

Dean DeWhitt

From: Ricardo Correa
Sent: Wednesday, January 21, 1998 5:33 PM
To: Michael Boucher
Cc: Dean DeWhitt; Robert Olstad
Subject: Re: MS Works Balances

Thank you Mike!

Reply Separator

Subject: MS Works Balances
Author: Michael Boucher at orchid
Date: 1/21/98 3:51 PM

Ricardo,

Attached is a schedule which gives the status of Works/Money/Encarta, Works and Office as of 12/31/97.

1. The schedule shows that by the end of this month we will have made payments totaling \$1,080,748 against the new Works/Money/Encarta-Works 4.5 alone contract (contract no. 003070002) for shipments through 12/31/97. That contract requires total payment (min. commitment) of \$1,840,000 but is cancelable after min. commit. payments of \$1,020,000 (see below). If we don't cancel we will be required to pay an additional approx. \$760,000, all of which will have to be depleted by shipments from 1/1/98 forward.

This "new Works balance" depletes at \$8.00 per unit for Works/Money/Encarta plus \$4.00 per unit for Works alone.

This contract can be canceled at 9/30/98 at which point no further prepayments/min commits would be payable. If we notify MS that we are going to cancel at 9/30/98 the total min. commit amount would be \$1,020,000. Since we will have paid them \$1,080,748 by the end of January (for shipments through 12/31/97) we will have satisfied the min. commit associated with the contract (assuming cancellation as of 9/30/98), and you could eliminate Works and Works/Money/Encarta from the line up immediately, knowing that additional min. commit. payments are not going to be made.

One consideration in this cancellation is that the "old Works" balance (see no. 2 below) would not be used (balance is \$112K at 12/31). If we stop shipping Works 4.5 alone this balance will not be depleted through system shipments and will then have to be incorporated into another agreement or written off.

2. The schedule also shows that we have depleted the "old Works balance" down to \$112,342. Since that balance is only depleted by shipments of Works alone (at \$4.00 per shipment) we will have to ship approx. 28,000 more systems with Works alone to fully deplete it.

3. The last section of the attached schedule shows the depletion of the Office balance under the new contract (depletes at \$7.00 per unit for shipments of Works/Money/Encarta only).

Best Regards Mike Boucher 1/21

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PROTECTIVE ORDER Microsoft
LV Cases, J.C.P.P. No. 406, CA
Superior Court, San Francisco

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Plaintiff's Exhibit

6289

Comes V. Microsoft

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