



## **NACCB Plenary: Broker Services before Section 1706**

Moderator:  
Burton Grad

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## **Table of Contents**

STRUCTURE OF THE MEETING .....	5
INTRODUCTIONS TO PARTICIPANTS AND THEIR COMPANIES .....	6
SUBJECTS FOR THIS PLENARY SESSION.....	18
PROBLEMS AND CONTRACTS WITH INDEPENDENT CONTRACTORS.....	19
PROBLEMS AND CONTRACTS WITH CUSTOMERS.....	21
REGIONAL ASSOCIATIONS OF CONTRACTOR AGENCIES.....	24
EARLY MARKETS AND OFFICES.....	27
NUMBER OF CONTRACTING AGENCIES.....	28

## NACCB Plenary: Broker Services before Section 1706

### Conducted by Software Industry SIG – Oral History Project

**Abstract:** Almost all of the pioneers who helped to form NACCB as well as other Broker-type company founders participated in this opening plenary session on March 29, 2007. Each of the participants described their personal background and how they started their companies. After this there were introductory discussions on the relations and contracts with the independent contractors and with the customers. Issues of government taxation and treatment for unemployment purposes were covered briefly. The session concluded with a discussion of the formation of a few regional organizations and the number of competitive firms in this type of business in different areas of the U.S.

#### Participants:

<u>Name</u>	<u>Affiliation</u>
Burton Grad, moderator	Heights Information Technology Services
Glenn Bugos, historian	Moment LLC
Dave Cassell	Pro-Access
John Chamberlain	Chamberlain Associates
Jane Cronister-Ross	JM Ross & Associates
Randal Evans	The ProVisio Group
Grace Gentry	Gentry Associates
Richard Gentry	Gentry Associates
Dan Greenburg	TSR Consulting
Jon Hahn	Independent Contractor
Luanne Johnson	Heights Information Technology Services
David Hicks	Hicks Consulting
Steve Kenda	Kenda Systems
Phylliss Murphy	P. Murphy & Associates
Bjorn Einar Nordemo	Data Arts & Sciences
Mark Roberts	NACCB
James Ross	JM Ross & Associates
Fred Shulman	Comsys, AETEA

Harvey Shulman  
Peggy Smith  
Jeff Yost, historian

NACCB  
Data Masters  
Charles Babbage Institute

**Burton Grad:** I am Burton Grad and I am the co-chair of the Software Industry Special Interest Group which is sponsoring this get-together at the Computer History Museum in Mountain View, California, on March 29, 2007; this meeting was started hanks to our talking with Grace Gentry when we did her oral history.

We appreciate your traveling here on your own time and money, to come and join us to do this. Our purpose is to preserve the history of the software industry. Software to us means software products, professional services, processing services, all of those things that were the non-hardware part of the computer industry. People haven't been paying much attention to its history, so we have worked very hard over the last seven years to try to preserve that information so it will be available for historians in the future.

This is the fifth software and services conferences that we have done. The first one was an ADAPSO Reunion in Washington, DC, in 2002. In 2004, we did two on PC Software. One was done on the east coast; and one was done on the west coast. For those of you who know VisiCalc, we got Dan Bricklin, Bob Frankston and Dan Fylstra, developers and marketers of VisiCalc, who had also sued each other, together for the first time in 15 years. It turned out to be a fascinating meeting. We produced a wonderful set of materials about how VisiCalc came about and what the problems were and what caused its demise. We are going to have that material in a special issue of the IEEE Annals of Computing History coming out late this summer [2007]. We also conducted a conference on the commercial professional services, companies which operate on the other side of the fence from your group. We did that last winter. There were about 10 pioneers there, so you have outnumbered them already. We got their story about how they started and grew their businesses.

We hope to do a conference on government-oriented professional services. That will then have covered the picture of the professional services area. We also will do a session on relational database managements systems companies and on the minicomputer software area and then we plan to do processing services and service bureaus. We will try to complete a cycle of 10 meetings to cover the major elements of the software and services business.

The historians tell us that we are producing the kind of in-depth material that they need and want. By the way, there are a few other people here whom I'd like to introduce. Back in the corner taking pictures is Carol Anne Ances who has worked as an independent contractor and has been editing a number of the workshop transcripts. Luanne Johnson will be here shortly. She is the co-chair of the Software Industry SIG. She and I started the Software History Center together. She will speak at lunchtime about what we have been doing and plan to do in the

future. John Toole will also be here. He is the CEO of the Museum. He will tell us what the Museum is doing and what their plans are for the future. And Len Shustek, the chairman as well as a major fund raiser for the Museum will also drop in and say hi. I will introduce him when he comes here.

### **Structure of the Meeting**

The program today is to have two plenary sessions this morning. The first one is going to cover the period prior to formation of the NACCB [National Association of Computer Consulting Businesses]; what happened in the industry, where the broker-type companies came from, how they existed, what they did during the period prior to the mid-1980s when Section 1706 of the Tax Reform Act of 1986 became a stimulus to bring you together. Then in the second plenary session, after the break, we will focus on the evolution and development of NACCB, what it did what issues it faced. We will have one panel for this first session and a separate panel for the second session.

This afternoon, we will have a set of workshops. You can choose which ones you want to go to. We hope to get a reasonable balance of participants, but you may go to the ones you want. We will have a moderator in each one to help direct the conversation and keep us on topic to a reasonable extent.

Announce your name when you speak so we will have that down. When they do the transcription, hearing your name makes a big difference because the transcriber doesn't know your voice. We also ask for no side talk, please, because that does get picked up and the person doing the transcription can't hear what the other people are saying. Carol Anne is going to be taking pictures around the table, and we will have those as part of the record.

Tomorrow morning, we are continuing our conference. We will have breakfast; and then we will have two more work sessions. We will close with another plenary session. All of the things we didn't get a chance to say in the first day and a half, we will have a chance to say then.

Jeff Yost is here as one of the historians who is working with us and Glenn Bugos, another historian is down there. They have donated their time and effort to work with us. Jeff is from the Charles Babbage Institute; he is also an author and has been working with us six years. We started working with Glenn Bugos in 2004. He is a professional historian, which is different from a nonprofessional historian. Is that how you describe yourself?

**Glenn Bugos:** Yes, I get paid for it.

**Grad:** Ah, that's the difference. He makes a living out of doing it. We have been very fortunate. There have been about 15 computer historians who have been working with us, mostly from the United States, but a few from outside the United States. They have helped guide us as to what kinds of things we should be doing, have participated in our meetings and conferences, and have done most of the oral histories that we publish. We are doing a few in conjunction with this meeting as well.

The lady who just walked in is Luanne Johnson. She is the co-chair of the Software Industry SIG.

The way I would like to start this is to ask each of you to describe, in one to two-minutes, how you got into the broker-type business. That will give us an introduction for the record for each of you. State your name and then state the name of your company, and how you got into this particular broker-type business. I am going to start with the panelists. Dave, would you start by telling about how you got into the business?

### **Introductions to Participants and their Companies**

**Dave Cassell:** I am Dave Cassell from Houston, Texas. I spent the early part of my career with IBM in sales in the Data Processing Division. I got very frustrated toward the end because, as a salesman for IBM, we did not get paid when we sold the equipment, we got paid when it was installed. There was a tremendous shortage of technical people available at our customers; and it all often ended up in delays in installation of the equipment. Because my living was dependent on getting those things installed, I started helping my customers find people outside their company to help them get this work done so we could get the equipment installed.

That led me to the idea that there seemed to be a need for this type of service. So I left IBM, after almost 15 years, at the end of 1981, and started my first company in 1982. That is how we got into the broker business. We did nothing but represent independent contractors. All of our information-- I actually found one of my old brochures-- talked about our offering services to the independent contractor community and then, from the customer's side, why there was an advantage to doing this. That is how I got into the business.

**Grad:** Thank you, Dave. David?

**David Hicks:** David Hicks. I am from San Francisco. I got into this business sideways. When I got out of college in 1965, I took a job as a programmer trainee and finished 15<sup>th</sup> in a class of 10. That made it very clear that I was not going to be very successful in a technical career. The company I worked for, in addition to doing systems integration, project development and product development work, was also in the business of providing staff along the lines that Dave

just outlined. I became very familiar with that business because I went to their sales and marketing department for a short stint of about 10 or 12 months.

After that, I left and went to graduate school and did other things for several years. I then came back to the San Francisco Bay Area and went to an employment agency, looking for a job in sales; and they gave me a job in the agency. Because I knew something about what programmers did for a living, they gave me a job placing programmers on a permanent basis. I stayed there for a year and a half, and then went out on my own and started a company in 1970 called Computer Resources Group.

About 18 months to 2 years into that, one of our clients said, "I need 3 contract programmers to work on our insurance system." I had no idea what that was. I consulted with an attorney who had some familiarity with the independent contractor issues and that was the way that I got into the business. It was just a series of serendipitous progressions that got me into the business. I stayed with Computer Resources Group, brought in a partner, sold my half to him in 1979 and started Hicks Consulting Group. I am still here. I get to retire on April 30<sup>th</sup> of this year.

**Grad:** David, what year was that that you got into the Computer Resources Group? It was 1970?

**Hicks:** 1970, yes.

**Grad:** Is that the earliest that one of the persons around the table got into the business?

**Grace Gentry:** CRC was doing permanent staffing. They did not do contract staffing yet.

**Grad:** What you described David, was it not contract staffing then?

**Hicks:** We got into contract staffing in 1972.

**Grace Gentry:** No, you did not. You didn't get into it until after 1974. Rick Green and I have had this conversation.

**Hicks:** Well, Rick is mistaken.

**Grad:** Harvey, you actually did not start a company in this business, so please introduce yourself and your connection here.

**Harvey Shulman:** Yes, I am Harvey Shulman from Washington, DC. I am an attorney. I got involved in the industry because my brother, Fred, who went to college at University of Maryland, where I also went to college, became a computer programmer. In the summer of 1979, he was living in the basement of my house and formed a company called COMSYS Technical Services.

As a result, I started - without a fee, of course - looking at a lot of Fred's contracts and answering a lot of questions, could he legally do this or that? For several years, I did legal work for COMSYS and, therefore, knew the industry at the point when NACCB started to coalesce, in early 1987. That was my involvement.

**Grad:** Okay. Grace?

**Grace Gentry:** I am Grace Gentry from the San Francisco Bay Area, California. My husband was a famous technician with IBM from 1962 through about 1971, when he left. He went into another venture and ended up working as a consultant. People who knew him kept asking him if he could provide services to them. He finally turned to me and said, "They want more people. Do you know anybody that we could place?"

By then I was a senior analyst programmer in the industry, also. So we started a company, and incorporated in 1974. We were helping friends fill jobs and helping other friends find jobs. We were charging the customers 12 dollars an hour and we were paying our contractors 10 dollars an hour. They were all self-employed people. Everybody was just ecstatic. A senior analyst programmer - at that time - could earn 12 thousand dollars a year; but you were working roughly 2 thousand hours a year and not getting paid overtime. If you were making 10 dollars an hour, you could make - well, I mean how could you spend that much money?

The first seven or eight contractors that we hired were all women. All of these women were married, and they had their benefits through their spouse who had a job somewhere. It looked risky to men; but to the women, it looked great. You know, they would work six months and make all this money and then take six months off and do something else. Of course, that is not what anyone ever did. They always continued working the entire year.

**Grad:** Go ahead, Randy.

**Randy Evans:** I am Randy Evans from Houston, Texas. The way I got into the business is that I had actually taken my first contract as a programmer, and moved to Michigan, which is where a lot of people from Houston came from, and worked as a W2 contractor for a company out of Detroit. I finally got tired of the smell and decided to move to Houston where I took a job with Exxon as a programmer.

Because of the infamous windfall profits tax legislation that was passed around that time, about 1980, there was a massive amount of contract work going on in Houston in the oil and gas industry. At that time I got introduced to the concept of 1099 independent contractors, because there were so many people working that way. Up until that time, I had only known what it was to be a W2 contractor. I saw people changing contracts for a difference of 25 cents an hour, which I thought was just insanity, but that is the way it was down there at the time.

I looked around and, after my own dealings with contract firms and in particular the one I was working for, I said, "There has got to be a better way." So I started a company called Information, Incorporated. I went on a flat fee basis where, if you came to work for me as a 1099 contractor, I took five dollars an hour. I didn't care what the going rate was for contract programmers; I paid the individual the rest. That was something that caused me to be widely hated in the Houston area, because I had such a novel concept that hurt everybody else.

**Grad:** What year was this now?

**Evans:** 1980.

**Grad:** Okay. Mark?

**Mark Roberts:** I'm Mark Roberts, CEO of NACCB.

**Grad:** You are involved with NACCB, but you did not start your own company?

**Roberts:** That is correct. I am a lawyer, like Harvey.

**Grad:** Okay, Mark. We will pick you up later on. Dan Greenburg?

**Dan Greenburg:** My name is Dan Greenburg from New York. I came into the business a little sideways as well. After finishing college in 1969, I was a computer programmer for Nassau County, out on Long Island. I also went to law school at night at Brooklyn Law School.

After graduating from law school, I practiced law for about two or three years. At the end of that time, I realized how much I hated practicing law and wanted to go back to computer programming. I remember my first interview was at Chase Manhattan Bank; and they said, "You are a lawyer. Why would you want to be a computer programmer?" I would go into this whole explanation of how I hated law, I really loved data processing - and then I would never get the job. There were like four or five interviews like that.

Finally, someone told me about a company called Howard Systems, which was a contracting firm. I sent them my resume and went over there. The guy I met, Chuck Healey, asked me five technical questions which I managed to answer correctly. He goes, "Okay, you have got the job." I said, "Well, don't you want to know why since I am already a lawyer ..?" He said, "No, we don't care. You answered these five questions. You can go out to..." My first contract was at Phillip Morris. That is how I got into the business and then grew into management at Howard and then formed my own company in 1989.

**Grad:** You didn't form your own company until 1989?

**Greenburg:** Right, yes.

**Grad:** What was the name of the company you formed?

**Greenburg:** The Allegiance Group.

**Grad:** Jon? You are a little different animal here, aren't you?

**Jonathan Hahn:** Yes, I am a little different. My name is Jonathan Hahn. I was an independent contractor from around 1982 up until a few years ago. My work has always specialized in the UNIX operating system. I was asked here to talk about doing work not through a broker company. Throughout my career I have been fortunate to be able to get most of my contracts directly with my clients; and I have always been based here in Silicon Valley.

**Grad:** James, you have also been an independent contractor, but on your own?

**Jim Ross:** My name is Jim Ross. St. Louis is where the company was headquartered. I probably started working as a programmer earlier than most of you. If you have ever watched the Nova program, when they talk about the computer industry, what they are showing you as one of the first computers is an ANFSQ7. They had one at Systems Development Corporation (SDC), which is where I started working.

I went from Iowa to California and met Jane, my wife, in Pasadena. Then she had the gall to move down to Venice, and I followed her down there. I happened to be driving down the street and I needed a job so I stopped in at SDC. They gave me what was called an IBM Programmer Aptitude Test, which was a logic test. I aced it; and the personnel woman sitting there was saying, "Well, do you have a degree?" I said, "Well, yes, kind of," but I didn't. She said, "Do you know what a computer is?" I said, "Yes, kind of." I had seen a picture of a tape machine in a magazine one time but that was it.

She says, "Well, let me give you another test." She gave me what was called the IBM Systems Analyst Aptitude Test. I aced that one, also; and she said, "Well, I have never had anybody ace these two." So I got a job as a computer operator on this ANFSQ7, a SAGE computer. They had a large room about this size and all it had in it was circuits. If you walked into that room with liquid of any kind whatsoever, it was automatic termination if they caught you.

I left there and finally got into programming with a company called Beneficial Insurance Group in Los Angeles. I talked them into it. Then, after leaving there, I was an independent contractor with Xerox Corporation when they were getting rid of their Sigma 7 computer series. I found I liked working for myself better, ended up doing that for a long, long time.

I finally wound up in St. Louis without a job. I was fortunate enough to meet Mr. Cassell. I owe what I have right now to Dave and my wife. He talked about this industry. He talked about setting up our own company.

I came back to California and woke my wife up at two o'clock in the morning and said, "What should we do?" She said, "Well, go for it." I said, "Okay." We started the company in St. Louis; and that is how we got into the independent contractor broker business.

**Grad:** The name of the company?

**Ross:** JM Ross and Associates. We started in about 1987.

**Grad:** Thank you very much, Jim. Jane, did he tell the truth or not?

**Jane Cronister-Ross:** Yes. I'm Jane Cronister-Ross. Jim and I started the company in 1987. I came into it because of my office administration background. Basically, that is what I did with the company. I ran all of the accounting, payroll, and contracts and was involved with the NACCB on the administration side. I am not a programmer, although today I think I probably know more about our PCs and laptops than the programmer does.

**Grad:** Go ahead, Phyliss with two Ss.

**Phyliss Murphy:** Yes, I'm Phyliss Murphy from southern California, with an office in Burbank. I started in the computer business in Chicago as a programmer, became the Director of DP for a local company, used independent contractors and figured out that they were having a lot more fun than I was having. So I decided to go play with the other kids and went out and became a contractor. At that time - this was a long time ago - most of the contractors were W2 salaried employees, at least in Chicago. I convinced the company that I would contribute more to them as an independent contractor and did independent contracting, specializing in the

insurance industry. I was lured back into management; and I managed contracting for a company called Consumer Systems Services Group in Chicago.

My husband was transferred to Los Angeles; Consumer Systems Services had an office in Los Angeles, so I came to Los Angeles. They then closed the office and I proceeded to open an office for another company, CBM. I was there for a couple of years and then started my own company in 1981. , I cleverly named it P. Murphy and Associates.

**Grad:** Peggy?

**Peggy Smith:** I am Peggy Smith. I am from Greensboro, North Carolina. I got my start in the business from the marketing side in Philadelphia. I went to work for a company called Lambda Technologies. I was a marketing rep for the Delaware Valley area. They used employees only; but I really loved the business.

In 1981 or 1982 I asked for and received a transfer back to Greensboro. At about that time, Lambda was purchased by GE so I worked for GE down in North Carolina for a couple of years. Then I started my own company with two other people. It was about 1984 or 1985. The name of the company was Data Masters. We had three partners: one technical, one recruiting, and I was the marketing person.

**Grad:** Fred?

**Fred Shulman:** I'm Fred Shulman from Rockville, Maryland; and you met my brother, Harvey. I graduated from the University of Maryland in Computer Science; and I was a programmer/analyst. I worked for Sperry Univac; and then for Raytheon, two very large companies. I immediately became disillusioned with the big bureaucracies. I was writing operating systems. They were leasing operating systems, at 30 thousand dollars a year; and I was being paid 12 thousand dollars a year. I would go to my boss and say, "Well, I am bringing in all that revenue," and he would say, "But you have not been here for 15 years."

So I took another job. I went back to Washington, DC; and while I had a house being built, I did live in Harvey's basement. A good friend of mine, Howard Stein, became one of my partners. We found a guy who had a TRS-80 who sold periodicals to companies. He wholesaled them. He liked this thing called a personal computer and asked Howard and me - Howard had the business side of it and I had the programming side - and we wrote a program for him to manage his inventory. We did this part-time.

Howard then got his CPA and decided he wanted to stay in accounting. I liked the idea of going full-time as a programmer and looked in the back of Computerworld. Back then that was the

periodical where you looked for a job. I applied to a few companies. One was called Worldwide Computer Services out of New Jersey. This guy did consulting and sent me out to Naperville, Illinois, to Bell Labs.

I interviewed, and I got offered a job out there. I had just met my other partner, Cathy Griffin, and was buying a townhouse. I got the job; but I didn't take it. He offered me, I think, 12 dollars an hour. I said, "No, I just bought this townhouse." He said, "Well, I will pay you 17 dollars an hour." I said, "No, I just met this woman." He said, "Well, I will pay you 25 dollars an hour." I ended up not taking the job; but I said, you know, there is something to this business.

I came back home. I talked to Cathy and said, "You know, we ought to check this out." I went out to find full-time employment at a company in our area, American Satellite. During the interview, I said to the guy, "Well, you know, I would really like to do this as an independent contractor." He said, "Okay, we can do that." I said, "I will do it for 25 dollars an hour," and they said, "Fine."

So I took the job as an independent contractor. Then they came back to me and said, "Are there any more people like you? We need more people that can work with these microprocessors." I went to some of my friends at Maryland. We ran some ads and found some people; and that was what started the business, COMSYS, in 1980.

**Grad:** Okay. Bjorn?

**Bjorn Nordemo:** Bjorn Nordemo, formerly of Boston, Massachusetts, currently Pinehurst, North Carolina. I got into the industry a little differently. I enlisted in the United States Air Force. Through the Air Force, I was trained in electronics and electronic countermeasures. However, they needed me to have cryptographic clearance. I had been in 27 countries so they said that was going to be a little tough. They said, "All right, instead we will send you to computer school."

So I went to the IBM Federal Systems Division in Kingston, New York, and spent a year and a half there, learning IBM NSQ7s and Q8s. I then went back to Stewart Air Force Base and maintained and wrote programming and so forth for the Q7 and Q8 air defense systems for the rest of my enlistment.

I left the Air Force, and went to work for Honeywell at their Brighton Mass., computer facility, and developed software for their systems at that place. I left Honeywell, went to work at another company called Electronics Corporation of America, and got fired, one of those things that changes your life fairly dramatically. I thought, "How unfair," and spent a two-week retrospective on what I should have been doing versus what I was doing.

I took a job with a company called Matrix Corporation as a consultant and worked as a consultant for Raytheon for a number of years on air defense systems again. Following that, I went to work for Ling-Temco-Vought, John Ling's company, as a program manager for one of his subsidiaries called Transcontinental Music Corporation. Spent a couple of years doing that, and I ended up at Sheraton Corporation as a project manager.

I then left Sheraton and went back to Transcontinental Music. I ended up with a fellow and we decided that we should go out and start our own business, which we did, as a software development company. We developed software for a while. It did not succeed greatly so I went off as an independent contractor and went to work at Digital Equipment Corporation.

Once there, I noticed there were an awful lot of people running around and nowhere near enough people to do the work. Everywhere I went, they said, "Can you find me another person?" I bumped into a fellow there who became my partner and said, "Hey, why not instead of competing, let's work together. You know, let's join forces here and do something about it." That became the company, Data Arts and Sciences; and that was in 1977.

**Grad:** Okay. John?

**John Chamberlain:** My name is John Chamberlain. I am originally from the east coast, from the New Jersey/New York metropolitan area. In the beginning of my career, I was selling hardware. In graduate school, I started with the IBM Data Processing Division and was selling to colleges and universities. I left them quickly when I realized they really controlled your income. I thought you could make all you could earn; but that was not true at IBM.

I then went through a series of companies. After IBM I worked for Recognition Equipment out of Dallas, Texas, selling million-dollar optical scanners. I chose very hard things to sell in a narrow market. Following that, I worked for Ampex for a very short time, trying to sell the video file, another ill-fated product. I then spent quite a number of years with Inforex which made key to disc data entry equipment. I ended up being the Branch Manager in New York City for Inforex. Inforex was getting in more and more trouble trying to compete. The last major competitor that was cleaning our clock was Forthés. I was in a troubled marriage; but I had previously had a summer job in 1962 in California. I was in engineering school; and PG&E hired me for the summer. I worked in San Francisco; and I never forgot that experience. I absolutely loved it here. I was going to college in Newark, New Jersey, which is the most extreme contrast you could imagine to San Francisco.

My first wife and I were recovering from a period of great difficulty; and we decided to make a fresh start in California. So we made an exploratory trip out here. While here, we went to the wedding of a friend; and at this wedding, I met Jeff Biggs, who had also been a sales guy for Inforex, so I knew him through that. He was always a top producer. He told me how great the

contract programming business was and that I ought to quit Inforex and come with him. By the way, Inforex had agreed to transfer me here and pay for my move; but after looking around at a little real estate, I realized I needed to make twice what I was making. Biggs convinced me I could do this. So I quit Inforex and came to work for this little guy with about 12 contractors in the Bay Area in 1978. It was Cameron Programming Consultants or Cameron Group, I can't remember which,

**Grad:** Were you a partner?

**Chamberlain:** No, I just came to work as a salesperson. We started with 12 people, and it took me a while to get going. Finally I got my act together and things started really coming together in about January of 1979. I really started ramping up the numbers. But the owner turned out to have somewhat ethics than mine. The first thing he did was cut my commissions. He said, "You are making too much money." By August, I had 30 people working; and he fired me.

I remember driving home. Here I am, in this new house in Foster City for which we had paid more than double what the New Jersey house cost, a huge mortgage, and I had no job. So I decided to start my own business and figure out where I would get the money. I had very little capital.

In competing, I had found there were a lot of great people out there who were independent contractors; but my previous company wouldn't hire them. They would only do employees. Before he started, he had worked for some large employee-only consulting company. Anyway, I decided to use independent contractors. I must thank my family, my parents, and one of my uncles, my uncle Francis, and my sister, Ruth, who lent me money; and that got me started. We had some savings of our own even after buying this California house.

I managed to get started in a bedroom. I started as Systems Design Associates in August of 1979. About a year later, I incorporated and went through the whole name change process. I think there was already a System Design Associates on the East Coast. So I had to drop that name to incorporate Anyway, we ended up naming the company Chamberlain Associates.

**Grad:** Very creative. [editor's note: System Design Associates was Jay Goldberg's company, SDA] Thank you. Steve?

**Steve Kenda:** Yes, Steve Kenda, Salem, New Hampshire. I graduated with a degree in chemical engineering back in 1979. The only jobs at the time were with a refinery down at Exxon in Baytown, Texas. I decided to take another track with AT&T in a management program for a couple of years. Believing that the AT&T bureaucracy was a little bit too big for me, I wound up at a small manufacturer in New Hampshire who had just purchased a combined

accounting and materials system that he wanted to get installed; but he didn't know how to install it. The computer was an old DEC VT-52 with eight-inch floppies.

I got it installed and working for him; but I was saying, "Well, what is going on with the man behind the curtain? How does this work?" It had a little basic floppy disc. I started looking through the manual and, you know, playing around a little bit with it. I liked what I saw. I wound up taking a job with DEC which was hiring at the time if you just showed some level of proficiency.

The same guy who headhunted me into DEC headhunted me back out for a VC-backed microcomputer startup. Interestingly, his name was Dave Weatherall; and he was the guy more or less behind CMGI, the Internet company, which went bust in the late 1990s. I did that for two years. I worked for slave wages, 100-hour weeks for about 15 hundred dollars a month and was pretty well burnt out when we sold the company.

I took about 4 weeks off and said, "Am I going to hike in the Himalayas or am I going to do something else?" I started flipping through the papers. I saw an ad from Bjorn Nordemo's company, Data Arts and Sciences, that was offering 30 bucks an hour. I said, "Oh, my God. You work 50 hours a week, make a fortune and feel like you're on a vacation." So I took the job and worked for about three months with a client.

Then I found out Bjorn was making 10 bucks an hour on my sweat and toil; and I was morally outraged. I just wanted to see then if I could build a better mousetrap and went ahead and started Kenda Systems in late 1984 in Salem, New Hampshire.

**Grad:** Had you been working there for Bjorn in that same area or had you been working elsewhere?

**Kenda:** Yes, in the same area, in New England.

**Grad:** We are going to have one more. This is Luanne who is going to talk about a business called Heights Information Technology Services that we formed jointly.

**Luanne Johnson:** In the 1970s, I was running a software products company in Berkeley, California [Argonaut Systems] and I used a lot of independent contractors. As a matter of fact, I got along for maybe the first five years primarily using independent contractors. The only staff person I had was an administrative person. I had a family so traveling was very difficult. I really relied on the independent contractors that I worked with to do the installations that required traveling.

I got involved with ADAPSO, the computer software and services trade association, started going to their meetings because I was learning how to run the business from the people who attended those meetings. Through that I started going to the international meetings of worldwide software associations. There was not a lot of gender diversity in ADAPSO, particularly in the international meetings. So, there was no waiting line in the ladies' room. All two of the females were in there; and it was fine.

At some of the meetings that I went to, I did meet two other women. They were both from a company in the UK called Freelance Programmers Limited. It was started by a woman named Steve Shirley, in 1961. She formed that company specifically to use the resource of women who were trained programmers and who wanted to work part-time at home because of their family situations or whatever. So she started this company specifically to use that resource, organizing people into project teams, and to place them and find work for them.

I was impressed by this model both because I was very sympathetic to the fact that she had addressed this particular resource which had so many challenges plus the fact that it was the first time I really encountered a company that was making it possible to find these people if you wanted to employ them. I had been very fortunate to find a couple of independent contractors that I used over and over again, but every now and then I would need somebody else. It always meant calling people and following these threads, trying to find somebody else. "Yes, well my brother can do it." "Is your brother any good?" "Sure." ...

I was very impressed with this model of using women who wanted to work from home. I did not have any real desire to get into that business myself because I was very busy running a software products business; but I began talking up this model at the ADAPSO conferences. Burt picked up on it. He said, "You know, this is a really interesting company. Maybe we should talk to them about starting a branch or whatever in the US." We did, and they were interested.

So we formed a corporation to use that model in the US. We became Heights Information Technology Services because Burt lived on a street called Castle Heights Avenue. I was very involved in the business, but Burt really was much more involved in the operational aspects. We did a lot of promotion to try to reach out to people who wanted to work in this kind of a model. I think the English company bought the company from us about six years later, in the mid-1980s.

**Grad:** Yes, six years later, in the mid 1980s. The English company was then called F International. We had been a low to middle success, but we set up an operation in Oakland which Luanne was overseeing and I set one up in the New York area near Tarrytown, in White Plains. We had hundreds of women who wanted to work on this part-time basis, work at home. That was the key, not at a client's location. The joke was that the clients wanted to see the dandruff fall, and for the women that was not the model. So we failed beautifully.

**Johnson:** Yes, we did this promotion. In England, they had virtually no demand for men to work in this mode; but we had a lot of inquiries from men as well. Well, we were not talking just about women, we were talking about people who wanted to work in this particular model. We didn't have nearly as many men working with us, but it was a very different environment here. The whole attraction of being independent and working that way was so much stronger, particularly in the Bay Area, I guess.

**Grad:** Both Luanne and I were active members of ADAPSO, but not as Heights representatives.

**Harvey Shulman:** It would be interesting to point out - as many of you don't know - that when we were dealing with the 1706 issue, Luanne was actually the Executive Director of ADAPSO. I feel like I am listening to a coming out of the closet story. I have to say, I had no clue.

**Johnson:** There is even more to it than that, Harvey. George DeBakey, my predecessor, was the Executive Director of ADAPSO when the guys from Computer Task Group kicked off ADAPSO's very, very aggressive position on the other side of 1706. At that time, I was working for the ADAPSO Foundation, which was a part of ADAPSO. I was the Executive Director of the ADAPSO Foundation; and I was working for The ADAPSO Foundation as an independent contractor.

### **Subjects for this Plenary Session**

**Grad:** I would like to cover four subjects getting us up to 1706. One, were there common problems? For example, was there an issue of the people that you brought on, your independent contractors (ICs), their taking the clients away from you? Were there issues where they took other ICs away from you? Were those issues for any of you?

Another thing I would like to talk about is the formation of the regional groups that started to take place somewhere during the early 1980s. Also, the handling of the IRS rules and what made someone an independent contractor, were those problems for you prior to 1706? Then I would like to move into talking about 1706. And then we can discuss any other subject you want to bring up.

I would like to start with the panel. Dave, any of these issues, in terms of the ICs you used taking clients? Any of those kinds of things occur?

## **Problems and Contracts with Independent Contractors**

**Cassell:** We really did not have a problem with that, but that was because we had a contract which really restricted people from doing that very thing for a period of a year. They could not go back on their own to a client at which we had placed them or even introduced them to.

**Grad:** So you had a contract with each of your ICs?

**Cassell:** Exactly.

**Grad:** How about the rest of you? Did you all have contracts with your ICs?

**Ross:** Yes, but you had to be careful because, depending upon what the person's position was. I have known of some females, for example, who were single parents, and you could get them to sign that contract; but I have known some of them to take you to court. Very rarely is a judge going to take a 22, 24, 26-year-old female with a 4 or 5-year-old child and say, "I am sorry. You cannot go back to this place and get a job." It didn't happen often, but I've certainly known it to happen a couple or three times where they went back, got a job, and the judge says, "You know, that is okay."

**Grad:** David, how about you?

**Hicks:** Well, in our case, we had a contract that was equally as strong as Dave's; and we used to threaten the contractors on pain of death if they did go back to work for the client that they would be sued. We actually had a couple of guys test it and they lost. One of them backed down; and one of them actually went to a small claims court and the judge just summarily ruled, "This is a contract. You signed it. You cannot do this."

We did have a few clients who would attempt to try to ace us out of our contractors. I had a manager at Wells Fargo Bank who attempted to do that. It happened to me; and I forget who was the other person it happened to - it might have been Larry Miller. I think it was him. We both had contractors on this project; and this guy was trying to cut the broker out, cut us out of the deal. He succeeded in a couple of cases. We got him fired by going two levels up, and that was the end of that. The guy, the manager, about three years later had the audacity to call me up and ask me to get him a contractor.

**Grad:** Harvey, from a legal standpoint, did you feel those contracts were enforceable, the ones with the ICs?

**Harvey Shulman:** Yes. Of course, it depended on the state. I think the east coast tends COMSYS and a number of similar companies, non-competes and IC agreements and non-hiring of other workers was very common. Not only were they enforceable; but in the case of COMSYS, I think over the years we probably got 10 or 12 temporary restraining orders against independent contractors. Typically what happened is once they knew that it was enforceable there was no sense in challenging the contract. It really tended not to be much of a problem on the East Coast and in the Midwest.

**Grad:** The interesting point to pursue here is, "Were there any of you who did not have agreements with your ICs to prevent competition? If you are, speak up." From the response, it would appear that all of you had some form of agreement. How about if the ICs were taking other ICs, away from you? Was that an issue that you dealt with or not, any of you?

**Cassell:** Yes, that was covered in the same contract. If they left, they could not recruit any of our people for a period of a year.

**Hicks:** And they could not place people into your client, which some of them tried to do as well, set their own company up and send people in.

**Fred Shulman:** Well, we had the issue where some ICs did try to go around us with our clients, but what became even a larger issue than some of them trying to take the client away was - we had to develop a pre-interview agreement. What would happen was - we would talk to the people and they would want to know where the work was. Sometimes they would say they are not interested and then we would find out that they were working there. We had to develop an agreement that kept them from even approaching the client once we gave out who the client was.

**Grad:** So even before you sent them there, they had to sign the paper?

**Fred Shulman:** Correct.

**Grad:** Did any of you have a generic agreement with these people rather than a pure assignment agreement? Do you understand what I mean? John?

**Chamberlain:** Well, we had a generic agreement and then you had an attachment for each job.

**Grad:** So, before you would even send them out on an interview, they would sign the generic agreement.

**Chamberlain:** They would sign the generic. Then we would say, "Okay, you know, each job, whatever we get you, then we..."

**Cassell:** In the early days, we did not do that. That really came after the formation, I think, of the NACCB. Harvey came, with his legal background and knowing the industry, with a lot of recommendations; and we developed a contract in NACCB that covered a lot of that.

**Ross:** Well, another thing is some of the companies really tried to have exorbitant timeframes. It would be like two years of non-compete.

**Grad:** Companies, you mean the broker firms?

**Ross:** The consulting company, or the broker firm. I cannot think of the name of the company, but they were looking at a period of 18 months or 24 months. Usually you would get by with six months to a year; but once you started going over a year, most of the courts that I ran into would not enforce it.

**Grad:** Okay. Let me go back to my general question. How many of you were using a general agreement with your ICs prior to the formation of NACCB? There are five, six, seven, eight, nine hands - so many of you were doing that. So, Dave, at least a number of you were doing it before NACCB came into existence. You had a general contract and then you had specific ones with them for each of the projects you put them on?

**Murphy:** I testified as an expert witness for an ADAPSO member when he had a contractor jump and go to work directly for a client. As a result of attending that hearing, what we came up with was that every time a timesheet was signed, our timesheet had the limit on it. So we had a new contract signed every week, in effect.

**Grad:** That is interesting. I had not heard that before.

**Murphy:** Yes, and that was a result of attending this hearing.

### **Problems and Contracts with Customers**

**Grad:** Any other interesting angles on the IC contracts? We are going to cover it in some detail later; but I am just looking for a general picture here. How about the contracts with the customers?

**Chamberlain:** Yes, first on the contracts with the ICs. I just made up my own contract. I had my first ICs bring their contracts that they had with other companies; and I created an amalgam of that.

With the customers, from the get-go, we had something called a “start letter”. As long as they did not object to it, I regarded that as the agreement. I started a couple of people and I sent the first bill to one of my first customers and they conveniently thought the rate agreed to was lower than what I was billing. So, okay, I thought, I have got to get all this on paper. I came up with a letter and would send the letter. Every time we started somebody. The letter had our billing rate for this assignment, our terms are net whatever, we are going to bill you every week; and if you wish to hire this person, this is going to cost you this and this under these circumstances. That worked very well.

**Harvey Shulman:** What we also have to remember is this was before e-mail. In fact, a lot of people did not even have fax machines. So much of this was being done by the US mails or by hand.

And I absolutely remember seeing dozens of customer agreements [purchase orders] prepared by the customer that had nothing to do with the service being provided. They were bills of lading. You turned it over, and it said the goods were going to be delivered at the dock and who was going to pay for the shipment. As a lawyer, the first time I would look at these for broker clients, I would say, “You cannot sign anything like this.” They would say, “Well, it does not really matter because the only thing that matters is what the rate is. As long as the rate is correct, they need something signed.” At that time, the small customers really did not have agreements in place. ...

**Grad:** This is the issue I am trying to bring up: the other side of it, the restrictions on the client in terms of taking on your people. Did you put that into your agreements or did you have to sign the client’s own purchase order or agreement form, rather than you stating the issue?

**Nordemo:** Both. Many of the clients had their own versions of agreements that you had to sign. Usually if you did not sign what they had, you were not going to do business with them. In some cases, if your relationship with the hiring managers was strong enough, they could have some of the verbiage changed, but in general, not. They had the agreement and that is what you did.

**Grad:** Was this true primarily for big clients or was this true for pretty much everybody?

**Nordemo:** Big clients, mostly big clients.

**Grace Gentry:** There was an evolution because our first contract with our contractors was two pages. Basically, it said: we find the job, you do the work, and we pay you this much and that is it. We did not have a non-compete clause. That did not occur to us.

**Fred Shulman:** I think it was very rare to go after a client. You typically relied on your IC agreement to say I can technically keep this person from working at the client's site if I need to, but it depends on my relationship with the client. If it was a big buyer, I am not going to piss him off.

**Grad:** This has been one of the issues I have heard and know about. It was certainly brought up in the professional services meeting. They had the agreement in every case with their client saying, "You cannot hire any of our people. They are our employees." But if the client said, "I am hiring the people," what are you going to do about it; that was an issue.

**Hicks:** Well, starting when I did, we went at least a decade where we had virtually no contract per se with any clients, Bank of America, Wells Fargo, Visa Corporation, you name it. It was almost like the old stockbroker days of a handshake.

We did use the assignment letter; and the letter did deal with the issue of the client's hiring the contractor as a permanent employee. In other words, taking your guy and going off. We had a step-down fee structure. If they did not complain about the letter, it was bound to be a contract.

It was only really in the 1980s that some of the larger clients started having master service agreements, purchase service agreements, that type of thing. Some people still - even today - use purchase orders. I still got purchase orders this year.

**Grad:** Some other comments that people have?

**Cronister-Ross:** When we first started our business, it was purchase orders that we got from the client. I do not believe we even had contracts until we joined NACCB and saw what a contract was. It was always the purchase order from the client that stated the rate and the term of the project and what was expected.

**Evans:** Well, I think most of us were surprised once we got together and formed NACCB and started looking at the whole contract issue. All of us were surprised to find out how weak our contracts were for those of us who had contracts.

**Grad:** This is very fascinating because I was drawing an analogy. In ADAPSO one of the first major projects we worked on in the mid 1970s, for both the products companies and the professional services companies, was model contracts to prevent the customers - we had our

employee contract -but the thing we were concerned with was the customer stealing our people. That was something we really focused on early.

**Fred Shulman:** I think it was common in the late 1970s through the mid 1980s, and actually beyond, for the customer contracts to say that the staffing firm could not hire any of the customer's workers. Those were always there.

**Grad:** Couldn't you use symmetry on that?

**Fred Shulman:** Well, as a number of people said, those contracts, many of them, really were totally inappropriate for the service being provided so it did not really matter what was in it.

I think that there were really some seminal moments. I remember MCI in the 1980s was a very big user of contract services. One of the things they did, and a number of larger customers did this, they got educated to the point of saying, "Okay, we will not hire your people." This was not because it is in their agreement, but because when you would say to MCI or other customers, "We have a non-compete in the agreement with the contractor. If you start trying to hire that person either directly or through another vendor, you are interfering with the contract."

I think as a matter of law, their legal departments suddenly got afraid they were going to be drawn into these things. That was a way to do it where you never sued the customer and the customer eventually sat back and said, "Okay, this is between the worker and the staffing firm. Whatever the courts decide, that is what we are doing."

### **Regional Associations of Contractor Agencies**

**Grad:** Okay. I'm going to change the topic. We have two workshops, one on customer relations and one on IC relations. It is this afternoon on both of those, right? So I hope some of you will go to one; and some will go to the other.

Let us go ahead to the topic of regional groups. What regional associations were set up and when were they set up

**Hicks:** We ran into problems throughout the industry in northern California from the State of California on Sales tax issues; there was an effort to try to impose sales tax on labor, which is not taxed in the State of California. Grace can talk about that. She was intimately involved in that one.

Most of us were faced with the independent contractor status issue from the local EDD (Employment Development Department), which is our state unemployment office. A number of

firms kept getting audited and being taken in and having the contractors found to be employees because in the State of California, there is a 10-question test, not a 20-question test. None of us really knew what we were doing; and we got hammered in 1983, 1984 - no, it was even earlier than that, 1978 or 1979. Rick Green and I ended up hiring an attorney named Chris Schaeffer who managed to go with us to the hearing and get us out of the situation. ...

**Murphy:** Yes, in southern California we also got hit.

**Hicks:** Everybody got whacked. So I got on the phone and called...

**Grad:** Stop one second, David. Were there any other states where this issue came up earlier than 1706? Interesting, because we knew about what Grace had been running into. I did not know about the others; but we knew about that issue. So keep talking, David.

**Hicks:** Well, the bottom line was that I got on the phone with a bunch of guys that I knew and said, "Look, we have got to get together and talk." Of course, everybody was very suspicious because these were competitors. Concurrently with that, many of us were doing business at Pac Bell [Pacific Bell Telephone]. There was a manager at Pac Bell who actually used to host these vendor meetings and vendor lunches. That is how I met John Chamberlain, and I knew Grace from before NCAAB.

I realized that these people were real human beings and not monsters. I could be friends with them because they were in the same business that I was. So we ended up forming the Software Consultant Brokerage Association in 1984.

The result of it was that I, an independent contractor named Guy Sharff and Chris Schaeffer made an appointment with a fellow who headed up the enforcement division of the EDD in Sacramento. We met to jawbone the issues of how our industry could have, in effect, a Safe Harbor if we adhered to a certain set of guidelines which complied with the 10-question test. That went on for a year and a half with us going up there every six or eight weeks and meeting with them. This fellow had had a long track record of hammering industries on the independent contractor issue. Later in his career, he had a long track record of jawboning them into complying with the 10-question test. That is how we made our first major contribution before 1706.

**Grad:** There are two different threads going here. Let's stay with the thread of regional associations. Were there any other regional associations set up?

**Murphy:** Southern California did the same as northern California, right afterwards.

**Grad:** Was it the same trigger, Phyllis?

**Murphy:** Yes, the same trigger. I got audited by the EDD and on sales tax.

**Grace Gentry:** Did anyone from northern California contact you?

**Murphy:** Dave Hicks contacted me, I think.

**Grad:** What was the name of the southern California group?

**Murphy:** Same name with southern California stuck at the end of it.

**Grace Gentry:** Yes, because when we showed up in Sacramento, we wanted to look big.

**Grad:** So you worked together, but there were two separate groups of companies.

**Greenburg:** I think what is important to know, and I would speak for New York but a lot of other regions were the same, is that we never even thought about forming an association because there was a lot of animosity between the companies. The whole idea of associating with our competitors was totally against our intuition. We were adversaries so it wasn't until 1706 - that was what brought us together.

**Grad:** Were there any other areas of the country where an association was formed prior to the 1706 issue?

**Murphy:** When I was in Chicago, firms used to get together and discuss problems. It was a much tighter community. It was not a real association; but it was an informal gathering when some cloud was looming on the horizon or a problem with a major client.

**Grad:** This whole idea of being competitors, of course, was because they could take the same ICs you could take, right? There was nothing that prevented it. You were tougher competitors than the professional services companies with each other because they had their own employees. They could steal them, but it was a little different. The IC was a free agent. Is that a correct analysis or is that incorrect?

**Ross:** I think one of the things was that the companies at this point in time were pretty much isolated. We came in as an independent. We came in out of St. Louis; and I think the next closest place was Chicago. I am not sure where the next closest one was after that. From

our standpoint, I really was not competing with any of these people because I stayed pretty much in the St. Louis area.

There might have been some of these people that had- maybe working for an Anheuser Busch or Monsanto or something - had a contractor there; but I didn't have to worry about that. We were in competition, but I did not deal with any of those competitors from Chicago. Coming into the NACCB was a good deal for us from the standpoint that we were learning what else was going on.

### **Early Markets and Offices**

**Grad:** Is it fundamentally true that all of you were pretty much local operations? Is there anybody who was not local during this period? You were not local? What were you?

**Kenda:** We had four offices in 1987. They were in DC, New York and Boston, as well as overseas.

**Grad:** How about some of the rest of you? Did any of you have multiple offices prior to 1987?

**Smith:** We had an office in Washington, DC, and started doing some work for MCI. One of our partners was interested in that area so we started an office there: one in Greensboro, one in DC.

**Grad:** Fred, when did you get your first office outside of the Washington area?

**Fred Shulman:** I think it was in 1986 that we opened in Phoenix.

**Grad:** So it was about that timeframe you all started opening offices. Did you follow a client when you opened a new office?

**Kenda:** If there was a market there, we felt we could open there.

**Grad:** But you did not follow a client?

**Kenda:** No.

**Grad:** Someone was saying about MCI, because they had some of their people, that they had already been doing work with them. That was a common practice in the other professional service companies.

**Grace Gentry:** I know it is true that other agencies would tell me, "We just opened a branch in New Mexico because a big client moved there." So I think it happened within our industry as well.

**Grad:** But these were relatively small local companies. You were a bit of an exception in that regard, Steve, and a different picture. In the other professional services companies, New York City was a focal point. There were dozens of professional services firms in the New York City area, if I remember correctly, because AT&T was there, the big banks were there, the insurance companies.

You seem to have been more physically diverse or physically spread out. You weren't concentrated in one area. Is that a true statement or is that incorrect?

**Hicks:** What do you mean? The entire Bay Area was like John's, mine and Grace's. Our market was the entire Bay Area.

**Grad:** That seems to be the exception. Was there any other area where there were a lot of companies?

**Everybody:** Yes.

**Ross:** At one point in time, the 12<sup>th</sup> or 14<sup>th</sup> highest ratio of corporate headquarters offices was in St. Louis. In other words, we actually had a higher percentage of corporate headquarters offices in our area than some of the other Broker companies.

### **Number of Contracting Agencies**

**Grad:** I am asking the question wrong. Were there a lot of IC companies, a lot of broker-type companies in St. Louis?

**Cronister-Ross:** Yes.

**Ross:** Yes, any time you had large companies like Anheuser-Busch, you are going to have companies coming from a lot of different places trying to get their business because they had a lot of business to give. The region of the United States did not matter as much as what large companies there were in that particular region of the United States.

**Evans:** Well, there are some here that disagree with this, but I have always felt - and I have heard it said - that Michigan was really where the whole contract industry was founded. A lot of that had to do with the fact that it was centralized in Detroit around the car companies because they were some of the biggest companies in the world, particularly GM.

**Grad:** I'm trying to get a sense as to the number of broker firms that were in existence at this period of time, how heavy the local competition was prior to your having a common voice to talk to.

**Greenburg:** If you take a look at the New York Times, a Sunday Times classified section in the early 1980s, late 1970s, mid 1980s, it ran about four or five pages. Almost all of those ads were ads for IC's, about ninety percent of those ads.

**Grad:** Yes, but were they broker firms looking for IT people or customers looking for IT people?

**Greenburg:** They were all from broker firms. Companies did not advertise directly for IC's. It was too expensive. That is the reason we existed.

**Murphy:** When we had our first meeting to form the Southern California local regional group, we had 260 broker firms on our list of people we called. I know that we probably had far less than half of the countrywide total. It was just huge numbers.

**Ross:** In places like St. Louis, one of the things you find is that companies like AIC and companies that were big national companies, they would have satellite offices in that town.

**Murphy:** They are not a broker though.

**Grad:** Were they using ICs? That is why I am trying to get that differentiation. There were lots of professional services firms by the mid 1980s; but they were principally employee-based.

**Ross:** No, no. They would say that. They would say that; but I will tell you right now that, when push came to shove, AIC would bring somebody on. If there was an hourly rate and there was going to be a profit margin, they would take them because I knew people that were working at AIC even though they were not employees. If they insisted they would not go on the job as an employee, AIC would take them on as independent contractors.

**Cassell:** In the early 1980s, there were very few firms in Houston in that business. I think the majority of the firms - really it started booming in the middle 1980s. I can remember when

we first tried to form the association (an NACCB Chapter), we just did not have that many companies to pick from.

**Evans:** Right, and most of them were W2-based.

**Kenda:** In Boston, we had a tremendous number of companies providing independent contractors.

**Evans:** One of the big differences is that a lot of people had the idea that if you were W2 and your contract ended, you would be kept on the bench. So there was some security in that. That was played up as a major difference between being a W2 contractor as opposed to a 1099.

**Fred Shulman:** Yes. To me this is sort of a red flag, the notion that there was something called a professional services company and that everyone else was a broker suggests that the brokers were unprofessional service companies.

I know you do not mean that; but the terminology was very, very important in the whole period we were fighting this. The notion that there was something improper, illegal or whatever being done and that we were quote "brokers" and other people were either employers or a professional services company tainted not only the entire lobbying and legal debate, but tainted doing business with customers; it tainted doing business with workers. The so-called professional services companies, when they had to do a deal, would in fact use independent contractors.

As you will see in the progression of NACCB, it got to the point that the industry - if you looked closely at it - was composed of all different types of companies: the brokers that used only ICs; the professional services companies that used only salaried people; the so-called professional services companies that used hourly people who were then laid off when the job was done; companies that combined them. I think that is going to be a big part of the discussion.

**Grad:** One thing we are doing on the second day, tomorrow, is talking about these different business operations models and how they have evolved and changed. The other subject will deal with the kind of specializations that some of you focused on: particular machines, particular industries, particular systems programs or applications. Some of that went on. Some of you did products; some of you did VAR-type work; so it was a wide range of things that happened.

**Hicks:** In talking about the number of competitors, I think when Grace and I started, and a few others in the 1970s, there were not very many competitors. It was right after the 1980s

recession that it took off with large numbers of competitors. That made it possible for us to form the SCBA with a significant number of people willing to at least come and listen.

**Grad:** I will try to be more careful in my terminology. We think of professional services as this whole range of everybody who performed services, and that the model that was used, the model of the kind of people you got, was anywhere from full ICs to hourly rated to salaried where you still got kicked out when the job was over, to really permanent employment where the person was kept on regardless. So we will talk to that.

**Ross:** I wanted to comment with regard to about the time that we got involved in the NACCB. I think that the contracting business was starting to get really, really big. I think one of the things that you have to look at, too, is how the independent contractors viewed the situation. Even to this day, we still see people that want to be independent contractors but still expect a paycheck every other week. If you are an independent contractor, ideally that is not the way it goes.

I think one of the things the NACCB helped do was get the word out and say here is what an independent contractor really looks like. Here is what you, as an independent contractor, can expect from the company that you are dealing with. I think that was a really important thing.

**Grad:** We are going to end the first session. We have just gotten to the beginning. We are ready for the 1706 discussion when we come back. These other things - keep notes for yourself or ideas - these are the things we want to explore in-depth during the workshops when we have more time and fewer people so each one gets more of a chance to speak. Thank you. Very, very interesting.