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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

TEAM RESOURCES, INC.,)
)
Plaintiff,)
)
VS.) C.A. NO. 6:98CV708
)
TED FISH, FISH ASSOCIATES,)
ANDY ANDREWS, ROBERT D.)
SMITH and FIRST IMAGE, INC.,)
)
Defendants.)

ORAL DEPOSITION OF
EDWARD E. FISH
AUGUST 18, 2000

ORAL DEPOSITION OF EDWARD E. FISH, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on the 18th day of August, 2000, from 9:06 a.m. to 11:42 a.m., before Kim S. Johnsen, CSR in and for the State of Texas, reported by stenographic means, at the offices of Phillips & Akers, 3400 Phoenix Tower, 3200 Southwest Freeway, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

EDWARD E. FISH - 08/18/00

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REQUESTED DOCUMENTS/INFORMATION

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

2

3 FOR THE PLAINTIFF:

4 Mr. Brock C. Akers
5 PHILLIPS & AKERS
6 3400 Phoenix Tower
7 3200 Southwest Freeway
Houston, Texas 77027
713/552-9595
Fax 713/552-0231

8

9 FOR THE DEFENDANTS:

10 Mr. Richard Grainger
LAW OFFICES OF RICHARD GRAINGER
11 605 South Broadway
Post Office Box 491
Tyler, Texas 75710
12 903/595-3514
Fax 903/595-5360

13

14 ALSO PRESENT:

15 Dr. Joe Morrison
Mr. Dave Roberts
16 Mr. Ron Green
Mr. Robert Smith
17 Mr. Andy Andrews

18

19

20

21

22

23

24

25

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1 P R O C E E D I N G S

2 THE REPORTER: Any agreements for the
3 record?

4 MR. AKERS: The rules.

5 MR. GRAINGER: Under the rules.

6 MR. AKERS: Read and sign?

7 MR. GRAINGER: Yeah.

8 MR. AKERS: And for the record,
9 Mr. Grainger has asked me to, on the record, indicate
10 the presence of representatives of TEAM Resources. And
11 present with us here today are Dr. Joe Morrison, Ron
12 Green, and Dave Roberts, who are associated with TEAM
13 Resources, the plaintiff in this case.

14 Does that cover it?

15 MR. GRAINGER: Yes, sir. Thank you.

16 EDWARD E. FISH,
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 BY MR. AKERS:

20 Q. State your name for the record, sir.

21 A. Ted Fish.

22 Q. Is your full name really "Edward"?

23 A. Edward E. Fish.

24 Q. Where do you live, sir?

25 A. Falmouth, Maine.

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1 Q. How long have you lived in Maine?

2 A. All my life.

3 Q. Sir, you know why we're here, surely?

4 A. Uh-huh.

5 Q. Is that a "yes"?

6 A. Yes.

7 Q. Have you given depositions before?

8 A. No.

9 Q. Have you had a chance to discuss with your
10 lawyers what depositions are all about?

11 A. Yes.

12 Q. Do you understand that this is an informal
13 court proceeding?

14 A. Yes.

15 Q. That the effect of your answers here today is
16 exactly the same as if you're sitting live in front of
17 the judge and the jury?

18 A. Yes.

19 Q. That a verbatim transcript of my questions
20 and your answers, and if Mr. Grainger has any
21 questions, his questions and your answers, is going to
22 be prepared and available for all parties for us to use
23 at the trial of this case?

24 A. Yes.

25 Q. And that the oath which you have taken is the

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1 same oath -- the exact same oath that you will take
2 down at the courthouse when you go to trial in this
3 case?

4 A. Yes.

5 Q. Okay. I'd like to have a couple of quick
6 agreements with you regarding just the form of the
7 taking of our deposition. It is difficult for our
8 court reporter to take down nods of heads, "uh-huhs,"
9 "huh-uhs." Just doesn't come out on her machine. If
10 you'll please speak up verbally with all your
11 responses. And if you'll wait until I'm through with
12 my question, I'll in turn wait until you're through
13 with your answer, because it is also difficult if we're
14 both speaking at the same time. Fair enough?

15 A. Fine.

16 Q. Most importantly, if at any time I ask you a
17 question that you do not hear, you do not understand,
18 or for whatever reason seems like you and I are just
19 not on the same wavelength, will you please stop me and
20 ask me to repeat or rephrase my question?

21 A. Fine.

22 Q. Because, otherwise, I can only presume that
23 you and I are on the same wavelength. Is that fair?

24 A. That's fine.

25 Q. What do you do for a living, sir?

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1 A. I'm in the Amway business, Quixtar business,
2 I'm a minister. I do all of those things.

3 Q. You're a married man?

4 A. Yes, sir.

5 Q. You've been married how long?

6 A. Thirty-five, 36 years.

7 Q. Do you have children?

8 A. Yes.

9 Q. How many?

10 A. One.

11 Q. Grandchildren?

12 A. No.

13 MR. GRAINGER: Any time you want to take
14 a break, I'm sure he'd be happy to do so.

15 MR. AKERS: Absolutely.

16 MR. GRAINGER: If you need water or
17 anything like that, you just let us know. All right?

18 THE WITNESS: Glass of water wouldn't be
19 a bad idea.

20 MR. AKERS: Let's stop, then.

21 (A brief recess was taken.)

22 Q. (By Mr. Akers) What is your educational
23 background, sir?

24 A. High school, college, graduated from what is
25 now Columbia International University, Columbia, South

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1 Carolina.

2 Q. And when did you get out?

3 A. Sixty -- just a minute. '67, I believe, I
4 graduated from Columbia.

5 Q. What year were you born, sir?

6 A. 1944.

7 Q. Which would have made you about 23 years old
8 when you got out?

9 A. Probably.

10 Q. And what course of studies did you take up
11 there, sir?

12 A. I got a bachelor's of Biblical education.

13 Q. And do you have any postgraduate work?

14 A. No.

15 Q. And after getting out of college, what did
16 you do?

17 A. Various different kinds of work in the
18 ministry.

19 Q. Are you affiliated with a denomination?

20 A. No.

21 Q. Have you ever been affiliated with a
22 denomination?

23 A. No.

24 Q. When you say "various ministries," did you
25 ever pastor a church?

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1 A. I pastored a church, administrated a school,
2 run Christian camps, done evangelistic work.

3 Q. When you say "evangelistic work," what do you
4 mean by that, sir?

5 A. Setting up meetings and preaching at
6 evangelistic crusades.

7 Q. Billy Graham on a smaller scale?

8 A. Very much smaller.

9 Q. And how long did you do that?

10 A. Actually, I still do some of those things. I
11 still do preaching for churches and sing if they want
12 me to. I'm not pastoring a church now. If I'm invited
13 to go speak somewhere. Spoke at a church last Sunday.

14 Q. How often in the average year are you -- and
15 when you're speaking, I mean, is this during the
16 regular Sunday morning service?

17 A. Sunday morning, Sunday evening. Seldom now
18 do I do that.

19 Q. How many times a year do you get those sorts
20 of invitations?

21 A. Maybe two or three times a year that I
22 actually do that in the church.

23 Q. How long has it been since you have pastored
24 a church?

25 A. Oh, you want the exact time?

EDWARD E. FISH - 08/18/00

1 MR. GRAINGER: Your best estimate.

2 A. It's probably been, I'll guess, 10 years or
3 better since I've actually pastored. Maybe more than
4 that.

5 Q. Since the last time that you pastored a
6 church, and when you last pastored a church, would that
7 have been a full-time job for you?

8 A. Yes.

9 Q. And in the last 10 years, has your primary
10 occupation and income been from your Amway business?

11 A. Yes.

12 Q. In the last 10 years, other than your two to
13 three times a year being invited to speak at a church,
14 what sorts of things have you done as a minister?

15 A. Marriages, funerals, spoken at services when
16 invited to, spoken at men's conferences or something
17 like that if invited to, led trips to the Holy Land.

18 Q. Have you been called upon to perform a
19 service or be a participant in a worship service at
20 Amway functions?

21 A. Yes.

22 Q. How many times a year do you do that?

23 A. It varies from year to year.

24 Q. In the last year how many times?

25 A. Probably four or five.

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1 Q. And is the -- do you have a trade name that
2 you operate your business under?

3 A. Fish Associates.

4 Q. You are a Diamond?

5 A. Yes.

6 Q. When did you reach your Diamond level?

7 A. I believe it was 1988, if I'm not mistaken.

8 Q. Did you reach Diamond before or after you
9 last pastored a church?

10 A. Before.

11 Q. Was your church in Maine?

12 A. The last church that I actually pastored was
13 in Massachusetts.

14 Q. Were members of your church part of your down
15 line?

16 A. No.

17 Q. Who sponsored you, sir?

18 A. Who sponsored me?

19 Q. Yes.

20 A. Lee Lamson.

21 Q. Is Mr. Lamson still in business?

22 A. No.

23 Q. Who was his immediate up line?

24 A. You want the entire list?

25 Q. If you have it committed to memory, that

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1 would be great.

2 A. Lee was sponsored by a man named Tom
3 Genatasio. Tom was sponsored by Sal Beradesco. Sal
4 was sponsored by Stan Bonet. To the best of my
5 knowledge, Stan Bonet was sponsored by Dexter Yager.
6 There may be somebody in there between them. I'm not
7 sure.

8 Q. Is Mr. Genatasio still in business?

9 A. No.

10 Q. Is Mr. Beradesco still in business?

11 A. No.

12 Q. And Mr. Bonet?

13 A. I do not know.

14 Q. Mr. Yager is?

15 A. I believe he still is.

16 Q. When was the last time that you spoke to
17 Mr. Yager?

18 A. I don't know. Been a while.

19 Q. He has a major function coming up this fall
20 in a few weeks, does he not?

21 A. Yes.

22 Q. Do you plan to attend?

23 A. Yes.

24 Q. The name of that function is "Free
25 Enterprise"?

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1 A. Right.

2 Q. Where will it be located?

3 A. Charlotte, North Carolina.

4 Q. Are there other Free Enterprise functions
5 that Mr. Yager holds around the nation?

6 A. Yes.

7 Q. The one that you plan to attend is in
8 Charlotte?

9 A. Right.

10 Q. Do you attend Free Enterprise pretty much
11 every year?

12 A. Uh-huh. Yes.

13 Q. Are there other Yager-sponsored functions
14 that you attend during the course of a year?

15 A. Yes, there are.

16 Q. How many functions per year do you attend,
17 Yager-sponsored functions, do you attend typically?

18 A. Typically, two aside from Free Enterprise.

19 Q. Do they have particular names?

20 A. One is called the "YMNI," Y-M-N-I, Yager
21 Marketing Network Institute. The other one is "Go
22 Diamond Weekend."

23 Q. Is the YMNI function open, or is it
24 restricted to certain people of certain levels?

25 A. It's an invitation-only meeting.

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1 Q. And, typically, what is the pen level that
2 folks tend to get those sorts of invitations?

3 A. It can be anyone from a brand new person to a
4 Crown Ambassador.

5 Q. And how large is this function typically,
6 number of people-wise?

7 A. I'm only guessing. 1500, 2,000. Just
8 guessing.

9 Q. In round numbers how much do these people
10 have to pay in order to get there?

11 A. They don't pay. Their Diamond pays their
12 way.

13 Q. And do you as a Diamond end up paying people
14 to go to the YMNI?

15 A. Paying people to go to YMNI?

16 Q. That was --

17 A. No.

18 Q. Paying for the ticket for people in your down
19 line to go to YMNI.

20 A. For the attendance at the function, yes. Not
21 for their transportation.

22 Q. And how much is a ticket to YMNI?

23 A. I do not remember.

24 Q. Is it \$1,000 or 100 bucks or 50? Or what's
25 the range?

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1 A. I'm thinking it's in the neighborhood of
2 somewhere between 100 -- somewhere around \$100 for the
3 ticket to attend.

4 Q. And --

5 A. Maybe more than that. I don't actually
6 remember.

7 Q. And if a couple comes, would it be 100 times
8 two?

9 A. It's only men's event.

10 Q. How many -- when was the last YMNI you went
11 to?

12 A. I believe it was last August.

13 Q. Almost a year ago?

14 A. Yes. They're held once a year.

15 Q. Is there one forthcoming?

16 A. Yes, there is.

17 Q. And when is it scheduled?

18 A. Tomorrow.

19 Q. Where will it be?

20 A. Charlotte, North Carolina.

21 Q. How many people in your down line have you
22 paid to go?

23 A. None. I won't be attending.

24 Q. Last year how many did you pay to go?

25 A. Five.

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1 Q. What is the purpose of YMNI?

2 A. Leadership training and motivation for
3 building the business.

4 Q. Is it valuable to you to have people in your
5 down line going to such things?

6 A. Yes, it is.

7 Q. Why?

8 A. For the information they get as to how to
9 build their business.

10 Q. Because if they build their business
11 successfully, that inures to your benefit --

12 A. Absolutely.

13 Q. -- in a financial way?

14 A. Yes.

15 Q. Go Diamond Weekend, is that likewise an
16 invitation-only function?

17 A. Yes, it would be.

18 Q. And who issues the invitations?

19 A. It would come from Internet Services.

20 Q. Internet Services being the company owned and
21 operated by Mr. Yager and his children?

22 A. Yes.

23 Q. So Internet Services issues the invitations.

24 I mean, are those invitations typically given to anyone
25 within the Yager down line?

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1 A. Silver producers and above can attend that
2 function.

3 Q. Who happen to be in the Yager down line? Or
4 are there other folks in other groups, Bill Brett
5 group, Foley group, Jody Victor group, for instance,
6 who might be invited to attend if they have that pen
7 level?

8 A. Not all of those groups you've mentioned
9 attend that function.

10 Q. But some of those groups might plug into a
11 Yager function?

12 A. One of them would.

13 Q. Victor?

14 A. Yes.

15 Q. And how many people -- well, how many Go
16 Diamond weekends does Mr. Yager put on --

17 A. One.

18 Q. -- every year. For the entire country?

19 A. Yes.

20 Q. And how many people attend Go Diamond?

21 A. Several thousand. I don't know exactly.

22 Q. Do Diamonds, such as yourself, have any
23 obligation to pay the way for tickets or otherwise for
24 any of the people invited?

25 A. No.

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1 Q. When was the last Go Diamond that you went?

2 A. April of last year.

3 Q. April of '99?

4 A. Where are we now? 2000. We haven't reached
5 April yet.

6 Q. Yeah, we have.

7 A. Or have we? Yes, April of 2000.

8 Q. And how much was your ticket for that?

9 A. Again, I do not remember exactly. A few
10 hundred dollars.

11 Q. Do you want the people in your down line to
12 attend Go Diamond Weekend?

13 A. Yes.

14 Q. Why?

15 A. Because of the information they get, so they
16 can build their business successfully.

17 Q. For those people who is -- is there anyone
18 selling them tickets other than Internet Services?

19 A. No.

20 Q. Do you earn any commission or any money
21 whatsoever for the people within your group whom you
22 get to go to Go Diamond?

23 A. I believe there is a small difference in what
24 they pay and what I pay for those tickets. I don't
25 know exactly. I think there's a small stipend that

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1 comes back to our office for people who attend.

2 Q. Okay. But you're not sure?

3 A. I'm not really sure on that particular
4 function. I think that's how it works on that one.

5 Q. Do the people within your down line tend to
6 actually physically get the tickets from you?

7 A. Yes. Those tickets come to us, and we get
8 them to them.

9 Q. And do those people pay you for the tickets?

10 A. Yes.

11 Q. And what you're saying is that if you have a
12 theoretical 100 people in your down line that are going
13 to be attending, you pay "X" number of dollars for
14 those tickets, and that might be -- what you pay for
15 those tickets may be discounted such that you're
16 earning something in that incremental difference?

17 A. I think that's the case. I'm not sure on
18 that function, but I think that's the case.

19 Q. Do you have -- does your wife -- and her name
20 is Naomi?

21 A. Yes.

22 Q. Does she work the business?

23 A. Yes.

24 Q. Do you have anyone that keeps books, does
25 paperwork for you?

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1 A. Yes.

2 Q. How many folks do you have employed to do
3 that?

4 A. One.

5 Q. And what's that person's name?

6 A. Ruby Whitney.

7 Q. W-h?

8 A. Whitney, W-h-i-t-n-e-y.

9 Q. How long has Ms. Whitney been with you?

10 A. Probably over 12 to 15 years.

11 Q. Does she have a title in your organization?

12 A. No.

13 Q. Is she --

14 A. Secretary.

15 Q. Secretary. And is she responsible for
16 keeping track of the money issued, for instance, like
17 for these ticket sales?

18 A. Naomi keeps track of that.

19 Q. So Naomi would be the person to ask these
20 questions about what money, if any, you earn off of the
21 ticket sales?

22 A. She would know that more than I would.

23 Q. Is it important for you to make sure that
24 your people go to functions?

25 A. Yes.

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1 Q. Why?

2 A. For the information they get so they can
3 build their business successfully.

4 Q. And the information that they get, does the
5 information, does it include motivational-type
6 messages?

7 A. Yes.

8 Q. Is that a big part of what goes on at these
9 meetings?

10 A. It's a big part of them.

11 Q. And the reason for that is that you want
12 people to get motivated and excited about working the
13 business?

14 A. Yes.

15 Q. Because it is easy -- it is not necessarily
16 an easy business, is it?

17 A. Not necessarily.

18 Q. I mean, it requires folks to spend sometimes
19 long hours in a lot of living rooms drawing circles;
20 right?

21 A. Yes.

22 Q. And people have to overcome the resistance of
23 their friends' families and the friends of friends that
24 they are sitting in front of; right?

25 A. Yes.

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1 Q. You know what I'm talking about?

2 A. Used to. Not as much anymore.

3 Q. It's easier to sell the Amway dream today
4 than it used to be?

5 A. I'm not selling the Amway dream today.

6 Q. What are you selling?

7 A. Quixtar business.

8 Q. Okay. And Quixtar is the Internet company
9 that spun off of Amway?

10 A. It's a separate corporation.

11 Q. And is anyone working Amway anymore?

12 A. Yes.

13 Q. But you're not?

14 A. No.

15 Q. How many people are in your down line?

16 A. I don't know.

17 Q. Give me a rough estimate.

18 A. I couldn't give you a rough estimate. I
19 don't know.

20 Q. Between 1,000 and 100,000, you couldn't tell
21 me?

22 A. No. I could not give you an answer to that
23 question and know that I was close to accurate.

24 Q. Okay.

25 A. I could get the information, but I don't have

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1 it.

2 Q. At these functions do they talk about
3 Quixtar?

4 A. Which functions?

5 Q. Like Go Diamond and YMNI.

6 A. Yes, they do now.

7 Q. And those people who might previously have
8 been talking about the Amway system are now talking
9 about the Quixtar system?

10 A. That's right.

11 Q. And Quixtar is a wholly-owned subsidiary of
12 Amway, is it not?

13 A. I don't know the answer to that question.

14 Q. Quixtar sells all Amway products?

15 A. Explain that.

16 Q. The same products that were in Amway catalog
17 before Quixtar existed are now being sold by Quixtar?

18 A. That's part of what Quixtar sells.

19 Q. What else does Quixtar sell?

20 A. Thousands of different things.

21 Q. Give me some broad categories.

22 A. They're affiliated with several partner
23 stores, such as Toys "R" Us, Hickory Farms, OfficeMax.
24 All of those products would be sold through Quixtar.

25 Q. Okay.

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1 A. Those are not Amway products.

2 Q. The system of compensation between Quixtar
3 and Amway, is it the same or different?

4 A. It's the same.

5 Q. So that if you are able to get someone in
6 your down line to buy from a Quixtar partner, such as
7 Hickory Farms or Paul Frederick or someone like that,
8 then you would somehow receive some commission off of
9 that sale?

10 A. Yes.

11 Q. And is the commission rates and the way the
12 percentages are figured, is that all the same as it was
13 under Amway?

14 A. Don't understand your question.

15 Q. The -- if someone in your down line bought a
16 widget three years ago before Quixtar existed, and
17 today they bought that widget through Quixtar, would
18 the manner in which you're compensated, at least on a
19 percentage-wise, be the same?

20 A. If the widget was available in both, yes.

21 Q. Is there a differentiation between that which
22 is available only in Quixtar as opposed to what might
23 be available through the Amway catalog?

24 A. I believe there are some products that are
25 not available through Quixtar that are available

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1 through Amway. I couldn't tell you what they are. I
2 think there are some that still need to be purchased
3 through Amway. I'm not sure of that, but I believe
4 that's still the case. May not be at this point. They
5 may all be available.

6 Q. Can you buy the soap through Quixtar?

7 A. Yes.

8 Q. And vitamins and all those sorts of things?

9 A. Yes.

10 Q. Have you ever personally sponsored a
11 function?

12 A. Yes.

13 Q. When was the last time that you sponsored a
14 function?

15 A. July of this year.

16 Q. And what did you call that?

17 A. It was called "Summer Business Conference."

18 Q. Where was it held?

19 A. Greenville, South Carolina.

20 Q. Do you do that on an annual basis?

21 A. Yes.

22 Q. Do you sponsor more than one function per
23 year?

24 A. Yes.

25 Q. How many functions per year do you sponsor?

EDWARD E. FISH - 08/18/00

- 1 A. Two.
- 2 Q. What's the other one?
- 3 A. "Winter Business Conference."
- 4 Q. And do you have different locations?
- 5 A. Different locations.
- 6 Q. Who spoke for you at Summer Business
- 7 Conference last month?
- 8 A. Wes Beavis, Chip Wall, and Jim Jones, Jim and
- 9 Julie Jones.
- 10 Q. And what level is Wes Beavis?
- 11 A. He's an entertainer-author.
- 12 Q. He's not an Amway person?
- 13 A. No.
- 14 Q. And Chip Wall?
- 15 A. Works for Amway Corporation.
- 16 Q. What's his business there?
- 17 A. He works with the Better Life Institute,
- 18 nutritional part of the business.
- 19 Q. Did he come to talk about products?
- 20 A. Yes.
- 21 Q. Julie and Jim Jones?
- 22 A. They're Diamonds.
- 23 Q. Diamonds in your group or --
- 24 A. No.
- 25 Q. Whose group are they in?

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1 A. Bill and Martha Johnson's.

2 Q. Are they plugged into the Yager group?

3 A. Yes.

4 Q. Do you tend to focus on the Yager group
5 people for your functions?

6 A. I don't understand your question.

7 Q. When you issue invitations for people to come
8 to your functions, do you -- within the people that you
9 tend to invite who are in Amway, do you tend to focus
10 on people who are plugged into Yager?

11 A. You mean as speakers?

12 Q. Yes.

13 A. Yes.

14 Q. Did you have a contract with Julie and Jim
15 Jones to speak?

16 A. No.

17 Q. Was there anything written between the two of
18 you?

19 A. No.

20 Q. Were they paid?

21 A. Yes.

22 Q. How much were they paid?

23 A. \$4,000.

24 Q. How was that amount determined?

25 A. It's what I decided I could afford to pay

EDWARD E. FISH - 08/18/00

1 them.

2 Q. So before they came they weren't -- they
3 didn't have a number in mind that they knew they were
4 going to earn?

5 A. In this case I did tell Mr. Jones what I
6 would be paying him.

7 Q. Up front?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes. Sorry.

11 Q. Are there other instances where that number,
12 that pay number, is not exactly firmed up?

13 A. Yes.

14 Q. Is that usually the case?

15 A. Usually that's the case.

16 Q. And ordinarily for people who sponsor
17 functions, the amount of money that is going to be paid
18 for someone who speaks, is that determined ordinarily
19 on the basis of what the sponsor thinks that they can
20 pay?

21 A. Sponsor of the function?

22 Q. Right.

23 A. Yes.

24 Q. And have you found in just the way -- you've
25 been in this business how long?

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1 A. Since 1972.

2 Q. And you've been a Diamond for 12 years?

3 A. Yes.

4 Q. Were you asked to speak before you were a
5 Diamond?

6 A. Yes.

7 Q. And before you were a Diamond, were you paid
8 for your speaking?

9 A. Yes.

10 Q. And did you go around the country many
11 weekends a year, because of these invitations, speaking
12 to large groups?

13 A. What is "many"?

14 Q. More than a couple.

15 A. It's more than a couple. It's not very
16 many. But yeah. I didn't speak a lot of weekends.

17 Q. And within the way people do business for
18 these functions, if I understand your testimony, it is
19 most often the case that the precise amount of money
20 that a speaker is going to be paid is not necessarily
21 discussed when someone commits to coming?

22 A. That's correct.

23 Q. And it's also -- in the Amway world the way
24 this business typically operates, is it also true that
25 usually commitments to come to a function as a speaker

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1 are not committed to writing by way of a contract?

2 A. Right.

3 Q. How many times a year -- how many times in
4 1999 were you invited to speak someplace?

5 A. I believe it was four, possibly five. But I
6 believe it was four.

7 Q. And how many times so far the year 2000?

8 A. I believe it has been once or twice.

9 Q. Okay. So in the last 20 months you have --
10 and these are functions, by the way, that aren't your
11 own functions?

12 A. Right.

13 Q. You have been invited to speak and have
14 spoken at five or six functions?

15 A. Right.

16 Q. And in any of these instances in the last 20
17 months, have you had a physical, written down contract
18 that dealt with your speaking engagement?

19 A. No.

20 Q. And in any of these instances, was there an
21 amount of money that was guaranteed to you or specified
22 by you as what you could expect to be paid?

23 A. No.

24 Q. In these instances for these functions was
25 your being on the speakers' list advertised to various

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1 groups who would be expected to attend?

2 A. I believe so.

3 Q. And did you personally get on -- I mean,
4 you're in the Amvox system?

5 A. Yes.

6 Q. And now, with the advent of the Internet, is
7 there an e-mail system among the Amway/Quixtar people?

8 A. Don't understand your question.

9 Q. Is there a system by way of e-mail wherein
10 people get -- someone, if they want to issue a message
11 to 2,000 people, are able to do that?

12 A. Not that I do.

13 Q. Okay. Or that you've seen?

14 A. Not that I've seen.

15 Q. Or that you receive?

16 A. I don't believe so.

17 Q. Okay. Of course, that would leave a paper
18 trail of sorts if that existed?

19 A. Unless Amway Corporation sends me an e-mail
20 on something.

21 Q. So is Amvox, in the last 20 months or so has
22 that been a major, significant way that people within
23 Amway/Quixtar communicate?

24 A. Yes.

25 Q. And the way that the Amvox system is set up

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1 is that you could -- there's a means by which you could
2 broadcast to a large group of people a particular
3 message?

4 A. Yes.

5 Q. And for these functions were you asked to
6 broadcast a message about your coming to a function?

7 A. I believe I was asked once.

8 Q. Is that a common thing that occurs, within
9 the Amway world, that folks get on the Amvox and say,
10 "Hey, I've been invited, I'm excited about speaking,
11 look forward to seeing you, hope that you make it to
12 the XYZ weekend"?

13 A. I've seen that happen sometimes. Other times
14 there's no message like that.

15 Q. Right. Obviously, four of the five times or
16 so in the last 20 months that didn't occur in your
17 case?

18 A. Right.

19 Q. But you know that there are -- have been
20 other forms of advertising that these groups have
21 employed in order to tell people that they were going
22 to have Ted Fish come and speak at their function;
23 right?

24 A. I don't know what they used to advertise
25 their functions.

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1 Q. Okay. It is common for advertisements of
2 some sort to be used, is it not?

3 A. I use it.

4 Q. Do you use printed fliers, for instance --

5 A. Yes.

6 Q. -- that you give people on pick-up nights and
7 things like that?

8 A. Yes.

9 Q. With Quixtar is there such thing as "pick-up
10 night"?

11 A. No.

12 Q. Do you still have pick-up night, though?

13 A. No.

14 Q. Do you send these things around by fax?

15 A. Yes.

16 Q. The one that you know of for sure in the year
17 2000 that you spoke at, do you recall what that was?

18 A. What function it was?

19 Q. Yes.

20 A. I spoke for Gregg and Pat Howard's summer
21 conference.

22 Q. Do you remember how much you were paid for
23 that?

24 A. \$6500.

25 Q. Is there a typical range that Diamonds can

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1 expect to earn for speaking engagements?

2 A. Not that I'm aware of.

3 Q. Does the amount vary significantly from --

4 A. Yes --

5 Q. -- one to the next?

6 A. -- in my experience.

7 Q. What's the most that you've ever earned for a
8 speaking engagement?

9 A. I don't think I can give you an actual dollar
10 amount and be accurate. Probably somewhere in the
11 neighborhood of \$10,000 or a little bit more would be
12 the most I've ever been paid.

13 Q. Have you ever been invited to speak at Free
14 Enterprise?

15 A. No. Just when I went Diamond.

16 Q. Pardon me?

17 A. When I went Diamond.

18 Q. Because you walked across the stage?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes.

22 Q. When you put on a function, is it important
23 for you to get people there?

24 A. Yes.

25 Q. As many people as possible?

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1 A. Yes.

2 Q. And the reason for that is because, number
3 one, you want as many people getting the information as
4 possible?

5 A. Yes.

6 Q. You want as many people within your group
7 getting motivated as possible?

8 A. Yes.

9 Q. And because you're able to earn money at the
10 function itself, are you not?

11 A. No.

12 Q. You don't earn money on your functions?

13 A. No.

14 Q. Okay. Your Summer Business Conference, how
15 many people attended that?

16 A. Approximately 180.

17 Q. And your Winter Business Conference?

18 A. About the same.

19 Q. And did you charge a ticket price?

20 A. Yes.

21 Q. How much did you charge?

22 A. We don't sell a ticket. It's a package
23 price.

24 Q. Okay. What comes in the package?

25 A. All the meetings, the hotel, banquet,

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1 handouts and literature, workshops is all included in
2 the package.

3 Q. And how much was the package for the Summer
4 Business Conference?

5 A. It varies as to how you come: a single,
6 double, triple or quad. I believe a double was
7 somewhere around six fifty, if I'm not mistaken,
8 something like that, in that neighborhood. That's
9 probably not exactly what it was, but it's close.

10 Q. And how long was this -- how many days was
11 this conference?

12 A. Friday night through Sunday afternoon.

13 Q. And what hotel was it at, at Greenville?

14 A. The Hyatt Regency.

15 Q. And when you put on your conferences, do you
16 consciously try not to make money?

17 A. No.

18 Q. Okay. Well, did you make money on that
19 conference?

20 A. No.

21 Q. Do you try and price things so that you come
22 out ahead?

23 A. I would try to.

24 Q. How much did you lose in that conference?

25 A. I do not know.

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1 Q. Did you speak at that conference yourself?

2 A. Yes, I did.

3 Q. Did you pay yourself an amount of money?

4 A. No, I didn't.

5 Q. So you know at the Summer Business Conference
6 you lost money, and you just don't know how much?

7 A. Right.

8 Q. Have you ever made money on one of your
9 conferences?

10 A. I would say, yes, I have.

11 Q. And how much, when you were in the black, did
12 you make on your conference?

13 A. I do not know the answer to that question.

14 Q. What's the most number of people you've ever
15 had attend one of your functions?

16 A. I honestly don't know the answer to that. It
17 would be a guess.

18 Q. Give me a -- is 180 people about what you
19 expect at your conferences, or is that light?

20 A. Right now? You asked about the most.
21 Probably 300, guesstimate.

22 Q. And how long ago would that have been?

23 A. A few years ago.

24 Q. Have the numbers in your group gone down?

25 A. Some.

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1 Q. Looks like you're seeing about a 60 percent
2 decrease in your attendance?

3 A. That's right.

4 Q. Forty percent decrease in your attendance?

5 A. Forty percent. Don't make it worse than it
6 is.

7 Q. Yeah. Do you know if other people putting
8 functions on put those functions on in order to make
9 money?

10 A. Don't really understand your question.

11 Q. Other people -- for instance, Gregg and Pat
12 Howard, they had a function. And tell me where it was
13 located.

14 A. Quebec City, Canada.

15 Q. And when the Howards put on their conference,
16 do you know if they expected to make money on their
17 conference?

18 A. I have no idea what Gregg does.

19 Q. Do you --

20 MR. GRAINGER: Brock, could we take a
21 short break? I'm worried about that phone call because
22 I do have somebody sick at home.

23 MR. AKERS: Sure. Absolutely.

24 (A recess was taken at 9:57,
25 resuming at 10:07.)

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1 Q. (By Mr. Akers) How many people were at that
2 function for the Howards?

3 A. I really don't know.

4 Q. Was it more than 180?

5 A. Yes.

6 Q. Your best estimate, was it probably closer to
7 a thousand or more?

8 A. I would think more than that, but I don't
9 know how many were there.

10 Q. Are you a qualified Diamond?

11 A. No.

12 Q. How long has it been since you've been a
13 qualified Diamond?

14 A. Since the first time I went Diamond.

15 Q. Is there a difference in the amount typically
16 paid to speakers at functions who are Diamond as
17 opposed to the level beneath?

18 A. I would think so.

19 Q. So if you're an Emerald and you're asked to
20 speak, and a Diamond is asked to speak at the same
21 function, chances are, when all the accounting is done,
22 the Diamond is going to earn more than the Emerald?

23 A. I would think so.

24 Q. Whether or not that Diamond is actually in
25 qualification?

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1 A. Right.

2 Q. Because once a Diamond, always a Diamond as
3 far as consideration for such things?

4 A. I don't know if that's how everyone feels.
5 It's how I operate, but I can't speak for anybody but
6 myself.

7 Q. And in the Yager system that's how it works?

8 A. I have no idea how the rest of them do it. I
9 can't speak for something like that.

10 Q. Well, you're plugged into the Yager system?

11 A. Explain what that means.

12 Q. Well, you -- do you buy books and tapes
13 through Internet Services?

14 A. Some, yes.

15 Q. And those books and tapes are then resold to
16 people in your down line?

17 A. Right.

18 Q. Are there other sources that you have books
19 and tapes?

20 A. Books.

21 Q. And is that source Amway-affiliated?

22 A. No.

23 Q. So the only Amway-affiliated source of
24 business tools that you use is Internet Services?

25 A. "Amway-affiliated"? Don't know what you

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1 mean.

2 Q. Is Dexter Yager part of -- is he an Amway
3 distributor?

4 A. Yes, he is.

5 Q. Is he also a Quixtar distributor?

6 A. I would assume he is.

7 Q. And is his shining face in Profiles of
8 Success every single year it's published?

9 A. Yes.

10 Q. And do you buy, for instance, from him the
11 Profiles of Success book to go in kits that are sold to
12 new people?

13 A. No.

14 Q. Have you ever?

15 A. Have I ever --

16 Q. Bought the Profiles of Success book, among
17 other things -- I said that wrong. Have you ever used
18 the Profiles of Success book to show the plan?

19 A. Yes.

20 Q. And do you counsel the people in your down
21 line to use the Profiles of Success book to show the
22 plan?

23 A. I make it available to them.

24 Q. And that has to be bought from where?

25 A. Through line of sponsorship through Internet.

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1 Q. And all the people in Profiles of Success
2 are, for instance, Amway distributors; right?

3 A. Yes.

4 Q. The business of Internet Services exists to
5 service people who are involved in Amway, doesn't it?

6 A. That's right.

7 Q. All right. And to get plugged into Internet
8 Services in the Amway parlance means to participate in
9 buying business materials and participate at functions,
10 doesn't it?

11 A. That would be a part of it.

12 Q. What else is there?

13 A. Buying products, selling products.

14 Q. Because every time you buy a tube of Glister,
15 Dexter Yager earns some money off of that; right?

16 A. Theoretically.

17 Q. So is there anyone bigger in Amway than
18 Dexter Yager that you know of?

19 MR. GRAINGER: "Bigger," define that for
20 me, would you.

21 MR. AKERS: More, higher profile, has
22 bigger functions, is more involved in the company.

23 A. I really don't know the answer to that
24 question.

25 Q. As a Diamond in the Dexter Yager down line,

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1 are you invited to meetings that include only Diamonds
2 that he hosts?

3 A. Yes, periodically.

4 Q. And you attend those functions?

5 A. Yes.

6 Q. At these functions Mr. Yager talks to all the
7 Diamonds about their numbers, doesn't he?

8 A. No.

9 Q. That's not true?

10 A. He encourages them to build numbers, but he
11 doesn't talk about their numbers.

12 Q. Do you understand what I mean by "the Yager
13 system"?

14 A. I know what I understand that to mean. I
15 don't know if it's what you understand it to mean or
16 not.

17 Q. What do you understand "the Yager system" to
18 mean?

19 A. Basic philosophy that Mr. Yager would espouse
20 in building the business, which would involve the use
21 of all the products and encourage the use of books and
22 tapes and seminars as a way of getting information and
23 motivation to build your business.

24 Q. Is that in a nutshell?

25 A. In a nutshell.

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1 Q. And, of course, the products, that all comes
2 from Amway?

3 A. Yes. Amway and Quixtar.

4 Q. The books, tapes -- books and tapes within
5 the Amway system -- within the Yager system -- excuse
6 me -- means books and tapes that are sold through
7 Internet Services?

8 A. Yes.

9 Q. You are expected, are you not, as being part
10 of the Yager down line, to not go to any other
11 Amway-affiliated source for business support materials
12 other than Internet Services?

13 A. No, that's not true.

14 Q. That's not true. So if you decided that you
15 were going to go to an entire new tape supplier, that
16 wouldn't be any problem whatsoever?

17 A. That's not what I said.

18 Q. Okay. What did you say that I missed?

19 A. Well, rephrase the question.

20 Q. Fair enough. Being part of the Yager system
21 and the Yager down line, you are expected to use his
22 business support materials of books and tapes?

23 A. Not exclusively.

24 Q. Not exclusively?

25 A. I buy some of my books from some other

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1 sources. That's why I'm answering the question that
2 way.

3 Q. But you don't buy tapes from any other
4 source?

5 A. No.

6 Q. And between books and tapes, is there more
7 profit in books or tapes, not on a per unit item but
8 overall?

9 A. I don't know.

10 Q. You don't know if you tend to make more on a
11 standing order tape than when people just periodically
12 order books?

13 A. No, I don't.

14 (A recess was taken at 10:19,
15 Messrs. Smith and Andrews entered,
16 and resuming at 10:21.)

17 Q. (By Mr. Akers) Do you know in 1999, for
18 instance, how much you earned off of the sales of books
19 and tapes purchased through Internet Services?

20 A. No, I don't.

21 Q. Can you give me a round number?

22 A. I couldn't do that.

23 Q. Between 1,000 and 100,000, you couldn't tell
24 me?

25 A. I could not. I do not know.

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1 Q. So what your sworn answer is that between
2 1,000 and \$100,000 or \$1 million, you couldn't give
3 me --

4 MR. GRAINGER: What he's saying is he
5 doesn't -- you know, we can get that, but his wife
6 keeps records on that. He doesn't know.

7 MR. AKERS: But he can give me a
8 ballpark, and he's refusing to do it for some strange
9 reason.

10 THE WITNESS: No, I cannot give you a
11 ballpark. I don't know a ballpark. If I knew a
12 ballpark, I'd be happy to give it to you, but I don't.

13 Q. (By Mr. Akers) Do you know, in ballpark
14 numbers, how many people in your down line are buying
15 tapes from you?

16 A. In my entire organization?

17 Q. Right.

18 A. You looking for a percentage of those people,
19 or what are you asking?

20 Q. Well, you couldn't tell me how many people
21 you had in the organization, so I'll take anything you
22 got. Percentage or actual numbers or whatever.

23 A. Ask me the question again, so I know what I'm
24 answering.

25 Q. How many people within your organization are

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1 buying tapes on a regular basis?

2 A. I would say the majority of the active people
3 in our business purchase books and tapes. Those that
4 aren't real active normally don't.

5 Q. And how many active people do you have in
6 your group?

7 A. Probably somewhere in the neighborhood of
8 what attends the function.

9 Q. The other part of the Yager system that is
10 part of what you're taught, which is part of his
11 philosophy as you described it, is the seminars?

12 A. Yes.

13 Q. The functions that we've been talking about?

14 A. Right.

15 Q. And the reason that -- rather than me putting
16 words in your mouth, why don't you tell me why the
17 seminars are so important?

18 A. It's where people receive the information as
19 to how to build their business and the motivation that
20 would cause them to go ahead and use that information.

21 Q. Do you believe that a successful Amway or
22 Quixtar business can be built without seminars?

23 A. I don't know of one that ever has been, but
24 that doesn't mean it couldn't happen. In my experience
25 we've always had seminars.

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1 Q. That falls into the anything's possible
2 category, I guess?

3 MR. GRAINGER: Murphy's Law.

4 Q. (By Mr. Akers) But the way that you have
5 been taught by -- well, would you agree with me that
6 Dexter Yager is an extraordinarily successful
7 businessman within the Amway organization?

8 A. Yes.

9 Q. And as you have been taught the Yager system
10 from this man who has been extraordinarily successful,
11 a key component of being successful in this business is
12 attending seminars?

13 A. Yes.

14 Q. And, likewise, one of the privileges that you
15 have as someone who achieves a certain status symbol,
16 such as Diamond, one of those privileges is that you,
17 then, can put on functions yourself?

18 A. Yes.

19 Q. And you are also taught, are you not, that
20 when you put on functions yourself, that is yet another
21 opportunity for you to earn money?

22 A. No.

23 Q. You're not taught that?

24 A. No.

25 Q. You're only taught that people need to attend

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1 these functions and seminars in order to learn and to
2 stay motivated?

3 A. I have never been taught that the reason you
4 hold a function is to earn money.

5 Q. Okay. That's just a by-product of the
6 function?

7 A. It can happen or not.

8 Q. What you have been taught is that the people
9 who attend by learning -- by getting information and
10 becoming motivated are then likely to be able to
11 achieve themselves within their business?

12 A. Right.

13 Q. Which grows the whole?

14 A. Right.

15 Q. And without that successful system of
16 continual motivation of your people, you have never
17 seen a business succeed, have you?

18 A. I have not.

19 Q. And when your numbers start going down at
20 functions, when your people stop coming to functions,
21 that is usually indicative of the fact that they're
22 running out of steam in the business; right?

23 A. Could be one reason.

24 Q. And when numbers start going down at these
25 functions, that also tends to mean that business

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1 overall after a time tends to go down?

2 A. Explain what you mean by "business overall."

3 Q. The amount of people buying soap, the amount
4 of people buying books and tapes.

5 A. Yes. That would be true.

6 Q. Do most functions, Amway functions, include
7 -- that are over weekends include a Sunday morning
8 worship service?

9 A. I would think most of them do. Not all but
10 most of them.

11 Q. Do essentially all of the functions that are
12 people plugged into Yager and the Yager system include
13 a worship service?

14 A. For the most part, I would think so.

15 Q. And you, as a minister, are -- how many --
16 have you been called upon to perform at a -- I don't
17 want to mischoose my words about the worship service in
18 any way --

19 MR. GRAINGER: Forms.

20 Q. -- denigrate that.

21 A. I understand.

22 Q. So I was about to say "performed," and I
23 caught myself. I apologize. Have you been asked to
24 minister, the verb minister, at any of these
25 functions --

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1 A. Yes.

2 Q. -- in the last 20 months. And is there
3 always a collection taken up at these functions?

4 A. Yes, there is. Most of them that I've been
5 at.

6 Q. And is it common or uncommon for the person
7 who does the ministering be offered some collection for
8 his ministry?

9 A. Sometimes that's the case, and other times
10 it's not the case.

11 Q. Okay. Where does that money go?

12 A. To various other ministries that that
13 particular Diamond organization might be supporting.

14 Q. At other places where you have been asked to
15 minister, have you shared in the proceeds of the
16 collection?

17 A. Yes, I have.

18 Q. Is that usually the case or just sometimes?

19 A. It really varies from one to the other.

20 Q. Is that typically cash money that comes to
21 you?

22 A. Very seldom.

23 Q. Very seldom is it cash?

24 A. Very seldom is it cash.

25 Q. At your function, for instance, that you just

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1 had, did you have a worship service?

2 A. Yes, we did.

3 Q. And did you lead it?

4 A. Yes, I led it.

5 Q. And was there a collection?

6 A. Yes, there was.

7 Q. And did the money for the collection, was any
8 portion of it used to offset the expenses of the
9 weekend?

10 A. I'm trying to remember what we did with that
11 offering. Yes. Yes, it was as a matter of fact. By
12 "offset" that went to the speaker, if that's what
13 you're talking about.

14 Q. The speaker for the worship service?

15 A. Yes.

16 Q. Did you have a special speaker for the
17 worship service?

18 A. No. One of our people we had there.

19 Q. He was not a minister? He wasn't speaking
20 about spiritual things?

21 A. Yes. He's an evangelist.

22 Q. Oh, okay.

23 A. Wes Beavis.

24 Q. Oh.

25 A. Yeah.

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1 Q. He's the entertainer that you described
2 before?

3 A. Speaker, entertainer, author. He's all of
4 those things together.

5 Q. How much did you pay him?

6 A. The best of my recollection, that offering
7 was somewhere around \$1600, if I'm not mistaken.

8 Q. Did you give him any money on top of that?

9 A. Yes.

10 Q. How much money?

11 A. I think his fee -- I'm just going by memory
12 now -- I think his fee was 2500, if I'm not mistaken.

13 Q. You have known Kelly Robbins for how long?

14 A. Oh, I would guess it would be probably 10 or
15 12 years.

16 Q. And how long have you known Joe Morrison?

17 A. Less than that. Don't remember when I met
18 Joe.

19 Q. Were you aware of the disputes that Joe
20 Morrison and Kelly Robbins and others in his group were
21 having with Amway Corporation and Jody Victor, Don
22 Wilson and others before December of 1997?

23 A. Just that there was some -- of some kind, but
24 not in anything specific.

25 Q. You didn't know any of the specifics?

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1 A. Huh-uh.

2 Q. You just knew that there was something going
3 on, that there were negative vibes between those folks?

4 A. That would be a fair way of appraising it.

5 Q. Okay. And you have spoken at other functions
6 for Kelly Robbins, have you not?

7 A. Other than the one in question here?

8 Q. Other than the one that's in issue here.

9 A. Yes.

10 Q. How many other times?

11 A. I believe twice. I know of once but maybe
12 twice.

13 Q. And in either of those instances, did you
14 have a contract?

15 A. No.

16 Q. In either of those other instances, did you
17 have an amount of money that was guaranteed to you for
18 your fee?

19 A. No.

20 Q. In either of those instances, were you given
21 money from a Sunday collection?

22 A. I believe I was.

23 Q. And did you run the worship service at those
24 functions?

25 A. I spoke at the service.

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1 Q. Did you speak at other times during the
2 weekend --

3 A. Yes.

4 Q. -- or only during the service. When you
5 speak at other times during the weekend, you're talking
6 about Amway. During the worship service, you speak
7 about things that are not quite so worldly?

8 A. Spiritual things.

9 Q. So you had been contacted -- who was the
10 first person to contact you about speaking at the Tyler
11 function in February of 1998?

12 A. It was either Joe or Kelly. I don't remember
13 which one.

14 Q. And would they have contacted you by
15 telephone?

16 A. I believe so.

17 Q. At the time that they contacted you, you were
18 already familiar and you had done business with those
19 folks before?

20 A. Yes, I had.

21 Q. Had you ever invited any of them to speak at
22 any of your functions?

23 A. Kelly or Joe?

24 Q. Yes.

25 A. No.

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1 Q. Anyone else within the Robbins' down line,
2 that you know of, that you'd asked to speak at your
3 functions?

4 A. I don't know who's in the Robbins' down line
5 and who isn't.

6 Q. How about anyone else from the Houston area,
7 Randy Walker or Randy Haugen, those folks?

8 A. From the Houston area the only one would have
9 been T.M. Hughes.

10 Q. And T.M. and his wife?

11 A. And Cynthia.

12 Q. Both spoke?

13 A. Yes.

14 Q. And they were qualified Emeralds?

15 A. They were Emeralds. Whether they're
16 qualified or not, I don't know.

17 Q. And when did they speak for you?

18 A. It would have been a couple of years ago --
19 or a couple of years before. I don't remember exactly
20 when.

21 Q. 1995, 1996?

22 A. Somewhere in that area.

23 Q. How did you know them to invite them?

24 A. They had spoken at a seminar here in Houston
25 that some of our people heard, liked them, and

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1 recommended them to me.

2 Q. So did you know them before you had invited
3 them to speak?

4 A. No, not really.

5 Q. Is that common, too, in the Amway world to
6 get new blood, new speakers that maybe you haven't had
7 a relationship with?

8 A. It can happen sometimes.

9 Q. And it happened in that instance?

10 A. Yes.

11 Q. And following that did you have -- did you
12 develop a positive relationship with T.M. and Cynthia?

13 A. Yes.

14 Q. And did you know T.M. and Cynthia to be part
15 of this group?

16 A. Did I know that when?

17 Q. In late 1997.

18 A. And part of what group are you talking
19 about?

20 Q. The Robbins' group. Kelly Robbins, Joe
21 Morrison.

22 A. Like I said, I don't know if they are a part
23 of that group. To this day I couldn't tell you who
24 their up line is. I don't know.

25 Q. Okay. So you had a relationship with Kelly

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1 and Joe, and you had spoken at their functions prior to
2 late 1997?

3 A. Yes.

4 Q. And you had earned a fee, honorarium, as a
5 Diamond speaking at these functions?

6 A. Yes.

7 Q. Without benefit of a written contract?

8 A. Right.

9 Q. Instances where they called you and said,
10 "Will you come?" and you said, "Yes"?

11 A. That's right.

12 Q. Instances where it was clearly understood
13 that in exchange for your services as a speaker, you
14 would be earning a fee?

15 A. That was assumed, contemplated.

16 Q. Sure. And on the basis of your oral
17 agreements, you were going to earn a fee, and they
18 lived up to those oral agreements that you would earn a
19 fee; right?

20 A. That's right.

21 Q. And --

22 A. I do not remember if there were oral
23 agreements discussed about fees on the other time. I
24 was given a fee. But whether they were discussed or
25 not, I do not remember.

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1 Q. Okay. Well, it is -- Diamonds don't speak
2 for free, do they?

3 A. Sometimes they do.

4 Q. You were asked to travel from Maine; right?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. And, typically, the way Amway works, speakers
9 pay for their own travel; right?

10 A. Typically, yes.

11 Q. And so you were asked by Kelly Robbins and
12 Joe Morrison on other instances to get in a plane and
13 come to Houston or wherever it is they might have been
14 -- do you remember where you spoke?

15 A. One of the places, if I'm not mistaken, was
16 in New Mexico.

17 Q. Okay. So you were asked to get on a plane
18 and fly from Maine to New Mexico and speak at a
19 function, and then they give you a fee; right?

20 A. Right.

21 Q. And before you ever walked out the door at
22 your home in Maine, you expected that you were going to
23 earn money; right?

24 A. I anticipated that I would.

25 Q. So the agreement was, and the understanding

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1 between you in the past was, that when you agreed to
2 come, that you would show up, that you would speak, and
3 that you would earn a fee?

4 A. That was contemplated. There was never any
5 legal agreement.

6 Q. Meaning anything in writing?

7 A. Correct.

8 Q. But the contemplation was those three things:
9 number one -- I mean, following the agreement that you
10 would come, number one, that you would show up; number
11 two, that when you showed up you would actually speak;
12 number three, on their part they would pay you a fee?

13 A. That was what was contemplated, yes.

14 Q. And, likewise, some of the other incidentals,
15 that your hotel would be taken care of, meals would be
16 taken care of. That's also typically part of the
17 arrangement, is it not?

18 A. Typically, yes.

19 Q. And in the course of business that you had
20 with Kelly Robbins and Joe Morrison prior to that, it
21 worked just like you had agreed and expected it to?

22 A. Like I had expected it to.

23 Q. And, indeed, if you were to get stiffed and
24 not gotten any sort of fee for your speaking
25 engagement, that would be a bad deal in the Amway

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1 world, wouldn't it?

2 A. Explain what you mean by that.

3 Q. Word would get out pretty darn fast that a
4 Diamond was asked to show up at a meeting and, despite
5 understandings and expectations, whomever just decided
6 to pay no fee. That word would get out pretty fast,
7 wouldn't it?

8 A. I guess that would depend on whether I
9 decided to put it out real fast. It would be up to me,
10 my decision.

11 Q. Has it ever happened to you, that you
12 expected to make a fee and you didn't?

13 A. Yes.

14 Q. How many times?

15 A. Twice that I remember.

16 Q. Did you ever speak to those -- for those
17 folks again?

18 A. Yes.

19 Q. And did you ever ask them about the fee that
20 you expected to get?

21 A. No, I did not.

22 Q. And were these speaking engagements that
23 related to worship service or other speaking?

24 A. Both.

25 Q. Okay. Well, sometime in late '97 either

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1 Kelly or Joe contacted you about coming to speak in
2 Tyler?

3 A. That's correct.

4 Q. And let me back up to when you didn't get
5 paid by those folks and you went and spoke a second
6 time. Did you get paid the next time?

7 A. I believe I did, yes.

8 Q. And would you have shown up without
9 assurances that you'd be paid the second time?

10 A. I had no assurance I'd be paid the second
11 time.

12 Q. Okay. Getting back to late '97, you were
13 contacted by Kelly or Joe about speaking in Tyler. Was
14 the manner in which they contacted you the typical way
15 that you are ordinarily contacted and invited to speak?

16 A. I would say yes. I believe it was a phone
17 call.

18 Q. And usually that's the way you receive your
19 invitations?

20 A. Normally.

21 Q. And do you remember that conversation, that
22 opening conversation?

23 A. No, I really don't. I don't remember which
24 one called.

25 Q. Do you remember how many conversations you

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1 had about time and arrangements and whether or not you
2 would come?

3 A. No, I do not.

4 (Exhibit 1 was marked.)

5 Q. Here is Exhibit 1 to your deposition. You
6 have seen this letter before, have you not?

7 A. Yes, I have.

8 Q. Did you receive this letter from Joe Morrison
9 shortly after December 19, 1997?

10 A. Yes, I did.

11 Q. Now, as of the time of the writing of this
12 letter, you were already aware, weren't you -- and I'm
13 just trying to put a date on it -- you were already
14 aware of the negative vibes, as I called it before,
15 between Joe Morrison and the Kelly Robbins' group,
16 Amway, Jody Victor, and those folks?

17 A. I knew there was some negative. I did not
18 know who it was all between.

19 Q. And you didn't know any of the specifics,
20 you've already told us?

21 A. That's right.

22 Q. But you knew that it was out there, and, I
23 mean, word like that sometimes travels fast. Up in
24 Maine you were aware that something negative was going
25 on down in Houston?

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1 MR. GRAINGER: Brock, I know that we
2 don't make objections under our local rules, but we
3 need to move on. That's asked and answered. He's
4 already answered that several times already.

5 MR. AKERS: Okay. Thank you.

6 A. So the question is?

7 Q. (By Mr. Akers) You knew that there was
8 something negative going on at that time?

9 A. I had heard there were just -- like I said,
10 vibes would be about the way you could explain it.

11 Q. And you told either Kelly or Joe in that
12 telephone conversation that you would speak for them?

13 A. That's right.

14 Q. And when you told them that you would speak
15 for them, you implicitly agreed to show up at that
16 time; right?

17 A. I planned on showing up.

18 Q. And you expected a fee for your services?

19 A. I anticipated a fee.

20 Q. As the course of business dealings had
21 existed between the two of you before?

22 A. That's right. Uh-huh. Yes.

23 Q. And this letter from Joe Morrison of December
24 19, 1997 confirmed the agreement that you made over the
25 telephone?

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1 A. It stated what they were hoping to do,
2 contemplating they were going to be able to do, yes.

3 Q. And is there anything in this letter that did
4 not conform to your actual understanding of what was
5 going to be taking place in February 1998?

6 A. No, I wouldn't think so.

7 Q. And, indeed, after you received it, there was
8 -- you didn't send them a letter back saying, "This is
9 to clarify" or "This is to correct" or anything like
10 that?

11 A. No.

12 Q. You had an agreement to come; right?

13 A. I had a friendly verbal agreement. I did not
14 have a legal contractual agreement.

15 Q. Well, you had as much as an agreement as you
16 had the other times that you came?

17 A. That's correct.

18 Q. And you had an oral agreement to come; right?

19 A. Correct.

20 Q. And you broke that agreement?

21 A. I changed my mind, decided not to come.

22 Q. You broke that agreement?

23 A. Changed my mind and decided not to come.

24 That is my answer.

25 Q. So you don't like the words "broke the

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1 agreement"?

2 A. No, because it indicates there was some
3 contractual agreement. I did not have a contractual
4 agreement to break. I changed my mind.

5 Q. We've already established that you had an
6 oral agreement just like you had on the other times
7 that you had attended, and that oral agreement is one
8 that you broke?

9 MR. GRAINGER: He's answered the
10 question.

11 MR. AKERS: No, he hasn't.

12 A. I changed my mind and decided not to come.
13 That's the answer to the question.

14 Q. (By Mr. Akers) What's different between that
15 and my phraseology of "broke the oral agreement"?

16 A. In my mind, "broke" indicates that I had some
17 sort of a legal contractual agreement, and I did not.
18 I changed my mind. I didn't break any contractual
19 agreement. I didn't have a contractual agreement. I
20 had a friendly oral agreement, and I changed my mind.

21 Q. So how many times in the past have you
22 changed your mind about coming to speak for someone?

23 A. None.

24 Q. This is the only time?

25 A. That's right.

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1 Q. What caused you to change your mind?

2 A. I received phone calls from a couple of my
3 distributors in the Houston area who apprised me of the
4 lawsuit that had been filed against whomever, and it
5 was done so publicly. They heard about it on the radio
6 and newspaper and that sort of thing. They heard about
7 it publicly. I don't know exactly whether it was radio
8 or newspaper. I know they heard about it through the
9 media.

10 It created a negative in their minds
11 that had a negative adverse effect on their business.
12 And if I were to go and speak for them, then, in the
13 minds of my people here in Houston, I would have been
14 seen as agreeing with what they were doing and thinking
15 it was fine and all the rest of it, and I would have
16 lost the respect, credibility, ability to lead the
17 people in my own organization.

18 It hurt my group when they took a
19 lawsuit and went public with it, created a lot of
20 negative vibes in the area. It would have been very
21 foolish for me, therefore, to attend and hurt my
22 relationship with the people in my business. So to
23 protect my own organization, I decided that I would not
24 attend.

25 Q. Who were these people in Houston?

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1 A. I received a call from Dick Plank and Bill
2 Mulvehill.

3 Q. Bill --

4 A. -- Mulvehill.

5 Q. How much of a group did you have in Houston?

6 A. What do you mean? Numbers?

7 Q. Numbers.

8 A. There probably would have been somewhere
9 between 50, 100 people represented by those two
10 organizations at that time.

11 Q. And --

12 A. Distributorships.

13 Q. Dick Plank, what pen level is he, do you
14 know?

15 A. Direct distributor.

16 Q. And Bill Mulvehill?

17 A. Silver producer.

18 Q. And were you their up-line Diamond?

19 A. Yes.

20 Q. Did they know that you had planned to speak
21 in Tyler?

22 A. Yes, they did, because I was planning on
23 doing meetings for them afterwards.

24 Q. You had asked Kelly and Joe to not publicize
25 your direct participation at their Tyler function,

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1 hadn't you?

2 A. I do not remember that.

3 Q. You don't recall asking them to treat you as
4 a secret speaker or, you know, a surprise guest speaker
5 Diamond?

6 A. No, I don't recall that.

7 Q. Were you concerned at the time that you made
8 this agreement to speak with them that you would upset
9 the people who were then adverse to Kelly and Joe?

10 A. I wasn't concerned that it would affect
11 anyone to my knowledge. If I was concerned, I wouldn't
12 have gone.

13 Q. So it didn't matter to you if Don Wilson and
14 Jody Victor and Randy Walker, or Randy Haugen, any of
15 those folks knew that you had agreed to speak for Kelly
16 and Joe?

17 A. I don't believe that would have concerned me
18 whether they knew, whether they didn't.

19 Q. Who else did you speak to, other than Dick
20 Plank and Bill Mulvehill, about this lawsuit that they
21 were in and that was broadcast to the media?

22 A. Who else did I speak to about it?

23 Q. Yes.

24 MR. GRAINGER: At what time?

25 Q. (By Mr. Akers) After you got these telephone

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1 calls and the time you decided to break your
2 agreement.

3 A. My wife would have been one person I would
4 have talked to about it. As far as who else, in
5 general, I spoke to, I couldn't tell you.

6 Q. Have you ever --

7 A. No one in specific.

8 Q. Have you ever spoken to Dexter Yager about
9 the Morrison lawsuit?

10 A. Have I ever spoken to him about the lawsuit?

11 Q. Yes.

12 A. Yes.

13 Q. When?

14 A. That would have been in December -- the
15 following December when I found out that they were
16 suing me.

17 Q. Tell me about that conversation.

18 A. I got home from a trip and found the
19 lawsuit. Sheriff delivered it to me.

20 MR. GRAINGER: You're talking about this
21 lawsuit?

22 A. I'm talking about the lawsuit that Joe and
23 those people leveled against me.

24 Q. Right.

25 A. And after I had received that, then I called

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1 Dexter and sought some advice as to how I should handle
2 it.

3 Q. Why did you call Dexter?

4 A. Because he's my up line in the business.
5 It's a normal thing to do.

6 Q. So it's a normal thing within the business
7 that if something comes up, you consult with your up
8 line?

9 A. That would be a normal thing, yes.

10 Q. And what did he tell you?

11 A. He suggested that I contact an attorney and
12 get some advice as to how to handle it.

13 Q. Anything else?

14 A. Basically, that was it.

15 Q. Did he say anything about the merits of this
16 case, the one that you're a defendant in?

17 A. The one that I'm involved in?

18 Q. (Nods head.)

19 A. Not that I remember. I don't remember the
20 conversation other than basically suggested I contact
21 an attorney and get some help with it. I don't
22 remember the specific conversation.

23 Q. Did he say anything about the merits of the
24 lawsuit that he's a defendant in?

25 A. I don't remember discussing it with him,

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1 whether I did or whether I didn't.

2 Q. Did you ever speak to Jody Victor about this
3 case?

4 A. Yes.

5 Q. Tell me about that conversation.

6 A. That would have been very recently, within
7 the last few months.

8 Q. Tell me about the conversation.

9 A. Just let him know that -- let's see. Let me
10 think so I can give you an accurate answer. I spoke
11 with him about the fact that there was a suit. His
12 position on the board is in that particular area, so we
13 discussed it. I don't remember the specifics of the
14 discussion other than he's a part of that committee, I
15 believe the word I'm looking for, on the board.

16 Q. Of the ADA you're talking about?

17 A. Yes.

18 Q. Okay. Did you ever speak to Don Wilson about
19 this lawsuit?

20 A. Yes. That would have been sometime after I
21 spoke to Dexter. I don't remember exactly when I spoke
22 to Don about it.

23 Q. Tell me about that conversation.

24 A. As I remember it, I just mentioned to him
25 that the suit was taking place. And whether he was

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1 aware of it or not at that point, I don't remember.
2 But we discussed the fact that it was taking place just
3 so he'd be aware of it, that's all.

4 Q. Did he and you have any conversations about
5 the lawsuit in which he's a defendant?

6 A. No.

7 Q. And when you spoke to Mr. Victor, have you
8 had any discussions with him about the lawsuit he's a
9 defendant?

10 A. No.

11 Q. Have you spoken to Randy Haugen about your
12 lawsuit?

13 A. No, never.

14 Q. Or about the lawsuit in which he's a
15 defendant?

16 A. No.

17 Q. Do you know Randy Haugen?

18 A. Yeah.

19 Q. Have you spoken --

20 A. Yes. I'm sorry.

21 Q. Have you spoken to Randy Walker about this
22 lawsuit?

23 A. No.

24 Q. Do you know Bill Burgfelt?

25 A. Yes.

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1 Q. When was the last time you laid eyes on Bill
2 Burgfelt?

3 A. The last time I remember seeing Bill Burgfelt
4 was when he spoke to a split session, I believe it was,
5 at a Go Diamond Weekend, if I'm not mistaken, a long
6 time ago.

7 Q. Many years ago?

8 A. Yes.

9 Q. Have you spoken to anyone from the Amway
10 Corporation about your lawsuit?

11 A. Yes, I believe I have.

12 Q. Who?

13 A. I think I spoke with -- I'm trying to think
14 of the name -- one of the people on the Distributor
15 Relations. I'm just trying to -- I can see his face,
16 but I can't recall his name. He was up above -- he's
17 one of the leaders in the Distributor Relations team.
18 I do not -- I don't remember the guy's name. I know
19 his face as well I can look at you and know yours, but
20 I can't remember his name. If I recall it, I'll tell
21 you.

22 Q. What we'll do is, we'll leave a blank in the
23 deposition, and you'll get a chance to read and sign,
24 and you'll probably think about it in the shower or
25 something like that. When the time comes, if you'll

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1 just fill in the blank.

2 A. Or I may recall it sitting here.

3

4 Q. Sure. And if you do, let me know. This
5 person, tell me about that conversation.

6 A. I don't recall the details of the
7 conversation, other than the fact that it was discussed
8 that this was going on and basically what I was doing
9 to handle it.

10 Q. That's all?

11 A. Right.

12 Q. Have you ever spoken to Bob Kurkstra
13 (phonetic) about it?

14 A. No.

15 Q. Have you spoken to Bob Kurkstra about the
16 lawsuit in which Amway is a defendant?

17 A. No.

18 Q. Did you receive any information from Bob
19 Kurkstra about the lawsuit filed by Morrison group?

20 A. No.

21 Q. Did you hear any Amvoxes from Kurkstra about
22 that?

23 A. No.

24 Q. Never?

25 A. Not to my recollection, from Kurkstra, no.

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1 Q. Did you receive any Amvoxes from anyone at
2 Amway about the Morrison lawsuit?

3 A. That would have been an Amvox that came down
4 -- again, name. Head of Quixtar.

5 MR. ANDREWS: Jakery (phonetic).

6 THE WITNESS: No.

7 MR. SMITH: Ken McDonald?

8 THE WITNESS: Ken McDonald. Thank you.

9 A. Ken McDonald put an Amvox out.

10 Q. (By Mr. Akers) And what do you recall about
11 that?

12 A. Basically, that he indicated that there was a
13 lawsuit in Texas where several distributors, headed up
14 by Joe Morrison, were filing suit against several other
15 distributors and corporation. He was making us aware
16 that that was going on, and that they had tried to deal
17 with this issue so that it didn't come to that point,
18 and had not been able to come to an amicable agreement,
19 so the suit was going on, and he was making people
20 aware of it. That's what the gist of the Amvox message
21 was.

22 Q. Okay. Only that there was a lawsuit and
23 there was a dispute?

24 A. It was a very general thing. There was
25 nothing specific in it.

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1 Q. He didn't comment on the merits of it in any
2 way?

3 A. Just that they had done whatever they could
4 to try and defuse it and keep any sort of lawsuit from
5 happening. They'd chosen not to do that. They'd
6 chosen to sue. He was making us aware of it.

7 Q. Do you recall talking to anyone else about
8 the Morrison lawsuit before you made the decision not
9 to speak?

10 A. Not specifically, no.

11 Q. Did you ever talk to Tim Foley?

12 A. No.

13 Q. Do you know Tim Foley?

14 A. Yes.

15 Q. Are you on a first-name basis with Tim Foley?

16 A. I would say so. I would hope so.

17 Q. And you never spoke to him whatsoever about
18 this?

19 A. No, I didn't.

20 Q. Did anyone other than folks in your down --
21 did the folks in your down line make any request of you
22 relative to whether you showed up or not to speak?

23 A. By the folks in my down line, are you
24 referring to Mr. Plank and Mr. Mulvehill?

25 Q. Yes.

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1 A. No. They never requested me one way or the
2 other.

3 Q. They were just making you aware of it?

4 A. They were not happy with the problems it was
5 creating for them.

6 Q. And how soon after the media reports, as you
7 understood them to be, did they telephone you?

8 A. Did they telephone me?

9 Q. Yes.

10 A. Would have been when it happened that day,
11 that night, next day, whatever.

12 Q. Okay.

13 A. As soon as it was publicized.

14 Q. So when did you make the decision to not
15 come?

16 A. Pretty much the day that I got that
17 information from them, I decided it would not be right
18 for me to be there.

19 Q. This is after you had made the agreement?

20 A. After I had told them that I would come and
21 speak for them.

22 Q. And after you received this letter, Exhibit
23 1?

24 A. Yeah. I would think so. I think it would
25 have been after this. When did I receive this

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1 (looking)? Yeah, it would have been after that.

2 Q. And about a month before you were scheduled
3 to actually speak?

4 A. Somewhere in that neighborhood.

5 Q. Do you kind of like to think that when you
6 tell someone something, that they can count on you?

7 A. Sure. Absolutely.

8 Q. And when you make an agreement, handshake or
9 otherwise, and tell someone that you're going to do
10 something, do you want them to believe you?

11 A. Yes. I'd like them to believe me.

12 Q. And when you had the discussions with Kelly
13 or Joe and you had your -- and you got this letter, did
14 you say, "I'll show up unless I change my mind"?

15 A. No.

16 Q. But that's what happened, you just changed
17 your mind?

18 A. That's right.

19 Q. So your word is only good until you change
20 your mind?

21 A. I don't think that's a fair assessment.

22 Q. But that's the way it worked here?

23 A. In this particular situation that's how it
24 worked, but that's not normally how I would function.

25 Q. The rest of your life, in every instance if

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1 you agree to do something, you'd do it?

2 A. I'm sure there have been times I've changed
3 my mind, as we all have.

4 Q. Sure. As far as agreeing to perform at a
5 function, has that ever happened?

6 A. Changing my mind?

7 Q. Changing your mind.

8 A. No.

9 Q. How about agreeing to show up and conduct a
10 worship service? Has that ever happened where someone
11 had you down on the calendar and you just said, "No,
12 you know, I just changed my mind"?

13 A. No, it hasn't.

14 Q. Can you think of another time in your life
15 where someone was counting on you to be there for an
16 event where several people are going to show up that
17 you failed to show just because you changed your mind?

18 A. Just because I changed my mind?

19 Q. Right.

20 A. If I had changed my mind, it would have had
21 to have been with a good reason. To change your mind
22 arbitrarily? No, I've never just changed my mind
23 arbitrarily, but when there was a good reason, as there
24 was here, I changed my mind.

25 Q. Well, the good reason is that you thought and

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1 you were worried that it was going to hurt you to be
2 associated with these nefarious people who filed a
3 lawsuit; right?

4 A. Explain "nefarious." I'm sorry.

5 Q. What you thought was that it would hurt you
6 to attend this function that you had agreed to come to
7 if it was a function put on by the people that had
8 filed the lawsuit against Amway and other distributors?

9 MR. GRAINGER: That's not what he said.
10 Go ahead. You give your answer.

11 A. My main concern, as I stated before, was that
12 it was going to have an adverse effect on the people in
13 my business in Houston, not only personally as much,
14 but on them, and that's why I changed my mind, because
15 of the effect it would have on the people here that I
16 felt a responsibility and loyalty to.

17 Q. (By Mr. Akers) And the negative impact that
18 it was going to have on those people if you showed up
19 in Tyler, what negative impact would that have on them?

20 A. They were impacted negatively by the fact
21 that the lawsuit was publicized and created questions
22 in people's minds that came up in different instances
23 that was brought up to them because it was made public,
24 which made it more difficult for them in developing
25 their business. And in the light of that, I was not

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1 interested in being at that meeting where it would then
2 appear that I was condoning in favor of, didn't care
3 about that lawsuit and all.

4 By being there I would have conveyed the
5 message to my people that didn't make any difference to
6 me whether it hurt them or not. So I chose not to
7 convey that message.

8 Q. Okay. So it wasn't about them. It was the
9 message -- it wasn't that it was going -- your speaking
10 wasn't going to hurt them? It was your concern that
11 you didn't want to convey a message to them about you?

12 A. No, I don't think that's an accurate
13 appraisal. I did not want to do anything that would
14 damage their business.

15 Q. Well, your speaking -- what you've explained
16 to me so far -- and correct me if I'm wrong -- is that
17 the media attention of the lawsuit had hurt their
18 business. That was already a done deal by the time you
19 even learned about it; right?

20 A. Correct.

21 Q. And so I'm still looking to find out how you
22 personally speaking in Tyler would adversely affect
23 these other people in your down line.

24 A. Well, they would have assumed that I was then
25 in agreement with whatever this suit was all about, and

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1 the thing that had in fact hurt their business, okay,
2 by me going and associating myself with the people who
3 had already injured their business, I assumed, I made
4 the decision personally that they would then look at
5 the fact that I was in favor of what those folks were
6 doing in this lawsuit, whether it hurt their business
7 or not. Okay.

8 And I was not going to put myself in a
9 position where people could go back and say, "Why did
10 you speak for them after they had done something that
11 hurt me?" So I've decided, I'm not going to speak for
12 them now they've done something to hurt my people, and
13 that's why I changed my mind.

14 Q. So it came back to the way your people viewed
15 you? That's why you changed your mind?

16 A. Came back to the way I decided that they
17 could view me. Whether that's how they would have or
18 not, they never had a chance to make that decision. I
19 made it because I respected my relationship with them
20 more than I would value a relationship with someone
21 that wasn't a part of my own business.

22 Q. And how about the people that were adverse to
23 the Morrison group? You were concerned that they, too,
24 would think that you were in their camp by virtue of
25 you speaking for them; right?

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1 A. They could have assumed that, but they
2 weren't even involved in the picture. Didn't even know
3 anything about them.

4 Q. Well, if you -- if word got out that you were
5 friends with, speaking, and helping Morrison and
6 Robbins, what do you think the chances would be of you
7 getting another speaking invitation after that?

8 A. I have no idea if someone would invite me or
9 not.

10 Q. You were worried about being blackballed,
11 weren't you?

12 A. Explain that.

13 Q. You were worried that Dexter Yager and others
14 in his organization would spread the word that Ted Fish
15 was -- had gone over to the dark side of Joe Morrison's
16 group, and that he shouldn't be trusted or associated
17 with?

18 A. No. My main concern, as I stated before, as
19 to why I did not go speak at that function was what
20 I've just stated. I can state it again, if you'd
21 like.

22 Q. No. I don't need to hear it again.

23 A. The reason that I decided not to is because
24 of the influence it would have had on my personal
25 people, how that would have been perceived by some of

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1 the people in that lawsuit, which are my up line and my
2 supplier. Obviously, I'm not interested in putting
3 myself in a situation where, if I have to choose
4 between loyalty to Joe Morrison or loyalty to someone
5 who's supplying me, that's not a hard choice.

6 Q. Well --

7 A. But there was no discussion of that.

8 Q. In this case it wasn't a matter of loyalty,
9 it's a question of whether or not you lived up to your
10 agreement?

11 A. It's a question whether or not I decided to
12 protect my own people.

13 Q. Well, in this case --

14 A. Changed my mind.

15 Q. You changed your mind and didn't live up to
16 the agreement that you had?

17 A. I changed my mind, decided not to go.

18 MR. AKERS: Can we take a short break?

19 MR. GRAINGER: Sure.

20 (A recess was taken at 11:22,
21 resuming at 11:34.)

22 Q. (By Mr. Akers) Have you ever had someone
23 that had agreed to come to one of your functions and
24 failed to show?

25 A. No, I don't think I have.

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1 Q. If someone a month before your schedule
2 function said, "No, I'm just not coming," after plans
3 had been made, after advertisements of whatever have
4 been made, how successful would you expect your
5 function to be?

6 A. That would totally depend on the
7 circumstances.

8 Q. Would it be easy to predict you might have a
9 problem with that function if your scheduled speakers
10 failed to show?

11 A. I could change speakers, function go on.

12 Q. Even in a month's notice?

13 A. Wouldn't be a problem.

14 Q. The finding another qualified Diamond,
15 finding another -- or unqualified Diamond, or someone
16 with speaking experience stature might be more
17 difficult to book on shorter notice?

18 A. Are you talking about for me?

19 Q. Yeah.

20 A. No. I'm sure I could find a Diamond
21 somewhere if I had a month, somebody that I would feel
22 comfortable with.

23 Q. Had you ever spoken for somebody else that
24 was involved in a lawsuit involving Amway or other
25 distributors?

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1 MR. GRAINGER: Can you be more
2 specific?

3 Q. (By Mr. Akers) Well, have you ever spoken at
4 a Tim Foley function?

5 A. No. I've never spoken for Tim Foley.

6 Q. Have you ever spoken for any Diamonds within
7 his group?

8 A. Within his group? To be honest with you, I
9 don't know who in his group I would have spoken for. I
10 may have. I don't recollect if it was someone in his
11 group or not.

12 Q. Have you ever spoken for Brig Hart?

13 A. No.

14 Q. Or anyone in his group?

15 A. I don't know who that would be.

16 Q. You know Brig Hart?

17 A. I know Brig.

18 Q. As to this function in Tyler, did you expect
19 any of your own people to be there?

20 A. No.

21 Q. And when I say "any of your people," meaning
22 anyone that was in your down line. You didn't expect
23 them to be in Tyler?

24 A. No.

25 Q. As far as -- where is the majority of the

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1 people in your down line? Where do they reside?

2 A. Well, the function I just held had people
3 there from 14 states. So they're spread all over the
4 country. There is no one majority place in my
5 organization. It's spread all over the place.

6 Q. Okay. The Houston area or Texas, does it
7 comprise a big portion of your group?

8 A. Not a big portion.

9 Q. Just a --

10 A. A representative portion.

11 Q. Meaning one over 14?

12 A. Huh?

13 Q. I mean, it's a small percentage, is what
14 you're talking about, a representative?

15 A. It wouldn't be a large percentage at this
16 point. It would have been --

17 Q. And one clarification, the decision that you
18 made to not attend, did it have anything to do with the
19 Amvox that you heard from Ken McDonald?

20 A. That Amvox just added to the dilemma I had of
21 what decision I would make, okay, in that you had the
22 information from your people, you had the Amvox, and
23 that Amvox other people hear. I'm not sure who it all
24 went to. I don't know who it all went to. It was just
25 part of the whole process. I'd made the decision

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1 before I got the Amvox. I made the decision when I
2 heard from my people. The Amvox might have reinforced
3 it.

4 Q. Okay. I mean, that's what I was getting at.
5 The decision had already been made. Had you already
6 communicated the decision before you got the Amvox?

7 A. Communicated it to whom?

8 Q. To Joe or Kelly that you weren't coming.

9 A. Before I got the Amvox?

10 Q. Yes.

11 A. No, I don't think so. I think my
12 communication, when I told them I wasn't coming, was
13 after I had received the Amvox.

14 Q. And how many conversations did you have with
15 them after you told them that you weren't coming?

16 A. I had one conversation with Kelly, and I do
17 not remember having a conversation with Kelly after
18 that or with Joe after that.

19 Q. Okay. You only recall one conversation?

20 A. I believe so, with Kelly or Joe. I don't
21 think there were any more conversations. I may have
22 spoken to Joe and not remembered it. I don't
23 remember.

24 Q. Do you remember where you were when you had
25 this conversation?

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1 A. With Kelly? I was at my winter conference.
2 I believe it was in Louisville, Kentucky, if I'm not
3 mistaken.

4 Q. And is that when you told them --

5 A. Yes.

6 Q. -- you weren't coming --

7 A. Yes.

8 Q. -- when you were there?

9 A. That's right.

10 Q. And do you remember the date?

11 A. Normally, that would be the second weekend of
12 January. I'd have to look back and see, but that's
13 normally when our winter function is, so that's
14 probably when it occurred.

15 Q. And you would have had to call him in order
16 for him to know that you weren't showing up?

17 A. As I remember it, I called him and then got a
18 call back from him.

19 Q. You didn't leave a message that you weren't
20 showing up in February? You just --

21 A. No.

22 Q. -- said, "Please call me"?

23 A. Correct.

24 MR. AKERS: Okay. Pass the witness.

25 MR. GRAINGER: Reserve our questions

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1 until the time of trial.

2 (Proceedings concluded at 11:42.)

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EDWARD E. FISH - 08/18/00

1	CHANGES AND SIGNATURE			
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EDWARD E. FISH - 08/18/00

1 I, EDWARD E. FISH, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted herein.

4 _____

5 EDWARD E. FISH

6 STATE OF TEXAS)

7

8 SUBSCRIBED AND SWORN TO BEFORE ME by the said
9 witness on this the ____ day of _____, 2000,
10 subject to the above corrections/changes, if any.

11

12 _____

13 Notary Public in and

14 for the State of ____

15

16 My commission expires _____.

17

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EDWARD E. FISH - 08/18/00

1 STATE OF TEXAS :
COUNTY OF HARRIS:

2 REPORTER'S CERTIFICATION
3 TO THE DEPOSITION OF EDWARD E. FISH
TAKEN ON AUGUST 18, 2000

4 I, Kim S. Johnsen, Certified Shorthand
5 Reporter in and for the State of Texas, hereby certify
6 that this deposition transcript is a true record of the
7 testimony given by the witness named herein, after said
8 witness was duly sworn/affirmed by me.

9 I further certify that I am neither attorney nor
10 counsel for, related to, nor employed by any of the
11 parties to the action in which this testimony was
12 taken. Further, I am not a relative or employee of any
13 attorney of record in this cause, nor do I have a
14 financial interest in the action.

15 Further certification requirements pursuant to the
16 Rules will be certified to after they have occurred.

17 SUBSCRIBED AND SWORN TO, on this, the ____ day of
18 _____, 2000.

19

20

21 _____
Kim S. Johnsen, CM,
22 Certified Shorthand Reporter
In and For the State of Texas

23 Certification No. 1188
Expiration Date: December 31, 2001
24 9182 Old Katy Road, Suite 215
Houston, Texas 77055

25

EDWARD E. FISH - 08/18/00

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 TYLER DIVISION

3 TEAM RESOURCES, INC.,)
4 Plaintiff,)
5 VS.) C.A. NO. 6:98CV708
6 TED FISH, FISH ASSOCIATES,)
7 ANDY ANDREWS, ROBERT D.)
8 SMITH and FIRST IMAGE, INC.,)
9 Defendants.)

9 AFFIDAVIT

10 I, Kim S. Johnsen, do hereby certify that I
11 was the officer before whom the oral deposition of
12 EDWARD E. FISH was taken on the 18th day of August,
13 2000.

14 I do hereby further certify that on
15 _____,
16 _____ the original signature page of the
17 deposition was submitted to _____.
18 _____ the original deposition was submitted to
19 _____ for examination and signature.
20 _____ notification was given to
21 _____ that the original deposition given
22 in the above cause was complete and ready for
23 examination and signature at the offices of Carol Davis
24 Reporting, Records & Video, Inc., within 30 days of
25 said date.
_____ more than 30 days have elapsed since the
above submission. The original deposition, unsigned,
together with all exhibits is being forwarded to
_____ on _____.
_____ more than 30 days have elapsed since the
above submission of the original deposition and it has
not been returned to the offices of Carol Davis
Reporting, Records & Video, Inc.
_____ the original deposition has been signed or
the original signature page was signed and notarized.
The attached page(s) contains changes, in any, made by
the witness and the reasons therefor. The original
deposition together with all exhibits is being
forwarded to _____ on
_____.

CAROL DAVIS REPORTING, RECORDS & VIDEO, INC.

EDWARD E. FISH - 08/18/00

1 That a copy of this affidavit was served
2 on all parties shown herein, pursuant to information
3 made a part of the record at the time said testimony
4 was taken.

5 FOR THE PLAINTIFF:

6 Mr. Brock C. Akers
7 PHILLIPS & AKERS
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13 FOR THE DEFENDANTS:

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16 605 South Broadway
17 Post Office Box 491
18 Tyler, Texas 75710
19 903/595-3514
20 Fax 903/595-5360

21 SUBSCRIBED AND SWORN TO on this, the
22 _____ day of _____, 2000.

23 _____
24 Kim S. Johnsen, CSR, CM
25 Notary Public in and for
the State of Texas

My Commission Expires July 11, 2001
Certification No.: 1188
Date of Expiration: 12/31/01
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