

1 IN THE UNITED STATES BANKRUPTCY COURT
2 NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 IN RE:)
) CASE NO. 99-36653-RCM-7
5 NICHOLAS E. CHENOWTH,) (CHAPTER 7)
)
6 Debtor.)
)

7 _____
ELECTRONIC DATA SYSTEMS)
8 CORPORATION,)
)
9 Plaintiff,)
) ADV. NO. 99-3560
10 VS.)
)

11 NICHOLAS E. CHENOWTH,)
)
12 Defendant.)

13

14 ORAL DEPOSITION OF
SKIP CUTTING
15 APRIL 7, 2000
16 VOLUME 2

17 ORAL DEPOSITION of SKIP CUTTING, produced
18 as a witness at the instance of the plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on the 7th of April, 2000, from 9:09 a.m. to 12:11 p.m.,
21 before Stacy L. Jordan, CSR in and for the State of
22 Texas, reported by machine shorthand, at the offices of
23 EDS, 5400 Legacy Drive, in the City of Plano, County of
24 Collin, State of Texas, pursuant to the Federal Rules of
25 Civil Procedure.

1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:
Mr. Chris D. Carlson
3 ELECTRONIC DATA SYSTEMS CORPORATION
5400 Legacy Drive, Suite H3-3D-05
4 Plano, Texas 75024-3105

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1 PROCEEDINGS

2 MR. CARLSON: We're back on the record
3 Friday, April 7th, 2000, continuing with Skip Cutting's
4 deposition, which we concluded yesterday evening, I
5 think around 6:45.

6 Yesterday evening, after the deposition
7 was completed, although it was probably around 10:30, I
8 called Joe K. Gordon to make his office aware, by a
9 voice mail message, that we had completed the deposition
10 yesterday — or ceased the deposition yesterday at 6:45,
11 roughly, and we were going to continue this morning at 9
12 o'clock, and invited him to attend this morning at 9 and
13 also offered to delay the deposition a bit if he wasn't
14 able to get here at 9 a.m.

15 I told him we would proceed if I did not
16 have a voice mail message from him this morning asking
17 for us to delay so he could attend. I have received no
18 voice mail message from him, so we're going to go ahead

19 and proceed.

20 EXAMINATION

21 BY MR. CARLSON:

22 Q. Skip, I think when we ended yesterday, we were
23 finishing up with Exhibit 22. Let me hand you the last
24 page of Exhibit 22. It's Bates-stamped number 031433,
25 and let me ask you to identify for me the — the expense

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1 or what this invoice funded, if it's something other
2 than what's described in the invoice.

3 A. Okay. This is an invoice to D'Rinda Taylor
4 for secretarial help, computer-program services, which
5 she did help me with, filing. Basically, what — what I
6 was called and asked to do was to pay Linda — I mean,
7 pay D'Rinda — help pay D'Rinda for extra work that she
8 had been doing for the team.

9 I mean, I'm sure it was bonus-type stuff,
10 but extra work that she had been doing for the team,
11 coming to the track, you know, and blah-blah-blah-blah,
12 and the little bit of work that she had helped me do
13 over the — the years, or the past couple of years, and
14 that's what that is.

15 Q. Okay. And I think you said that it was an
16 invoice to D'Rinda. It's not actually an invoice to
17 D'Rinda; it's an invoice to EDS.

18 A. To EDS for D'Rinda.

19 Q. Okay. And you said you got called and asked
20 to do and then you described what it was. Who called
21 you?

22 A. Nick first and then D'Rinda, because when Nick
23 called me, I thought he was talking about a bonus like
24 with the others, and so I sent in one that said bonus,
25 and D'Rinda called and she said, no, this is for extra

1 secretarial help, you know, that I can't — I couldn't
2 get overtime for or is — you know, is not part of —
3 I'm not sure — part of my payment structure, that Nick
4 feels could be paid through your — you know, your
5 structure, and I said okay.

6 Q. Okay. Nick — D'Rinda Taylor is Nick
7 Chenoweth's secretary or the admin for the Global Sports
8 group?

9 A. Right.

10 Q. And is, therefore, an employee of EDS?

11 A. Right.

12 Q. Okay. Did Nick explain to you why he needed
13 for you to pay this bonus to D'Rinda as opposed to
14 having EDS or him, as the manager of the Global Sports
15 group, pay a bonus, with EDS funds, of course, to
16 D'Rinda Taylor?

17 A. As in, you know, previous cases, he said that
18 there was money in my allotment for that and, you know,
19 that that's where they wanted to pull it from and, you
20 know, D'Rinda was — you know, was out there helping
21 extra, and he felt that it was a good thing to do, and I
22 did too at the time.

23 Q. Now, this says — there are three line items
24 on this invoice for services, I guess is what I would
25 describe these as, that D'Rinda performed for you, or

1 that's, at least, what this invoice —

2 A. For the team.

3 Q. — appears to reflect. Would you agree with
4 that?

5 A. Yeah, for the team.

6 Q. Okay. The first one says, D'Rinda, and then
7 in parenthesis, secretarial help for 1998. Did D'Rinda
8 Taylor, in fact, do secretarial work specifically for
9 you in 1998? And when I say, specifically for you, I'm
10 trying to differentiate that from something that she
11 would have done in performing her duties as the admin
12 for the EDS Global Sports —

13 A. And I —

14 Q. — let me finish — Global Sports group or in
15 being Nick Chenoweth's admin.

16 A. And I think you should divide it into three,
17 is — is D'Rinda — and this is my understanding —
18 D'Rinda as Nick's admin; D'Rinda as extra help for the
19 team, for yourself, for me, for anybody when she would
20 be out there; and for me directly. So that's — that's
21 three different areas.

22 In answer to your question, not directly
23 for me, although she did do some of that directly for
24 me. She came over and helped with filing, she came over
25 and helped with the computer a couple of times. As

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1 Nick's admin, I couldn't tell you, because I don't know.

2 But as extra help for the team, which is what, you know,
3 they explained it as, and I said yes.

4 Q. When had D'Rinda been to your house to help
5 you with filing or to help you with the computer? The
6 invoice is dated February 23rd of nineteen —

7 A. '99.

8 Q. — ninety-nine. The line items reference
9 secretarial help for 1998, and the computer services
10 program loading for '98.

11 A. Well, you know, I think she helped with the

12 computer in 1997 as opposed to '98, and she had been
13 over probably two or three times during the — those two
14 years, you know, business times. She also came over a
15 couple of times with her son and — and — to visit,
16 but, I mean, that's very different.

17 Q. Well, if D'Rinda Taylor has told me that she
18 didn't do any secretarial help for you in '98 and
19 computer services program loading for you in '98 or
20 filing for you in '98, do you disagree with her?

21 A. I would disagree. I don't know the dates,
22 Chris, but she definitely came over and helped with
23 loading our computer, and you know, in some years
24 past — I don't know. Maybe she didn't help with
25 filing. I don't know.

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1 Q. Okay. But that was in '97, if she did those
2 things, correct?

3 A. Probably '97.

4 Q. Did Nick Chenoweth indicate to you that he was
5 unable to pay D'Rinda Taylor a bonus with EDS funds from
6 a cost center that he managed here at EDS and that he
7 managed as the director for EDS Global Sports in 1999,
8 and therefore, he wanted you to pay the bonus, because
9 it wouldn't otherwise be approved by his management?

10 A. He may have.

11 Q. Did D'Rinda Taylor —

12 A. I don't think he ever put it on — and not —
13 certainly, not in those words.

14 Q. Is that what you understood was the situation,
15 from things that he had said to you?

16 A. My understanding of the situation was that
17 Nick did not have the funds to pay D'Rinda a bonus or
18 extra help, either way, and — but there was still

19 money in — or there was money in my line items, or
20 however you talk about them.

21 Q. Did he ever indicate to you in some way that
22 he had tried to pay D'Rinda the bonus but that it was
23 not approved?

24 A. No.

25 Q. Did D'Rinda ever indicate that to you?

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1 A. I don't remember.

2 Q. Did D'Rinda ever indicate to you that the
3 reason you were being asked to pay her the bonus was
4 that Nick wasn't going to be able to do it from
5 EDS — from an EDS cost center that he managed, that it
6 would not be approved, and therefore, he was trying to
7 get the money to her through you?

8 A. Again, the way you put it, I don't know. I
9 probably felt that way a little bit, but the way that it
10 was really put to me was, you know, this can come out —
11 this should come out of you or this can come out of you;
12 it's for extra stuff D'Rinda has done for the team over
13 the years.

14 Q. Was there an earlier version or a different
15 version —

16 A. Uh-huh.

17 Q. — of —

18 A. I told you there was.

19 Q. — of this invoice? Okay. Can you — can you
20 tell me what the earlier version —

21 A. I have —

22 Q. Let me finish the question, Skip. We're
23 talking on top of one another. It's going to make for a
24 difficult record.

25 Tell me what the earlier version of this

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1 invoice looked like.

2 A. It said, bonus, because I thought originally
3 that Nick was talking about a bonus.

4 Q. Well — and even later, you understood that
5 what you were paying D'Rinda was a bonus, correct?

6 A. I still think it was a bonus, but it was
7 explained to me, still, by D'Rinda as it was for her
8 extra work.

9 Q. Okay. But you acknowledged that in '98, she
10 didn't do any of the work that's described —

11 A. No, no.

12 Q. — in this invoice?

13 A. No.

14 Q. That's correct; she didn't do any of that work
15 in '98?

16 A. That is correct.

17 Q. If she did some computer loading for you, if
18 she did it, you're not certain?

19 A. Probably in '97.

20 Q. Okay. Did you pay D'Rinda Taylor a bonus for
21 that work that she did in '97, or were you asked to pay
22 D'Rinda a bonus?

23 A. No.

24 Q. Do you have in Exhibit 3, which is your set of
25 the invoices, the original —

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1 A. Yes.

2 Q. — earlier version of this invoice?

3 A. No.

4 Q. Can we find that? You don't have that?

5 A. No.

6 Q. What happened to that version?

7 A. I probably would have tossed it.

8 Q. When would you have done that?

9 A. When's the date?

10 Q. Well, this one is dated February 23rd of 1999.

11 A. I would assume in February or January.

12 Q. How was — how was it communicated back to you

13 that you needed to send in a different version?

14 A. D'Rinda called me.

15 Q. And what did she say?

16 A. She said, Skip, this is not a bonus, I can't

17 get a bonus. She said, this is for the extra work that

18 I — the extra secretarial work that I've done. Just

19 exactly what I've explained to you, you know, extra work

20 at the track, extra work for — for anybody in the past,

21 and can you break it up that way, just break it up into

22 whatever numbers, and, you know, can you do that? I

23 said okay.

24 Q. Did she explain why she couldn't get a bonus?

25 A. No.

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1 Q. And did she — did she explain what extra work

2 it was that she had done that was — well, did she

3 explain what extra work it was that she had done?

4 A. No. I had assumed it was the work when she

5 was out at the track or after hours or doing other

6 things like that.

7 Q. And would you agree that given that she is an

8 admin in the EDS Global Sports group, that going out to

9 the track, which is a couple of miles from the EDS

10 headquarters building where she worked, and given that

11 the track, at the time, was being sponsored by EDS and

12 that that relationship or sponsorship was being managed
13 by the EDS Global Sports group and Nick Chenoweth, that
14 it would not be unreasonable to consider that within the
15 course and scope of her employment?

16 A. I don't know. It's after hours, you know,
17 doing —

18 Q. Well, was it after hours? Do you recall her
19 being out there after hours doing work?

20 A. I recall her helping with stuff out there,
21 yeah.

22 Q. Have you made an attempt at any time to try to
23 determine if the earlier invoice that you sent in, your
24 earlier version of this, was approved and paid, and then
25 also this later version, also approved and paid?

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1 A. No. Well, I — do I know that that was
2 approved and paid? It wasn't paid.

3 Q. The earlier version was not paid?

4 A. So therefore, I assume it wasn't approved.

5 Q. So —

6 A. I don't think it was even sent in, I mean,
7 from D'Rinda. I don't think she did anything with it.

8 Q. Okay. So it's your understanding that D'Rinda
9 was only paid the \$2,250 that is the total of the
10 invoice that's part of Exhibit 22?

11 A. That's my understanding, yes.

12 Q. How was the \$2,250 paid to D'Rinda?

13 A. Check.

14 Q. A check from you to D'Rinda?

15 A. Right.

16 Q. Do you know when you paid that check to
17 D'Rinda or when you delivered it to her?

18 A. No. Sometime shortly following that.

19 Q. Do you recall if it was on or about February

20 23rd of 1999?

21 A. I would assume it's later than that. Around
22 the end of the month or first of the month, sometime
23 around in there.

24 Q. Did you submit a 1099 for D'Rinda Taylor for
25 that money?

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1 A. No.

2 Q. Did you —

3 A. I have not yet.

4 Q. Did you ever have a discussion with her about
5 doing that?

6 A. I don't know. Maybe.

7 Q. Did you ever have a discussion with Nick
8 Chenoweth about sending a 1099 to D'Rinda Taylor?

9 A. No, I had no more discussion with Nick
10 Chenoweth. In fact, I'm not sure I talked to Nick from
11 February 23rd on, except the one time.

12 Q. Understanding that you're not a tax-law
13 practitioner —

14 A. Yeah, for sure.

15 Q. — given the nature of that invoice, would you
16 agree that — well, do you have a feeling that you
17 should send a 1099 to D'Rinda, if she — if it's —

18 A. D'Rinda will be sent a 1099 on this, Chris,
19 yes. Hopefully she claimed it as — as income.

20 Q. Okay. Let me get ahold of Exhibit 3, and what
21 I'd ask you about it is — we've talked about the
22 invoices that are in Exhibit 22, and those are the
23 invoices that, I believe, EDS has in its corporate files
24 at this point.

25 There may be some others that I haven't

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1 asked you about that are in other files here or there,
2 but it looks like what is in the principal EDS corporate
3 file that contains your invoices, it doesn't have any
4 invoices earlier than December 8th of 1994 or later than
5 February 23rd of 1999. Are there earlier- or
6 later-dated invoices —

7 A. I think there may be.

8 Q. — in Exhibit 3?

9 A. There may be. There may be both. Earlier,
10 there is to 1993. There's one, 1993.

11 Q. Okay. Let me go back and ask you about the
12 D'Rinda Taylor-related invoice. When was it that you
13 heard that Team EDS was being disbanded or would no
14 longer be supported by EDS?

15 A. I'm not sure. March. Whenever the
16 announcement came down. March.

17 Q. Do you recall when that was?

18 A. March 15th. March — maybe later than that.

19 Q. Do you recall having any conversations with
20 Nick Chenoweth prior to March — this March time period
21 when you heard that Team EDS was no longer going to be
22 supported by EDS, that that might happen?

23 A. No. The last thing that I was privy to was
24 when Les Alberthal came over to the track and I happened
25 to meet him for the first time and —

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1 Q. Do you recall when that was?

2 A. Sometime, I think, around the first of
3 February or so.

4 Q. Was it also in March of '99, when you heard

5 that Team EDS was no longer going to be supported by
6 EDS, that you heard that EDS Global Sports was also
7 going to be eliminated from EDS?

8 A. Well, whatever that date was — and there was
9 a date — that that announcement was made, I was at the
10 track, and I heard that — that Team EDS was — was
11 going to be dropped.

12 Then, we started hearing other — other
13 things over the next few days or a week, you know, that
14 the track may — may go on, the track may not. Soccer
15 was possibly going on, but that was all from Steve or
16 Jim Travis that I heard. I didn't hear anything from
17 Nick.

18 Q. We've talked about a couple of particular
19 series of your invoices. Let's see if I can identify
20 the ones that I want to try to raise to your attention.
21 They are invoices which, on their face, are for goods or
22 services that weren't actually purchased by you or
23 provided by you to EDS but that EDS did pay, and the
24 invoices were actually to fund the purchase of other
25 goods or services that Nick Chenoweth desired for you to

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1 purchase for Team EDS or was using for you to provide
2 him funds.

3 So there's the series regarding the FES
4 bikes, the series regarding the money transfers, the
5 series for the purchase of wheels, and then the series
6 for the Hartwell bikes, the tandem, and the Gary Niewand
7 bike, and then the invoice for D'Rinda Taylor.

8 Are you — would you agree that those are
9 the ones that we've talked about where the invoices, on
10 their face, purport to be something that — for

11 something that wasn't actually purchased or provided by
12 you to EDS?

13 A. That what is on their face was not purchased
14 or provided.

15 Q. Are you aware of any other invoices that you
16 sent to EDS where that's the case?

17 A. Not really, Chris.

18 Q. When you say, not really, do you have a vague
19 recollection in your mind?

20 A. There's not even a vague recollection.

21 Q. In Exhibit 22, there's only one invoice for
22 nineteen — well, I'm — I'm mistaken. There are two
23 invoices in Exhibit 22 for 1999. Were there other
24 invoices that you sent in or that were created for you
25 in 1999?

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1 A. I think — yeah, I think I sent everything in,
2 and I think they're all here.

3 Q. Okay. So you think they're in Exhibit 3?

4 A. Yeah.

5 Q. Okay.

6 A. Are you going in the right direction?

7 That's — that's in the back.

8 Q. That's okay. Let's start as — as far back as
9 we can, and then we'll work forward. It won't be my
10 intention to cover every single one of these. I just
11 want to make sure that I haven't missed any significant
12 chunk of invoices. Do you believe that I have?

13 A. No.

14 Q. Okay. In Exhibit 3, in the 1994 tab, there's
15 invoice 94SkipSRM001 to '006. It's in the amount of
16 \$3,596, and the description is for extra services
17 rendered as the Team EDS tactical and event cycling

18 coach, and then there's an asterisk. Does — does the
19 asterisk refer to something or reference something?

20 A. Well, those are for SRMs.

21 Q. Okay. What's the — what's the purpose of
22 having the asterisk there?

23 A. I think the asterisk was for the second page.
24 It showed the breakdown of SRMs, which isn't there.

25 Q. Was that second page sent in with the invoice?

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1 A. It says right here, for the purchase of six
2 SRM road or track training systems, 18 extra — it says
3 right here.

4 Q. Okay. But did EDS receive this page with —
5 with — the first page of the invoice?

6 A. Right.

7 Q. Let me ask you now about an invoice that's in
8 the 1995 tab. It's invoice 95SCR0302, and in the
9 description of the — the service or product being
10 provided is for the purchase of one Colnago Master road
11 frame from Chris Carlson to be used by Marty Nothstein,
12 total \$1,000. Can you tell me what — what that is for?

13 A. That is for the purchase of a Colnago road
14 frame from you.

15 Q. Okay. You bought a Colnago from me?

16 A. Uh-huh.

17 Q. And paid me \$1,000 for it?

18 A. Right.

19 Q. So somewhere you should have in your records
20 there a thousand dollar check payable to me?

21 A. I think so.

22 Q. Do you remember what — was that written on a
23 NationsBank account?

24 A. I would assume so, Chris. Are you saying that
25 we didn't? How did we do that Colnago?

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1 Q. If — if I suggest to you that the Colnago was
2 given to me by a rider in Germany that I did a six-day
3 with —

4 A. Right.

5 Q. He was not my partner in the six-day, but
6 someone I met over there, and he gave the bike to me, I
7 brought it back to the United States and gave it to you,
8 or to the team, after a bike that I had was stolen, I
9 collected insurance money on the stolen bike so that I
10 could buy a new frame —

11 A. That, I remember.

12 Q. — and then I gave the Colnago to the team,
13 and the team bought the components for the bike that I
14 bought to replace the one that I had that was stolen,
15 and that there was no check or cash given to me in
16 exchange for my giving the Colnago bike to the team,
17 does that — does that fit with your recollection of the
18 facts regarding this Colnago Master road frame?

19 A. May I? I want to see what I've got here. The
20 invoice was never processed. That would be my guess. I
21 have a \$1,000 check here on April 6th for something that
22 I'll check, but that invoice does not show being paid.

23 Q. Okay. Do you recall if you sent this invoice
24 in?

25 A. No, I don't or whether that was the plan at

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1 the time or — or what it was. I know the plan at one
2 point, at least, was to buy that bike from you. I ended
3 up with the frame.

4 Q. Where is that frame today?

5 A. I have it.

6 Q. In your view, who owns that frame?

7 A. In my view, I would own that frame, since that
8 would replace one of the frames that I came here with.
9 You're welcome to it, if you want it.

10 Q. Skip, in the 1999 tab of Exhibit 3, I think
11 the second invoice in, is this the earlier version of
12 the D'Rinda Taylor bonus invoice?

13 A. Let me see. Yeah. Yeah, that is.

14 Q. Now, there's a notation on this one, paid,
15 January 22nd, 1999. Is that a check number underneath
16 that?

17 A. I'm not sure.

18 Q. Does the paid, January 22nd, 1999, indicate
19 that you paid D'Rinda for two thousand two hundred —

20 A. Maybe there was —

21 Q. — and fifty?

22 A. It's possible there was two to D'Rinda. That
23 doesn't look like a check number. I don't know, Chris.

24 Where's the — no, not that book. Oh, wait. Is that
25 the bank statements book?

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1 Q. Yes.

2 A. Oh, okay.

3 Q. Okay. So Exhibit — what is that, 11 —

4 A. Uh-huh.

5 Q. — might allow you to determine when you paid
6 D'Rinda?

7 A. Yeah. Exhibit 12. I don't know when she was
8 paid. I'm not finding it. 2496. I seem to be missing
9 a page here. No, two pages. There's \$5,000 on 1/13.
10 Maybe I paid ahead. I'll have to look at the checks,

11 Chris.

12 Q. Okay. So the checks would help us to
13 determine when she was paid or if she was paid and —

14 A. Yes.

15 Q. — and how much?

16 A. Yes.

17 Q. The first page in Exhibit 3, under the 1999
18 tab, is a January 28th, 1999 invoice for \$9,399, and
19 it's for services in February and then home office and
20 then weight shoes for Jeff LaBauve. There's a notation
21 in the upper left-hand corner, thought was invalid.

22 What is that — what is that supposed to indicate?

23 A. I don't know. Oh, I think when I — when I
24 did these — and this was brought up by your very
25 inaccurate presentation of the EDS records when we first

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1 met on the 1999 payments — I thought — I thought I had
2 been paid through the end of May. You thought I had
3 been paid — who knows when you thought I had been paid
4 through, but it was — it was the end of June.

5 I think what occurred here was I
6 sent somehow — and I'm not sure, really, what occurred,
7 but I sent in one for January, and then I thought I sent
8 in one for February, but I didn't change it here in
9 doing that, you know, because I'm just using the same
10 template each time, and I think that's what occurred.

11 Q. How much were you paid, roughly, to your
12 recollection, in 1999?

13 A. How much was I paid, roughly, or —

14 Q. Yeah, by EDS for being the Team EDS coach.

15 A. I was not only the Team EDS coach then, but
16 also was the development coach at the track and was

17 doing everything out there. It was — and here it is.

18 I think you have a copy of this. It was \$7,000 a month

19 base, and then I had approximately \$2,000 a month

20 additional to cover expenses, and then I had a

21 home-office allowance of \$260.

22 Q. Okay. So when '99 is all said and done, how

23 much money do you recall, generally speaking — because

24 I know you may not remember the exact amount — how much

25 were you paid by EDS?

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1 A. I sent you the exact amount, Chris. The

2 amount that you had indicated when we met, I guess it

3 was in April or so, the first time, was \$99,000 —

4 \$99,143. The actual amount I had been paid through

5 June, including reimbursements and everything else, was

6 \$61,475.

7 Q. And what makes up that amount?

8 A. The monthly that you have in front of you

9 there.

10 Q. Okay. So my monthly payments for being the

11 EDS coach and then the development coach at the

12 velodrome from January 1 of 1999 until when?

13 A. Until the end of June.

14 Q. And who did you make the arrangement with to

15 be paid through the end of June? Who did you make that

16 with?

17 A. Nick called when the program was ending or,

18 you know, when the announcement was made and said,

19 because of our — you know, our commitment to the

20 Superdrome, we're going to go ahead and pay you two

21 months additional.

22 I had already been paid through — I

23 think, through April or through March or whatever it

24 was. We're going — maybe it was three months

25 additional, whatever, but so that there is a continued

271

1 flow for the development at the track.

2 Q. How much of the — how much were you being

3 paid monthly to be the Team EDS coach and then the

4 development coach at the Superdrome?

5 A. Right there.

6 Q. \$9,000 a month?

7 A. Well, it's broken down this way, which you

8 also have. It's \$7,000 a month and \$2,000 a month

9 for — for operating expenses and \$260 a month for home

10 expenses.

11 Q. Was there one — was there, to your

12 understanding, one amount that was part of a total

13 monthly amount that was for being the development coach

14 at the velodrome and another part that was for being

15 Team EDS' coach?

16 A. I don't think anything — any of what I did

17 was ever defined that way, Chris. It was always seven

18 days a week or six days a week and do everything.

19 Originally, it was do everything for the team and, you

20 know, on behalf of EDS.

21 Then, as the — the track was — was

22 built, you know, I immediately started at the track

23 working with whomever was there, not Team EDS always, of

24 course, you know, and Erin Hartwell during '98,

25 especially, but always for whomever was there.

272

1 Q. When did — when did you receive the payment

2 of the — the roughly \$61,400?

3 A. Over a period of, you know, two or three

4 months.

5 Q. After the time when Nick informed you that
6 Team EDS was ending and that EDS Global Sports was also
7 going to be ended, did you continue to receive monthly
8 payments from EDS through June of '99 for being the — I
9 guess at that point, you would have only been the
10 development coach for the velodrome because Team EDS was
11 over?

12 A. Uh-huh.

13 Q. Is that right?

14 A. Yeah.

15 Q. Did you continue to receive monthly payments,
16 or was a lump-sum advanced payment made to you?

17 A. There was — there was two payments made not
18 too far apart, and I think initially, it was — it was
19 accidentally. February, which should have been March,
20 that was a confusion. February and March, which should
21 have been — this should have been March, April, so
22 I'm — I'm just —

23 Q. Okay. You're reading now from an invoice
24 that's in the 1999 tab of Exhibit 3?

25 A. Uh-huh.

273

1 Q. It's the fourth invoice, then; is that right?

2 A. Right, right.

3 Q. And line 1 is February payment. You're saying
4 that should be March?

5 A. Right.

6 Q. And line 10 is March payment, and you're
7 saying that should be April?

8 A. That should have been April, and then there
9 was May, June. That's why they're both for the — the

10 identical amount, and, you know, you've got that. And
11 this payment was made, so around — you know, around
12 probably the middle of February, and I think it was
13 accident — I think, initially, it was just accidentally
14 made again.

15 But then, I think — I think it was
16 actually D'Rinda who called and said, well, we're going
17 to go ahead and pay you ahead, you know, because of
18 your — your work at the track, and I'm — I'm not even
19 sure, Chris, that that was following the dissolution of
20 the team. I think I was just being paid ahead.

21 Q. Had it been the practice that you were paid a
22 month in advance or two months in advance —

23 A. Uh-huh.

24 Q. — for being the Team EDS coach?

25 A. Always a month in advance, and sometimes —

274

1 well, I wouldn't say that. I don't remember, really,
2 getting two months in advance.

3 Q. On this February 5th dated invoice, the one
4 that's the fifth page — fourth page in in Exhibit 3
5 under the 1999 tab, you're being paid two months in
6 advance; is that right?

7 A. Right.

8 Q. Do you know of any reason why that was done
9 like that in February of 1999?

10 A. Not really, other than I was — I was asked to
11 send in, you know, a payment for February and a payment
12 for March.

13 Q. Did anyone ever indicate to you any reason why
14 you were being asked to do that? Did anyone ever give
15 you any idea?

16 A. No. I think the comment was, you know, Nick

17 was just trying to get ahead on things, so, no. And at
18 the time, you know, I — we had no idea anything was
19 wrong.

20 Q. Did Nick ever say to you why he was trying to
21 get ahead on things?

22 A. No. Oftentimes, at the end of the year, you
23 know, he'd make me — or have me develop these — these
24 equipment lists for, you know, monies that needed to be
25 spent, he said.

275

1 Q. Did he ever explain to you why at the end of
2 the year the money needed to be spent?

3 A. Well, because he had saved. You know, he
4 said, through good management, you know, he'd save money
5 in order to get equipment for the coming year, to get
6 ahead on the coming year, so that's when we would make
7 the tire orders, for example, the real tire orders.

8 Q. Let me ask you about the last page that's in
9 the 1999 tab of Exhibit 3. It's a February 23rd, 1999
10 invoice and it's for \$19,118, but there's — there's
11 written on it, in big felt pen, revised, double
12 underlined.

13 A. Uh-huh.

14 Q. What — what does that refer to, the — the
15 revised notation written longhand?

16 A. Well, it didn't go in on that day. It was
17 just revised for my — for my records, because I
18 don't — I don't know — I don't think I sent this in to
19 them, so I think this payment was a — I'm sure this
20 payment was an accidental double payment, and then they
21 just decided to go ahead and have me apply that ahead.

22 Q. So that you didn't need to send in the

23 invoice —

24 A. Right.

25 Q. — to collect the additional two months that

276

1 would get you paid through —

2 A. Right.

3 Q. — May or June?

4 A. That is correct, through June. And I worked
5 through June, except for that portion of time I was flat
6 on my back from breaking it.

7 Q. Do you recall some weightlifting equipment
8 being purchased for a workout facility, a commercial
9 workout facility —

10 A. Uh-huh.

11 Q. — a gym known as The Fit?

12 A. Sure.

13 Q. Can you tell me about that? How did that
14 happen?

15 A. Well, for Team EDS, we were setting up to have
16 two workout areas specifically for the team: one at the
17 track and one at The Fit Club, which they had offered an
18 area. So weightlifting stuff was bought for there, not
19 ours. Our stuff was at the gym.

20 Q. Okay. When you say, not our, what did you
21 mean by that, was — was bought for the gym, but not
22 ours?

23 A. Well, the York stuff that we bought is up at
24 the gym.

25 Q. Okay. And was some other stuff bought and put

277

1 at The Fit?

2 A. Maybe a little bit.

3 Q. Who worked out at The Fit?

4 A. Nick. Marty, when he was in town. Hartwell

5 for a little while, and then he went to the natatorium.

6 Not very many with the team. Occasionally Trey and —

7 Trey and Danny part of the time. Well, not Danny.

8 Danny wasn't part of the Team, but Trey.

9 Q. Mostly Nick, though, right, at The Fit?

10 A. Yeah, mostly Nick. Sure, mostly Nick.

11 Q. Do you know if memberships were purchased for

12 all of the members of Team EDS to work out at The Fit?

13 A. I believe so.

14 Q. Do you know who paid for the equipment in the

15 workout area at The Fit that Team EDS used?

16 A. We may have paid for a little bit of it. I

17 don't remember. Maybe that's Fit Club equipment.

18 Q. Equipment that EDS purchased from Corima, how

19 was it — how was it invoiced?

20 A. From Corima?

21 Q. Correct.

22 A. I would get invoices. Invoices would come

23 here. I mean, you almost never knew, just like when

24 they sent equipment. We almost — we never knew if it

25 was going to show up at my place or at the bike shop.

278

1 At one point, it showed up here.

2 Q. In talking through the invoices that you sent

3 to EDS, which make up Exhibit 22, I think we identified

4 one invoice that was dated in nineteen ninety — let me

5 stay away from the date because I'm not sure I'm going

6 to get it right, but we found one invoice, would you

7 agree, where you had purchased for Team EDS two Corima

8 bikes —

9 A. I think so.

10 Q. — the original two Corimas that the team had,
11 one for Trey and one for Nick, the pearl-black ones, as
12 I had referred to them; is that right?

13 A. I believe that's what it was.

14 Q. Did you purchase any other Corimas for Team
15 EDS that you then passed on the expense of in your
16 invoices to EDS?

17 A. I don't know now, Chris, because, you know, as
18 I got money in, I paid lump sums to them. So whether I
19 was buying the extra bikes or whether eventually EDS
20 bought the extra bikes, I don't know.

21 Q. Now, the extra bikes, we've — we've
22 identified that there were approximately 13 other Corima
23 bikes?

24 A. Yeah, as best as I recall.

25 Q. Do you — is it your recollection that the

279

1 invoices for those would have been sent to EDS?

2 A. They probably were sent to me and EDS and —
3 you know, and maybe Brett at the time.

4 Q. And then it appears, from our review of
5 Exhibit 22, that those bikes, those 13 other bikes,
6 approximately, would have been paid for by EDS as
7 opposed to you, because we didn't find invoices in there
8 where you were funding the payment for bicycles from
9 Corima, other than the original Trey and Nick bike and
10 then the Hartwell bikes and the tandem; is that right?

11 A. If in 1996 the extra bikes were bought at the
12 start of the year, then it's possible that I bought some
13 of the bikes, too.

14 Q. Have we — have we found the invoices that you
15 would have sent to EDS to get the funds to pay for

16 those?

17 A. Uh-huh.

18 Q. Well, which ones were those? Because I
19 don't — I'm not remembering. We found a series of
20 invoices that had, like, road bike serial number — I
21 think it was '001 through '011, but you said those were
22 for wheels.

23 A. Well, it's for whatever would have been bought
24 in that batch. I said wheels, parts, seatpost, I mean,
25 special handlebars. It would have been just whatever

280

1 was bought during that — that initial round before we
2 got to the — to the tandem.

3 Q. Okay. So if you originally indicated to me
4 that it was wheels, you might have been mistaken; it
5 might have been more than wheels; it might have been
6 wheels and bikes?

7 A. Certainly, it was more than wheels, because I
8 indicated to you then it was more than wheels.

9 Q. Okay. But I thought —

10 A. Whether some — whether some bikes were in
11 there or not, I'm not sure. I think — I really
12 don't — I don't remember, Chris. We should know that
13 from whatever they sent.

14 Q. Okay. I'm looking at Exhibit 7, and it looks
15 like under tab C is the original of the sponsorship
16 agreement between Corima and EDS; is that right?

17 A. Yes, I think that's one of them.

18 Q. Is it your recollection that there is a
19 version of the original that is signed by Pierre Martin,
20 the president of Corima, as well as Nick Chenoweth for
21 EDS and also by you for Team EDS?

22 A. I think there is. I think there should be

23 three of those.

24 Q. The version that I'm looking at currently
25 that's in Exhibit 7 is signed by you and Pierre Martin

281

1 but is not signed by Nick Chenoweth; is that right?

2 A. Uh-huh.

3 Q. Did you ever prepare any invoices on behalf
4 of Corima for equipment that Corima was selling to
5 EDS —

6 A. No.

7 Q. — because of some inability of Corima to
8 generate one timely or something?

9 A. I don't think so. Not that I recall.

10 Q. How did Corima generally send its invoices
11 either to you or, to your understanding, to EDS?

12 A. In this little — usually in an envelope, just
13 mail.

14 Q. So they were mailed?

15 A. Usually mailed, yeah. I don't remember. They
16 may have faxed — you know, some of them may be faxes.
17 I could get sometimes inundated, so — I mean, I got
18 such a — by the time I had a packing slip and the —
19 you know, what they were faxing me always, I had no time
20 to take care of it, obviously.

21 (Exhibit No. 23 marked.)

22 Q. Let me show you what's been marked as Exhibit
23 23 —

24 A. Okay.

25 Q. — and ask you if you can identify that

282

1 document?

2 A. No. It's got a Corima deal on the top of it,

3 Corima letterhead.

4 Q. Did you create that document?

5 A. That is not my document.

6 Q. Have you ever seen that document before?

7 A. I don't know, Chris. Maybe.

8 Q. Where do you think you maybe have seen that
9 before?

10 A. Don't know. Maybe it came through me. I
11 don't know.

12 Q. Why do you say maybe it came through you?

13 A. Corima Technologic Systeme Route. It's
14 ringing a bell, but I can't remember what about it.

15 Q. Let me do this.

16 MR. CARLSON: Stacy, can you re-mark
17 that?

18 THE REPORTER: Is this 23?

19 MR. CARLSON: This one is a little bit
20 better copy, in my view.

21 Okay. We've got a hmm from the witness.

22 Q. What's the hmm indicate, Skip?

23 A. My fax number is on there.

24 Q. Indicating what?

25 A. Indicating that it came through me, at least.

283

1 Chris, this is not something paid to me, obviously.

2 This is paid — this is to Corima. You know, the same
3 with that other one, it's a payment to Corima. What do
4 they have?

5 Q. On the very top of Exhibit 23 there's some —
6 there's a fax banner, as some people refer to it, and
7 it's — it reads, 11/16/1995 at 10:12, and then (214)
8 527-9609, which I think earlier we had identified as

9 being the phone number for your fax machine?

10 A. Yes.

11 Q. And then it goes on to read, S. Cutting, Team
12 EDS, page 1. So does the fact of that fax banner on
13 there indicate to you that this document was, at some
14 point, sent by you —

15 A. Uh-huh.

16 Q. — from your fax machine?

17 A. It does.

18 Q. And do you know where it was sent to?

19 A. EDS.

20 Q. Okay. Do you know why you would have been
21 sending this document to EDS in November of 1995?

22 A. So what is in November of 1995? It's when
23 we're doing — when we're getting ready all of
24 the — all of the equipment purchase from them.

25 Q. Well, I think your testimony earlier indicated

284

1 that in August or September of '95, you were meeting
2 with Pierre Martin in Bordeaux, France?

3 A. Right.

4 Q. And you were meeting with him about a
5 sponsorship agreement —

6 A. Right.

7 Q. — whereby Corima would lend to or provide to
8 EDS without charge —

9 A. Some things.

10 Q. — Corima cycling equipment. So let me ask
11 you, again. Do you know any reason why you would be
12 sending this invoice to EDS in November of '95?

13 A. Hold on just a second. I want to look up
14 something here.

15 Well, I'm not real sure. My guess is

16 that this was maybe something that was originally
17 generated to pay for the equipment that we were then
18 buying for them: the wheels, the extra frames, the
19 whatever it might have been. I don't see that that was
20 paid. It says here completed, but...

21 Q. What does — it says, purchase Corima Cadre
22 Vitesse Speciale.

23 A. Sprint frame or frames.

24 Q. Does it indicate frame or frames?

25 A. Frame. I don't know. Frame, I would assume.

285

1 Q. Okay. Do you know of any Corima sprint frame
2 that costs \$13,872?

3 A. No, but three or four of them might or
4 something. I mean, it could be.

5 Q. You're familiar with Corima invoices, correct?

6 A. Right. They look like this.

7 Q. They don't look like what Exhibit 23 looks
8 like, correct?

9 A. Well, here's this. Most of the Corima
10 invoices look like this, but I've had other stuff. Did
11 I create that? I don't think so, but I don't know.
12 Maybe I did. Maybe they asked me to — to put together
13 a lump-sum deal for them, you know.

14 Q. When you say "they," are you referring to
15 Corima, or are you referring to —

16 A. I would assume —

17 Q. — Nick Chenowth?

18 A. — Nick Chenowth.

19 Q. So are you thinking now that you created that
20 document?

21 A. I don't know.

22 Q. Let me refer you to — it looks like a
23 stamp —
24 A. Uh-huh.
25 Q. — and then some notations made in and around

286

1 that stamp —
2 A. Uh-huh.
3 Q. — that's in the bottom left-hand corner of
4 Exhibit 23. We've talked about this stamp and the
5 notations earlier. Is it your understanding that
6 that's — that's a stamp and writing that would be put
7 on an invoice by D'Rinda in the course of her processing
8 the invoice for payment?
9 A. Uh-huh.
10 Q. Okay. When — in looking at the stamp and the
11 information that's on there, when does it appear — does
12 it appear to you that D'Rinda processed this — this
13 purported Corima invoice? When did she prepare it for
14 payment?
15 A. Well, it looks like 1997.
16 Q. But the fax banner indicates that you sent it
17 to EDS in '95?
18 A. In 1995, and it's — it's not showing that it
19 was paid, you know, on the Corima summaries, and — and
20 I'm paying my — you know, the — from the invoices I
21 sent in.
22 Q. Do you know any reason why in 1997 —
23 A. No reason.
24 Q. — EDS would have been paying almost \$14,000
25 to Corima above and beyond other monies that EDS was

287

1 paying to Corima?

2 A. No.

3 (Exhibit No. 24 marked.)

4 Q. Let me show you what's been marked as Exhibit
5 24 and ask you if you can identify that document?

6 A. It's just like Exhibit 23, the same. It's for
7 a Systeme Route and road systeme, \$10,651.14. Again,
8 sent in '95, in November of '95, and somehow paid in
9 1997.

10 Q. So similar to the earlier document that I just
11 asked you about —

12 A. Right.

13 Q. — Exhibit 23?

14 A. Right.

15 Q. And again, it looks like it was faxed from you
16 to D'Rinda Taylor in '95, correct?

17 A. Uh-huh.

18 Q. It looks like D'Rinda processed it for payment
19 in '97, correct?

20 A. It does. Again, to Corima.

21 Q. And you said, road systeme. By that, did you
22 mean a road bike?

23 A. I'm not sure what I meant. I'm not sure.

24 Q. Do you think you prepared this document?

25 A. I must have, Chris. Again, I'm thinking these

288

1 were prepared as the original collective grouping for
2 the Corima stuff in 1995, and then I was probably told
3 that, you know, it was in too large amounts or something
4 or make it road bikes or something else.

5 Q. Who would have asked you to prepare these?

6 A. Nick.

7 Q. Why would he want you to create invoices for
8 Corima? Because you're not Corima, right?

9 A. Well, we didn't have anything from Corima.
10 You know, as I recall, it was at the end of the year
11 when I was trying to do all of this. We didn't have
12 anything yet from Corima. So Corima will send over
13 their invoices, and — and that all matches my stuff,
14 but I don't know here.

15 Q. Okay. Why didn't Nick just call Corima and
16 say, send me an invoice for the stuff I'm buying from
17 you?

18 A. I don't know.

19 Q. Did he give you any indication why he didn't
20 want to do that?

21 A. Well, I'm assuming these amounts, you know,
22 \$13,000 and \$10,000, were probably over his limit
23 somehow.

24 Q. Well, did he say that's why he wanted —

25 A. I don't remember.

289

1 Q. — you to do it?

2 Was he — did he indicate to you that he
3 was concerned about getting an invoice from Corima for
4 an amount that would be above his approval limit at EDS,
5 and so he wanted you to create invoices in smaller
6 amounts that appeared to be from Corima that would total
7 the amount that needed to be paid to Corima for the
8 equipment that EDS was purchasing from it that Nick
9 Chenoweth was directed to be purchased from Corima?

10 A. Maybe. It could be.

11 Q. And did he indicate to you that that was — he
12 was doing that to hide from his management exactly what
13 he was doing and the amount of money that he was
14 spending?

15 A. Well, I always understood that his management
16 was involved in all of this.

17 Q. Well, what would be the purpose of doing this,
18 creating these — having you create false documents —
19 because you're not Corima.

20 A. No, I'm not.

21 Q. And you don't have the authority to create
22 invoices for Corima, correct?

23 A. Right.

24 Q. What would be the purpose for this — for
25 doing this, if his management knew what he was doing?

290

1 A. I don't know, and these are over \$10,000, so
2 you know, how did they get paid, I guess?

3 Q. Do you remember how you created these
4 documents?

5 A. No.

6 Q. Did you, at this point, have possession of
7 some Corima letterhead that you copied onto a piece of
8 paper and then typed in the — the text of the —

9 A. I would assume that's what I would have done.

10 Q. Would you agree with me that the typeface used
11 in the document is identical to that used in the
12 invoices that you generated for yourself and sent to
13 EDS?

14 A. Very close to it.

15 Q. But the typeface of the Corima logo and then
16 the phone numbers and address and so forth that's part
17 of the logo on Exhibit 23 and 24 is different from the
18 typeface —

19 A. Uh-huh.

20 Q. — of the text of the document?

21 A. Yes.

22 Q. Do you recall communicating with Corima about
23 invoice numbers and descriptions to use?

24 A. No.

25 Q. You have a relationship with Pierre Martin and

291

1 Roger Mauris, who are two of the gentlemen involved with

2 Corima, correct?

3 A. Well, Pierre is the owner, and Roger is his

4 sales manager, I guess you would say.

5 Q. You also talked with Pierre wife's, Catherine,

6 and you talked with her frequently about billing issues

7 and so forth regarding EDS and Corima and —

8 A. Catherine is his daughter.

9 Q. Excuse me. Okay. You had a relationship with

10 her and talked with her frequently about billing issues

11 and so forth?

12 A. I tried.

13 Q. Did you have any discussions with them about

14 the payment of an amount in and around November of 1995

15 for equipment that was being purchased so that you came

16 to an understanding of the total amount that they were

17 going to need to be paid?

18 A. Probably. I had a — you know, at one time,

19 Chris, I had a listing of everything and all. I don't

20 know where that is, but I had a listing of — of

21 everything that we needed and the number of wheels and,

22 you know, whatever that was.

23 Q. It would have been a simple thing to do to

24 call Corima and ask them to send an invoice for the

25 equipment that EDS was purchasing from them, correct?

292

1 A. I think that they did.

2 Q. Did they send that invoice to you, or did they
3 send it to EDS, to your recollection?

4 A. Usually, if they were sending me something,
5 something was coming over here, too.

6 Q. Coming over here, meaning coming over to EDS?

7 A. Either a copy of it or something.

8 Q. Did you ever talk to Pierre or Roger or
9 Catherine about these invoices? Did — did Corima ever
10 see these documents that you created?

11 A. I wouldn't think so.

12 Q. There's no — other than the fax banner that's
13 at the top of the page and then the date that D'Rinda
14 Taylor wrote in there, there's no date on that document,
15 is there?

16 A. Doesn't look like it.

17 Q. And typically, Corima would date their
18 invoices, wouldn't they?

19 A. Typically, I would, too.

20 Q. Do you recall creating any other Corima
21 invoices?

22 A. I certainly don't recall creating these. I'm
23 only guessing that that's what I did.

24 Q. Okay. Well, I — I guess I need to know what
25 your — what's your testimony going to be on these

293

1 documents: Did you create these or didn't you?

2 A. I am assuming, because they have my fax number
3 on them, that I did. And why? I am assuming because,
4 you know, Nick asked for a total amount on — on this or
5 a ballpark figure or something, and again, I'm assuming
6 that they weren't used, that he had me, you know, go
7 back and do these for the actual.

8 Q. Okay. Well, you're assuming they're not used,
9 but isn't it the case that you know that they were used,
10 because both of them have at the bottom D'Rinda Taylor's
11 stamp indicating that she processed them for payment and
12 that they likely were paid?

13 A. Yeah, 1997, looks like they were.

14 Q. Did you ever hear in 1997 — it's January of
15 1997.

16 A. Same there, January.

17 Q. For both documents, January 24th of 1997, did
18 you ever hear from Catherine or Pierre or Roger about
19 receiving —

20 A. No. I wasn't paying —

21 Q. — checks for — it would have been
22 approximately \$24,000?

23 A. Well, I knew we had — we had an account with
24 them at one time that had a credit, and — but I had —
25 I didn't pay them after — anything, I think, after, you

294

1 know, late '96 or something.

2 Q. And are you — I take it you're not aware of
3 us owing — what did I say it was — approximately
4 \$24,000, \$25,000 to Corima in January of '97?

5 A. Well, I can try and look here and tell you.

6 Q. Okay. You're looking at Exhibit 7, is it?

7 A. Yes. So it looks like on 1/15/97, we still
8 owed Corima \$24,444, according to this summary that they
9 sent.

10 (Exhibit No. 25 was marked.)

11 Q. Okay. Let me show you what's been marked as
12 Exhibit 25 —

13 A. Uh-huh.

14 Q. — and ask if you can identify that document?

15 A. Well, it's another of the same, Systeme Veloce

16 Piste. It's something meaningless, I'm sure.

17 Q. Well, what does it mean? Can you translate

18 it?

19 A. Track, a track system of some kind, and it is

20 paid, again, in '97, \$17,000. Again, coming from the

21 same — same date. 11/16/1995 was the fax date on it.

22 Q. Skip, your French is bad, but you do speak

23 some French, correct?

24 A. Yeah.

25 Q. And you would have been capable of coming up

295

1 with those descriptions on those documents?

2 A. My French is bad, but I speak some French,

3 yes. And we're looking at...

4 Q. Okay. The three of those, do you agree, total

5 \$41,956.39?

6 A. Right. Well, yeah.

7 Q. If I've done the math correctly?

8 A. Right.

9 Q. 1997 is the year after the Atlanta Olympics,

10 correct?

11 A. Uh-huh.

12 Q. And do you remember having conversations with

13 Nick and others involved with Team EDS that '97 was

14 going to be an off year for the team, meaning that

15 activity would be diminished?

16 A. Curtailed, right.

17 Q. And along with that would be curtailed

18 purchases of equipment? Is that yes?

19 A. Yes, I think so. I mean, certainly activity

20 was curtailed.

21 Q. Okay. Do you remember equipment purchases in
22 '97 from Corima to the extent of nearly \$42,000 in
23 January of '97?

24 A. No.

25 (Exhibit No. 26 marked.)

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1 Q. Let me show you now what's been marked as

2 Exhibit 26 —

3 A. Okay.

4 Q. — and ask if you can identify those?

5 A. That's a series of Corima invoices for —

6 well, I can't read all of this.

7 Q. Do those appear to be true Corima invoices, in
8 other words, invoices that Corima created in France and
9 sent out?

10 A. They appear to be, uh-huh.

11 Q. Similar to other ones that you have seen in
12 connection with actual purchases of Corima equipment by
13 EDS from Corima?

14 A. Yes.

15 Q. Okay. Let me ask you to compare the invoice
16 numbers that are on the three invoices, the true Corima
17 invoices, of Exhibit 26 to the invoice numbers on
18 Exhibits 25, 24, and 23, the invoices that you're
19 assuming you created.

20 A. Okay. And they're different amounts.

21 Q. And directed to different people?

22 A. What do you mean?

23 Q. None of the invoices, the true Corima invoices
24 in Exhibit 26, are to EDS, correct?

25 A. No.

297

1 Q. In fact, they're not even to a company that's
2 in the United States?

3 A. And they're in 1997.

4 Q. Okay. So will you agree that there can be
5 absolutely no question but that the Exhibits 23, 24, and
6 25 that purport to be Corima invoices are not true
7 Corima invoices for equipment that Corima sold to EDS,
8 but are false documents?

9 A. Yes.

10 Q. In connection with the purchase of Trey Gannon
11 and Nick Chenoweth's original two Corimas, the
12 pearl-black ones, would you have seen Corima invoices
13 prior to November 16th of 1995?

14 A. I think so. I'm not sure. That may have been
15 a Jeb Woods invoice. I'm not sure.

16 Q. Earlier you mentioned some equipment that —
17 Corima equipment, in the possession of Mark Garrett. I
18 think you also mentioned Gilbert Hatton. Are you aware
19 of any other Team EDS riders, either ones who were
20 actually employees of EDS or riders who associated with
21 Team EDS or on a temporary basis rode for EDS, who still
22 have equipment that belongs to EDS?

23 A. Ryan Oelkers.

24 Q. What does Ryan Oelkers have?

25 A. I think a frame, a frame and wheels.

298

1 Q. Okay. What kind of frame?

2 A. I would — I think a Corima frame.

3 Q. A Corima —

4 A. Track frame.

5 Q. — sprint frame?

6 A. Track frame.

7 Q. But, I mean, I'm trying to distinguish between

8 the pursuit frame that you identified earlier or the 500
9 frame that you identified earlier or the standard sprint
10 frame.

11 A. Standard sprint.

12 Q. And what kind of wheels?

13 A. I'm not real sure, Chris.

14 Q. Do you know where that bike came from? Was
15 that one — was that previously a Team EDS rider's bike?
16 Was it a bike that was purchased specially for Ryan
17 Oelkers?

18 A. Would previously be a Team EDS bike.

19 Q. Whose bike was it before it was lent to Ryan
20 Oelkers?

21 A. I think it might have been Michael Buttrey's
22 bike.

23 Q. Do you recall if that bike was a — a bike
24 that was built for Rebecca Twigg to do pursuits on, that
25 had — it had geometry design for a 26-inch front wheel?

299

1 A. I don't believe so, but, I mean, I don't
2 recall. You know, it might have.

3 Q. Well, in any event, was that bike given to
4 Ryan Oelkers?

5 A. Not to my knowledge.

6 Q. And were the wheels given to Ryan Oelkers?

7 A. I don't know. Not by me.

8 Q. Were you the one that directed that the bike
9 be sent to Ryan Oelkers when it was sent to him?

10 A. I might have been, because that would have
11 been when Ryan was starting to ride as part of our
12 group.

13 Q. And you didn't have any conversation with him

14 where you gave him that bike or those wheels?

15 A. I — I never have.

16 Q. And do you expect that he's had any

17 conversation with Nick Chenoweth or anyone else where

18 they gave him that bike?

19 A. I think that's possible.

20 Q. Have you heard that that's the case?

21 A. I have not heard anything about Ryan. I saw

22 Ryan on a TV commercial a little while back and he was

23 on a Corima, and our comment was, oh, my gosh, look

24 at — Ryan's still around and he's on a Corima and it

25 looks like one of ours.

300

1 Q. So it's your understanding that that bike

2 still belongs to EDS?

3 A. That would be my understanding, but I don't

4 know otherwise.

5 Q. What bike does Gibby Hatton have?

6 A. Well, given Gil's size, I would assume it

7 would be one of Trey's bikes.

8 Q. Or Karla Bland's?

9 A. Maybe. Could be.

10 Q. Well, in any event, one of the — the bike

11 that Gibby has is a bike that was either purchased by

12 EDS or lent by Corima to EDS, correct?

13 A. That's correct.

14 Q. And then that bike was lent to Gibby Hatton?

15 A. That's correct.

16 Q. And EDS still owns that bike?

17 A. Well, I don't know.

18 Q. You haven't had any conversation with Gibby

19 giving him that bike?

20 A. I never have.

21 Q. And that bike was — was sent to Gibby in
22 connection or as a result of a conversation that you had
23 with Brett Hydrick where he sent that bike, I think, by
24 Federal Express to Gibby Hatton, correct?

25 A. For his use prior to Nationals or EDS Cup or

301

1 something like that.

2 Q. Okay. And in all that conversation about
3 sending that bike to Gibby, there was no conversation
4 about, okay, Gibby, this is going to be your bike to
5 keep?

6 A. I've never had that conversation with Gil.

7 Q. Was — was Gil also sent wheels?

8 A. Two pairs, as far as I know.

9 Q. And the same situation there; they were not
10 given to him, they were lent to him?

11 A. As far as I know.

12 Q. Was there —

13 A. Nobody ever mentioned anything about Gil or
14 Ryan being able to keep a bike.

15 Q. Was there ever equipment that was sent to —
16 to Gil or to some folks in Pennsylvania at the track
17 there in Trexlertown that was to be used in some kind of
18 development program that Gibby Hatton was involved in
19 that?

20 A. I only heard about that.

21 Q. What did you hear about that?

22 A. I heard that some EDS wheels or some — some
23 Corima wheels were sent back for development.

24 Q. Do you know how many, or did you hear how
25 many?

302

1 A. I think four.

2 Q. And do you know who they were sent to?

3 A. Oh, I wouldn't have a clue.

4 Q. Okay. What — what bike does Mark Garrett
5 have?

6 A. Maybe you can help me. It's got to be a 58 or
7 so, or 59. I'm not sure, but it's that size bike. It's
8 not the one I had, you know, because that was turned
9 in. Do you know?

10 Q. Well, a bike that would fit you would also fit
11 Mark, correct?

12 A. Right. We're so close to the same size.

13 Q. Okay. Earlier we were talking about Exhibit
14 15, which is the delivery form of the equipment — or
15 for the equipment that was delivered to EDS pursuant to
16 the sponsorship agreement between EDS and Corima,
17 correct?

18 A. Uh-huh.

19 Q. And we were looking at the last page of
20 Exhibit 15, which discusses the track frame sets that
21 were delivered to EDS in connection with the sponsorship
22 agreement, and we talked about the special seatpost bike
23 that Nick received and the special seatpost bike that —
24 that Trey received in connection with the sponsorship
25 agreement.

303

1 I think when we were talking about this,
2 with your testimony, that the bike that you — the
3 Corima bike that you ended up riding and then returned
4 when EDS was disbanded was originally the bike that Nick
5 Chenoweth had purchased?

6 A. The black bike.

7 Q. That had been purchased for Nick Chenoweth
8 before the sponsorship agreement, correct?

9 A. Right.

10 Q. Okay. Is it correct that the delivery form
11 for the track bikes, the last page of Exhibit 15,
12 identifies — or indicates that there was a track frame
13 set in your size —

14 A. Uh-huh.

15 Q. — lent to the team in connection with the
16 sponsorship agreement?

17 A. Uh-huh.

18 Q. Is it possible that — or do you think —

19 A. That's —

20 Q. Do you think that that — that bike that
21 Corima delivered is the bike that Mark Garrett has?

22 A. Could be, because that became Nick's backup
23 bike.

24 Q. And then later, a backup bike was — an
25 additional backup bike was purchased for Nick?

304

1 A. Right.

2 Q. Probably when that happened, Nick was willing
3 to give up his old backup bike and give it to Mark
4 Garrett?

5 A. Right.

6 Q. Nice guy.

7 Trey Gannon's special high seatpost track
8 sprint bike that was made by Corima, do you have any
9 idea where it is today?

10 A. I thought you had it.

11 Q. Assume that I don't. Do you have any idea
12 where it is?

13 A. Assuming that you don't, then I would assume

14 Trey has it.

15 Q. Okay. Assume that Trey doesn't have it.

16 A. I would have no idea.

17 Q. Does Jimbo — who is Jimbo Martin?

18 A. Jim Martin was Nick's direct coach for all the

19 years that I knew him, and he's an exercise

20 physiologist, a Ph.D. in exercise physiology, I think,

21 in North Carolina now. He's been an on-and-off rider,

22 and et cetera, et cetera.

23 Q. Does he have possession of any equipment that

24 was Team EDS equipment? Corima equipment, I'm asking

25 you about now. I understand he may have some other

305

1 stuff, but does he have any Corima Team EDS equipment?

2 A. I think he had a Corima that was loaned to

3 him.

4 Q. Who — whose Corima was that before it was

5 loaned to Jimbo, or who used that Corima?

6 A. It would have had to have been Trey's because

7 they morphologically are — are the same. I don't think

8 Jimbo could — maybe Jimbo could ride Karla's or one of

9 the girls', but I don't think so.

10 Q. Was there some point after Trey got the

11 special high seatpost Corima track sprint frame that he

12 stopped using it?

13 A. Yeah, he — he went back and forth a little

14 bit.

15 Q. Do you remember a time when he stopped using

16 it and didn't ever again make use of it?

17 A. I don't remember which bike he was using in

18 '98, whether it was a high seatpost bike or — or the

19 standard seatpost bike.

20 Q. Did he use the high seatpost bike after '98?
21 A. In '99?
22 Q. Correct.
23 A. I don't think Trey really rode in '99. Very,
24 very little, if he did.
25 Q. Have — have you ever heard that Jimbo Martin

306

1 was sent one of Trey Gannon's Corima sprint frames?
2 A. I — I have heard that Jimbo was sent a bike,
3 yes.
4 Q. What Corima equipment, that is, Team EDS
5 Corima equipment, are you aware of that Nick Chenowth
6 still has?
7 A. I'm not aware of anything that Nick Chenowth
8 has. I know that he has got a Corima and that — and I
9 haven't even seen it, so — only one time I saw him at
10 the track. I didn't see his bike. And I think that
11 Christi, his girlfriend, has a Corima, also.
12 Q. And was that a Team EDS Corima?
13 A. You know, I don't remember, but I'll bet it
14 is.
15 Q. Whose do you think that it was before Christi
16 started riding it?
17 A. It probably would have been one of the girls',
18 either Jen's — either Jen's or Karla's.
19 Q. How did Christi Simmons — who is Christi
20 Simmons, first of all? I don't know that we've
21 identified who she is.
22 A. She is Nick Chenowth's girlfriend.
23 Q. When did she get ahold of either Karla Bland
24 or Jennifer Evans' Corima bike or the bike that they had
25 been using when they were members of Team EDS?

307

1 A. Around the start of 1998, I guess. She
2 appeared at the track one day with a Corima.

3 Q. Had you had any conversations with Brett
4 Hydrick or with Nick about how she came to have
5 possession of this Corima bike?

6 A. Not before. I think afterwards I asked one or
7 both. I don't think I asked Nick. I probably asked
8 Brett.

9 Q. What — what did you ask Brett?

10 A. Where the Corima came from.

11 Q. What did he say?

12 A. I think he said it was one of ours that Nick
13 had instructed him to repaint, and that Christi would be
14 working for the team and, you know, with the team, et
15 cetera. I know it was painted a different color.

16 Q. And did Christi ever really work for the team?

17 A. Well, she was supposed to help out during the
18 National Championships. That never worked out.

19 Q. Do you consider yourself to be generally
20 familiar with all of the equipment that was purchased
21 over the years by — well, that was used by Nick
22 Chenoweth over the years while he was a member of Team
23 EDS and when you were involved with Team EDS?

24 A. More or less, yes.

25 Q. The equipment that you're familiar with him

308

1 using as a member of Team EDS, is that equipment that
2 was paid for by EDS, to your understanding?

3 A. To my understanding, it was, yes.

4 Q. Were you involved in the purchase of all of
5 the — not — a lot of that equipment?

6 A. I think so, yes.

7 Q. So would that include the Romic bike that Nick
8 would have been riding when you first got involved with
9 Team EDS?

10 A. That's before me, so I don't know.

11 Q. While you were — while you were involved with
12 Team EDS, were Romic bikes being purchased from Ray
13 Garzinousski —

14 A. Oh, it's not Ray Romic? I didn't know that.

15 Q. — for members of Team EDS?

16 A. I believe so. I believe right at the start,
17 in '93 or early '94. None of that was done through me
18 at the time.

19 MR. CARLSON: I should have never
20 mentioned his last name because I have no idea how to
21 spell it, and I don't think that we'll be able to find
22 it anywhere.

23 Q. Is it correct that the next bike Nick rode
24 after the Romic was a Wynn bike?

25 A. Yes.

309

1 Q. And were you involved in the purchase of the
2 Wynn bikes for members of Team EDS?

3 A. No.

4 Q. Were you aware that Wynn bikes were being
5 purchased for members of Team EDS?

6 A. For all members, as far as I knew.

7 Q. And that would include Nick Chenowth?

8 A. Yes.

9 Q. Therefore, would you expect that his bike was
10 bought and paid for by EDS?

11 A. I would expect so.

12 Q. And likewise, with the Romic bikes, given that

13 you were aware that Romic bikes were being purchased
14 from Ray for the members of EDS, you'd expect, then,
15 that Nick's bike was also bought and purchased by EDS
16 for — because Nick was a member of Team EDS?

17 A. Uh-huh.

18 Q. Is that yes?

19 A. Yes.

20 Q. Was the next bike that Nick rode after the
21 Wynn a Yamaguchi?

22 A. I believe so, yes.

23 Q. And were you involved in the purchase of the
24 Yamaguchi bike that Nick rode?

25 A. Design and/or purchase.

310

1 Q. Okay. And so you know that EDS paid for that
2 Yamaguchi bike that Nick rode?

3 A. Right.

4 Q. Was there more than one Yamaguchi bike?

5 A. There was a Yamaguchi track bike and a
6 Yamaguchi road bike.

7 Q. Is that also true for the Wynn bike; there
8 would be a Wynn track bike and a Wynn road bike?

9 A. I believe so.

10 Q. And also for Romic, there'd be a Romic road
11 bike and a Romic track bike?

12 A. I believe so.

13 Q. And was the next bike that Nick rode after the
14 Yamaguchi the Corima, the pearl-black Corima?

15 A. Should be, yes.

16 Q. And then after, it was the Corima that Nick
17 got in connection with the sponsorship agreement, which
18 is the one with the high seatpost?

19 A. Uh-huh.

20 Q. And it was originally painted blue and white?

21 No.

22 A. I did that color scheme.

23 Q. Blue, black, and yellow?

24 A. Yes.

25 Q. And then later painted — painted blue, black,

311

1 and white?

2 A. Yes, the last — the last paint was blue,

3 black, and white.

4 Q. Now, all these bikes that we've discussed, the

5 Romics, the Wynn, the Yamaguchi, and the Corima, all of

6 those would have been, to your understanding, assembled

7 by Brett Hydrick either when he worked at Richardson

8 Bike Mart or later when he worked at Texas Racing Works,

9 correct?

10 A. Uh-huh.

11 Q. And that Brett would have supplied, either

12 when he was at Richardson Bike Mart or Texas Racing

13 Works, the components to complete those bikes and make

14 them workable, rideable bikes, correct?

15 A. Right.

16 Q. And that EDS would have paid for the parts?

17 A. Yes.

18 Q. And the wheels? Is that yes?

19 A. Yes.

20 (Exhibit No. 27 marked.)

21 Q. Let me show you what's been marked as Exhibit

22 27. It's Bates-stamped '2052. Can you identify that

23 document?

24 A. Uh-huh.

25 Q. What is that?

1 A. This is a — this is a rough draft of the 1999
2 contract plan for me.

3 Q. Was a — was a final draft ever created?

4 A. There was a final draft. I did have it. I
5 don't have it now. I don't know what happened to it.

6 Q. Do you recall what changed between the rough
7 draft and the final draft?

8 A. Yes. This stayed the same. The allotment
9 here went to — instead of \$1,600 a month, or whatever
10 it is, it went to \$2,000 a month, and then I was
11 added — allowed, on top of that, \$260 or \$240 for
12 home-office allowance.

13 Q. Other than that, did the other language stay
14 the same?

15 A. It stayed about the same, as I recall. I
16 think exactly the same.

17 Q. Who did you — who did you discuss this with?
18 Who at EDS did you discuss this with?

19 A. I don't know. I was brought in for a meeting
20 with Nick and Steve.

21 Q. Did you ever actually meet with Steve on this?

22 A. Uh-huh, yeah, I actually met with him.

23 Q. It says, page 1. Was there a page 2 or a page
24 3?

25 A. I don't remember additional pages. For some

1 reason, this is all I kept.

2 Q. Do you remember when the final draft was
3 completed?

4 A. It wasn't long after this, you know, a week or
5 two or a day or two.

6 Q. Was it — was this the — well, I asked you.

7 There was no page 2, so —

8 A. I don't believe there was a page 2.

9 Q. — the final document looked substantially
10 similar to that one?

11 A. Yes.

12 Q. The second to the bottom there's a — there's
13 a bullet paragraph that reads, an invoice for \$9,000
14 should be given to Steve by the 28th of every month
15 beginning December 28th of 1999. The submitted invoice
16 will be for the following month's payment. Am I correct
17 in understanding that that means that you're billing in
18 arrears?

19 A. No.

20 Q. What's that mean, then?

21 A. Well, it's — I've always — I was always paid
22 at the beginning of the month for the month, so I assume
23 that's what it meant.

24 Q. Well, the sentence — last sentence of that
25 bulleted paragraph, the submitted invoice will be for

314

1 the following month's payment —

2 A. So if you submit on the first, it's for what
3 follows.

4 Q. For the month just to come?

5 A. Right.

6 Q. Okay. Did Nick ever have any — Nick Chenoweth
7 ever have any discussion with you about EDS' funding of
8 the velodrome in Frisco?

9 A. Never. I think I only got the official line,
10 probably the same as you and everybody else.

11 Q. Well, what was the official line that you got
12 about the funding of the Superdome in Frisco?

13 A. That we were in partnership, so to speak, with
14 the college, the college owning the ground and providing
15 the maintenance and the City owning the stands and the
16 superstructure, I guess, not the track superstructure,
17 but the — the office, and then EDS owning the — the
18 track itself, and that after — I think it was after a
19 certain period of time, the track would be given over to
20 the City or the city college and we would continue to
21 run in management, manage it for a period of years, and
22 I guess that's it.

23 Q. Okay. That's — that's what he said to you,
24 or that's your — that's your assumption of how things
25 were going to work?

315

1 A. I think probably both.

2 Q. Have you ever seen the actual document that
3 was —

4 A. No.

5 Q. — negotiated between the City of Frisco, EDS,
6 and the Collin County Community College?

7 A. No. I came to one — one meeting, and at that
8 meeting, I was asked to look at the plans and the layout
9 and then asked if I would take a — a copy of the
10 infield that they had and then rework it so that it
11 would come out to what it is now, which I did. I laid
12 out the infield and then gave the plan back — gave a
13 copy of what I drew back, and that's it.

14 Q. Did Nick ever have any discussions with you
15 about EDS' funding of the construction of the storage
16 building that's located just to the northwest —

17 A. Uh-huh.

18 Q. — of — of the velodrome?

19 A. No, he did not. I personally thought it was a
20 horrible waste to do a small building like that in the
21 way that it was done, but coming from an athlete's point
22 of view, you know, for the athletes, I thought it was
23 basically unusable. There were no showers. It lacked a
24 few other things. There's no water on the infield. I
25 can't imagine that in a place like Texas.

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1 Q. Did Nick ever have any discussion with you
2 about Marty Nothstein becoming a marketing
3 representative for the City of Frisco —

4 A. No.

5 Q. — and being paid by the City of Frisco or
6 the — the fund that was created by the City of Frisco
7 in connection with the velodrome?

8 A. No. You telling me is the first I've heard of
9 this.

10 Q. Well, I'm asking you a question —

11 A. No.

12 Q. — if you've ever heard that.

13 A. I never heard it.

14 Q. Earlier you mentioned a drug test issue that
15 you got involved with, or a failed drug test by Nick
16 Chenoweth.

17 A. Uh-huh.

18 Q. Tell me about that.

19 A. Nick Chenoweth was — was identified as having
20 a high testosterone EP — epitestosterone ratio, I
21 think, which is kind of an indicator within the system
22 of, really, the testosterone level, meaning if the
23 testosterone level is over a certain level, like with
24 some other steroids, you are considered as testing
25 positive.

1 Nick called me about that, asked me — I
2 told you the one time that, you know, I sat in the
3 den — told me about that, told me about his concerns,
4 said that he had not been taking any supplemental
5 testosterone, and asked me if I would find out what
6 information I could.

7 I went to my friend at the Landry Center,
8 who is a physiologist down there, and asked him if we
9 could run a Medline search just for information on it.
10 We got back some, I put it together in a notebook, and
11 gave it to Nick, and that's the last I heard.

12 Q. Your friend at the Landry Center, was that
13 Darwin McAdam?

14 A. Darwin McBrayer.

15 Q. I'm sorry. Darwin McBrayer?

16 A. Uh-huh.

17 Q. Had Nick tested positively for any particular
18 steroid?

19 A. In that case, that would be testosterone.

20 It's the epitestosterone ratio that's in question.

21 Q. Okay. So he had not tested positive for the
22 presence of, for example, nandrolone?

23 A. Not to my knowledge, Chris.

24 Q. Okay. But rather, he tested positive because
25 his testosterone level was —

1 A. His testosterone —

2 Q. — so far out of balance from his
3 epitestosterone level that one could conclude — I guess
4 the scientific community has indicated that the
5 governing bodies of cycling should conclude that the

6 person is taking something that is a
7 performance-enhancing substance to increase their
8 testosterone, correct?

9 A. That would be correct.

10 Q. Do you believe that Nick Chenoweth was taking
11 some form of performance-enhancing substance to increase
12 his testosterone?

13 A. You know, I guess I put it in the category of
14 working with any of you athletes. I would — at the
15 time, you know, and of course, this is before —

16 Q. Well, I'm just asking you about Nick Chenoweth.

17 A. Okay. I chose to believe that he was not. I
18 never saw Nick take anything on any of our trips. Of
19 course, I wouldn't necessarily, but I never saw him take
20 anything. His performance is good, but generally not
21 outstanding, not for as big and strong and as much time
22 as he put into it, you'd think, and not necessarily.

23 The epitestosterone/testosterone ratio
24 test is one that has been brought to question several
25 times in court and is concerned one of the less accurate

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1 tests within the drug scan. So they're looking — and
2 you know, numerous articles say that they're looking for
3 more accurate ways — or ways to make it more accurate.

4 Q. Did Nick Chenoweth ever demonstrate to you any
5 of the characteristics, that you're aware of, that would
6 indicate that he was taking some performance-enhancing
7 substance, one that was designed to increase his
8 testosterone level?

9 A. No.

10 (Off the record 11:25-11:39.)

11 (Exhibit No. 28 marked.)

12 Q. Skip, you have also brought to the deposition
13 with you a green binder that contains materials, some of
14 which we found to be responsive to the subpoena duces
15 tecum.

16 There are some others which are
17 principally just the correspondence or documents that
18 were served upon you in connection with the deposition
19 and then, at least, one privileged document. But the
20 ones that are responsive, we've marked as Exhibit 28 to
21 your deposition; is that correct?

22 A. Yes.

23 (Exhibit No. 29 marked.)

24 Q. Let me hand you now what's been marked as
25 Exhibit 29 and represent to you that this document is a

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1 list of equipment that Nick Chenoweth has claimed belongs
2 to him that EDS is in possession of and that the
3 equipment should be returned to Nick Chenoweth.

4 I ask that you review that document and
5 opine on the truth and veracity of the claim by Nick
6 that all of that equipment is his, it's in EDS'
7 possession, and that it should be returned to him. And
8 why don't you just start at the top and work down item
9 by item.

10 A. All right. And should I say EDS or Nick, as
11 far as I know, in terms of ownership? There are —
12 or — or I don't know, because it would only be EDS or I
13 don't know.

14 Q. Okay. And I might ask you to describe for me
15 or tell me, to the extent you know, where that equipment
16 is —

17 A. I don't know any of —

18 Q. — or if you've seen that equipment someplace,

19 but go ahead, starting at the top.

20 A. Starting at the top, Exhibit 3, is a Corima
21 track bicycle that is EDS'. As far as I know, it's in
22 storage. Then the second line, a Corima time trial
23 track bicycle with cow-horn aerodynamic handlebars, that
24 is EDS'. That was a purchased bike, for sure, and that
25 should be in storage.

321

1 A Corima X-frame, the third item, the
2 Corima X-frame, unpainted carbon fiber. As far as I
3 know, that was a gift from Pierre Martin to Nick
4 Chenoweth and would be his. I have no idea where it is.

5 Q. But the person that could best speak to the
6 nature of that — of — of the — of the way in which
7 that bike was provided to Nick would be Pierre Martin;
8 would you agree?

9 A. He's the only person, I would assume, that
10 would know, unless it was bought, you know.

11 Q. So if he's testified that that bike was given
12 to EDS and not to Nick, in his individual capacity —

13 A. Uh-huh.

14 Q. — are you in a position to disagree with
15 that?

16 A. I would not be in any position, no.

17 Q. Okay.

18 A. Next comes seven Corima rear disc wheels,
19 unpainted carbon fiber. As far as I know, those are all
20 Team EDS' and should be in storage. The same with the
21 next item, seven Corima front quad-spoke wheels, should
22 be all Team EDS'.

23 The following item is six front track
24 bicycle wheels. I do not know these wheels. I have not

25 seen these wheels as part of Team EDS equipment before,

322

1 that I can recall, and I do not know where they are, nor
2 the ownership of them, either one.

3 Next is four front road bicycle wheels.

4 Again, I do not know these wheels, and I do not know
5 where they are. Next is four road rear bicycle wheels,
6 and they — and they, apparently, are matching the front
7 ones above. I do not know these wheels, and I do not
8 know where they are.

9 Next is a Romic track bicycle with a
10 custom bridge, only one of its kind. I am assuming that
11 this is EDS — Team EDS', but this was — would have
12 been a purchase before me. Following that is a Somec
13 track bicycle. I don't know that — I — I have seen
14 this bicycle, as I have seen the Romic. I do not know
15 the ownership of it, and I believe that may be pre-EDS
16 period, but I don't know.

17 Following that is two Romic road
18 bicycles, size 62. Again, I do not know the ownership
19 of these. I have seen one of the road bicycles, at
20 least, but I know nothing about where it is or anything
21 like that. I assume it's in storage. Then four —
22 gosh, four Romic track bikes. Again, I have seen at
23 least one or maybe two of these, but I'm not familiar
24 with them. I do not know the ownership.

25 Following that is four Fir German rear

323

1 track disc wheels. I have not seen these wheels
2 before. I do not know them. I have never seen them.
3 The same with the next item, two Fir front track disc
4 wheels. Again, I have never seen those wheels.

5 The next item after that is 23 Suntour
6 track cogs. As far as I know, most of these should be
7 Team EDS', since we made a large purchase of track cogs,
8 and I do not remember Nick particularly having any of
9 his own, as we've gone through all of this. I would
10 assume those are Team EDS'.

11 Following that is 31 Suntour track chain
12 rings. As with the track cogs, most of these, I would
13 assume, are Team EDS'. A few may be Nick's from before
14 he was with the team. In fact, if they're Suntour track
15 chain rings, they were either bought before I was on the
16 team, for the most part, I think — I'm just not sure of
17 that.

18 Eight bicycle wheel bags, five
19 Sun-Mistral and three Tri All — gosh, I'm not sure
20 which bags they're talking about there. Again, I'm
21 not — we have bags for — I tried to have bags for
22 everything, every wheel, and — but I'm not sure these
23 are those bags.

24 The next to the last item is three Bike
25 Pro travel bicycle bags, oversized, in black, white and

324

1 red color scheme. If it's — if it's black, white, and
2 red color scheme, I believe those were bought as part of
3 Team EDS equipment. If it was red and black only, I
4 believe that Nick had that kind of bag before I started
5 working with him. It still could belong to Team EDS or
6 EDS. I don't know.

7 And then a Somec road tandem bicycle,
8 custom tandem with sloping top tube, I believe Nick used
9 this way back when. I have never seen the bike. I do
10 not know anything about it.

11 Q. When you say you've never seen it and you're

12 not familiar with it, would that include you're not

13 familiar with it being in the EDS storage facility?

14 A. Yes, that would include that.

15 Q. And never — and that you had never seen those

16 items that you described that way in that facility?

17 A. That is correct.

18 (Exhibit No. 30 marked.)

19 Q. Let me hand you now what's been marked as

20 Exhibit 30 and ask if you can identify that document?

21 A. It's just a note to Corima asking — asking

22 about a Corima invoice. The date is October 1996.

23 Q. Okay. The fax banner on the top indicates

24 August 15th of '95; is that right?

25 A. Yeah.

325

1 Q. Do you know of any reason why the dates would

2 disagree?

3 A. No. I've never — I don't think I've ever

4 even noticed this. You know, I have seen my own fax

5 banner.

6 Q. The first line of the text here, following is

7 another invoice for Corima. Is that discussing an

8 invoice that you had received either by the mail or by

9 fax from — from Corima?

10 A. Chris, I don't know. It could be either one,

11 or it could be one that I was sending out then.

12 Q. Okay. When you say one that you were sending

13 out, are you talking about an invoice that you would

14 have created to look like a Corima invoice?

15 A. No. I'm talking about one of these, you know,

16 one of these invoices here.

17 Q. One of the ones that you've identified that

18 you generated to fund the purchase of wheels or the
19 tandem or —
20 A. Right, right.
21 Q. — that sort of thing?
22 A. I'm assuming that. Let me see what the date
23 is. The real date, October 22nd, 1996. These are
24 mainly the August, October, October 22nd — you know,
25 maybe this one.

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1 Q. How do you feel about your association with
2 Nick Chenoweth?
3 A. I told you during the break, I feel bad and
4 slimy and very used, and I feel that — you know, I
5 mean, there's no question about my love for the athletes
6 and the sport.
7 I felt all along that I was dealing with
8 a man who was doing wonderful things for the sport,
9 aside from his personal — personal efforts. I mean, we
10 always just went along with that stuff, and that, you
11 know, we were somehow taking — taking track cycling to
12 a new beginning, so to speak, and — and the guys on the
13 team, too, some levels that they might not reach
14 otherwise.
15 Q. You said in there that we — you just always
16 sort of put up with that sort of thing. What things
17 about Nick did you just put up with that you did not
18 like or do not care for?
19 A. I think in the past few years, we kind of
20 thought of him as a — very much a love-hate
21 relationship. I didn't care for his treatment of
22 particularly the endurance athletes on our team. The
23 necessity to have a solid road program as part of that
24 was always a point of contention and always something

25 that was short — shortsighted on his part, and — you

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1 know, so he tried — we tried to work around that, of
2 course.

3 I did not like his treatment of Karla
4 Bland when she left the team or Michael Buttrey when he
5 left the team. I didn't like his treatment of Danny
6 Wilson, in general. It was simply uncalled for.

7 I hated his treatment of Brett Hydrick,
8 particularly when we were traveling. Brett and Steve,
9 once they were on board, they took care of Nick
10 entirely. I didn't have to do anything, basically, with
11 him then. You know, I thought he treated Brett like
12 a — some kind of slave, and I didn't like, you
13 know — I mean, but those weren't questions that I
14 could — I could do myself.

15 I thought bringing Rebecca Twigg on board
16 was questionable and a few things like that, in general.
17 And again — well, I'll go one more step further. I
18 really didn't think there was any need to build a track
19 here. I thought the team was growing old and we would
20 soon all be finished with this.

21 I was living in Plano at the time, and as
22 a Plano taxpayer, I certainly had mixed feelings about
23 having a bicycle-track facility built in the area that
24 would be tax-supported sooner or later, but that's more
25 my own opinion, and that doesn't make any sense in the

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1 marketing world, or at least I don't think it did.

2 I think — obviously, I've given my
3 testimony that, you know, I believed that I was simply
4 sending in things that were helping the team and helping

5 the sport, really, helping the team, and to hear
6 everything — Nick, you know, had assured us everything
7 was checked and aboveboard and all of that, and, you
8 know, if they needed to change an invoice, they could
9 change it, and it would no problem, et cetera, et
10 cetera, and I since now know none of that is true. He
11 lied and cheated, too, and I'm sorry to be in that
12 position.

13 Q. You mentioned much earlier something about
14 cars and Nick. What — what cars are you aware of — or
15 were you speaking of when you mentioned that you went
16 over to see the cars —

17 A. I would see the cars, if I happened to be —

18 Q. — or saw the cars?

19 A. — be there. I think the only — the only
20 time I ever went to see one of his cars is when I went
21 out to the Italian car rally that was at the Southfork
22 Ranch and looked at — at all of the Italian cars, of
23 which Nick had one at the time. He had a Lamborghini
24 Diablo. And then following that, he had at least two
25 Ferraris, one of which I never saw, and Trey went for a

329

1 ride in that one.

2 Q. Let's try to put a date on when he had the
3 Lamborghini.

4 A. I'm not sure I could, Chris.

5 Q. Did he have the Lamborghini when you moved
6 here in January of 1994?

7 A. No, no, later than that. Maybe '95 or so.
8 '94, '95.

9 Q. Say in 1995, you spent a lot of time that
10 summer in Trexlertown, Pennsylvania?

11 A. Uh-huh.

12 Q. Did he have or did he buy the Lamborghini
13 during that time period?

14 A. Oh, I think he may have. It might have been
15 the fall of '95 when we went out to Southfork to — to
16 see him.

17 Q. Okay. And you said following that he had a
18 couple of Ferraris. What's the first Ferrari that you
19 know of him having after the Lamborghini?

20 A. I believe it would be the F40.

21 Q. And what's your recollection of when he got a
22 Ferrari F40?

23 A. Well, the — I mean, we were told, you know,
24 or if you asked, he said he sold the Lamborghini and got
25 the Ferrari maybe '97 sometime.

330

1 Q. Do you know what — what year the Lamborghini
2 was, what model year?

3 A. You know, they're all perfect. They all look
4 alike, virtually. It was a Diablo. My knowledge is —
5 I love the cars, but my knowledge is not very great on
6 them. Maybe a '90 or '91 or '89.

7 Q. How much does a car like that cost?

8 A. My guess is around \$120,000.

9 Q. Okay. Did he ever indicate to you how much he
10 had paid for it?

11 A. No, never.

12 Q. Did he ever indicate to you how much he sold
13 it for?

14 A. No.

15 Q. Did he ever indicate to you that he had made
16 money on it or lost money on it after he had bought and
17 sold it?

18 A. No. He was closer to Trey on that stuff than
19 he was to me. I — you know, I tuned most of it out
20 anyway, but the only — the only thing that I knew about
21 him — how he was doing that was we went to — we went
22 by the Ferrari dealership here one time, which is right
23 by Brett's bike shop, so it's a fun place to stop.

24 We went by one time just because — I
25 think it was when it was being rumored — and this

331

1 wasn't that long ago — that Marty was — was buying a
2 car, and so I went in and they — their salesman there
3 is a big, tall fellow like Nick, not very friendly, but
4 he was peering over our shoulders as if we were
5 criminals about to steal something.

6 I saw in one of the cars that they had a
7 balloon-payment deal, and so I asked him how the
8 balloon-payment deal worked, and he says, you know, it's
9 basically the way anybody can get into a Ferrari, if you
10 can afford the \$500 or \$600 or \$700 a month payment, and
11 then you've got \$30,000 or \$40,000 or \$50,000 left at
12 the end, but the car is worth, maybe, by then, \$70,000,
13 if that's to gain your plan, I would assume.

14 It could be worth \$30,000, it could be
15 worth \$70,000, but you're mainly paying interest on
16 whatever it is and then a little bit of principal. And,
17 you know, I can remember hearing Nick and Marty talk out
18 at the track one time that, you know, balloon payments
19 are the way to go, and that's the way to do this. So
20 I'm assuming —

21 Q. That was the way that Marty was talking about
22 trying to buy a Ferrari?

23 A. Uh-huh, and Nick was talking to Marty about

24 trying to buy one.

25 Q. Right.

332

1 A. And —

2 Q. How Nick had brought the Ferraris, though,

3 you — you don't know how he did that?

4 A. I assumed at that point that that was — that

5 was the — the key, you know, you buy it on a balloon

6 payment and you have a —

7 Q. But you don't have any knowledge that that's

8 how Nick had bought his Ferrari or the Lamborghini or

9 any of the others cars he had?

10 A. I have no idea.

11 Q. How much does a Ferrari F40 cost, to your

12 knowledge?

13 A. Again, I'm guessing, but I would guess in

14 the —

15 Q. Is it hundreds of thousands of dollars?

16 A. No. It's probably between \$100,000 and

17 \$150,000 or \$200,000 somewhere. It's not the F50,

18 which is — which is the great supercar that Ferrari put

19 out. It is the one before that. The F50s, you know,

20 are \$500,000 to \$800,000 or more, I guess.

21 Q. What's the next car that — did he sell the

22 F40 at some point?

23 A. He did sell the F40. He's had three,

24 actually. Now that I remember, he has had three. The

25 next car — I may not have the right number, but I think

333

1 it's called a 550 Maranello.

2 Q. Maranello?

3 A. Maranello, and I think those cars are about

4 225 bucks — \$225,000.

5 Q. When did he get the 550 Maranello?

6 A. He got that, I'm thinking, maybe three years
7 ago or two and a half years ago, something like that. I
8 only saw the car twice. Once — well, actually, our car
9 mechanics used to be across the street from the Ferrari
10 place, Innovative Auto Works, and since having two
11 daughters who drive and a wife that drives for a living,
12 you know, I was able to spend some time there.

13 I walked across the street when that car
14 was in the garage and originally saw it when it first
15 came in, and then he brought it to the track one time,
16 and I saw that car then at the track, and it's a
17 beautiful thing.

18 Q. What color was it?

19 A. White or a silver white of some kind with a
20 red interior.

21 Q. And did he sell the — the 550 Maranello at
22 some point?

23 A. I — I assume he sold it.

24 Q. And did he buy another car?

25 A. He bought a — something Spider. It is the

334

1 smaller of the cars.

2 Q. 335?

3 A. That number — 355, maybe? Let's see. 340,
4 355. I think they're on 350 or 355 now. I think the
5 new one is, like, 360, I don't know. But anyway, that
6 car was black with black interior, and that's — that's
7 the car — I think the only car I saw in his garage was
8 that car.

9 Q. And do you have any idea how much the 355 —

10 A. I assume it was a 355.

11 Q. — Spider, how much those cars sell for?

12 A. Again, I think in the \$120,000 to \$150,000

13 range.

14 Q. You mentioned that the Lamborghini was, like,

15 a 1991 maybe '90?

16 A. Uh-huh.

17 Q. So it sounds like that car wasn't purchased by

18 Nick new?

19 A. Oh, I don't think so.

20 Q. The Ferraris, were they all new cars?

21 A. The F40 couldn't have been. I don't have any

22 idea what year that — when Nick had it. They had

23 stopped making them, because there were — I know that

24 there were F50s, and if the F50 is out, then the F40

25 isn't being made.

335

1 Q. How about the Maranello and the Spider, were

2 those both new?

3 A. I think those were both new cars.

4 Q. Okay. Did Nick, at some point, sell the

5 Spider?

6 A. I don't know, Chris. I don't know that he

7 didn't still have it when the team broke up, and I have

8 no idea.

9 Q. What — what other cars does Nick have?

10 A. I don't know that Nick has any other cars. He

11 had two vans — or he had a van. He had a matching van,

12 which I don't know if that was a leased van or what, but

13 he had — he had a leased van.

14 Q. Was he leasing the van?

15 A. I have no idea.

16 Q. Did he ever — did he ever tell you how he had

17 that van?

18 A. No.

19 Q. You said that he had two, so you saw that he
20 had two vans?

21 A. Two vans just alike. Well, his mom had a van,
22 so I don't know whether they leased two vans alike
23 together or had bought two vans together, but at some
24 point or another, he mentioned that it was a leased van.

25 Q. Okay. Did he — you say his mother drove one

336

1 of the vans?

2 A. Uh-huh, as far as I knew. I mean, that was —

3 Q. Did he transport a lot of Team EDS equipment
4 in the van that he drove?

5 A. Are you talking about Team EDS equipment or
6 Nick's Team EDS equipment?

7 Q. Well —

8 A. He always had — as far as I know, whenever he
9 came out to the track or I met him a few times down at
10 White Rock with other riders, he always had his bikes in
11 the back of the van. Whenever he came out to the track,
12 his bikes were in the back of the van. He never had any
13 other equipment in there, that I know of, of any kind.

14 Q. Is it necessary to have a van such as the one
15 he had in order to transport bikes?

16 A. Well, we all know you can transport bikes on a
17 roof rack or —

18 Q. Is that how you transport bikes, on a roof
19 rack or a trunk?

20 A. I have many years, certainly. When I was
21 bicycle racing just by myself, that's what I always had,
22 you know. When I became part of the team, that's
23 different. I was transporting everybody's.

24 Q. Did Nick have a black Corvette?

25 A. Oh, just before the team dissolved, and I

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1 thought it was Christi's Corvette. Christi Simmons had

2 a — has or had a black Corvette.

3 Q. Did Nick make some statement to you that

4 caused you to believe that Christi had bought the

5 Corvette?

6 A. I think Nick or somebody — maybe somebody

7 else indicated that that was — I don't remember Nick

8 saying it to me. Maybe it was somebody else indicating

9 that was Christi's Corvette. There was something on it,

10 a license plate, like a —

11 Q. Spin 1?

12 A. Spin 1, yeah. I mean, maybe it was from that

13 license we all thought it was — belonged to her,

14 because she did some spin classes, and I don't know what

15 else.

16 Q. Did you ever hear from anyone about Nick

17 buying equipment or cycling clothing for Christi Simmons

18 by use of the Team EDS account at Richardson Bike Mart?

19 A. No, I did not.

20 Q. Did you ever hear from anyone that Nick had

21 purchased a mountain bike and a road bike for Christi

22 Simmons at Texas Racing Works?

23 A. No.

24 Q. Have you ever seen her riding a road bike or a

25 mountain bike?

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1 A. I never have. I've never had that kind of

2 contact with her. The last amount of bikes that I knew

3 of were purchased for executives here.

4 MR. CARLSON: Let's go off the record.

5 (Off the record 12:08-12:09.)

6 Q. Skip, I think that's all the questions I've
7 got for you now. I'm going to hold the deposition open,
8 meaning that I'm reserving the right to reconvene the
9 deposition, given that you've produced a number of
10 documents today that I haven't had sufficient time to go
11 through. There could be some additional questions that
12 I'll have after reviewing those.

13 A. I understand.

14 Q. And then we've also discussed your production
15 of your check files and that you're going to look for
16 some other documents because you feel like there may be
17 other documents. You think you may have it all, but
18 it's possible there are some others, with the exception
19 of we know that there are these check files —

20 A. Yes.

21 Q. — that you need to give me the opportunity to
22 look at, if I ask for that, and so it's for that reason
23 that I'm holding the deposition open. We'll let you
24 know, if at some point we decide to declare that the
25 deposition is completed.

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1 You have the opportunity to read the
2 transcript, to proof it for the accuracy of the
3 transcription, and it's your decision as to whether or
4 not you want to do that. And you can talk with the
5 court reporter about how that will be done, and we
6 can — you can do that with her off the record, and then
7 we can go back on the record and you can announce your
8 intention on the record if you want to read or sign, or
9 she can just make the notation in the transcription.

10 A. I'm sure I would like to read and sign.

11 Q. Okay.

12 MR. CARLSON: All right. Well, I think
13 that concludes the deposition for today.

14 (Deposition adjourned at 12:11 p.m.)

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: SKIP CUTTING

3 PAGE LINE CHANGE REASON

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25 _____

1 I, SKIP CUTTING, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4

5 _____

6 SKIP CUTTING

7

8 THE STATE OF _____)

9 COUNTY OF _____)

10

11 Before me, _____, on this
12 day personally appeared SKIP CUTTING, known to me (or
13 proved to me under oath or through _____)
14 (description of identity card or other document) to be
15 the person whose name is subscribed to the foregoing
16 instrument and acknowledged to me that they executed the
17 same for the purposes and consideration therein
18 expressed.

19 Given under my hand and seal of office this
20 _____ day of _____, 2000.

21

22

NOTARY PUBLIC IN AND FOR

23

THE STATE OF _____

24 My commission expires: _____

25

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1 STATE OF TEXAS)

2 COUNTY OF DALLAS)

3 I, Stacy L. Jordan, Certified Shorthand Reporter,

4 in and for the State of Texas, certify that the

5 foregoing deposition of SKIP CUTTING was reported

6 stenographically by me at the time and place indicated,

7 said witness having been placed under oath by me, and

8 that the deposition is a true record of the testimony

9 given by the witness.

10 I Further certify that I am neither counsel for nor

11 related to any party in this cause and am not

12 financially interested in its outcome.

13 Given under my hand on this the _____ day of

14 _____, 2000.

15

16

17

18

 Stacy L. Jordan, Certified
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 My commission expires 12-31-00

24

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