3 A. Yes.

4 Q. These came out of the cash register at

5 Richardson Bike Mart?

6 A. They — these did not come out of the cash

7 register. There is a cash register receipt that was

8 given to whoever gave the credit card, the itemized

9 receipt. That were generated during a daily

10 transaction, so somewhere there is an itemized receipt.

11 If needed, I'm sure it could be dug up for each one of

12 these receipts represented there. I know for a fact

13 that these — because —

14 Q. You're referring now to Exhibit —

15 A. 7.

16 Q. — 7, the invoices?

17 A. These were never paid by any credit card, and

18 the reason for that is Jim and I got into a really

19 heated discussion about this, because he wanted them

20 paid off because they were four to six months old.

21 I faxed over four different times the

22 invoices for these, not to air out dirty laundry. I'm

23 just — I know that none of these were associated with

24 any of these credit cards because none of these credit

25 cards — no invoices that I generated, whether it be

185

1 Exhibit 2 or Exhibit 7, were ever paid by a credit card.

2 They were all done by checks.

3 Q. Okay. Likewise, none of the invoices you

4 generated were ever paid by cash?

5 A. No, I don't think — no. Never.

6 Q. I'm still unclear as to how these documents

7 that are in Exhibit 5 were created.

8 A. Just daily transactions.

9 Q. Okay. So they were created somewhere at
10 Richardson Bike Mart?

11 A. If you'll notice, all of these accounts here
12 are EDS, EDS, EDS, EDS, then these accounts are Nick
13 Chenoweth. That was his — he had his own account, but
14 he never charged — couldn't charge to it. He had to
15 pay off as he bought on his personal account so he could
16 make personal purchases. Just like you would come in
17 and buy, say, a pair of socks. You would come in, you
18 would buy them, and we would put them under your name.
19 Does that make sense?

20 Q. Yes. At the time that these purchases were
21 made, was a document generated at Richardson Bike Mart
22 for someone to sign?

23 A. That's the only document generated for people
24 to sign, is the credit card statement, not the actual
25 computer transaction.

186

1 Q. Okay. So this document is generated at
2 Richardson Bike Mart?

3 A. Yes.

4 Q. It comes out of the credit card machine?

5 A. Terminal, yes.

6 Q. Does Bike Mart keep a copy of the —

7 A. Yes.

8 Q. — the document?

9 A. Yes.

10 Q. Okay. So then are these generated in the
11 normal course of Bike Mart's business?

12 A. Yes, they are.

13 Q. Were you the manager over the employees at

14 Bike Mart who were the custodian of these documents?

15 A. Yes.

16 Q. Were these documents made at or near the time

17 of the events recorded within them?

18 A. Yes, the exact times.

19 Q. And were they made by persons with personal

20 knowledge of the events recorded within them?

21 A. Yes.

22 Q. And are these true and accurate copies of —

23 to the extent that there are Richardson Bike Mart

24 documents in here, because there are some others from

25 other companies, but are these the true and accurate

187

1 copies of Richardson Bike Mart documents that exist

2 today at Richardson Bike Mart?

3 A. Correct.

4 Q. As the general manager of Richardson Bike

5 Mart, would you consider yourself a custodian of these

6 records?

7 MR. HARPER: Objection: form.

8 A. Yes. At the dates and times there, yes, I

9 was.

10 Q. Okay. As the general manager of Richardson

11 Bike Mart, were you the custodian of these records?

12 A. Yes.

13 MR. HARPER: Objection: form.

14 Q. Tim, we've looked at a lot of documents today

15 that you had never seen before and didn't have an

16 explanation for; is that correct?

17 A. Yes.

18 Q. Do you have any kind of idea of what happened

19 here?

20 MR. HARPER: Objection: form.

21 A. I mean, I have my own opinions, but...

22 Q. Okay. What's your opinion?

23 MR. HARPER: Objection: form.

24 A. That these documents here, Exhibit 3, every
25 page but one, which is EDS025745, is not written up by

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1 any Richardson Bike Mart employee. Those documents
2 don't exist within our files as records. Those aren't
3 records in our company.

4 Q. Do the documents that make up Exhibit 3 appear
5 to you to be false invoices?

6 A. Yes.

7 Q. And fraudulent documents?

8 A. Yes.

9 Q. Did you ever talk to D'Rinda Taylor about any
10 purchases that Nick Chenoweth had made at Richardson Bike
11 Mart?

12 A. No.

13 MR. HARPER: I'm sorry. What was your
14 answer?

15 THE WITNESS: No.

16 Q. Did you ever talk to Skip Cutting about any
17 purchases that Nick Chenoweth had made at Richardson Bike
18 Mart?

19 A. No, no. I mean, to me — to answer the
20 question truthfully, yes, but to qualify it by saying
21 in — in casual conversation, I would say, yeah, Nick
22 dropped in, picked up some gloves, or, he picked up
23 something, you know. Nothing significant.

24 Q. Did D'Rinda Taylor ever call you or anyone
25 else at Richardson Bike Mart, to your knowledge, and ask

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1 whether Nick Chenoweth had, in fact, made some particular

2 purchase at Richardson Bike Mart?

3 A. No.

4 MR. CARLSON: That's all the questions I

5 have at this time.

6 MR. HARPER: Reserve all questions until

7 the time of trial.

8 MR. CARLSON: I think there needs to be

9 an agreement on the record that counsel agree that Tim

10 Goodwin can have more than the 20 days and can, in fact,

11 have, you know, the time reasonably necessary for him to

12 read and sign the deposition and return it to the court

13 reporter.

14 If at some point you feel like you need

15 him to get it done sooner, Geoff, you'll give me a call

16 and we'll address that with the court reporter.

17 MR. HARPER: Agreed.

18 (Deposition concluded at 3:03 p.m.)

19

20

21

22

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24

25

1 CHANGES AND SIGNATURE

2 WITNESS NAME: TIMOTHY MICHAEL GOODWIN

3 PAGE LINE CHANGE REASON

4 _____

5 _____

6 _____

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12 _____
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22 _____
23 _____
24 _____
25 _____

1 I, TIMOTHY MICHAEL GOODWIN, have read the
2 foregoing deposition and hereby affix my signature that
3 same is true and correct, except as noted above.

4
5

6 TIMOTHY MICHAEL GOODWIN

7

8 THE STATE OF _____)

9 COUNTY OF _____)

10

11 Before me, _____, on this
12 day personally appeared TIMOTHY MICHAEL GOODWIN, known
13 to me (or proved to me under oath or through

14 _____) (description of identity card or other
15 document) to be the person whose name is subscribed to
16 the foregoing instrument and acknowledged to me that
17 they executed the same for the purposes and
18 consideration therein expressed.

19 Given under my hand and seal of office this
20 _____ day of _____, 1999.

21

22

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

23

24 My commission expires: _____

25

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1

NO. 380-810-99

2 ELECTRONIC DATA SYSTEMS) IN THE DISTRICT COURT
CORPORATION,)

3)

Plaintiff,)

4)

VS.) COLLIN COUNTY, TEXAS

5)

NICHOLAS E. CHENOWETH,)

6)

Defendant.) 380TH JUDICIAL DISTRICT

7

8

REPORTER'S CERTIFICATION

9

ORAL DEPOSITION OF

10

TIMOTHY MICHAEL GOODWIN

11

AUGUST 9, 1999

11 I, Stacy Jordan, Certified Shorthand Reporter

12 in and for the State of Texas, hereby certify to the

13 following:

14 That the witness, TIMOTHY MICHAEL GOODWIN, was

15 duly sworn by the officer and that the transcript of the

16 oral deposition is a true record of the testimony given

17 by the witness;

18 That the deposition transcript was submitted

19 on August 23, 1999 to the witness or to the attorney for

20 the witness for examination, signature and return to me
21 by September 12, 1999;

22 That the amount of time used by each party at
23 the deposition is as follows:

24 Mr. Chris D. Carlson - 5 hours, 25 minutes

25 Mr. Geoffrey S. Harper - -0-

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1 That pursuant to information given to the
2 deposition officer at the time said testimony was taken,
3 the following includes counsel for all parties of
4 record:

5 Mr. Chris D. Carlson, attorney for plaintiff

6 Mr. Geoffrey S. Harper, attorney for defendant

7 I further certify that I am neither counsel
8 for, related to, nor employed by any of the parties or
9 attorneys in the action in which this proceeding was
10 taken, and further that I am not financially or
11 otherwise interested in the outcome of the action.

12 Further certification requirements pursuant to
13 Rule 203 of TRCP will be certified to after they have
14 occurred.

15 Certified to by me this ____ day of
16 _____, 1999.

17

18

19 _____
20 Stacy Jordan, Certified
21 Shorthand Reporter No. 7499
22 in and for the State of Texas
23 Dickman Davenport, Inc.
24 3000 Carlisle, Suite 113
25 Dallas, Texas 75204
(214) 855-5100 (800) 445-9548
e-mail: info@dickmandavenport.com
www.dickmandavenport.com
My commission expires 12-31-00

24

25

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1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition was/was not returned

3 to the deposition officer on _____;

4 If returned, the attached Changes and

5 Signature page contains any changes and the reasons

6 therefor;

7 If returned, the original deposition was

8 delivered to Mr. Chris D. Carlson, Custodial Attorney;

9 That \$_____ is the deposition officer's

10 charges to the plaintiff for preparing the original

11 deposition transcript and any copies of Exhibits;

12 That the deposition was delivered in

13 accordance with Rule 203.3, and that a copy of this

14 certificate was served on all parties shown herein on

15 _____ and filed with the Clerk.

16 Certified to by me this _____ day of

17 _____, 1999.

18

19 _____
20 Stacy Jordan, Certified
21 Shorthand Reporter No. 7499
22 in and for the State of Texas
23 Dickman Davenport, Inc.
24 3000 Carlisle, Suite 113
25 Dallas, Texas 75204
(214) 855-5100 (800) 445-9548
e-mail: info@dickmandavenport.com
www.dickmandavenport.com
My commission expires 12-31-00