



NACCB Plenary: Activities After 1706

Moderator:
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NACCB Plenary: Activities After 1706

Conducted by Software Industry SIG – Oral History Project

Abstract:

In a Plenary session all of the participants discussed the issues other than Section 1706 which were important to NACCB members, such as the overtime and sales tax issues. The participants discussed the organization of NACCB as an association of local associations, and the culture of freely sharing information, such as through an annual operating survey, and a shared legal defense fund and body of form contracts, which were major attractions of joining the organization, There was also a discussion of issues on which NACCB joined with other associations to lobby on certain issues important to both organizations.

Participants:

<u>Name</u>	<u>Affiliation</u>
Burton Grad, Moderator	Heights Information Technology Services
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
Phyliss Murphy	P. Murphy & Associates
Bjorn Einar Nordemo	Data Arts & Sciences
James Ross	JM Ross & Associates
Fred Shulman	Comsys, AETEA
Harvey Shulman	NACCB
Peggy Smith	Data Masters
Glenn Bugos	Historian, Moment LLC
Jeff Yost	Historian, Charles Babbage Institute

Burton Grad: This plenary session is about NACCB after the initial 1706 activities. The organization was and in the first year or two, 1706 was the major activity; and some of the early presidents are here on the panel today. So please talk about how much of your activity was involved with 1706 during the first two or three years.

NACCB Board

Randal Evans: As I remember, it was still fairly significant because we still had high hopes of overturning it. But I do recall there was a lot of discussion at board meetings about what other things we could do for members, that we had to be conscious of the fact that, if we were going to remain a vital organization, we had to offer more than just legislative relief or things that dealt with legal issues.

There was a lot of talk about benefits, what kind of benefits we could provide; and, of course, we did run into another legal issue that we had to deal with and that was the one of overtime. That came up not too long after we were organized. So, besides benefits, we still put a lot of emphasis on conferences and the kinds of things that we could provide and offer through conferences, and that sort of thing.

Grad: You set up a board from the beginning. Who was involved initially on the original board?

John Chamberlain: Yes. When we first got together, I believe David Hicks and Grace Gentry were the main drivers of the group; they had dealt with all the problems in California. They were used to dealing with the attorneys and legislators and all of that. They initially set the pace for what we had to do and what we should deal with, bringing Harvey [Shulman] in, who had experience in dealing with lobbying, to help from that side of the world.

Grad: How frequently did the board meet? Did you meet in person? Did you meet by phone?

Chamberlain: Well, initially we met in person, starting in Washington. That was what - five days - we were there?

Harvey Shulman: We were hammering out a lot of the issues that we had and trying to understand regional differences, differences in personalities amongst ourselves, and trying to come up with becoming an entity.

We actually met by phone; I would say probably every week. You've got to remember that in the original NACCB, I think, there were six chapters. So there was New York, Northern California, Southern California, Texas, D.C., New England, and the Midwest. I guess that there were

seven chapters. So the board was basically seven or nine people. So much was happening so quickly, particularly on the legislative front, that almost every week we had conference calls.

Grad: Were you involved in the conference calls?

H. Shulman: I think I might have been the only person that had conference call capability. In fact, names to remain unknown, but there were many NACCB officers at that time that did not have a fax machine. So this is in the pre-email era.

Grad: So you had one representative from each of the regions plus another person.

H. Shulman: I was the counsel.

Grad: And you were the general counsel to the group who chose the first president as Tom O'Donohue. And, Dave [Cassell], you were?

Dave Cassell: In the second year I was the president.

H. Shulman: Each year there were the four officers: the President, Vice President, the Secretary and the Treasurer. The Vice President was always supposed to become the President the next year, and the President would always become the Chair.

Grad: So it was a three-year sequence. You were Vice President; you then became President; then you became Chair; and afterward you could leave the board.

Okay, so Tom O'Donohue becomes the first president. Why? Is that a fair question?

Grace Gentry: Well, at the time, it was partly his passion; but we also needed someone physically near D.C. who was able to go and meet with the Congressmen

Grad: The initial membership was, what, a dozen companies, ballpark?

G. Gentry: By the time we actually got there, it was more than that wasn't it?

Chapters and Membership

H. Shulman: There were twelve company owners/representatives at the first meeting, plus myself. Maybe there were ten or eleven companies represented; but some of those, like Northern and Southern California, they had chapters already, so they went back to their regions and said, "Well, guess what, we went to D.C. to fight this law but now we have a national

organization and our chapter is one of the founding chapters of the organization.” New England had a chapter. Some chapters did not exist at the time. D.C. didn’t exist. New York didn’t exist. So if you consider the chapters that existed and then the individuals from the other cities who were going to form chapters, there were probably 25 or so original members.

Grad: Well, I’m concerned because Grace made a comment the other day that it took almost two years before you had 25 members.

G. Gentry: That’s what I thought I remembered.

Cassell: No, in our first conference, we had 75 people that represented maybe 35 or 40 companies.

Chamberlain: I thought we were around the 25th or 26th (company to join); and we didn’t show up basically until the San Diego Conference.

Grad: Let me ask a clarifying question because you had this concept of an association of associations, If someone was a member of the Northern California Association, did they automatically become a member of NACCB or not?

G. Gentry: Yes, we went back and changed our name to NACCB NorCal; and we sent dues to national because we had dues from our members.

Grad: How many members did you have in 1987?

Chamberlain: Ten or 12.

Grad: So you were at a 25 number for two years. Somehow it doesn’t match up.

Dan Greenburg: Yes, because by the end of 1987 I’m sure we had at least a dozen members in New York alone.

Cassell: The first national meeting you guys came to wasn’t until 1992. New York wasn’t a chapter until...

G. Gentry: You weren’t a chapter. You kept telling us you didn’t want to be a chapter.

H. Shulman: You had to have three member companies in your area to be a chapter. I know for a fact that New York was a chapter within a few months because it included Dan (Greenburg) and Barry Myers and one other.

Grad: Peggy, you were the secretary then.

Peggy Smith: Well, I wasn't the secretary really; but when I started working on membership, which was in the middle to the end of 1989, we had just seven chapters. And then I remember Dave Cassell, at the end of that year, started a "special (offer)". We had a special where you could join for \$69. The membership that I inherited was not completely accurate because we were only dealing with chapters. So nationally we were building chapters, and it was sort of hard to put numbers on how many members were in each chapter.

Grad: It was based upon the number of members in the chapter or just the state chapter dues?

Smith: The dues were based on a company. It was the same amount of dues for every company regardless of size.

Grad: I don't want to beat this to death, but I was trying to get some sense of how and where you recruited the numbers from, and how quickly.

Greenburg: It's actually a good question because it fits in with what we were talking about yesterday. This was not just an organization. This was a passion, and what was made very clear was that it was going to have to be a grounds-up movement. That meant not only had there to be chapters; but the chapters had to be vibrant, strong, put pressure on their Senators and representatives.

So the essence of the organization wasn't chapters just because it seemed like a good administrative way to do it. The essence was to empower the chapters to be incredibly strong, and that meant that for a number of years the chapters had their own membership criteria.

A company that might qualify for membership in D.C. might not be able to get into the Northern California Chapter, if it had been located there. Even though the national criteria were the same, each chapter had its own local criteria; and you could not be a member of the national NACCB unless you were also a member of your local chapter. So it was a somewhat complicated structure that, remarkably, for a number of years worked pretty darn well.

Phyliss Murphy: And frequently when we'd go lobby, people who were not card-carrying members would show up and were just as passionate. Also, at the local level, like when we were discussing overtime, frequently non-members of NACCB would go and lobby and represent themselves as NACCB members.

NACCB Conferences

Grad: As far as attendance at the conferences was concerned, were non-members welcome? Did they have to pay a different fee than the members paid?

H. Shulman: Non-members were welcome for one conference; and they paid a higher fee. One of Dave's deals was that, if you then joined within a certain amount of time after the conference, some of that higher fee went towards your membership dues. But you had one chance to look at it.

Grad: These were annual conferences?

H. Shulman: Yes.

Grad: What was the content of the conferences?

G. Gentry: For the first conference we had one keynote speaker, Sheila Sheinberg. She was so popular. She was talking about "change" because at the time we were, in fact, going through changes. We were trying to adapt to 1706. And she was so popular that we invited her back to a subsequent conference. All of the other speakers were members who came and did presentations on some aspect of how we did business.

Grad: Is there a copy of what the program is for that first conference available?

H. Shulman: I have it; and you may have it.

Grad: One of our objectives here is that we would like to build a real database of information about this organization. So think of the things that would be interesting.

H. Shulman: Yes, I have every single conference binder book. It's thousands of pages; but if you want to know what was important in this industry in that year, look at the agenda. The conferences were two and a half days of solid material; and people spoke about the most critical issues, not just legal issues, but business issues, ethical issues.

G. Gentry: There was also the Operating Survey.

Grad: Was that an annual thing?

G. Gentry: I did it for ten years, but I think they've continued it after I turned it over. We are looking for copies of that.

Grad: These are the kinds of things the historians like to have to look at. This gives them the background, the framework for them, for specifics, like some of the things we picked up here at the meeting. It gives us some depth.

G. Gentry: We had packets that were distributed at every Lobby Day. Harvey may well have many of those. Mark Roberts has left, but he and I were working together to try to assemble materials.

Grad: That's wonderful. Okay, let me not spend any more time on that. The conferences, when did they change from their focus on 1706? What were some of the most important topics besides 1706?

Sharing of Information

G. Gentry: Well, one of our exciting presentations was by George Birdsong, who was one of the partners in one of our larger members from Northern California. I had asked George to do a presentation - to the extent that he would be willing to share with other members - how they created their budget and what amount they budgeted to go to marketing, gross margin, net profit, et cetera. I assumed that he would provide this information in the form of percentages of budget since it was internal corporate information.

In fact, George did something very amazing. He took their books and displayed them on a screen and said, "Okay, guys, we're one of the most successful ones of you; and this is how we do it." And people came firing out of that session deciding, "This is going to work!" because it set this tone for sharing.

I know in the Bay Area, our motto was, "There are plenty of guys out there that don't belong to us. We can share with each other and be more successful than they are." That culture exists to this day. People come to our conferences and say they can't believe how sharing people are.

Evans: The bigger the business, the smaller the ego; that is what made these conferences work. Typically with businesses you want to keep secret what you've done. These companies were exactly the opposite. They were successful. They wanted to share with everybody and to help other people be successful.

And many of the conference presentations were about selling. They were about recruiting. They were about how to financially run your business, how to go out and raise money if you wanted to expand your business.

The second or third year, who was the guy that said, "We've got 25 offices. We're losing \$3 million, but we're going to have 40 offices. We're going to go public, and we're going to get rich." And two years later what happened? They went public.

Chamberlain: It became a public company and changed its name eventually to Renaissance Worldwide.

Evans: Because it was a fad thing at the time; they opened up all these offices. He didn't know us, and he invited us out and showed us his entire operation. I mean his entire operation. I met every single person there. He told us how he did the sales. He told us how to do margins. So we went home and did the same thing.

Murphy: We would not be where we are today without those two people and the organization. Once the tone was set, if one person would be open in the chapter, then it gave everyone permission to share. I think people were so alone in the industry and they were so relieved to find that they could bounce ideas off of and hear other ideas - I think that we were so hungry for that. It really helped the organization.

Grad Harvey, let me ask you a question. As an attorney, were you nervous about this shift?

H. Shulman: Well, I had moments when I was not very popular. For example, I think a lot of the sharing came out of a feeling of being threatened. People there were genuine; but there was a lot of bad stuff going on - and it wasn't just the IRS. So there was this desire to share, and sometimes it did create a problem.

Like, at one point NACCB wanted to set up a "splits" network where a company in one place would have a client with a need and the company in another place would have a worker. They would be in a different geography of the country. This would all be online and be matched up. And people said, "Well, let's adopt the formula so that whenever people split it's always going to be you get X percentage and we get Y percentage."

I remember being at that board meeting; and I said, "I'm going to have nothing to do with this because you're agreeing on how pricing is going to be determined." And very quickly people backed off on that notion, although the network was put in place, but without any pricing standard.

It was the same thing with the ethics rules. The organization adopted a really great set of ethics rules, and Jane [Cronister-Ross] chaired a committee and went through a process. But the original rules that were drafted by Tom O'Donohue came out of New England. If you did this, you'd be minus three points. If you had that, you'd be minus five points. At this point, you would

be expelled. Well, they probably were anti-competitive. What resulted at the national organization level was a fairly simple statement of business principles.

So I would say that, yes, there were concerns; but it was rare and I think the group was totally responsive to doing the right thing.

Grad: But, another fact, I think the companies were relatively small compared to the size of the whole industry; and, therefore, the anti-competitive things didn't apply as much.

H. Shulman: Actually, that would be true of the monopoly rules; but we were dealing here with a couple of other concerns. One was "price fixing," which doesn't require any market power. Competitors are not supposed to agree to set prices.

And there were other issues. For example, I think it was NTSA or ASA, I forget which one was the subject of conflict with the Federal Trade Commission when they came out with certain ethics rules about you won't hire somebody from a competitor.

So there are certain things that don't really require you to have a large segment of the industry.

Principal Issues

Grad: Almost all trade associations have some problem with this sort of issue. Let me move ahead. Now let's see the president sequence.

Dave, you were president in 1988. You were chairman in 1989, assuming this list is correct. I would assume anything I got from Harvey is correct.

Grace, you then followed Dave as president, then as chairman. Then Bjorn comes next, and then Randy, and then Steve.

What were the two or three most important things that occurred during that year that you were the Chairman? Just for the record, just a couple things. 1706 continued to be a major issue during the first couple of years, two, three, four, five years?

H. Shulman: Let me say that this is, to me, one of the most critical parts of any understanding of NACCB. 1706 really came to be an issue bigger than just 1706 itself. It came to be "who tells people how to run their businesses", okay? The reason that 1706 remained an important issue for so many years was because many of us were concerned that if the IT contract staffing industry could be singled out for a specific negative legislation on one area - like taxes, who knows what will happen next on a whole bunch of other issues?

So the importance of 1706 was to remove it and to have something that served as a precedent for saying, "Well, this industry has problems; and it deserves special attention." We had a number of people in the organization who no longer used independent contractors but continued to fight on this issue because they felt, "Well, if this is the first thing to go, then they'll get me on the overtime issue."

We were dealing with 1706 in a several different ways. One way was to change the law. Another way was: the IRS was doing all these audits so what do you do to stave one off? You're losing your business or your business is slow, and now the government is coming after you for these taxes on these people. That was another piece of dealing with 1706 which went on for many years. The audits continued for a long time. You have a lot of people here who were audited so they can tell you about that.

The third thing was that one direct fallout from 1706 was that a lot of companies changed a lot of their workers to employees, never thinking, "Well I'm going from the frying pan into the fire". If you had independent contractors, you didn't have to worry about overtime laws and discrimination laws and family and medical leave. Now all these people were on your payroll as employees and all of a sudden you have to comply with all employer/employee laws.

The one that immediately - I mean within months - came to bite everyone was overtime. Now the U.S. Labor Department was coming in and saying, "Well, you have all these programmers and analysts; and they're making \$50 an hour or whatever it is. Under the overtime laws that have been in existence for 50 years, with the exception of doctors, lawyers and teachers, any other person paid by the hour must be paid time and a half for overtime."

And we would say, "That's ridiculous because we're paying somebody \$50 an hour. Our client is paying us \$60 or \$70 an hour. If we have to pay the person \$75 an hour, we're losing money." The Labor Department, particularly in New England, was auditing lots of companies; and that was a direct fallout of 1706. How could you ignore that issue?

Grad: Now, because of 1706, you had built up a lobbying capability at some level. So did you treat overtime the same way or did you treat that differently?

Bjorn Einar Nordemo: The overtime issue became serious enough that we tried to figure out a way of limiting the scope of the overtime laws. Eventually we ended up with a formula that was six and a half times the minimum hourly wage as required by law. If you made under that amount per hour, then you were paid overtime. Above that, you were exempt from overtime. And that eventually did get passed.

David Cassell: Was it above that only if you were in the computer profession?

Nordemo: Oh, yes, the computer profession: programmer, analyst, software engineer, et cetera. And because of the rate that we paid our people, more than six and a half times minimum wage for most of them, that worked out well for us.

Cassell: I think what was also happening as a result of the evolution of 1706 was recognition of Harvey saying, "We need access. I mean access to people that can influence legislation." So we started the process of localized fundraising.

Bjorn did a lot of work for Senator Kerry at the time, trying to raise funds. I was looking at Congressman Gregg up in New Hampshire. We were just trying to get some doors open. That eventually started to spread to some of the other chapters.

Grad: Did you ever form a PAC [Political Action Committee]?

H. Shulman: You know the PAC happened probably ten years later in NACCB.

Grad: So it wasn't an early thing?

H. Shulman: No, and not only that, I don't think it was particularly successful.

James Ross: The six and a half times the minimum wage rule was nice, but one of the problems it caused us was because the Midwest was not dealing with the same type of hourly pay rates [so their contractors couldn't qualify for the exemption]. We actually got to the point where we were telling our contractors, "Please don't work overtime. We're against this." We said, "Please don't work overtime" because the clients would not allow us to bill them time and a half."

Legal Defense Fund

Chamberlain: One thing that was very significant, I think, following 1706, was that we formed a legal defense fund, which a significant number of members joined. We had to require that people include certain standards in their contracts, and everyone contributed a certain base amount each year. Then we shared equally the cost of the audits as they were done. In the early years, it was running about \$5,000 to \$6,000 per company for an audit.

I was the Legal Defense Fund chairman for five or six years. Harvey and I worked together on that, and that worked extremely well.

Grad: You mentioned some other fund you had set up, Steve.

Steve Kenda: Just to give credit where credit is due, we instituted a legal defense fund in New England initially. Then that was carried further by NACCB at the national level.

H. Shulman: Again, the significance of this is these guys do what they undertake to do. Almost everything that we're talking about came from the members. Most of us doing the work were sort of following what a lot of members were generating.

The Legal Defense Fund at its highest point had over 100 NACCB companies in it. It was voluntary; and not only you paid a couple hundred dollars a year as a membership fee but each company pledged up to \$10,000 a year to go towards the expenses, not the taxes but the legal expenses, of other LDF companies being audited. So we had a defense fund that had \$1 million a year available to fight the IRS.

Cassell: That was like an insurance policy. The idea was we needed to shut down any audits before the IRS or courts decided the outcome. As soon as a precedent could be established by IRS or the courts, we'd all be in trouble.

H. Shulman: And then the members said, "Well, why are we just having a fund for the IRS? Let's include the Labor Department audits."

NACCB Services to Members

Grad: One question about that. It was required - if you were going to use the legal defense fund - that certain things were written into the customer contract. Assuming that was the case, didn't you have a concern about this?

H. Shulman: No because they had nothing at all to do with pricing. They were things that were not directly related to legal protection. Like non-competes, we didn't tell people they could or couldn't have a non-compete.

Grad: For how long?

H. Shulman: No, nothing like that. In fact, this is another part of the service, the members said, "Well, if we want to continue using independents or if we want to use workers and not pay overtime, what kind of contracts do we use?" So the association developed a model employee agreement, a model independent contractor agreement, and, ultimately, a model customer agreement.

For the legal defense fund, when you looked at the model agreements, there were sections that were highlighted in yellow and those were the sections you needed to have in your contract. But there was a lot of flexibility in doing things beyond that.

Smith: And those model contracts were considered benefits as well.

Murphy: One of the things that I don't want overlooked is that, because we had a common cry or a common theme of unfair computer consultant legislation, when everybody would go in to lobby, as soon as you would say 1706, they would go, "Unfair computer legislation." When we'd go to fight the other laws, they felt we had already been dealt a blow; and they were a little friendlier toward other legislation we were asking for - because we had been wronged.

H. Shulman: We got an exemption to the overtime laws specifically based on the fact that 1706 forced us to make people employees. And when you consider that the overtime laws giving employers more flexibility on not paying overtime were passed when Ted Kennedy chaired the Senate Labor Committee and the Democrats controlled Congress, that's a really remarkable accomplishment.

Evans: That's one of the interesting stories about the whole overtime issue. How we came up with six and a half times is because, as I recall, Kennedy was concerned about the effect on blue collar workers and whether or not that would have an impact on their ability to get time and a half. So six and a half times was the rate we came up with that appeased him and allowed the bill to pass.

Jeff Yost: So what about the brokers outside the legal defense fund or that were outside the NACCB, were they failing audits? And did you see that as threatening?

H. Shulman: Yes, I know for a fact that, in places like New England and California, a lot of companies who were not NACCB members were losing audits either because they didn't have the money to fight the IRS or because they were using a local lawyer or accountant who didn't know much about the industry and about what arguments to make.

G. Gentry: After all the different contracts were developed, many members said that just receiving access to those contracts and that information was worth much more than the annual dues because they would have had to pay \$50,000 to an attorney to have him draw that up - without the same level of expertise. So that actually fed the growth of our membership, the fact that people knew that you'd get access to this information to protect yourself. We wanted as many people to be protected as possible.

Grad: Other benefits. Did you do anything with health insurance? Did you do any of those other kinds of things: liability, other issues? Did you provide any of those kinds of services?

Kenda: Some of them. I think there were other things that were going on as well. We were doing, for example, joint advertising during the soft economy up in New England. We as a

local New England chapter collectively could buy more ad space [for less money]. We come to the conclusion, "We're all getting the same resumes anyway so why don't we put our competitors at a disadvantage?" At the same time, with the economy softening, we could go to our clients and say collectively, "We are the New England NACCB. We share common business principles."

And we set up our own internal grievance committee. When there was a dispute between members, we had a mechanism for resolving it, to keep it from becoming a client and consultant issue. We would resolve it amongst ourselves. We did joint job fairs. It was a real differentiating market tool. We were able to exclude some competitors who were trying to come into the membership.

Membership Criteria

Grad: And none of you were excluded?

H. Shulman: No. I mean you've got to keep in mind that, basically, it wasn't an exclusionary process in the sense that if you joined NACCB, you were able to take part in all these activities. Now we did get into problems where some chapters had membership criteria that - let's put it this way - caused a lot of debate on the legal side. But there were joint activities.

In talking to antitrust experts, I concluded - and the members concluded - that because the membership was generally open, that as a group we could put together these job fairs and join hands.

Chamberlain: One thing that drove all these criteria was that we wanted to bring new members in but we didn't want these huge companies coming in and taking over. We wanted to remain representative of the entrepreneurial businesses that we all were trying to help. So that was what drove these criteria.

Grad: I'm sorry. That's not what I heard the other day. I heard that you felt that some of the companies were unethical, and you didn't want to be associated with company X, Y, or Z because of how they did business.

Chamberlain: That's the truth, too. That was another aspect of it, exactly.

Evans: But we didn't want to become another ADAPSO.

Grad: So both are right?

H. Shulman: Well, Peggy should address it because this was personally a big frustration for me and it took a lot of behind-the-scenes conversations that Peggy and I had with chapters. Our feeling was you could not be a national organization and try to speak for the industry, particularly in an era when consolidations were starting to take place, and exclude large companies.

On the other hand, the chapters were right. Just because somebody was a half a billion dollar company doesn't mean that they were more important than anybody else. So I think what eventually happened in just about every chapter is that large national companies were eligible for membership.

There were still certain rules but fair rules, like an owner or officer of the company had to come to the local chapter meeting. So if Robert Half wanted to join the Northern California Chapter, if they were willing to send an officer or an owner to the Northern California Chapter meeting, assuming they met all the other criteria, that was fine. Now the reason it was fine is they paid the same dues as everybody else, so they had no right to claim they wanted more back. They didn't have any more than one vote.

Peggy, what's your sense of how this whole large member, small member, thing developed?

Smith: Well, it became obviously more of an issue as we grew, but I thought maybe the structure of the board at the time was indicative of how we all felt because the officers could not vote, the president, the vice president. When we had issues, they did not vote. Only the chapter representatives voted. So, again, it was trying not to become another ADAPSO. We had to have the owners come to the board meeting. We only had one person in each chapter - in the beginning - that could vote; and the officers couldn't vote.

Grad: How big did the board get?

Smith: It became larger after the larger chapters had successfully argued that they should have more than one vote. We had a structure with committees. We did have a strong committee system. I think the board meetings initially would last two and a half days; and by the time I left, it was a half day, three-quarters of a day.

Grad: I never heard of that lengthy a board meeting.

Ross: You have to remember we were an all volunteer organization and that makes a huge difference. There wasn't a lot of staff, Peggy being one of our first paid staff members. So when we went out, we had work to do.

G. Gentry: And every board member was an owner of a company and had paid all their expenses to attend.

Grad: Any lawyers on the board?

Smith: Dan Greenburg.

Greenburg: But I wasn't practicing. I was an owner.

Murphy: But our finances, like many of our businesses, were a little challenged. We spent a lot of time trying to figure out how we were going to divvy up the money. We had to get the most bang for the buck.

Grad: Let me ask you more about the conferences. You all paid to attend the conferences. You also had exhibitors and other people there. Did that (exhibitors and other people) start relatively early? Was that later?

G. Gentry: That was later.

Grad: That changed the economics of the conference, didn't it?

Smith: Not a lot at that time. I would say it wasn't that significant.

G. Gentry: The first conferences that I was involved in, and I put on the first and the third, the goal was not to make any profit. The conferences were considered a membership benefit and as a place for recruiting new members. It was later that the conference generated income for the organization and it was after the vendors were added to the list.

Smith: We had me as an employee and then later we added Nola, but I think because we were member benefit oriented and we tried to always concentrate on the benefits, one of which was having a great conference, membership just continued to grow for various reasons, like the contracts and the conferences.

Other Activities for Members

Grad: Was the insurance program for health insurance or was it for liability?

Smith: It was business, property, insurance specific to our industry which when we first went into the business we educated a lot of bankers and a lot of insurance companies to

understand what we did, so it was refreshing ultimately to go to somebody who knew what we did.

Grad: What other kind of benefits were involved?

Smith: We tried lots of different kinds of benefits. We worked with Monster. We did the jobs boards later on. That was a popular one. But I really think, looking back, the conferences, the contracts and the membership and the people were such a major benefit that I'd go to a chapter meeting and I'd see these business owners who were dynamic and they shared and they were smart. It was refreshing to see somebody else in that business because a lot of times you really felt alone.

Grad: How many chapters did you end up with by the time you left, Peggy?

Smith: It was about 15.

Grad: Total membership by the end of 1999?

Smith: About 550 companies.

Greenburg: There was another benefit that started around 1996 that worked out pretty well. We instituted the round tables.

Grad: Please talk about those.

Greenburg: The owners that represented different parts of the country could get together on a quarterly basis and a half a dozen owners would sit for a weekend or two or three days and just hash out issues that they had and they'd feel very comfortable because it was really on a non-competitive basis because there weren't two people from the same region in the round tables.

Grad: Do those round tables still continue, some of them?

Murphy: I don't think as many.

Grad: Are there any of them? Does anybody know?

Evans: It's still on the website.

Grad: So you meet separately. You're not meeting at the conference.

Murphy: No.

Smith: And the operating survey also started in the 1990s I guess.

Grad: What was the purpose of the operating survey?

G. Gentry: It was to make available to everyone the statistics, how we were operating our businesses in terms of what percent companies were paying for different types of overhead, marketing, advertising.

Evans: Gross margins.

G. Gentry: Labor costs, gross margins.

Grad: Primarily financial statistics.

G. Gentry: Absolutely.

H. Shulman: Actually there was another really important part of the survey. This is an industry for which there really is not publicly available aggregate data that's legitimate. And when you look at all the Department of Labor surveys and the SIC codes they use, I mean it doesn't fit anywhere. Well, when we were going to lobby on issues we needed to know how many of our members were providing 401Ks or how many were using incorporated independent contractors, as opposed to sole proprietors. So, Grace and I were constantly in touch every year for a few years to make sure that some of the questions provided us with the information we needed to do the lobbying efforts.

G. Gentry: Yes, to represent to Congress.

H. Shulman: And people we were dealing with in Congress they have all these sources of information. They would grab onto this because they could get it no place else.

Grad: You used outside people to do these things for you?

G. Gentry: I used one small company in the Midwest who crunched the numbers, but I wrote the questionnaires, collected them in a secret way because it was proprietary information, then sent the numbers to them to be crunched and then I wrote all of the survey verbiage.

Grad: It was basically aggregate statistics.

G. Gentry: Right.

Greenburg: But you would get back a report of your statistics compared to the group.

G. Gentry: Yes.

Greenburg: Which is great.

State Lobbying

David Hicks: I think another important thing was our ability through chapters to fight problems at the same time. In Texas, and Randy you remember the year, was it 1988, 1989, our legislature which only meets every other year passed a law they were going to add eight percent sales tax to our services. I was able to get a member from Dallas, actually they weren't a member at the time and Linda Kingman another one of the Houston members, had an office in Austin. And we went down and met with the lieutenant governor and the lieutenant governor changed the law, dropped it; we essentially put a case to him that said, "You're going to drive jobs out of the state of Texas because these are big, corporate companies who will simply move their IT work to other states." It was effective because we worked together. And after that it was much easier because you had the chapters formed. When you can speak as a group it's much more effective.

Grad: Was sales tax one of the primary state issues? What were the other state issues?

G. Gentry: That was the issue in California that resulted in an attempt to collect sales tax on service sales.

Chamberlain: Twice.

G. Gentry: Claiming that everything we did ultimately resulted in a product so they should be collecting sales tax. We said, "Well then what about attorneys and accountants?" And the legislators were not going to tax attorneys because that's what most of them were.

Grad: Any other examples of that?

Hicks: Overtime in California.

Grad: California has its own overtime laws?

Hicks: It has its own overtime laws separate from the federal. It's big. You have to pay overtime for hourly wages of almost \$50. Right now we're back down in the trenches trying to get that lowered. It looks like we're going to make it change finally.

H. Shulman: Interestingly, the federal law that NACCB got adopted by Congress has been used almost word for word in a large number of states. In some states, like California, they didn't follow it. They created their own overtime law. The fact though that the national organization had done something for the computer industry was a precedent to give them some relief, but some states have additional issues. Also, the independent contractor issue is a state issue, not just in California. It's an issue in New York and Florida.

Grad: Any other kind of special taxes or things like that that were aimed at this industry?

H. Shulman: Family and medical leave. We were very concerned that when that law was being passed that the customer would say, "Look, this worker is going on leave," and the worker may only be there for a nine-month assignment and you can't have the worker disappearing for 12 weeks for legitimate reasons and then have to promise that worker that the customer will take them back when there's only ten weeks left on the assignment. So we had to get something put into the history of the family medical leave act that made certain exceptions for the contract staff industry.

Grad: You were telling me a little story about Bermuda, Harvey.

H. Shulman: Well, I'm going to tell the legal story of Bermuda, not the social side of it. We were lobbying to get the overtime law changed so that computer professionals making a certain hourly rate would be exempt from overtime. And we were having our conference that year in Bermuda and we found out you can't predict when votes are going to come up in Congress. We found out it was coming up for a vote while we were in Bermuda or maybe the Monday after the conference.

The good news was that we had a few hundred members together in Bermuda so we could actually get everybody interested in lobbying this thing. The bad news is that this was before cell phones. The bad news was also that everybody had to call Congress from Bermuda. And so people were remarkable. I mean there were literally hundreds of calls made to congressional offices. People would say "What is your company? Can we call you back?" "No, I'm calling from Bermuda." And eventually it passed. But sort of a footnote to that is we were in a minimum wage bill in 1989 and our provision is a tiny little provision, like today. The minimum wage bill has all these other things that are coming along with it. And so we were able to get our provision in among with the others. Well President Bush vetoed the minimum wage bill, on which we worked so hard. The bill was vetoed.

And it goes back to Congress and it just sits there for months until the president and Congress reach an agreement about the new minimum wage and then the bill was going to be voted on literally within 24 hours. And at that point I get a call from the Speaker's office saying that ADAPSO had raised the question about our computer professional overtime and thought it was going to end up penalizing or hurting IT firms and that unless we could resolve this issue within two hours our provision was going to be pulled from the compromise bill that Bush was about to sign. Well, there was no way it could be done in two hours, so the minimum wage bill that Bush agreed to get passed by Congress and the only thing taken out of it that was in there previously was the computer overtime provision.

Well, we knew that like any big piece of legislation there were always mistakes and so next year they'd come back and have to fix the mistakes and then everybody wants to get into the mistakes bill. And so the restaurant industry, everyone you can think about, wanted to get in the mistakes bill. Well, there was only one thing that had to be done next year and that was that they had screwed up setting the minimum wage in American Samoa and it was critical that Congress redo the minimum wage in American Samoa. And so everyone knew there was going to be a bill and every industry wanted to get in on it. Eventually the only industry that got anything out of the American Samoa bill was the NACCB provision which had been taken out of the bill last year to mollify ADAPSO. We needed a couple of word changes. It ended up passed and it was called the American Samoa Computer Professional Bill. And for years we would get calls from people saying, "Well we saw this news story. We didn't know that there was a computer industry in American Samoa. Would you please tell us what's going on there?"

Relations with ADAPSO/ITAA

Grad: It's a political story. Now this is a period of time where Harrison Miller is running ADAPSO, although it's ITAA by this point.

H. Shulman: Not it was actually when Luanne was there at that time. It was 1989.

Luanne Johnson: Yes, 1989.

Grad: It's a damn shame that the two organizations couldn't resolve and work these things out.

H. Shulman: Well one would have thought that they could have picked up a phone and instead of going to Congress saying, "NACCB put this provision in the bill that's going to screw everybody" they could have called us up and said, "You know we think there's a problem with this thing. Can we sit down and work out some language?" But that's not the way it went.

Murphy: We did make some calls to ADAPSO.

Evans: We actually had a face-to-face meeting.

Murphy: Grace and I met with Bob Brown who was in charge of things in Northern California. I flew into an airport.

Coalition Building

Grad: You apparently did quite a bit in terms of coalition building; but this is sort of anti-coalition building with the ADAPSO relationship, but on many of the others you were very effective in building coalitions. Who wants to talk about that? Steve, are you the appropriate one to talk?

Kenda: Yes, we worked with a number of groups like the IEEE, and others, like the independent consultants who had the ICCA. For example, on the overtime legislation most of the independent consultants were working 50 or 60 hour weeks and they loved that, even though they were getting flat time for the time worked. So as soon as they heard the client was going to say, "No more than 40 hours," they were all into joining forces with us.

Grad: Who would contact them? Was it the staff of the ICAA who was contacted or the individual people?

H. Shulman: I think both. Some of these associations were strong in a locality, like New England and in California.

G. Gentry: In California, ICCA had become very strong working with SCBA before NACCB on the sales tax issue; I think the ICCA started in California, so as other issues came up the two groups were working together

Grad: But the coalition was almost impaired because some kind of a lobbying?

Kenda: In particular you have to remember that anyone who was interested in entrepreneurship was interested in killing 1706 because these were the people that were working independently on their own. Some of them had new software that they wanted to develop while they were covering their costs by working on assignments with our companies. And not everyone had to fit into the ADAPSO model company where they were a salaried employee. I think it would have killed an awful lot of entrepreneurship.

Ross: Burt, I just want to say that even though some of the laws kind of did what they're saying, just because there's an overtime law it did not mean that all the contractors expect to get overtime and even if they said, "No, I didn't want it," there were other businesses who would say "I don't know whether they want it or not. If you don't want it, send it to us." And so there

were a lot of intelligent people that did not necessarily agree with this even though somebody like ADAPSO is saying this is going to benefit you and we're going to do this.

Grad: I understand that.

H. Shulman: Again it's a bigger picture, the significance of a coalition. Today when General Motors and the UAW go into Congress together they say, "We agree on something," it's big news.

Grad: Right.

H. Shulman: We were doing this for years. I mean we were employers or business owners coalescing with workers, whether it was IEEE or ICCA or a number of these other groups and working on all this legislation, 1706, the overtime issue, leased employees, immigration. Immigration, was probably, apart from 1706, the biggest issue on which we knocked heads with ADAPSO, because ADAPSO supported a huge increase in the number of H1B visas and many of our member companies felt that even though there might be some labor shortage, that to open the flood gates without some restrictions on those visas was going to destroy the industry. It would be great for full-time employers because they have a lot more people and their wages could be driven down, et cetera. But for what we were doing it would be terrible. And interestingly, I remember that Congresswoman Barbara Jordan was appointed by the president to chair something called the Commission on Immigration Reforms and she held hearings and I testified at one of her hearings on behalf of NACCB. And afterwards the representative from the AFL came up and he said, "I never heard of you or NACCB before. Are you a labor group?" And essentially this morning we talked about being nimble. We were an organization that looked at things issue by issue on its merits trying to find a way to make things work for everybody and we were able to do that even with worker groups.

NACCB Summary

Grad: And in drawing to a close, Harvey do you have any comments you'd like to give about how wonderful NACCB was?

H. Shulman: I think that NACCB was much more than about creating an organization and it was actually much more than about people improving their own business. NACCB was really a movement. If this were Poland, it might be called "Solidarity."

Evans: I feel like an activist now.

H. Shulman: And so I think to me the beauty of the organization beyond people and the accomplishments and just all the good feeling we all have for each other and what we're doing

is we also have a vision and we weren't just trying to solve a problem. We were trying to create something way beyond the organization that would last for a long time because we knew technology is changing the world and the way things are being done was very outdated, whether it was legally or otherwise, and somebody had to step in and try to perfect that. And I think the people in this room did really an incredible job doing that.

G. Gentry: 1706 all over again.

Grad: Anyway, it's been wonderful for me to learn about NACCB. I knew nothing about it. I learned a great deal. Jeff, Glenn, I appreciate very much your being here and hope you carry away some interesting stories. We'll put together a collection of materials working with you so we have a real source of information, not just the transcripts. The transcripts will be edited and posted, but it will be a while. It doesn't happen instantly. The oral histories we're doing we will add to that collection. And I've had a wonderful time with all of you. Thank you so much for taking the time to come here.

Group: Thank you, Burt.