



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

Re: 2016 PAYDAY LOAN REVIEW

Before Board Panel:

Karen Botting	- Panel Chairperson
Regis Gosselin	- Panel Member
Anita Neville	- Panel Member
Susan Proven	- Panel Member
Allan Morin	- Panel Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba

April 15, 2016

Pages 814 to 943

1 APPEARANCES

2 Kathleen McCandless) Board Counsel

3

4 Byron Williams) Coalition

5 Katrine Dilay (np))

6

7 Stan Keyes (np)) Canadian Payday

8 Patty Ko) Loans Association

9 Norm Bishop)

10

11 Danielle Gaudreault (np)) C11 A1 Financing

12) & Loans

13

14

15

16

17

18

19

20

21

22

23

24

25

	TABLE OF CONTENTS	
		Page No.
1		
2		
3	List of Exhibits	817
4		
5	COALITION PANEL 1, RESUMED:	
6	JERRY BUCKLAND, Resumed	
7	CHRIS ROBINSON, Resumed	
8		
9	Continued Cross-examination by	
10	Ms. Kathleen McCandless	830
11		
12	Discussion	900
13		
14	Re-direct Examination by Mr. Byron Williams	936
15		
16		
17	Certificate of Transcript	943
18		
19		
20		
21		
22		
23		
24		
25		

1	LIST OF EXHIBITS		
2	EXHIBIT NO.	DESCRIPTION	PAGE NO.
3	PUB-14	Series of letters to the Board	
4		from payday loan consumers,	
5		received on March 31st, 2016	818
6	PUB-15	Series of letters to the Board	
7		from payday loan consumers and	
8		staff submitted by Cash Money,	
9		received March 29, 2016	819
10	PUB-16	Letter to the Board from Money	
11		Mart, April 1st, 2016, with	
12		attached report from Deloitte LLP	819
13	PUB-17	Written submission from SEED	
14		Winnipeg	820
15	CAC-39	Estimates of cost of capital	
16		for a payday lender	828
17	CPLA-13	Standard reporting requirements	
18		in chart form for BC, Nova Scotia,	
19		and Ontario	936
20			
21			
22			
23			
24			
25			

1 --- Upon commencing at 9:05 a.m.

2

3 THE PANEL CHAIRPERSON: Good morning,
4 everyone, and welcome to the fourth day of the 2016
5 Public Utilities Board payday loans hearings. This
6 morning I'm going to begin with Ms. McCandless, who
7 has some information to share and put on the record,
8 so I'm going to turn it over to her and then after
9 we'll go to Mr. Williams.

10 Would you like to start, Ms.

11 McCandless? Thank you.

12 MS. KATHLEEN MCCANDLESS: Thank you.
13 Good morning. First just a procedural matter, I would
14 like to enter on the record four (4) written
15 submissions that were received by the Board, which
16 have previously been circulated to all the
17 intervenors.

18 And so the first one (1) will be marked
19 at PUB Exhibit 14 and that's a series of letters to
20 the Board from payday loan consumers received on March
21 31st, 2016.

22

23 --- EXHIBIT NO. PUB-14: Series of letters to the
24 Board from payday loan
25 consumers, received on

1 March 31st, 2016

2

3 MS. KATHLEEN MCCANDLESS: The next
4 exhibit will be PUB-15, and this is a series of
5 letters to the Board from payday loan consumers and
6 staff submitted by Cash Money, received March 29,
7 2016.

8

9 --- EXHIBIT NO. PUB-15: Series of letters to the
10 Board from payday loan
11 consumers and staff
12 submitted by Cash Money,
13 received March 29, 2016

14

15 MS. KATHLEEN MCCANDLESS: PUB-16 will
16 be a letter to the Board from Money Mart, April 1st,
17 2016, with the attached report from Deloitte LLP.

18

19 --- EXHIBIT NO. PUB-16: Letter to the Board from
20 Money Mart, April 1st,
21 2016, with attached report
22 from Deloitte LLP

23

24 MS. KATHLEEN MCCANDLESS: And lastly
25 will be PUB Exhibit 17, which is a written submit --

1 submission from SEED Winnipeg.

2

3 --- EXHIBIT NO. PUB-17: Written submission from
4 SEED Winnipeg

5

6 MS. KATHLEEN MCCANDLESS: Thank you.

7 And then another matter which just arose this morning,
8 the Board executive director received a letter from
9 Ms. Soper, who presented on behalf of Cash Money. And
10 I'm going to read the letter into the record. The
11 letter says:

12 "Dear Mr. Christle, after I left
13 Manitoba I was told that Dr.
14 Robinson presented evidence to the
15 Board stating that the information I
16 presented to you in my report in
17 person about our costs of operation
18 for our four (4) Cash Money stores
19 in Manitoba was, "not true." This
20 is very disturbing.

21 Cash Money is a large privately held
22 corporation. This is the first time
23 we have chosen to share private
24 information in a public hearing and
25 I am personally very offended that

1 this expert would claim that I
2 appeared before the Board and in
3 effect lied about our financial
4 information. What I presented was
5 complete and correct.
6 I have spoken to the directors of
7 our company and we would be prepared
8 to and would like to have our
9 accountants provide the actual
10 financial data to the Board on a
11 confidential basis so you can see
12 that the information in the report
13 about our operating costs are true.
14 I feel it is very important that the
15 reputation of Cash Money is clear.
16 Thank you for your time and
17 consideration. I look forward to
18 your response. Sincerely, Melissa
19 Soper, SVP Public Affairs."

20 THE PANEL CHAIRPERSON: Okay. Thank
21 you. Mr. Williams...?

22 MR. BYRON WILLIAMS: Yes, and could we
23 have a -- just a brief adjournment, please?

24 THE PANEL CHAIRPERSON: We're going to
25 adjourn briefly.

1 --- Upon recessing at 9:08 a.m.

2 --- Upon resuming at 9:09 a.m.

3

4 THE PANEL CHAIRPERSON: Mr.

5 Williams...?

6 MR. BYRON WILLIAMS: Yes, and we -- we
7 thank Cash Money for its -- its letter. We will
8 review the -- the transcript, but Dr. Robinson may
9 have some brief -- brief comments just on that
10 specifically, if -- if we might.

11 And then -- and then we'll proceed if
12 that's -- okay, I have one (1) verbal undertaking --
13 oral undertaking to provide and then one (1) -- one
14 (1) in writing as -- as well.

15 Dr. Robinson, is there anything you'd
16 like to say?

17

18 COALITION PANEL 1, RESUMED:

19 JERRY BUCKLAND, Resumed

20 CHRIS ROBINSON, Resumed

21

22 DR. CHRIS ROBINSON: Yes, I'm sorry if
23 Cash Money interpreted my rather more extensive
24 commentary to take it that I stated the numbers were
25 wrong. I did, of course, say I had no verification of

1 them.

2 But I think the Board understands how
3 seriously I took those numbers, that I in fact without
4 prior testing of them used them to demonstrate to you
5 what they implied using the model.

6 What I said, or at least intended to
7 say, was that her statement that their numbers showed
8 that they were barely able to hang on was not true by
9 her own numbers, since what she was showing was that
10 they had a 1 percent of revenue excess profit under --
11 under economic interpretation, under all the modelling
12 I've done.

13 I was not denying the validity of the
14 number, so I could not test it. In fact, I think it's
15 pretty clear to the Board that I accepted their
16 numbers since I re-engineered them into a statement to
17 use in my model to present to you.

18 So I'm sorry if Ms. Soper took it --
19 and -- and of course, she was getting a, you know,
20 third hand or -- or getting a -- an oral impression.
21 I'm not sure if she was present when I said that, took
22 it that I was saying that the numbers themselves were
23 wrong.

24 I used them in front of the Board as if
25 they were, in fact, entirely verified, which is more

1 than I've been willing to do with some of the other
2 reports that have been presented here.

3 So I did not -- I did not at any point
4 say that the numbers were wrong. It was the
5 inferences that were being drawn from them.

6 MR. BYRON WILLIAMS: Now, we'll, of
7 course, review the transcript. In terms of the
8 recommendation by Cash Money that their material be
9 provided to the Board in confidence, we always have
10 issues with information in confidence.

11 But given -- you know, it -- it's
12 certainly not something we would object to. We think
13 it's -- that's -- it's open to the Board to do that,
14 and that's not something we would object to, and -- in
15 terms of that specific issue.

16 MR. REGIS GOSSELIN: Mr. Williams,
17 just a clarification. It's open to the Board to look
18 at that. I would -- does that extend to you wanting
19 to see that information as well in confidence?

20 MR. BYRON WILLIAMS: Mr. Chair, we
21 always want to see that information, so we would
22 appreciate the opportunity. We would certainly be
23 prepared to sign confidentiality undertakings to do
24 so.

25 I'm not -- I -- I just want to be

1 clear, though. So we would welcome that opportunity,
2 but we -- we would not -- if the Board, in its
3 discretion on these specific facts, chooses to accept
4 it without offering us that access on these specific
5 facts, we're prepared to accept that.

6 Again, it -- it -- our -- our
7 preference would be to invite Cash Money to -- to
8 share it with us under a confidentiality undertaking.
9 But we leave that to the Board in its discretion.

10 DR. CHRIS ROBINSON: As a CPA and a
11 certified financial planner, I'm bound by two (2)
12 different codes of ethics, both of which contain
13 confidentiality provisions. So I could lose both my
14 CPA and my CFP, although there -- there are no rules
15 of ethics for university professors.

16 However, I will state -- and I've not
17 consulted Mr. Williams about the appropriateness of
18 saying this, so he's going to get really nervous now.

19 But I have had the opportunity to speak
20 with -- with the Board staff as they've been asking me
21 questions, so that if, in your discretion, you decide
22 you don't want me to see the data, it is my
23 professional opinion -- and I'm saying that carefully
24 -- it is my professional opinion that the advisors
25 that you have working for you -- I'm sorry, I've

1 forgotten your name.

2 MS. GRACE WEDLAKE: Grace.

3 DR. CHRIS ROBINSON: And -- and Mr.
4 Cathcart are capable of using the model that I've
5 given you in figuring out that data.

6 I mean, I've given it to you step by
7 step so that, in my opinion, they are per -- they're
8 now as capable -- they're now fully capable of taking
9 that information, if you decide not to let me see it,
10 and using it in more or less the way that I would to
11 provide further evidence to the Board.

12 You've already seen how I use the --
13 the data. They'll just use the verified data and do
14 the same thing. So I am perhaps less concerned than
15 Mr. Williams if I don't see it.

16 MR. BYRON WILLIAMS: Okay. Thank you.

17 DR. CHRIS ROBINSON: I'm also starting
18 to lose sleeping working -- working on this project.

19 MR. BYRON WILLIAMS: Okay. Thank you.

20 MR. REGIS GOSSELIN: Could -- could I
21 ask another question, please?

22 MR. BYRON WILLIAMS: Yes.

23 MR. REGIS GOSSELIN: But -- but I
24 don't want to interrupt the -- the procedural issue
25 involved here. I -- I do want to ask a ques --

1 question about the -- the meat of the issue, which is
2 economic grant versus hanging on. And -- and perhaps
3 we could do the procedural stuff first, and I can ask
4 the question later.

5 MR. BYRON WILLIAMS: Again, we're at
6 your -- the bosses are up there, but certainly --
7 maybe I'll do the procedural stuff if you like, and
8 then we'll -- I'll just indicate -- and Board Member
9 Neville had asked a question with regard to the long
10 census, and I had undertaken to get a response from
11 Dr. Simpson. It's a short one. I could provide it in
12 writing, but I think you'll just appreciate it.

13 He responds that to his knowledge:

14 "There does not appear to be an
15 impact on the CFCS or the SFS from
16 the move to the national household
17 survey in 2011 (which replaced the
18 long-form census and was vol --
19 voluntary). The CFCS and SFS are a
20 follow-up to the labour force survey
21 respon -- respondents, not the
22 national household survey in 2011."

23 MS. ANITA NEVILLE: Thank you.

24 MR. BYRON WILLIAMS: And I believe
25 there should be an exhibit, and I think -- is it

1 Exhibit 39? On reflecting upon the end of Board
2 counsel's cross-examination yesterday, we came to
3 understand that we had -- maybe -- that Dr. Robinson,
4 in terms of the dialogue on weighted average cost of
5 capital, there had been a -- a miscommunication in --
6 and -- and that upon -- reflecting upon the questions
7 and getting advice from the Board advisors, Dr.
8 Robinson has provided this undertaking, which looks at
9 some different scenarios.

10 The -- the large corporate tax at -- at
11 twenty-seven (27), as well as the -- at -- at eleven
12 (11) for the -- the corporate tax, and he runs through
13 a number of scenarios. So he hopes that that is
14 responsive to the thrust of Board counsel's questions
15 yesterday.

16 I don't know if -- Dr. Robinson, if
17 there's anything you want to say about that response.
18 Diana, that's Exhibit 39.

19

20 --- EXHIBIT NO. CAC-39: Estimates of cost of
21 capital for a payday
22 lender

23

24 DR. CHRIS ROBINSON: Mr. Cathcart
25 discussed matters of income tax with me. We discussed

1 matters of -- of mechanics, sorted out where -- where
2 one or the other of us maybe was misunderstanding or
3 making mistakes. So I simply ran a wide variety of
4 possible scenarios, which, again, as the Board has
5 seen this done before, does show you can get pretty
6 wide estimates when it's a smaller -- you know, this
7 is not a Hydro or a utility, a big, you know, business
8 with hundreds of comparators. It's pretty hard to get
9 it narrow.

10 My professional opinion that 8 percent
11 is reasonable remains unchanged. But once again, you
12 have the model. You can run the numbers with it.
13 However, it won't make a difference. You can see that
14 the 11 percent that I regarded as the high end is --
15 does -- can turn up there.

16 If you make one (1) set of assumptions,
17 it comes out to 11 percent if you use the -- if you
18 use the equity model that the CPLA doesn't like, and
19 you use a tax rate -- a small business rate, even
20 though I'm looking at big businesses in the examples.
21 So it's very likely that 11 percent would be
22 reasonable, but it might be, and in fact, one (1) of
23 my examples uses 11 percent, one (1) of the examples
24 in the -- in my report.

25 So I think that you have all the

1 information you need with that range. And -- but Mr.
2 Cathcart can, of course, advise you if he thinks there
3 should be something else in that changed again. I
4 mean, he also is qualified to make estimates of the
5 cost of capital, do all the calculations, et cetera.
6 You might say that we speak the same -- we use the
7 same jargon when we're discussing these things.

8 MR. BYRON WILLIAMS: Thank you. Just
9 as a last matter, we had undertaken to provide a
10 response about Policis. It -- it just needs sign off
11 from one (1) last of the experts in terms of just a
12 final check. So we're hoping that perhaps at the
13 coffee break, we could just have a final review of
14 that document, and then file it at -- at that point in
15 time.

16 And -- and my procedural matters are
17 done now, so I'll get out of your way for your
18 questions.

19 THE PANEL CHAIRPERSON: Okay. Thank
20 you very much. I'm going to turn it back to Ms.
21 McCandless, who will continue her cross-examination.

22

23 CONTINUED CROSS-EXAMINATION BY MS. KATHLEEN

24 MCCANDLESS:

25 MS. KATHLEEN MCCANDLESS: Thank you.

1 Dr. Robinson, I'm going to start with some questions
2 for you. Diana, could you, please, pull up PUB/CPLA-
3 1-19?

4

5

(BRIEF PAUSE)

6

7 MS. KATHLEEN MCCANDLESS: This was a
8 question that was posed to the CPLA based on its pre-
9 filed evidence where it stated that a reduction in the
10 maximum allowable amount of net pay from 30 percent to
11 25 percent would represent a 16.7 percent reduction in
12 gross revenue to lenders.

13 And so the -- the question was to
14 understand how the CPLA came to that result. And you
15 can see that it's a mathematical calculation and the
16 response is there -- should be there in front of you.

17 DR. CHRIS ROBINSON: Yes, I can see
18 it.

19 MS. KATHLEEN MCCANDLESS: I -- I would
20 just like you to comment on this method of calculation
21 for a reduction of revenue.

22 DR. CHRIS ROBINSON: I think that the
23 evidence that we have all seen says that this is not -
24 - I mean, yes, it is -- mathematically it is one
25 sixth. We can do that in our heads, but it will not

1 actually have that affect on revenue.

2 We've been hearing actual borrowers
3 testifying to us, and I've heard all that testimony,
4 that they just go to another lender when they hit the
5 cap. In fact, one of the industry people told us,
6 Well, they go across the street and that's a real
7 problem for us and we're sad to see that, so that
8 there is, in fact, this restriction. This cap
9 restriction is not effective and, therefore, won't
10 affect the revenue. It may be shifting revenue
11 around. It may spread it around to more firms.

12 Also, I remind the Board that there is
13 another submission from the -- yes, from the CPLA. I
14 cannot give you the number. It is a short report
15 without evidentiary support, but it is a report which
16 says -- it says that -- and I'm going by memory, but
17 I'm going to be pretty close, that 62 percent of the -
18 - of a group -- of a survey of borrowers said they did
19 not need the full amount.

20 And of that -- I could be reversing to
21 percentages here. And of those who did need the full
22 amount -- I -- I'm sorry, I can't remember the -- the
23 -- I think -- I think somebody's going to find this
24 for me, but I can't remember where it was.

25 There is, however, unfortunately, as

1 Ms. Dilay, who's not here today, pointed out to us
2 despite her claim not to understand math, there's a
3 problem even with that survey, not that it's invalid,
4 but rather that think of how you survey a population
5 of people and you get a certain number who borrowed
6 from payday lenders.

7 You get equal numbers there when you're
8 hitting them of people who borrowed one (1) or
9 borrowed sixteen (16) times. And so the problem was
10 that quite a lot of people who borrowed once didn't
11 need the full thing. But we know what the repeat
12 borrowers are doing. We've heard extensive evidence.
13 They're going to multiple lenders.

14 So the problem is the survey seems to
15 indicate there isn't a problem. That a lot of people
16 aren't -- don't need the -- all the loan. That's the
17 people who borrowed once. What Dr. Buckland talks
18 about is strategic borrowers or the -- you know, the
19 people who had one (1) time emergency.

20 Whereas, unfortunately, the people who
21 are borrowing many times, when we've -- evidence we've
22 heard, says that they are -- are -- they're -- they're
23 filling up the -- the volume. And so consequently,
24 this -- this particular response, although
25 mathematically correct, actually doesn't answer your

1 inquiry at all.

2 It doesn't change my opinion either
3 though that the cap clearly does have undesirable --
4 some undesirable and unintended consequences so that -
5 - but it's not because of this. It's because of --
6 this driving the lenders crazy with having to deal
7 with it I think is part of the reason it's a problem.

8 MS. KATHLEEN MCCANDLESS: So in your
9 response you -- you reference some survey results.
10 And in front of you is a document --

11 DR. CHRIS ROBINSON: Thank you.
12 That's --

13 MS. KATHLEEN MCCANDLESS: -- schedule
14 H from the CPLA's pre-filed evidence. Is this -- are
15 these the --

16 DR. CHRIS ROBINSON: This is exactly
17 what I was recalling. Thank you. So you can see 60 -
18 - 63 percent of the borrowers, they -- they don't, of
19 course, tell us any of the -- any of the statistics
20 that we are required to in fact determine whether this
21 is valid. I mean, I do have experience with survey
22 research. But I would suggest to the Board that it's
23 not necessary to worry about that issue here. That
24 you could take this as being reasonable.

25 The problem with it -- so it says that

1 there are lots of people who are sensible, who aren't
2 being pushed to borrow too much, who don't borrow too
3 much. Unfortunately, the odds are -- are, because
4 we've seen that the repeat borrowers aren't a large
5 part of the population, but they're a large part of
6 the lending, that it's not capturing the effect of
7 repeat borrowers; it -- it can't do that.

8 They would have had to ask additional
9 questions, Did you -- how many times did you borrow,
10 and then see how many of those people said that they
11 actually borrowed the limit. And so -- so we can't
12 rely on it.

13 It is -- I did, however, find it
14 encouraging. At least some of these people are not
15 going to their limits all the time and that may also
16 partly be because some of the lenders, as we have
17 heard, testified -- or presented statements that said
18 that they encourage people not to be unwise about the
19 use and the CPL -- the CPLA does the same. Okay.

20 MS. KATHLEEN MCCANDLESS: So just to -
21 - to summarize and -- and clarify, if I'm to
22 understand your position on the 16.7 percent of your
23 evidence, it's that that would assume that every
24 borrower is taking the maximum when they borrow?

25 DR. CHRIS ROBINSON: Yes, that's true.

1 MS. KATHLEEN MCCANDLESS: All right.
2 Thank you. Diana, could you please pull up PUB/C11-1-
3 4?

4

5 (BRIEF PAUSE)

6

7 MS. KATHLEEN MCCANDLESS: And this was
8 a question that was posed to the Intervenor C11 with
9 respect to the fees for the cash card. And, Diana,
10 could you please just scroll to the second page, I
11 believe, and leave it there?

12 So C11 raises the issue of the fees
13 that are included as the part of cost of credit of the
14 third-party load costs for cash cards. I'll give you
15 an opportunity to take that in.

16 DR. CHRIS ROBINSON: I have read it,
17 but I would like to read it again.

18

19 (BRIEF PAUSE)

20

21 DR. CHRIS ROBINSON: Okay. I mean,
22 this is quite a complicated issue. So what is your
23 question?

24 MS. KATHLEEN MCCANDLESS: My -- my
25 question is -- is your views on whether or not the --

1 DR. CHRIS ROBINSON: Okay. That's
2 what I thought you meant.

3 MS. KATHLEEN MCCANDLESS: -- cost of
4 the cash card ought to be included in the calculation
5 for -- of cost of credit?

6 DR. CHRIS ROBINSON: This is a -- a --
7 this is a very difficult issue and I'm -- I am
8 sympathetic to both the 'yes' and 'no' sides, if -- if
9 you like. This was part of the -- of the big lie that
10 the former Rent Cash and Cash Store Financial was
11 perpetrating.

12 And they were charging -- they actually
13 charged the customer to load it on the card first and
14 you had to pay for the card as well and they claimed
15 this was not part of the cost of credit, but the laws
16 in every jurisdiction make it clear that it is.

17 A1 C11 is not attempting to behave in
18 that way at all. They're talking to us very honestly
19 about their problem. We don't see any evidence here
20 that carrying cash in Thompson is sort of more
21 dangerous than any -- or anywhere else -- than anywhere
22 else.

23 People in my university get held up in
24 broad daylight in the halls at gunpoint. It's not
25 common. It's probably commoner at the University of

1 Toronto, but it certainly happens. So, you know, the
2 world is never entirely safe.

3 The reason I'm not -- I -- I don't like
4 the idea of it being as -- because this is a
5 significant cost on small loans that the borrowers are
6 now having to pay. If we had Ms. St. Aubin with us,
7 she is very familiar with Thompson, she might be able
8 to tell us more.

9 What I wonder, and it's not answered
10 here, is since every person who takes out a -- a
11 payday loan must have a bank account, they've got
12 banks there and they could have direct deposit and
13 withdraw from the bank.

14 But maybe the situation -- I mean, I
15 can't picture this. If they're borrowing in Thompson,
16 I mean, that's where the -- where the lender is
17 located, or -- and this equally applies not just to
18 Thompson but to -- presumably to The Pas and Dauphin
19 or any other small community.

20 If they're borrowing at a storefront
21 there, there is a bank somewhere nearby where they
22 could take -- there -- it must be -- their bank must
23 be somewhere nearby because banks don't like to open
24 accounts long distance, so to speak.

25 So it seems to me that the answer to

1 this is a direct deposit. But I do -- I mean, I
2 confess I -- I don't know all the details of how this
3 business works in Thompson and in the small
4 communities.

5 I've never been to Thompson myself. I
6 have -- I grew up in communities smaller than
7 Thompson, and, you know, there were banks there. And
8 so you would always be able to deal with a bank, but
9 I'm not sure -- I mean, ATMs are -- you know, these
10 white-label ATMs are more readily available. I mean,
11 that's quite true.

12 So I'm inclined not to allow it, and
13 the difficulty is you might say, Well, it'd be
14 reasonable to allow it for somebody operating in
15 Thompson. But I'm sure the Board is aware that when
16 you try to do that kind of regulation, it becomes
17 simply impossible to -- to manage properly.

18 So on balance, I would say no. I think
19 they should be giv -- providing cash. And -- and I
20 don't see the evidence that says that it is actually
21 that dangerous, but I of course could -- I mean,
22 they've not presented for example police statistics
23 which would be what I would -- would maybe sway me
24 more.

25 So on balance, I would say no. But I'm

1 -- I'm sympathetic to the problem. Well, both Dr.
2 Buckland and I are.

3 DR. JERRY BUCKLAND: Yeah. And if I
4 could add, I think there was a quote yesterday in the
5 hearing referencing seventy-five dollars (\$75) for a
6 one hundred dollar (\$100) payday loan.

7 And I'm not sure that that was from the
8 particular company that Dr. Robinson referred to, but
9 there was a company that previously offered payday
10 loans, and they used the debit cards. And when you
11 add up all the fees -- the administrative fee, the
12 loading fee, the use fee, monthly fees -- they
13 amounted to a very large set of fees.

14 And so that -- that's my concern. But,
15 like Dr. Robinson, I -- I see the point here, and I
16 understand the concern. And, yeah, I would equally
17 like to see evidence that carrying cash from a payday
18 lender is a risky situation there.

19 MS. KATHLEEN MCCANDLESS: Thank you.
20 Diana, could we please go to C11's prefiled evidence,
21 page 1?

22

23 (BRIEF PAUSE)

24

25 MS. KATHLEEN MCCANDLESS: And at the -

1 - at the bottom of the page, C11 writes that:

2 "With regulation of 30 percent of
3 net pay for licensed payday lenders,
4 people needing more than what
5 licensed companies can lend will use
6 online services to borrow the
7 balance of what their financial
8 needs are.

9 Further to this, lending rates of 5
10 percent for a second loan or for
11 those who may need financial help
12 before their seven (7) day waiting
13 period has expired cannot borrow
14 from a licensed lender at a 5
15 percent rate.

16 It is financially impossible for
17 licensed payday lenders to sustain a
18 low rate of 5 percent when taking in
19 the risks associated with such
20 loans, thus fur -- further pushing
21 clients away from licensed lenders
22 and making online len -- unlicensed
23 lenders their only option."

24 My question is with respect to the
25 issue of the 5 percent rate, and specifically the

1 comment that it is financially impossible for the --
2 for the lenders to sustain that 5 percent rate.

3 DR. CHRIS ROBINSON: Can you give me a
4 minute with my calculator?

5 MS. KATHLEEN MCCANDLESS: Yes.

6 DR. CHRIS ROBINSON: Okay. I'm -- I'm
7 fast at this. Don't worry.

8

9 (BRIEF PAUSE)

10

11 DR. CHRIS ROBINSON: No, I don't need
12 the calculator. To do this really thoroughly would
13 take somewhat more time. Al is -- is certainly
14 correct in being concerned about this issue. It was -
15 - in fact, I'm pretty sure it was my evidence and my
16 opinions at the original hearing that led to that 5
17 percent rate being the one that was adopted.

18 The intention of the 5 percent rate is
19 for borrowers who -- who are unable to pay to make
20 sure that the -- that the lender gets additional
21 compensation for hanging on and trying to get the
22 collection. As I -- as I think I told you, it appears
23 -- and we don't have Money Mart testifying here, but
24 it appears that Money Mart puts such loans into
25 collection right away.

1 Actually, I do have some evidence that
2 that's their practice, and they told me in 2008 -- it
3 was Mr. Bishop who told me that was their practice
4 then. And -- and I'm -- I'm not issuing an opinion.
5 That's just a business decision to how you handle the
6 business. I think it's pretty clear that A1 C11
7 doesn't do it that way.

8 So then you're left with the 5 percent
9 with these people who don't pay. And what I was
10 thinking then, and think now, is we need to pay the
11 lender something more. There are -- for example,
12 Washington doesn't allow -- if you go into the
13 installment loan doesn't allow, at least according to
14 their laws, any further charge. So you just spread
15 the payments out over a longer period. I've always
16 been of the opinion that that was unreasonable.

17 If, on the other hand, you're all aware
18 of the older practice of rollovers, that you couldn't
19 pay off the loan, fine. No problem. We'll give you
20 another loan. We'll charge you seventeen dollars
21 (\$17) a hundred on this rolled over loan. And that,
22 of course, just skyrocketed. And so then what you got
23 was people who never repay. So this seemed to be an
24 intermediate procedure.

25 Five (5) percent, if what they're doing

1 is hanging on for another few weeks before they pay
2 off, is perfectly reasonable. It is not punishing the
3 lenders. Remember, all the work, all the trouble was
4 done to grant the loan and they got seventeen dollars
5 (\$17) on the hundred for that.

6 However, especially if the
7 recommendations that -- that we have been making from
8 the Coalition are adopted to go to some form of
9 installment loans, we have to think about that very
10 seriously. As you recall, I said you've got to do
11 this with the industry.

12 I originally said that 5 percent would
13 be reasonable, but it depends how long you leave that
14 loan. That's why I was going to use the calculator,
15 but I can do this in my head. If you lend -- if you
16 have them going beyond -- beyond a month, the 5
17 percent starts to become unfair to the lender. I
18 would think five (5) a month would be reasonable.

19 Pawn brokers get a lot of criticism but
20 pawn brokers charge 5 percent a month. They're a lot
21 cheaper than -- than a lot -- many of the
22 alternatives. McTamney's in Toronto charges 2 percent
23 a month.

24 So I guess -- yeah, I guess my opinion
25 even without resorting to the calculator or anything

1 fancy, I said if we are going to be talking about an
2 extension that goes beyond a month, that 5 percent is
3 starting to become unfair to the lenders.

4 The -- I mean, my -- our concerns as we
5 said about the seven (7) day waiting period: If you
6 actually need another loan or cannot pay the loan off
7 we've got a different problem that is not the fault of
8 the payday lenders. That we've got a borrower who's
9 in trouble. And it's not going to be solved by higher
10 fees or -- they're not going to be solved by anything
11 that we can do really.

12 So, yes, I'm -- I'm agreeing. I think
13 Al C11 has stated the problem very clearly. I think
14 they have a legitimate concern that the Board should -
15 - should consider.

16 MS. KATHLEEN MCCANDLESS: Thank you.
17 So just to follow up on that, you mentioned anything
18 longer than a month 5 percent become -- starts to
19 become unfair to the lender?

20 DR. CHRIS ROBINSON: Yes, because I --
21 I mean, basically anything beyond -- actually -- isn't
22 that interesting. It just occurred to me. No, but
23 they haven't tried this, you know. You can tell that
24 they -- they're not hiring some sharp-edged lawyer.

25 Since 5 percent per month, if you

1 interpret the federal law in a way that I believe is
2 actually wrong but it's the way but everybody else but
3 me interprets it, 5 percent a month is allowed. Now,
4 that's 60 percent a year.

5 So, in fact, if they could claim at
6 that point that the loan has ceased to be a payday
7 loan and has become something else they could charge 5
8 percent a month under section 347 of the Criminal
9 Code, which I think is sort of an indication that
10 anything -- that requiring them to maintain 5 percent
11 just as a fee when the loan goes more than a month
12 overdue is, in fact, counter to the intention of -- of
13 the Criminal Code, as well -- or I mean, rather is no
14 covered.

15 So I think, again, that seems to
16 support my statement that 5 percent is -- is maximum
17 of a month from the -- from the due date. After that,
18 we should perhaps be considering -- so maybe you need
19 to consider -- I didn't give opinions on that in my
20 written submissions, but maybe you need to consider
21 making some change to that for loans that go overdue
22 for longer. Maybe it just needs to be an interest
23 rate, but again that makes it more complicated.

24 MS. KATHLEEN MCCANDLESS: Thank you.
25 Just scrolling onto the second page of this document,

1 and I believe it's towards the bottom of the page.

2 DR. CHRIS ROBINSON: Could I add to my
3 previous statement? The simple way to change that
4 regulation without going -- getting into nightmares,
5 to take account of what they have said and what I have
6 ju -- what Al C11 has said and what I've just said
7 would be to say for loans that are not repaid on time
8 5 percent of the unpaid principle per month or part
9 month thereof would be a reasonable fee.

10 This will restrict them. It will mean
11 that the most they can charge would be, you know, 5
12 percent for one (1) month, 10 percent for six (6)
13 weeks or two (2) months, et cetera, and it would be of
14 the original principle, so there could be no -- or
15 sorry, of the unpaid amount of the original principle
16 since some people I expect do -- are able to pay off
17 some part of a loan. That would be a reasonable
18 alternative that might meet the concern expressed here
19 and not be unduly onerous to the consumer.

20 But I haven't had more time than this
21 to actually try to work out any other unintended
22 consequences that might occur.

23 MS. KATHLEEN MCCANDLESS: Thank you.
24 I believe, Diana, if we can just keep on scrolling,
25 it's page 3. At the top of the page C11 recommends --

1 or is asking that, if -- if consideration is made to
2 drop the lending rate to 15 percent, that an increase
3 ought to be made for the 5 percent for the extension
4 or replacement loans.

5 And I appreciate this follows somewhat
6 on what you were just speaking about. But perhaps you
7 could provide your comment on -- on this request.

8 DR. CHRIS ROBINSON: Well, again,
9 since we know that there's a lot of people who are not
10 able to repay in the first time, and, of course, I'm -
11 - I'm on record now as favouring some sort of
12 installment option, that would partly alleviate the
13 borrower's problem. But we have to remember that the
14 lender now has money outstanding for longer. And I
15 tried to set up some ideas for that.

16 I mean, this is again a reasonable sort
17 of tradeoff that they are -- that -- that they are
18 proposing. That if you drop the rate to 7 percent --
19 or to 15 percent... My -- what -- my statement I just
20 made about saying 5 percent per month or part -- or
21 any -- and -- or part thereof of the original
22 principle, I would -- I would maintain that statement
23 whether the rate went to 15 percent or stayed at 17
24 percent because, in fact, there -- there is partly a
25 separate issue, right?

1 You now have money. You have money
2 invested for longer at this point. You have also
3 something we haven't talked about. But I said, Well,
4 I've done most of the work on the loan. But, of
5 course, when you -- as soon as you have an extension
6 or a borrower is not paying off, who isn't just coming
7 in and saying, here's -- here's the money or the
8 cheque's cashed, bye. You have to do more work. And
9 that is why you staff on all the time.

10 They aren't just making loans. They
11 are also dealing with all the other problems that
12 arise. So I would separate the two (2) paragraphs.
13 In other words, I would not place making that change
14 contingent on what the Board decides, whether it's 15,
15 16, 17 percent. You, of course, have my very strong
16 opinion that you certainly shouldn't raise the -- the
17 rate cap above 17, but I wouldn't -- I would decouple
18 the two (2).

19 I think that I feel comfortable with
20 some form of additional extent -- additional revenue
21 for longer extended loans becoming part of the
22 regulations, again, carefully capped, but to allow for
23 that.

24 And if you get somebody who doesn't pay
25 off for six (6) months, a 5 percent rate is not very -

1 - you know, 5 percent additional is not very -- is not
2 enough to reasonably cover the cost of capital that
3 they're encountering in that time.

4 Just think about it, right, 5 percent
5 divided over six (6) months is -- is essentially a
6 rate of 10 percent a year. I mean, I'm giving you a
7 cost of capital close to that, so that would not be
8 fair.

9 MS. KATHLEEN MCCANDLESS: Thank you.
10 Diana, can we please go to CAC/C11-1-4?

11

12 (BRIEF PAUSE)

13

14 MS. KATHLEEN MCCANDLESS: And to the
15 last page of this document.

16

17 (BRIEF PAUSE)

18

19 MS. KATHLEEN MCCANDLESS: You'll see
20 here that C11, at paragraph F, mentions that -- they
21 say:

22 "Years ago we tried offering small
23 loans of twenty-five hundred dollars
24 (\$2,500) or less at an interest rate
25 of 12 percent per year and with

1 flexible payments. We quickly --
2 quickly learned that these loans
3 were a financial disaster.

4 Practically every loan we made
5 failed, and collecting on them was
6 not very successful. It is not a
7 financial plan for small lenders
8 with shallow pockets."

9 I'm interested in your comments on --
10 on C11's experience that they said this type of thing
11 was a financial disaster from their perspective?

12 DR. CHRIS ROBINSON: Well, of course,
13 I brought into evidence, I simply walked down the
14 street to Money Mart and got -- actually, I -- sorry,
15 I got Evan (phonetic), one (1) of our researchers to
16 go and get me the installment card from Money Mart and
17 proceeded to test it.

18 As an interesting sideline, I could not
19 reproduce their numbers. It appeared to me that they
20 were charging several cents less per loan than they
21 actually said they were charging, which was really
22 quite interesting that they were actually -- would be
23 doing that. Money Mart's always been very careful
24 with interest rates. Maybe Money Mart is the one (1)
25 that should be reading this, since they're the ones

1 who have gotten into this business.

2 But my -- I saw that thing sta -- Money
3 Mart -- I mean, the interest rate of 12 percent per
4 year is -- and it sounds fine for a twenty-five
5 hundred dollar (\$2,500) loan, it -- it's clearly not
6 enough. I mean, I would have said that immediately.
7 I mean, Money Mart is charging 60 percent a year, 59
8 percent. And I don't know if the -- I mean, they just
9 kept trying this.

10 Our intention in the Coalition in
11 offering an installment option was simply with --
12 from the lender's point of view was a way that they
13 could continue to earn some money on a loan that
14 they're not going to collect immediately anyway, so
15 that they get treated fairly in that respect, but we
16 give the consumer the opportunity to actually pay off
17 the loan.

18 I mean, it's clear given what the
19 repayment rates are as opposed to the bad debts, that
20 the great majority of payday loan customers believe
21 they have a -- an absolute obligation to repay their
22 loans, and they do. And so we don't want to penalize
23 those customers when they're unable to repay and would
24 like to.

25 So these long installment loans, I

1 wonder if part of -- they don't say why they're
2 worried about that. We hadn't said, Oh, you should
3 start offering installment loans at 12 percent. I'm
4 not surprised. I only am recommending it as an option
5 to allow the system to work sort of the way it is now
6 as opposed to being an alternative.

7 I think Money Mart may find this is not
8 -- it turns out -- it turns out badly for them as
9 well, even at 59 percent. That's my suspicion. And
10 that's, of course, five (5) times the rate charged
11 here. And I don't know Thompson well, but I suspect
12 that -- well, as I said, I grew up in, you know,
13 mining mill towns.

14 If you lose your job in Thompson, it
15 may be a long time before you get another job, so that
16 a long-term installment loan may still be completed.
17 You know, you're -- you're never going to be able to
18 repay it. You're never, in fact, going to get back
19 together again.

20 So -- and that, of course, again, we
21 had a conversation on the telephone with Tara Roche of
22 Pew yesterday and her -- she was enormously
23 enthusiastic about Colorado, as you can read from
24 their -- their presentations.

25 By the way, it appears -- I'm unable to

1 verify this, but the claim is that lenders in Colorado
2 actually don't charge much less than the law says they
3 do. I can't find any written confirmation of this,
4 but Tara Roche insists that they've got a great model.

5 I am much more sceptical about that,
6 and I think this is part of the reason. I think if
7 what we do is we make it mandatory that you turn this
8 into a -- into an instalment loan industry, I think we
9 will create other problems.

10 Tara Roche says that's not happened in
11 Colorado. The rules don't work the way that -- that
12 they say they do in the law. I mean, I read the
13 actual statute in detail, and I can't reconcile it
14 with what, apparently, they're charging.

15 It's going to be a messy business. I
16 mean, if I can't figure it out, I'm not sure who else
17 is going to figure it out either.

18 So I'm very sympathetic to their
19 statement here. I'm not sure what they want us to do
20 except that I think it's further evidence -- and I
21 take it as evidence, not merely as some sort of claim
22 -- I take it as evidence that a Colorado model turning
23 all payday lenders into instalment lenders will have
24 significant problems for at least some lenders in
25 Manitoba.

1 And in my experience, when -- when one
2 (1) person, business, somebody is making a statement
3 like this, there is another business somewhere else
4 that's -- that would tell you the same thing.

5 So I don't regard this as an -- likely
6 to be an isolated example. I suspect that anybody at
7 least lending in those small communities would have
8 the same problems with instalment loans.

9 So I go back to, I like the Washington
10 model better.

11 MS. KATHLEEN MCCANDLESS: Thank you.

12 Oh --

13 DR. JERRY BUCKLAND: If I could just
14 add, I fully concur with Dr. Robinson, and I would
15 say, like, from the consumer perspective, I think it's
16 really critical that the consumer understands the
17 model, how it works.

18 And one (1) of the reasons why the
19 payday loan model works so well is its -- its
20 simplicity. You sign the contract when you come into
21 the outlet, you provide a post-dated cheque or a
22 preauthoriza -- preauthorized debit statement, and
23 it's -- it's very straightforward in -- in that sense.

24 And so maybe I'm just maybe trying to
25 understand what the problems that C11 A1 were having,

1 but maybe part of the problem was that it was more
2 complicated than many of their customers were
3 familiar. They needed to come in or they needed to go
4 to the bank several times over the course of a period
5 of time.

6 So it might -- that might have been it.
7 I -- I don't know, but I think that's one (1) of the
8 strengths of the payday loan model, that it's simp --
9 it's simple. It's simple to use.

10 One (1) of the weaknesses is that it
11 has caused some consumers to get into a repeat loan
12 cycle. And so I think that's where Dr. Robinson and
13 the team are saying that having the instalment option
14 to address that particular problem is -- is the way to
15 go, and I -- I like that.

16 I did just want to mention one (1)
17 point that I'm always thinking about when I think
18 about behavioural economic insights about finances,
19 and that default is really -- what -- what's the
20 default?

21 That's really important, because if the
22 default is, for instance, the two (2) week loan, then
23 most people are going to just opt for the default.
24 They're not going to look into the alternatives. On
25 the other hand, if the default is a six (6) month

1 loan, then that's what they'll -- they'll go for.

2 But, yeah, I agree with Dr. Robinson
3 that the combination of maintaining the two (2) week
4 plus having the instalment longer-term loan is maybe a
5 reformist way to go to -- to look for a way to
6 continue to allow the payday lenders to operate, but
7 to provide some way to address this vulnerable repeat
8 loan problem.

9 MR. REGIS GOSSELIN: Just a -- just a
10 question. I mean, there's no hurdle now to prevent a
11 -- a lender from providing an instalment --

12 DR. CHRIS ROBINSON: I can't quite --

13 MR. REGIS GOSSELIN: I'm sorry.
14 There's no hurdle now for a -- a lender to convert
15 that payday loan into an instalment loan, is there?

16 I mean, as long as the 5 percent -- the
17 -- the rate applicable to the -- to the amount
18 outstanding is 5 percent, there really is no hurdle.

19 DR. JERRY BUCKLAND: No, I don't
20 believe there is a -- an obstacle. Maybe there isn't
21 a clear model.

22 And -- and I guess again, I -- I think
23 that the best system for the industry and the consumer
24 is a simple model that's easily understood, and so the
25 consumer understands, Okay, well, I can't make this

1 two (2) week repayment, but I know about this other
2 option, and -- and I can go in and request that we
3 move to that option.

4 So I think when it's more up to the
5 payday loan staff or management sort of decision
6 making, it may not -- the consumer may not know -- may
7 not be aware of that option, and may not ask for that
8 alternative.

9 MR. REGIS GOSSELIN: Up -- up -- from
10 the standpoint of -- of what we might recommend to the
11 government in -- in our report, there really isn't
12 anything that the government can do about this,
13 because it's really up to the industry to -- to allow
14 for installment loans. There is no regulatory change
15 that's required on the part of government that would
16 allow this to happen.

17

18 (BRIEF PAUSE)

19

20 DR. CHRIS ROBINSON: Okay. Yes. We
21 hadn't thought of that aspect, and I bet if -- if you
22 asked A1 C11 to -- to testify again, they'd probably
23 say: Well, yes, actually we do do that sometimes, or
24 we have deals that we make. We know this person.
25 We've already heard that evi -- evidence, right.

1 These are small businesses. This not the Bank of Nova
2 Scotia.

3 However, it will then, of course, come
4 under -- you know, as soon as it's over sixty-two (62)
5 days, it comes under the Criminal Code again, and then
6 you get the problems of just exactly how you're
7 calculating interest, what fees are you charging, and
8 -- and as I read the Criminal Code, it's all in.

9 So if they charge any additional fees,
10 it's quite possible that even an NSF fee, like they
11 bounce a cheque on you, then an NSF fee would be
12 rolled into this later installment, and you'd be over
13 60 percent, even though we all recognize that by -- in
14 fairness, any NSF fee that the lender charges should
15 be an additional amount that -- that the lender can
16 collect in addition to a fee for the money itself.

17 So it gets complicated, and as -- as
18 Dr. Buckland so rightly stated, I mean it's -- you
19 know, we're academics, right, so we love to make
20 things complicated, so then you have to hire us as
21 witnesses. But the simplicity of the payday loan, and
22 the simplicity of anything we add to it is going to be
23 very important.

24 The Board, in fact, recognized that
25 back in 2008, because I had made a number of proposals

1 for different -- I actually had a preferred model of
2 lending that was slightly more complicated, and -- and
3 the Board rejected it and chose the simple model. And
4 so anything we do -- if everybody in the industry has
5 the same set of rules set down by regulation, it will
6 be much easier on consumers.

7 It does give up the opportunity for the
8 industry to experiment and find out what works best,
9 but I think probably the cost of the loss of
10 simplicity -- of the risk that they suddenly get sued
11 for something, is -- is outweighed by -- you know,
12 that it would be better to have a regulation in place,
13 but it will have to be simple.

14 DR. JERRY BUCKLAND: And -- and if I
15 could also add that -- I mean, we understand the
16 Board's limitation in terms of what you're able to do,
17 but we also understand that you have the scope to
18 identify issues that maybe are outside of your
19 mandate, and provide evidence for those issues so that
20 they're on the public record, and it's -- you know,
21 it's clear that these are issues in Manitoba. So that
22 would be another thought.

23 MR. REGIS GOSSELIN: But if we -- if
24 we agree that installment loans have merit in a
25 scenario where it can't -- a payday loan can't be paid

1 in a few -- you know, the next part -- or the next
2 period, and we say to the government: The industry
3 has offered to make this option available to -- to
4 clients, and for whatever -- whatever reason, it
5 doesn't happen, the industry does not offer that in
6 the future, then what?

7 You know, do we -- do we -- you know,
8 thinking out loud here, but I think -- you know,
9 without -- without pre-judging the outcome of the
10 decision here, thinking out loud here that -- you
11 know, at some point, if the industry doesn't come
12 through with an option that they're offering, or
13 they're proposing, then we should be saying to
14 government: Okay, force it. Require it. There must
15 be an option available to -- you -- you know what I'm
16 getting at.

17 I'm -- I'm -- you know, I'm -- I'm
18 thinking in practical terms of how this might work.
19 You know, we're fortunate the industry has said that
20 they're prepared to offer this as an option, but I've
21 been in this regulatory game too long to know that --
22 that offers -- there's a -- there's a long way between
23 the cup and the lip, and -- and so I'd like to hear
24 your views about that particular matter.

25 DR. CHRIS ROBINSON: There's an

1 interesting diffusion of inter -- inter -- diffusion
2 of innovation problem here. But, in fact, we have --
3 although the CPLA executives are not here, counsel for
4 them is, and -- and she will inform them of -- of what
5 -- of what these discussions were. There are
6 representatives of the industry present in the room
7 and you -- what you say will become public knowledge;
8 clearly people are paying attention to it.

9 That's actually, I think, a very clever
10 way to approach it, to say, okay, the industry now
11 knows this. We've now provided with our research
12 information that maybe they did not have before. I
13 mean, we have heard the CPLA testify that they have
14 limited resources to do this kind of research, and so
15 we've now done it and said, Here's Washington, here's
16 Col -- well, I'm still not sure I've explained
17 Colorado, so here's maybe Colorado, but here's
18 Washington, here's British Columbia.

19 And CPLA has actually proposed
20 something that would be sort of an option, so maybe
21 that is the way to go. It's not, after all, that you
22 now set this law, it's carved in the stone tablet and
23 will now stay unchanged for two thousand (2,000)
24 years. You have a three (3) year review process.

25 That might be the -- the most effective

1 as a regulator is, okay, we deal with the specific
2 regulatory questions. We've given you a lot of
3 information. Go to it, see what you -- let's see what
4 you can come up with. I think the industry might be
5 happier to have that opportunity than to have it
6 forced. And, as you say, it takes a long time to do
7 it through regulation anyway. And there's nothing
8 stopping them from doing it now, I mean, not in --
9 other than that -- other than that 60 percent cap on
10 loans past sixty-two (62) days.

11 DR. JERRY BUCKLAND: And -- and one
12 (1) of the things that we've been identifying, I
13 think, in our -- through our research is the need for
14 new data. And to the extent that the government can
15 collect data regarding payday lending, I think this
16 might be an additional kind of piece of data that
17 would be very useful, you know, the -- the percentage
18 of loans that are converted into installment loans.

19 And that data then is very helpful in
20 the next review to, you know, determine whether or not
21 they've followed what they've committed to.

22 MS. PATTY KO: And my apologies. If I
23 can just interject. Certainly these -- these
24 conversations will be coming to the attention of the
25 CPLA. But just from a regulatory perspective, noting,

1 Mr. Chairman, your questions before us too, whether --
2 from a legislative perspective, whether there's any
3 kind of implications, as far as I'm aware, in Manitoba
4 there's also one (1) additional piece of legislation
5 that's coming into effect September 1st with respect
6 to installment loans, changes to the Consumer
7 Protection Act.

8 So that's just one (1) additional
9 factor that would have to be considered. Thank you.

10

11 (BRIEF PAUSE)

12

13 MS. KATHLEEN MCCANDLESS: Thank you.

14 And actually following on Ms. Ko's comment...

15

16 (BRIEF PAUSE)

17

18 MS. KATHLEEN MCCANDLESS: Dr.

19 Buckland, I -- I noted that in your paper on the
20 workshop regarding alternatives to payday loans, and
21 if you need me to, I can take you to the reference,
22 but there was mention in the summary of that workshop
23 that the new legislation is coming into force that
24 addresses high-cost credit products other than payday
25 loans.

1 And I'm wondering if you have any
2 insight into whether these installment models have
3 been discussed could be captured by those amendments.
4 I appreciate it's a very complex question.

5 DR. JERRY BUCKLAND: Yeah, I have -- I
6 have -- all I have is the news release, actually. I
7 don't have more details. And I don't know if more
8 details are available currently. My understanding is
9 that, basically, the new regulations will identify a
10 series of companies that are providing what they call
11 high-cost credit.

12 And I did look through the -- the
13 information that I had. And I could not find a clear
14 definition of what high-cost credit products
15 specifically are. And so I'm not entirely clear how
16 many different firms and services will be covered with
17 this.

18 But, basically, what it requires is
19 that these firms would be licensed by the Consumer
20 Protection Office and that they would be subject to
21 certain requirements in terms of providing information
22 to the consumer about the fees for the product in a
23 simple kind of manner similar to what is currently
24 done with payday loan fees and provide the consumer
25 certain rights in terms of cancelling their loans and

1 provide potential borrowers will detailed information,
2 disclosure document prior to signing an agreement.

3 So many of those things that consumer -
4 - that flow from consumer rights issues would -- would
5 be applied to these high -- high cost loan products.
6 There's no indication that caps would be placed on
7 these products. And so it's more the idea of
8 licensing them and then informing the consumer,
9 providing the consumer with clear information about
10 the fees and the agreements, that kind of thing.

11 MR. BYRON WILLIAMS: And I'll just
12 indicate, I -- I probably owe an apology to counsel
13 for the Board. I -- I believe she had forwarded to me
14 materials and I had thought I had forwarded them. So
15 I'll apologize.

16 If there's a chance at the -- at -- at
17 a coffee break to just be reforwarded them, you know,
18 that would be -- and my apologies to legal counsel.

19

20 CONTINUED BY MS. KATHLEEN MCCANDLESS:

21 MS. KATHLEEN MCCANDLESS: Thank you.
22 Dr. Robinson, back to you. I -- I believe there was
23 some discussion about the licensing fees for payday
24 lending operations and the regulated amount of fifty-
25 five hundred dollars (\$5,500).

1 DR. CHRIS ROBINSON: I'm sorry, is it
2 fifty-five hundred (5,500)? It's sixty-five (65).

3 MS. KATHLEEN MCCANDLESS: Sixty-five
4 (65), pardon me. My -- my question was with respect
5 to I believe you had a comment that in your view there
6 should be a licensing fee that relates to the loan
7 volume of the lender.

8 Was that right?

9 DR. CHRIS ROBINSON: Yes.

10 MS. KATHLEEN MCCANDLESS: And that was
11 at .2 percent of a loan value?

12 DR. CHRIS ROBINSON: Yes.

13 MS. KATHLEEN MCCANDLESS: And can you
14 explain the rationale for that?

15 DR. CHRIS ROBINSON: It's simply
16 looking at loan vol -- looking at the current fee of
17 sixty-five hundred dollars (\$6,500), accepting that
18 that is a high fee for a small business. When it was
19 originally set, and I don't -- I don't recall how it
20 was originally determined, I don't know if I ever --
21 if any of us offered any evidence from the -- from the
22 Coalition side or not.

23 I built it into my model at the time,
24 it's not there now, because it's in their actual
25 expenses, but my original model had a sixty-five

1 hundred dollar (\$6,500) fee added to the expenses that
2 were currently experienced.

3 But if you think about the volumes, and
4 we know quite a bit about volume, so I was using \$2.3
5 million as sort of my efficient lender. So .2 percent
6 of that is forty-six hundred and eighty dollars
7 (\$4,680) as it happens. And a -- but there are
8 lenders -- well, I don't know what the volumes of --
9 of some of the lenders are, but I'm pretty sure that
10 Al C11 is not doing \$2.3 million worth of business
11 just on payday loans.

12 And so it seems a -- a fairer form of
13 licensing to tie it to the business. And you don't
14 want to make it complicated so you make it just on the
15 loan volume. You could, of course, convert it to a
16 revenue figure as well. You just simply divide by
17 point one seven (.17) would make it a reasonably fair
18 fee.

19 Maybe the industry will tell you we'd
20 rather it was done that way. But I think that it
21 should be reflective more of the amount of size, and
22 therefore the profits they're likely -- they might
23 likely be making as well.

24 And so a lender at a million, which is
25 still bigger than some stores, I'm sure, would be

1 paying two thousand dollars (\$2,000) a year. A store
2 -- and this would be by -- per store, so the big
3 chains would pay a lot more. I mean, they are making
4 more. You know, they -- they've got a lot more
5 business. A \$4 million store, and there could well be
6 one (1) or two (2) stores in Winnipeg doing that level
7 of business -- back in 2006 I was informed -- or 2004
8 I was informed by Ernst & Young that they had one (1)
9 store at 7 million at that point.

10 They didn't say where it was, but I gue
11 -- my guess was Toronto. That at 4 million you'd now
12 be paying eight thousand dollars (\$8,000), which is
13 higher than the current fee. This money is not going
14 to matter much to the Manitoba Government's budget,
15 the consumer fund, or wherever the money goes.

16 But it seems to me that since we have a
17 concern -- and certainly the Board has expressed a
18 concern about the lenders in smaller communities, Al
19 C11, which has taken the trouble to testify to you, in
20 itself an expensive undertaking for a small business,
21 is -- is likely one (1) of those and it seems to me
22 it's a legitimate concern.

23 And it just occurred to me during the
24 proceedings, I hadn't thought of it previously, and
25 then I read -- you know, kept reading a testimony and

1 I thought, this is one (1), maybe not very big way,
2 but for small businesses this would -- would be a
3 fairer way and helpful way to support their business
4 without disadvantaging consumers in any way.

5 MS. KATHLEEN MCCANDLESS: So just to
6 understand, your -- you would envision a -- a fee that
7 had no cap. So it could be -- for a large lender, it
8 -- it wouldn't be up to a maximum. It would be a pure
9 percentage basis.

10 DR. CHRIS ROBINSON: Yeah. No, you
11 would not ordinarily have caps in this. Yes, there's
12 some fixed-cost regulation, but remember, we don't
13 have a business. We are not facing a business where
14 some of the companies are doing a \$100 million in
15 business and others are doing, you know, 1 million.

16 I mean, the limits are -- I -- I don't
17 -- I don't have the data, but I'd be very surprised if
18 there's any store in Manitoba that's doing \$5 million
19 volume in -- in payday loans alone. They might be
20 doing it if they're doing other things, too, but doing
21 \$5 million in payday loans.

22 And that would be only a -- a ten
23 thousand dollar (\$10,000) fee compared to the sixty-
24 five hundred (6,500) now. So what I'm proposing is
25 not very radical.

1 MS. KATHLEEN MCCANDLESS: And I
2 believe you said that it's no longer part of your
3 model, the --

4 DR. CHRIS ROBINSON: No, because
5 remember, what I'm doing is I'm using actual costs.
6 And now they're all paying the sixty-five hundred
7 dollars (\$6,500) or -- and the licensing fees across
8 Canada, so that it's -- it's already -- it's in there
9 in some sense in the costs.

10 It was never a big item anyway. It's -
11 - you know, it was smaller than any other cost line.
12 But when I'm regulating -- proposing regulations for
13 Manitoba, the data that I was using did not have
14 licensing fees for anybody.

15 Nobody was paying a licensing fee
16 anywhere, so consequently, there would be no -- you
17 know, the -- I had to add something at that point.
18 Now I don't. It was, of course, a very slight -- it
19 didn't -- taking it in or out made no effect on my
20 conclusions.

21 MS. KATHLEEN MCCANDLESS: So if it
22 were to change, would that have impact on your
23 financial model?

24 DR. CHRIS ROBINSON: It's not a big
25 enough effect. It might matter to some of the

1 lenders, but it would not have a -- it would not have
2 a material effect on any conclusion I'm drawing.

3 It would not be something to say, Oh,
4 well, because we're doing this, we now go down to 15
5 percent fees because of that. You can work it out for
6 yourself, right? Two (2) percent times the loan
7 volume for even a small lender is a whole lot more
8 than any change in fees that I'm proposing, a whole
9 lot more.

10 So, no, it has no -- I'm not tying that
11 to anything. I'm saying you should do it anyway, I
12 think, regardless of your other decisions.

13 MS. KATHLEEN MCCANDLESS: Thank you.

14 I'm noting the time, Madam Chair. I'm
15 wondering if this might be a -- a good opportunity for
16 the mid-morning break. I don't expect to have much in
17 the way of questions following.

18 THE PANEL CHAIRPERSON: This would be
19 a good time to have a mid-morning break. So we'll
20 reconvene at 10:30.

21 MS. KATHLEEN MCCANDLESS: Thank you.

22

23 --- Upon recessing at 10:13 a.m.

24 --- Upon resuming at 10:40 a.m.

25

1 THE PANEL CHAIRPERSON: Okay. Welcome
2 back. I'm going to call upon Ms. McCandless to
3 continue her cross-examination.

4 MS. KATHLEEN MCCANDLESS: Thank you.

5

6 CONTINUED BY MS. KATHLEEN MCCANDLESS:

7 MS. KATHLEEN MCCANDLESS: Dr.

8 Buckland, I have some questions for you on the issue
9 of financial literacy. We did hear some evidence from
10 you as to whether or not certain types of measures are
11 effective.

12 I'm curious as to you have any -- as to
13 whether you have any information as to what might be
14 done to, for example, educate a borrower who is taking
15 out, for an example, an instalment loan, how -- how to
16 get the information across to that borrower as to what
17 the transaction really involves.

18 DR. JERRY BUCKLAND: Yeah. I think
19 it's a really good question, and goes back to that
20 point about a simple model, and I think the -- the
21 benefits of simplicity, both for the firm and for the
22 customer.

23 And so in the case of a possible
24 extension instalment loan, how can it be designed so
25 that it's, again, simple and that -- that information

1 is provided to the customer in a simple fashion?

2 And so I guess -- so you're asking me
3 if I have ideas about how that might be done. Well, I
4 -- I guess I would -- I'd -- I'd also want to echo
5 what Dr. Robinson said about, you know, really the
6 industry is the one that's going to have to craft this
7 device.

8 And so what I would want to see is that
9 it be clear and simple, and that everyone understands
10 how it works, the customer and the firm equally
11 understand how it works. And so if it, for instance,
12 has a monthly installment -- I mean, I'm just thinking
13 right of the top of my head, here.

14 A -- a simple rule, like a -- a monthly
15 payment, and how is that payment going to be made?
16 Again, a simple rule. Are there four (4) cheques --
17 post-dated cheques? Are there four (4) -- four (4)
18 post-dated debit authorizations? But it -- it needs
19 to be simple. And -- and again that everyone
20 understands at the very beginning how it works. Like,
21 that's how I would see this kind of thing effectively
22 designed.

23 DR. CHRIS ROBINSON: Yes. I've come
24 to understand more the importance of the simplicity.
25 I've also done work in financial literacy. I will be

1 offering a course at York that's broad-based for the
2 entire university. It probably won't do any good.
3 Financial literacy only helps those who are already
4 capable. We call it 'self-efficacy.'

5 And so what Dr. Buckland has just said
6 about making it simple, we -- we complicate too many
7 things beyond what we are easily able to -- to
8 understand. Everybody here probably has a driver's
9 licence. Does anybody here care to explain to me
10 exactly how the car works, how an internal combustion
11 engine actually doesn't just explode on you?

12 And so it's the same thing with these
13 finance products. So we need to design things that
14 are -- are relatively straightforward. You've heard
15 from -- the evidence from both Dr. Buckland and Ms.
16 St. Aubin that nobody understands what APRs mean. You
17 have heard some reference to the fact that I believe
18 you're all -- that all of you are wrong to even pay
19 attention to APRs, because you should be using
20 effective annual rates. It's the correct way to do
21 it. But nobody understands it so I can't do it. So I
22 don't even bother reporting them to you anymore in any
23 of my work, and that doesn't change the fundamental
24 nature.

25 So as you said, How many payments do

1 you have to make? When do you have to make them?

2 That is sort of going to be what consumers -- and this
3 is not to belittle consumers. Some of these consumers
4 -- well, most of these consumers in their jobs are
5 doing things that none of us know how to do.

6 It is the case of, you can't over
7 complicate it, or you'll make life miserable for the
8 lenders to try and deal with it. You heard -- you
9 heard from one (1) of the speakers telling about how
10 she tries to explain things and how difficult it is to
11 get people to understand. And this is the nature.
12 We've made our financial systems too complicated for
13 us to even cope with.

14 So it's not so much financial literacy
15 as it will lie in the design of whatever you do. I --
16 I -- you know, I've come to appreciate the fact that
17 the Board cut out the more comp -- the -- the just
18 slight complexities I built in -- back in 2008, and
19 said: Nope, won't do that. They didn't say why, but
20 I think that was because they said: Don't -- nobody's
21 going to understand this. Forget it.

22 And so that will be the -- the issue,
23 and it will come back to the industry will have to be
24 part of that. So, Mr. Gosselin, your suggestion that
25 maybe we let the industry do it because there's

1 nothing stopping them doing it seems to me to be a
2 very good one.

3 And if at the same time, you can
4 actually warn them that Internet lending is a
5 dangerous place to go, we all have seen the evidence
6 that it could be, so that would be an additional
7 disclosure to make to even encourage all of the stores
8 to -- to do that. I mean, it's in their self-
9 interest, but we have seen that it would also be in
10 the consumer's interest.

11 DR. JERRY BUCKLAND: And if I could
12 add another point that occurs to me. In some ways, I
13 think we've -- with -- with payday loans, it's become
14 like a commodity. And so a person maybe who regularly
15 uses -- uses a payday loan, you know, goes and gets
16 their groceries, goes and pays a utility bill, and
17 then gets their payday loan.

18 And I think part of the -- the problem
19 here is that people -- because the payday loan is so,
20 I guess, cleverly designed, people start to confuse
21 the credit as another kind of good. You know, I go --
22 I got apples from a grocery store, I got my payday
23 loan from the payday lender. And I think this is a
24 part of the -- the challenge that -- that you face in
25 terms of reg -- regulating this.

1 And so when I said simple rules are
2 really important for both the two (2) week and an --
3 an extended installment loan, I don't mean simple
4 access. I wouldn't suggest that the accessibility of
5 the product become easier, because I think that's part
6 of the kind of challenge that we face when we see the
7 repeat borrower who gets into the debt cycle. I think
8 what's important is that everyone understand clearly
9 how it works but not to make it easier to get it.

10 MS. KATHLEEN MCCANDLESS: Thank you.
11 Just to follow up on that somewhat. I -- I suppose
12 then the issue of financial literacy and communicating
13 to the consumers is -- there's two (2) aspects to it.
14 There's the substance of what needs to be
15 communicated. And I appreciate that it should be
16 simple is what you're saying.

17 Now, with respect to the form of
18 communication, do you have any information as to what
19 is an effective form of communication?

20 DR. JERRY BUCKLAND: Yeah. I think --
21 and again, I -- I agree with Dr. Robinson. I'm in no
22 way suggesting that payday loan clients are not
23 knowledgeable. They're very knowledgeable. My
24 concern is that some of them are tunnelling, to use
25 that expression 'tunnelling', because they're busy, as

1 we all are. And so in terms of the form of that
2 communications, I think it -- it needs to be simple.

3 The -- the other challenge is that some
4 people find moments in their life where they're more
5 motivated. So that's -- that's part of the -- the
6 question. It's hard to gauge when people are
7 motivated to invest in more financial literacy.

8 So someone may regularly go to a payday
9 lender and get into a repeat borrowing cycle and just
10 see this as the status quo. Another per -- person may
11 come to a point and say, well, this just isn't working
12 for me somehow. I -- I realize I'm paying a lot of
13 fees in terms of supporting these payday loans. I --
14 I want to get out of this situation.

15 And so for that person, that -- that
16 latter person, they've got that moment of motivation.
17 They need to be, you know, given that hand up. What
18 does that hand up look like? Well, I think some of
19 the suggestions that the industry association is
20 saying, you know, providing brochures and posters
21 about financial counselling, I think those can be
22 helpful, but it's for that person who's motivated.

23 For others who are unmotivated at that
24 moment I don't think that's going to get them to make
25 a change, to make an investment in -- in more

1 financial literacy. So that's why I think, like,
2 simple rules like the Ontario regulations in terms of
3 presentation of fees where they compare the payday
4 loan fee versus another credit product, like a credit
5 card, which we -- we looked at yesterday.

6 The other thing, and -- and I think we
7 talked about this earlier today, is setting up
8 defaults. And -- and maybe I was unclear earlier when
9 I talked about defaults. But there whole -- there's
10 this whole interesting analysis in behavioural
11 economics about how people -- because, again, limited
12 attention, status quo bias, various insights about how
13 most people are not fully rational in the economic
14 sense of the term. We -- we take shortcuts.

15 And often times, when we're presented
16 with decision make -- decisions that have multiple
17 options but one (1) default we often will go for the
18 default. Why? Well, it's easier. Maybe we assume,
19 well, somebody must have thought about it, it probably
20 is a good idea and I'm too busy, I don't want to spend
21 the time looking at the options, so we often -- and
22 the evidence is we often go for the default.

23 So I would say to set up the default as
24 the healthy -- in quotation marks, "healthy option,"
25 whatever you -- you see that as being, and then if

1 there are options, tho -- those could be optional.

2 I think most pe -- if behavioural
3 economic studies are helping us understand human
4 behaviour most people will go for the default option.

5 MS. KATHLEEN MCCANDLESS: Thank you.
6 Yesterday we heard evidence from one (1) of our
7 members of the consumer panel about her experience
8 going to a storefront payday lender here and being
9 told to use a computer term -- terminal. And her
10 experience was that she related -- that she was
11 borrowing online and noticed that it was from Alberta.

12 I'm -- I'm just wondering if either of
13 the panel members are aware of this?

14 DR. JERRY BUCKLAND: I -- I'm not
15 aware of any kind of system there. I -- I have heard
16 from a payday loan client in the past, I mean, this
17 was a few years ago, that when they were unable to
18 repay a loan at one (1) outlet of a payday lender
19 chain they were directed to phone one (1) of the other
20 outlets in Alberta, but, I mean, that's an anecdote.
21 I can't say there's a systematic process there.

22 DR. CHRIS ROBINSON: Alberta's always
23 the home of the cowboys, and there are more registered
24 internet lenders there. It sounds -- I mean, without
25 actually the client saying it was this store, this

1 company, we can't trace that.

2 Cash Money and Money Mart are licensed
3 to provide online loans generally, but there -- there
4 are two (2) -- there are two (2) -- I can't have a
5 guess, but, you know, I'd be guessing.

6 I just recall there are two (2)
7 licensed online lenders. One (1) of them is 310-Loan,
8 whose address is, I believe, Surrey, British Columbia,
9 and which is owned by QC Holdings in the US now, but
10 was originally started by Nathan Slee, who testified -
11 - or at least was present at all the hearings in
12 2007/'08.

13 Yes, you -- you remember him. A very
14 clever young man. He's now sold out and he's working
15 elsewhere. There is another company, I cannot
16 remember its name, that is registered, and it's
17 possible that it actually has an address but then
18 requires you to go online. That could be.

19 But it doesn't seem -- it's certainly
20 not something that we've heard about or seen happening
21 commonly. And if I'm recollecting correctly what's
22 been testified here, or told to us, neither the --
23 Money Mart and Cash Money aren't actually offering the
24 online -- online loans, or at least they're not
25 claiming to offer them.

1 Possibly they are offering them online,
2 but through their stores. My understanding, what I've
3 been told is that if you want an online loan from them
4 you have to go to the store, so that may have been the
5 case. It doesn't sound to me like it was an attempt
6 to evade Manitoba regulation in any sense. I am
7 completely unaware of any storefront in Manitoba that
8 is not licensed and following the rules as laid down
9 in the regulations.

10 MS. KATHLEEN MCCANDLESS: Thank you.
11 Now, just briefly, I -- I have a question with respect
12 to the fees that can be charged for non-sufficient
13 funds. And I suppose that's for you, Dr. Robinson.

14 The current regulation limits it to
15 twenty dollars (\$20). I'm wondering if you can
16 provide your comment as to currently whether that's
17 reasonable from the -- the borrower and the lender's
18 perspective?

19 DR. CHRIS ROBINSON: Well, I try not
20 to have my own cheques bounce and -- so I have
21 overdraft protection, in fact, since I'm very
22 forgetful and have to deal with fraud in my accounts
23 actually.

24 I'm not aware -- furthermore, NSF fees
25 change, companies have to pay them. My written

1 recommendation to the Board in 2013 was that they
2 should change the rules, and I believe -- and as I
3 recall they did, so that the actual fees charged by
4 the bank are the fees that are allowed to be charged
5 to the borrower.

6 Now, this doesn't actually capture all
7 of their costs since there -- there is the time --
8 time aspect of having to deal with that problem as
9 well, but it seemed to me that it shouldn't be fixed
10 at an amount, but should rather be that you may charge
11 the borrower what you are charged by the bank, no more
12 and no less, that that would be an entirely fair way
13 of doing it.

14 That is the way it's generally done in
15 business. If you have -- you know, in -- any business
16 will tell you, you know, if your cheque bounces we're
17 going to -- you know, we expect you to pay. Now, can
18 they collect, that's another matter, but they should
19 be able to charge it.

20 So I would set it -- instead of saying
21 -- putting in a regulation an actual dollar amount, I
22 would say you can collect whatever amount is -- is
23 actually charged. And as to stating, Oh, well, then
24 they're going to start evading the rules, well the
25 fact is right now the borrowers don't necessarily know

1 what the rules are so that an honest lender is going
2 to do exactly what I just said.

3 They'll charge the fee that they're
4 charged and the dishonest lender, it doesn't matter
5 what -- what rules you set, they may well try to
6 charge more. So I think you should allow them to --
7 to charge whatever the bank fees are that they're
8 being charged, whatever those are.

9 MS. KATHLEEN MCCANDLESS: Thank you.
10 And my next question is -- is the same, but as it
11 relates to the current default rate, which is 2.5
12 percent of the amount in default calculated monthly,
13 not to be compounded. I'm wondering if you have any
14 comment on -- on whether that -- the default interest
15 rate, from your perspective, is reasonable from a
16 lender and borrower's perspective?

17

18 (BRIEF PAUSE)

19

20 DR. CHRIS ROBINSON: I'll be honest
21 with you, that's not my recollection of the
22 regulation, so I may be making a mistake here, so I
23 want to see the regulations.

24 MS. KATHLEEN MCCANDLESS: It's
25 15.4(1).

1 DR. CHRIS ROBINSON: Yeah, I mean, I
2 thought I read all the regulations a while ago, but --
3 Diana, do you actually have the regulations? Isn't
4 that something we -- anybody submitted? Oh. Not the
5 regulations.

6 MS. KATHLEEN MCCANDLESS: CPLA
7 Schedule C does provide that information, Diana, if
8 that helps.

9 DR. CHRIS ROBINSON: Oh. Okay. So,
10 Diana, can you bring up CPLA Schedule C for us from
11 their pre-filed evidence?

12

13 (BRIEF PAUSE)

14

15 DR. CHRIS ROBINSON: Oh, I see.

16

17 (BRIEF PAUSE)

18

19 DR. CHRIS ROBINSON: Okay. Now I
20 remember. And -- and I had forgotten that -- I'm --
21 I'm assuming that they have cap -- captured this
22 correctly because they're saying it's a fifty-five
23 hundred dollar (\$5,500) annual licence fee. And I
24 recall it being -- it certainly was sixty-five hundred
25 (6,500) at one point, and -- but I didn't check that.

1 They of course could have made a
2 mistake or I could have made a mistake. More likely
3 that I made a mistake. You can see that it is more
4 expensive here than elsewhere.

5

6 (BRIEF PAUSE)

7

8 DR. CHRIS ROBINSON: Okay. Could I --
9 Diana, could I also see back up -- I want to see where
10 exactly the wording for the 5 percent, and I'm not
11 sure what section it's under. I think it's thirteen
12 (13), thirteen one (13.1) probably. No. Okay, stop.
13 Whoops. No. Keep going up. Yeah. Stop. No. Okay.
14 Keep going.

15

16 (BRIEF PAUSE)

17

18 DR. CHRIS ROBINSON: Yes, stop there.

19

20 (BRIEF PAUSE)

21

22 DR. CHRIS ROBINSON: Getting into
23 dangerous terrain here trying to pretend I'm a lawyer,
24 but my reading -- and this is the reading I had
25 before, so I could be wrong -- it says:

1 "The total cost of credit for a
2 replacement loan must not be greater
3 than 5 percent of the principal
4 amount of the replacement loan."

5 And 13.1.3 says the same thing. If
6 it's an extension or a renewal or -- could we go down
7 to (b) just in case I'm missing something here?
8 Sorry, that's the -- I mean, I can read the French,
9 but I think it'll be easier if we all work in Eng --
10 oh, sorry, there it is, yeah.

11 Oh, right. Okay. So this is the seven
12 (7) day limit. Is -- if -- if I'm reading this
13 correctly, the 2.5 percent is a default amount. So
14 the person simply doesn't pay off and doesn't make a
15 deal with you. If they make a deal with -- I mean,
16 this is odd. I would actually have to know how
17 they're applying this in practice. I had not
18 appreciated this. I think the Board understands what
19 I'm saying.

20 It looks like you can charge 5 percent
21 if they come in and make a deal, and that could go on
22 for months. But if they just don't show up, you
23 charge them the -- the NSF cheque and 2 1/2 percent
24 interest per month, which seems contrary. And I don't
25 know if those two (2) fees are stacked. That is if

1 it's, in fact, 5 percent on the principal as a total
2 amount, and 2 1/2 percent per month.

3 And I'm finding a lot ambiguous on
4 this. I wonder if the payday lenders are, too? I --
5 I'm sorry, I -- I don't -- I don't know how to respond
6 to your question. I had not appreciated that
7 particular aspect. What you really need is all the
8 payday lenders to tell you what they're actually
9 doing, maybe. I -- I'm somewhat a loss here. I mean,
10 these are not large amounts we're talking about, but
11 it will certainly matter to both the lender and the
12 borrower. I...

13 MR. REGIS GOSSELIN: I -- I think what
14 we were trying to explore is -- is the 5 percent, and
15 -- and whether or not it would be wise to recommend to
16 government to change that amount to some other number.

17 DR. CHRIS ROBINSON: Well, no, but
18 it's the -- Ms. McCandless's question was about the 2
19 1/2 percent interest per month --

20

21 CONTINUED BY MS. KATHLEEN MCCANDLESS:

22 MS. KATHLEEN MCCANDLESS: And if it
23 might -- I -- I'm not sure if this might assist you
24 but, Diana, could you move down to 15.4(2), because
25 there -- the regulation does address the issue of any

1 penalty on replacement, 15.4(2).

2

3

(BRIEF PAUSE)

4

5 DR. CHRIS ROBINSON: But that's the
6 default by a borrower under a replacement loan, so it
7 says you can't stack twice. What I don't get is
8 whether you'd make a replacement loan and you charge -
9 - you add 5 percent to the principal, and then you
10 take 2 1/2 percent interest per month on that for
11 however long it runs.

12 And, of course, you would think
13 logically that you should have some charge that's time
14 related and some charge that's fixed for the trouble
15 of setting this up. And so I -- we should think that
16 they -- that these fees are added together, but I
17 don't know what is actually happening.

18 And I -- I find -- on this first
19 reading, I find the act ambiguous. I cannot determine
20 either what the intention was, or what it actually
21 requires. So I -- and unfortunately, what we really
22 need is a commercial lending lawyer here to read that
23 for us, maybe.

24 MR. BYRON WILLIAMS: We don't have
25 that. What I would -- perhaps if I could just sugg --

1 suggest this, and -- and I don't want to pre-empt your
2 inquiry, but if we might -- there -- perhaps something
3 could be -- we could have a bit of a consultation, and
4 perhaps submit something in writing just so that we --
5 and perhaps we might grab a couple people in the back
6 of the room, and -- I'm just teasing, but get their
7 opinions.

8 But I'll leave that to you, Ms.
9 McCandless, in -- in terms of how we do it. And --
10 but we would make ourselves available to provide
11 something in writing once we have greater clarity. If
12 My Friend, Ms. Dilay, was here, I could probably give
13 you more advice, but I'm not able to.

14 MS. KATHLEEN MCCANDLESS: Thank you.
15 Board Member Gosselin, I believe you did have a
16 question, and so I -- I'm sorry for interrupting.

17 MR. REGIS GOSSELIN: No. What -- what
18 -- it's open to this Board to make recommendations to
19 government about what's in the regulation, and I --

20 DR. CHRIS ROBINSON: Yes.

21 MR. REGIS GOSSELIN: -- want to make
22 sure that if there are things that you believe based
23 on your experience and your -- and your research, that
24 you believe have merit for Manitoba, whether it's the
25 -- particularly, what we're looking at is the 5

1 percent.

2 Originally, what we're trying to -- to
3 assess from your commentary is whether or not that 5
4 percent is the right number, or should it be a higher
5 number? That's really what we're trying to get at,
6 because we might -- want to make that we cover the
7 waterfront in terms of our report to the government.

8 DR. CHRIS ROBINSON: I appreciate
9 that. I had thought about this issue, and this 2 1/2
10 percent, I -- I missed the issue, there. And I was
11 thinking about the 5 percent, and then I gave you an
12 opinion, you know, an hour or so ago that 5 percent
13 per month. I mean, bearing in mind what Dr. Buckland
14 said, simplicity, I -- I mean, I can do this on my
15 feet, but you'll get a better answer out of me if I
16 spend a few minutes thinking about it, and actually
17 play with the numbers, but I appreciate what you're
18 saying.

19 And, yes, I can make a recommendation,
20 but I'm not going to make -- do the best job of it
21 right now in response to an oral question.

22 MR. REGIS GOSSELIN: Okay, I -- I --
23 that'll be fine. But I -- but also, you know, are the
24 -- did you find in your work -- based on other
25 jurisdictions, do you find in your work there are

1 formulas that are used elsewhere that might be used in
2 Manitoba to address this? So that -- I want to make
3 sure that --

4 DR. CHRIS ROBINSON: All over the map.

5 MR. REGIS GOSSELIN: All over the map.

6 I -- I think what we're trying to do is you make sure
7 that we have the best practices in Manitoba and make
8 sure that we reflect that to the government as saying
9 those are the kinds of practices that should be
10 considered by the government for this current -- for
11 this jurisdiction.

12 DR. CHRIS ROBINSON: Okay, I didn't --
13 yeah.

14 MR. REGIS GOSSELIN: You know, it's no
15 secret that we're trying to be the lead jurisdiction
16 in some ways in this area. And -- and I want to make
17 sure that it -- it's -- the -- the approach we use is
18 based on what seems to work elsewhere.

19 DR. CHRIS ROBINSON: We have no
20 evidence what does or doesn't work about these sort
21 of, you know, extension fees, renewal fees. The evide
22 -- I mean, I have read lots of things and have not
23 captured them for you because it gets very lengthy in
24 terms of doing it for each US state. I have no idea
25 what's done other than the United States, and -- and

1 the other -- and the other Canadian provinces,
2 likewise.

3 So everybody has set different sorts of
4 things. They all look kind of the same. There is
5 some kind of fee for extending or -- well, no, even
6 some of them don't. Washington says you've got to
7 give the replacement loan without additional fee -- or
8 sorry, not the replacement, the conversion to an
9 installment.

10 And Colorado has this incredibly
11 complex schedule which apparently involves a whole
12 bunch of refunds if you pay early, except that they
13 won't put it in writing anywhere that I can find.

14 Other states, it's -- and provinces,
15 it's similar to what you have. That is, there is a
16 lesser fee if you're going to not pay off the loan.
17 You can capture the NSFs usually without limit, that
18 kind of thing, so that, in that sense, Manitoba is not
19 particular different from most places that have
20 considered this issue and tried to put in something
21 that allows the lender to recover something additional
22 for their additional time of -- you know, the money is
23 outstanding, the additional work, the additional risk,
24 because once a loan is not paid back on the first
25 date, it becomes riskier.

1 I -- I don't need the industry to
2 testify to tell me that the collection rate on loans
3 once they go in default, no matter how -- whatever
4 they say, it -- you know, whatever the customer might
5 promise, now just, you know, skyrockets.

6 So instead of it being -- you know, if
7 they pay off on the first day, then, of course, they
8 pay it off. If they didn't pay off then, now the odds
9 of them paying off are probably, I don't know, 80 --
10 only 80 or 90 percent, or even less.

11 So the opinion I gave earlier, I think
12 would work and would be simple and meet Dr. Buckland's
13 concerns that you allow for any extension, any
14 renewal, any default, anything that they can charge 5
15 percent of the original principle of the loan unless
16 some -- some part has been paid off of any unpaid
17 principle on the original loan, for any month or part
18 thereof for as long as it's outstanding.

19 Clearly at some point, it will be a
20 business decision that they say, Okay, you're not
21 going to pay off. We're putting this into collection
22 and hoping we can get it. That's not something the
23 Board needs to worry about. What you need to do is
24 put a limit on how much they can charge. And since 5
25 percent per month is -- is the Criminal Code rates,

1 that seems to be a reasonable number to meet both the
2 protection of the consumer and the -- the needs of the
3 lenders to be compensated for their risk, their time,
4 and the cost of their money.

5 And it's -- and it's simple. It's this
6 is it. If you -- so if you borrowed a hundred
7 dollars, and you didn't pay it off, you owe me a
8 hundred and seventeen (117). If you don't pay the
9 hundred and seventeen (117) and you don't pay any part
10 of it, the loan value is now -- you now owe me a
11 hundred and twenty-two (122) within the next month.

12 If you don't pay it off a month after
13 that, you owe me, what did I just say, a hundred and
14 twenty-seven (127) in the second month, and it'd be
15 any portion of that month. Again, keep it simple,
16 right? An interest rate, we say, Oh, you should
17 calculate it by day and so on, but that's too
18 complicated for this -- for this -- this loan for this
19 world, and so you just keep adding 5 percent of the
20 principle, the original principle, each month.

21 If the person pays off part of the
22 loan, then they can only charge 5 percent on the
23 amount of principle that's repaid -- on -- sorry, on
24 the amount of principle not repaid on -- sorry, on the
25 amount of principle not repaid.

1 And there is an argument in the United
2 States that I've read where Pew is concerned that some
3 jurisdictions are -- that some kinds of lenders are
4 stacking. So that what they say is, Oh, you paid some
5 money back, but you didn't pay any principle, it was
6 just repaying the interest.

7 I think it's actually reasonable it
8 becomes all money that they can't collect. So if my
9 example of a hundred dollar (\$100) loan, and I can
10 write this all out for you and -- to -- to make it
11 clearer, in an example of a hundred dollar (\$100)
12 loan you now owe a hundred and seventeen dollars
13 (\$117) on payday.

14 If what you did is you paid back the
15 seventeen (17), this doesn't change the fact that
16 they've still got a hundred (100) out and you've got
17 to pay five (5) -- five dollars (\$5). You now owe
18 them a hundred and five (105). And then next month
19 you owe them a hundred and ten (110) and so on.

20 If, however, what you did you said,
21 Look, I can pay back fifty dollars (\$50). Seventeen
22 dollars (\$17) of interest is paid, thirty-three
23 dollars (\$33) of principle is repaid and now you owe
24 us sixty-seven dollars (\$67) and now it's 5 percent of
25 sixty-seven (67) that we add to it.

1 So whatever they've got at risk in cash
2 is what they get to claim their additional 5 percent
3 per month, or part thereof. I think that will meet a
4 simplicity test for both consumer and lender. You
5 have seen what Al C11 has said about, you know, We've
6 got a bunch of paper and we can't do everything you
7 want us to do.

8 It will be reasonable to the consumer.
9 It is must less than the seventeen (17). This is not
10 rollover. I'm going to charge you seventeen (17),
11 stack seventeen (17) on seventeen (17) so that it'll
12 be one point one seven (1.17) times a hundred and
13 seventeen dollars (\$117) and you're just never getting
14 out of this.

15 It will provide additional income to
16 the lenders who are -- remember, some of these loans
17 are never going to collect now, right. It's just
18 gotten a lot worse. And so in my opinion, given what
19 I've seen in other jurisdictions, and as I said,
20 they're all over the map and I have not recorded them
21 all for you, and what Dr. Buckland and our other
22 testimony said about what can they cope with, what can
23 the borrowers understand, and what can the lenders do
24 in their backrooms without having to, you know, go
25 crazy with complex calculations, I think that would be

1 a reasonable way.

2 And in that case, in terms of the
3 regulations, you would actually remove the part about
4 the 2 1/2 percent interest. You would have now
5 replaced that. I've given you a fee per month, or
6 part thereof. It's actually something like the Cards
7 of Justice Act which uses simple interest and it's the
8 only one I know that does that. And so it's a simply
9 fee, compensates, provides an incentive for the
10 borrower to get this loan paid back, right, so that
11 there is an incentive to get this done.

12 Now, I still like the installments, but
13 you can in fact work this out in the installment loan
14 industry, or they can work it out in the installments
15 as well. They only have to fall -- fall within that.
16 And Washington doesn't appear to specify that the
17 installment is written like we -- you know, we think
18 of a -- a consumer loan.

19 You borrowed a thousand dollars
20 (\$1,000) for twelve (12) months and you pay back a
21 hundred and five dollars (\$105) per month and that
22 pays off the loan, level payments. Washington didn't
23 specify that. You just have to set up a -- a plan and
24 start paying back.

25 So you've got an amount that you have

1 to pay back and you don't change the interest per
2 month and you just -- this is what you owe, this is
3 when you pay it back. I know this is getting pretty
4 complicated to do this in -- in oral. And I -- I --
5 possibly I shouldn't be trying to do it in oral, but
6 here we are, so.

7 MS. KATHLEEN MCCANDLESS: Thank you.
8 Those are my questions for the expert pan -- panel.
9 Thank you very much for your time.

10 DR. JERRY BUCKLAND: Thank you.

11 THE PANEL CHAIRPERSON: Okay. Thank
12 you very much, Ms. McCandless. And now I'm going to
13 turn it over to Mr. Williams.

14

15 DISCUSSION:

16 MR. BYRON WILLIAMS: Yes, we did have
17 an additional undertaking to respond to. And I -- I
18 don't know if it's been distributed or not. That
19 should -- oh, you have it? The panel has it. I think
20 it's marked as Coalition Exhibit 40.

21 And that is the response to the
22 questions posed -- it seems so long ago, by the -- by
23 the -- the panel, I guess on Wednesday, parts A and B.
24 And what I'm going to ask, with the panel's permission
25 is, it's a written response.

1 I thought we would invite Dr. Buckland
2 to take us through fairly briefly just some of the
3 highlights and then on a place or two (2) Dr. Robinson
4 would make some brief interjections.

5 And -- and that's what we propose, if -
6 - I would -- if -- if the panel has any other
7 guidance, but that's what we would suggest.

8 THE PANEL CHAIRPERSON: I think that
9 would be fair. And so I'll turn it over to you, Mr.
10 Buckland.

11 MS. PATTY KO: Sorry, if I just may --

12 THE PANEL CHAIRPERSON: Sorry.

13 MS. PATTY KO: -- interrupt quickly.
14 My apologies. As you will recall, I believe it was
15 yesterday, the CPLA obviously has not had much
16 opportunity to look at it. And we'd simply ask for
17 the opportunity to be able to respond, make comments
18 if necessary, in writing in relation to this
19 undertaking response. Thank you.

20 THE PANEL CHAIRPERSON: Okay. Thank
21 you.

22 MR. BYRON WILLIAMS: And just for the
23 panel, it would be helpful from our perspective to
24 understand kind of the ambit of that and the -- and
25 the timing of that.

1 We would understand it to be -- there
2 is -- this is part of the evidence, and there is
3 material cited in it that is also evidentiary that is
4 certainly in our view open to our friends to -- to
5 comment on and interpret. And they may interpret it
6 differently than we do.

7 We wouldn't see -- from our
8 perspective, we wouldn't advise that it be an
9 opportunity to introduce new evidence. And it would
10 be helpful to get some guidance from the CPLA. Are
11 they seeking till Monday in terms of comments? What -
12 - what -- or perhaps they could provi -- make -- make
13 a recommendation.

14 MS. PATTY KO: And as Mr. Bishop had
15 indicated yesterday, it -- our intention isn't to put
16 in new evidence. But we do want the opportunity to
17 simply review, provide any comments or, you know, any
18 commentary, questions, in that nature.

19 I do also note, and My Friend and I had
20 -- had discussed this briefly, but my understanding is
21 that this undertaking is -- the response to it is a
22 joint effort between obviously all -- all of their
23 experts.

24 And we are aware that, due to various
25 time constraints, only Dr. Robinson and Dr. Buckland

1 are here today. So it puts us in a little bit of a
2 difficult position. We want to be able to review, we
3 want to be able to ask the full ex -- the experts or
4 comment on all of that.

5 And of course in -- in terms of timing,
6 obviously I note that it's -- it's Friday. The
7 availability of -- of different people to comment on
8 that may be limited, but we'll certainly leave that up
9 to the Board.

10 We do note that obviously Monday is --
11 is reserved for the closing, but perhaps something in
12 writing even after that time, depending on the timing.
13 We can certainly work with that. Thank you.

14 MS. KATHLEEN MCCANDLESS: No comment
15 at this time. Perhaps once counsel for the Coalition
16 has reviewed with his witnesses, we'll have some
17 better sense from CPLA counsel as to the extent to
18 which any response might be necessary.

19 MS. PATTY KO: Sure. Thank you.

20 THE PANEL CHAIRPERSON: Okay. Thank
21 you.

22 MR. BYRON WILLIAMS: Yes. And, Dr.
23 Buckland, I'll invite you to go through it and take us
24 through some of the highlights, if you would.

25 DR. JERRY BUCKLAND: Okay. Thank you

1 very much. So there were two (2) undertakings that we
2 were asked to look at.

3 The first one had to do with the data
4 that was referred from the Pew study, and some
5 apparent maybe, tensions, with that data and the data
6 from the Policis study. And then the second
7 undertaking was to look more specifically at the
8 Policis slides.

9 And so on Part A -- so I'm just onto
10 page 2 of the submission -- we want -- I wanted to
11 clarify first of all that the data from the Pew study
12 involves actually seven hundred and three (703)
13 respondents who had used payday loans.

14 And there was a little bit of confusion
15 in my mind because I think four hundred and fifty-one
16 (451) respondents participated in their storefront
17 payday loan survey, and then an -- another two hundred
18 and fifty-two (252) participated in their online
19 payday loan survey. And I hadn't realized about the
20 two fifty-two (252) until I looked more carefully at
21 their fourth report.

22 So their -- their generic website and
23 their first report talk about the in-store
24 respondents, and that's why I had used that number.
25 But in fact the total number of the respondents was

1 seven hundred (700) -- seven hundred and two (702).

2 And so the -- the Pew analysis points
3 to the fact that consumers in the permissive, hybrid,
4 and restrictive states do not demonstrate a
5 significant shift towards internet lending in any
6 great difference.

7 Restrictive states, there was 1.58
8 percent of -- of payday loan respondents who were
9 using internet loans as compared to 1.28 percent for
10 hybrid state consumers, and 1.37 percent consumers in
11 permissive states. So that the fraction of consumers
12 going to internet lending in those three (3) regimes
13 was -- was not very -- was -- was not different at all
14 -- or was very -- the difference was very limited.

15 Now, in the Policis slides, and I'm
16 going to talk about this a little bit more in a
17 minute, the narrative seemed to be somewhat
18 disconnected from the data that I could see when I
19 looked at the data. The narrative was quite firm
20 about the -- the point that the -- in states where
21 there were restrictive regulations, consumers were
22 shifting to internet payday borrowing.

23 When I looked, however, at the slides,
24 I didn't see the data supporting that situation. And
25 in spec -- specifically, I -- I think we talked about

1 slide 21 yesterday where we see that the share of the
2 consumers going to internet lending is pretty similar
3 across the three (3) regimes. Now, remember, the
4 regimes are named slightly differently in the Policis
5 study as compared to the Pew study, but they're --
6 they're representing similar kinds of grades of policy
7 regime.

8 And so what I'm wanting to say in terms
9 of Part A is that from my reading of the two (2)
10 studies' data, I see consistency that in restrictive
11 regimes, I -- from the data, I don't see a big shift
12 towards the -- the internet. So that was kind of the
13 Part A undertaking to first of all clarify the data
14 from the Pew study, and then also to try to reconcile
15 the data from the Pew and the Policis studies.

16 MR. BYRON WILLIAMS: Dr. Buckland,
17 could I stop you there, and perhaps we could go to
18 slide 3 for just sec -- or page 3 of this response.
19 And I just -- there's an interpretation of -- of slide
20 21 in terms of the permissive state's share of sub
21 seven hundred and one (701) F-I-C-O, or FICO, as
22 compared to the share of online payday loan volume.

23 And I wonder if you could just take a
24 second to -- to walk us through that -- that complex
25 discussion.

1 DR. JERRY BUCKLAND: Yes. Well, the -
2 - the Policis slide presents some -- the situation
3 where permissive states as defined by Policis account
4 for roughly 35 percent of the sub seven-o-one (701)
5 FICO, but over 50 percent of the online payday loan
6 volume.

7 Restrictive states as defined by
8 Policis account for roughly 29 percent of sub seven-o-
9 one (701) FICO, but less than 25 percent of the online
10 payday loan volume.

11 And banned states as defined by Policis
12 account for roughly 27 percent of the sub seven (7) --
13 seven-o-one (701) FICO, but less than 24 percent of
14 the online payday loan volume.

15 And if I could just quote what we've
16 got here from Dr. Simpson, which is just below this,
17 he points out that the -- the data in this particular
18 slide, number 21:

19 "Sug -- is suggesting that there is
20 no correlation between restrictive
21 band regulation and unlicensed loan
22 as a percentage of loan volume. In
23 fact, as above, loan volume may be
24 as much -- sorry -- may be much
25 lower in restrictive ban states,

1 implying that the level of
2 unlicensed lending is lower in terms
3 of number of loans in these states
4 than in restrictive states."

5 So if I could then move to Part B of
6 the undertaking, which then is to look more thoroughly
7 at the Policis slides, and that starts on page 4 of
8 the undertaking, so there's basically six (6)
9 different features of -- of the analysis here.

10 The first feature is that the Policis
11 slides ignored the situation in the United Kingdom.

12 And --

13 MR. BYRON WILLIAMS: I wonder if we
14 could just move to the -- the next slide, Diana, if
15 you don't mind, just so that folks can follow along
16 with you, Dr. Buckland.

17 DR. JERRY BUCKLAND: Yeah. So the --
18 those are the six (6) bulleted points that I want to
19 walk through. And then if you just go down a little
20 bit more, Diana, please, the first point is the United
21 King (sic) experience -- United Kingdom experience was
22 ignored by the Policis slides.

23 And the point here is that the Policis
24 conclusion is that, if storefront payday lenders are
25 restricted by onerous regulations, internet lenders

1 will take over the business and that they will charge
2 higher rates, invade privacy, and threaten borrowers
3 with identity theft.

4 Although that may happen in some cases,
5 Policis has not demonstrated that this is happening or
6 that giving more money to storefront lenders will stop
7 the internet. A major counter-evidence to the
8 conclusion that Policis attempts to reach is the
9 experience in the UK. The UK only imposed serious
10 regulation very recently, at the beginning of 2015.

11 But Policis' evidence and the evidence
12 from Dollar Financial Group is that the great majority
13 of lending in this area on the internet before payday
14 lending became seriously regulated.

15 So this is, I think, one (1) important
16 feature what's happened in the United Kingdom. A
17 second feature has to do with the evidence that's
18 coming from Dollar Financial Group. Which if you
19 scroll down to the table, Diana, just -- yeah, that's
20 perfect, where we see the internet loans as a
21 percentage of total by different jurisdictions, we see
22 that the internet loans as a percent in Canada are 5
23 and as a percent in the US are 10 percent.

24 And so even though Canada generally is
25 more permissive in its regulations, we see the

1 internet lending as a percentage of the total as being
2 lower. So this would provide some evidence to counter
3 the narrative in the Policis slides.

4 So --

5 MR. BYRON WILLIAMS: Before you --
6 just leave that slide in. Dr. Robinson, I don't know
7 if you have anything to comment. There's a stark
8 difference for the Dollar Financial Group results from
9 UK and Europe, I'll suggest to you, with internet
10 loans being up to 63 percent.

11 Is there anything more you want to add
12 on that or...?

13 DR. CHRIS ROBINSON: The young lady
14 from Policis claimed, if I recollect correctly, I
15 think it is on one (1) of her slides, that it's now 80
16 percent in the UK, which is certainly quite possible.
17 Internet lending was growing fast, we've all agreed
18 upon that, but the rapid growth appears to be other
19 than Canada and the United States.

20 Remember this is a highly organized,
21 capable company. Dollar Financial knows what it's
22 doing. And it has a reputation which you would think
23 would tend to bring people to it online to some
24 extent, and they have the resources to do it. And
25 nonetheless, they could -- they're only cranking out

1 10 percent in the US, and 5 percent in Canada.

2 Divide that 5 percent up. There can't
3 have been a whole lot of loans that they were making
4 to Manitobans. And while, yes, there could be other
5 lenders doing it and it's certainly accessible to
6 them, it's hard to believe that Dollar Financial would
7 not be capturing a lot. So it does appear to be a
8 phenomenon that's happening outside Canada and the
9 United States much more than here.

10 That could have changed. We don't have
11 current data. Nobody has access to all the data of
12 online lending. But it's very suggestive, especially
13 since UK and Europe were not regulated, and yet that's
14 where all the internet lending's happening for this
15 one (1) company. And these remember -- this -- by the
16 way, this -- this data is from the audited portion of
17 the 10-K.

18 MR. BYRON WILLIAMS: Thank you.

19 DR. CHRIS ROBINSON: So this was in
20 fact verified by the auditors.

21 DR. JERRY BUCKLAND: So then if we
22 move down to the next point. And that has to do with
23 the -- the Clarity data as identified by Clarity
24 itself. So what we -- what we found was that the CEO
25 of Clarity, Mr. Tim Ramney (sic), was cited recently

1 basically saying that there are limits to the quality
2 of the data that they collect. And so I'll just read
3 the quote from Mr. Ramney (sic) where he says:

4 "We are unable to analyze any
5 sampling bias that exists in the
6 self-selection of a hundred and
7 twenty-six (126) lenders to report
8 to the Clarity system as opposed to
9 other non-prime credit reporting
10 agencies or to the agency at all.
11 Clarity requires reporting of trade
12 lines in order receive reports.
13 Other non-prime credit reporting
14 agencies may not impose such a rule
15 which may affect selection of
16 Clarity system by lenders."

17 So the issue here is that they cannot
18 report about the quality of their sample, they -- they
19 don't know. And, as researchers, we would want to
20 understand what are the limitations of their sample
21 and are there biases. And it's not to say that there
22 -- there aren't biases. But it's important to
23 identify what those biases are and to understand how
24 that affects the quality of the data.

25 So the Clarity CEO himself is saying

1 that he -- basically, he can't really report on the
2 quality of his data.

3 And then related to that point is that
4 it's not just clarity that has some concerns reg --
5 regarding the quality of their data. The United
6 States Consumer Financial Protection Bureau has
7 concerns regarding -- regarding the quality of their
8 data.

9 And so as a result, the Consumer
10 Financial Protection Bureau has created a consent
11 order in December of 2015. And in that consent order
12 they have identified some concerns that they have with
13 the quality of the data. And these concerns are
14 highlighted on page number 8.

15 And so if I can read some of these
16 concerns. The first full paragraph on the top of page
17 8 it says that:

18 "In finding a violation of Section
19 611 of the FCRA, the CFPB found that
20 Clarity had failed "to promptly
21 delete inaccurate, incomplete, or
22 unverifiable information."

23 So that is one (1) concern. CFPB made
24 the following findings with regard to Clarity data and
25 you -- you can see the points there. I'll maybe just

1 highlight the last point:

2 "Clarity failed to meet it's
3 reinvestigation obligations even
4 though it was aware that information
5 in Clarity's consumer file was
6 provided by or generated by
7 unreliable sources including
8 inaccurate data from furnishers."

9 And so this is pointing again to the
10 CFPB's concern about the quality of Clarity's data.

11 MR. BYRON WILLIAMS: Dr. Buckland,
12 just in terms of the date of the consent order, do you
13 recall when that was?

14 DR. JERRY BUCKLAND: The -- the
15 consent order was dated December 1st, 2015, so just
16 three (3) -- three (3) months ago.

17 MR. BYRON WILLIAMS: And in fairness
18 to Clarity, they're agreeing to the -- consenting to
19 the fine. They -- when they sign -- you'll agree with
20 me, Dr. Buckland, they may not be accepting the
21 findings, but that -- those were the findings of the
22 CFPB?

23 DR. JERRY BUCKLAND: That -- that's
24 what I understand. Okay. And then in terms of the
25 actual use of the data, in terms of the -- the slides

1 that we saw -- and -- and if I could just backup for a
2 moment, I guess as a researcher, what I would have
3 preferred to see is a report where there's detailed
4 information about the methods, where they came from,
5 how they were collected, how they were analyzed, and
6 limitations.

7 Because we, as researchers realize
8 there's always limitations in terms of data, in terms
9 of analysis, et cetera, but what we saw were just
10 slides. But here are some of our concerns in terms of
11 the data and its analysis.

12 First of all, there were no standard
13 statistical tests undertaken of the quantitative data.
14 And Dr. Simpson, in his presentation, underscored the
15 importance of employing statistical tests to examine
16 correlation, causation, those types of issues. We
17 didn't see that kind of thing done with this data, so
18 that was a limitation.

19 Secondly, the qualitative data was -- I
20 had a question regarding how the qualitative data was
21 collected. Well, first of all, how the key informants
22 were identified, recruited, and then how the data that
23 they provided was analyzed, and then how the quotes
24 were -- were taken.

25 And so it's not to say it wasn't using

1 proper social science methods. It's simply to say I
2 don't know how it was done. I was presented with a
3 number of quotes and I just didn't know how they were
4 generated.

5 The link between restrictive licensing
6 and online borrowing in the data was not established
7 and I think we've made that point a few times. And
8 then in terms of the specifics, there are some
9 specific issues that we -- we raise. And I don't want
10 to take your time on these specific issues, because
11 we've gone through them already in some cases.

12 MR. BYRON WILLIAMS: Dr. Buckland, I -
13 - I think it would be useful to go to the discussion
14 relating to slides 26 and 27, because -- if you could,
15 both in terms of the -- the issue related to
16 conflation as well as the issue that -- relating to
17 the -- the other issue identified there, if you don't
18 mind.

19 DR. JERRY BUCKLAND: Absolutely. So
20 in slides 26 and 27 on the right-hand side there were
21 --

22 MR. BYRON WILLIAMS: And if I could
23 just stop you, and I apologize. Diana, I think tho --
24 that slide, at least slide 26 is probably in this
25 response. But you're even quicker. Thank you. That

1 looks like slide 21, so if you keep going. Keep
2 going, please.

3 Here's slide 26, I believe, Dr.
4 Buckland.

5 DR. JERRY BUCKLAND: Yeah, and I
6 apologize for these being copied and pasted into the
7 report. We did source them, but they're direc -- from
8 the slides. They are directly from the slides. They
9 are not a reproduction.

10 And so the -- both of these slides
11 present interesting data, and -- and they're useful
12 but they're not sufficient for me to understand
13 clearly what they say. And they do not provide enough
14 information in my mind to support the narrative that
15 goes along with these slides.

16 And so -- so two (2) points in terms of
17 this slide. First of all, you see that the data's
18 been categorized into permissive states on the left-
19 hand side. And then on the right-hand side, the
20 data's been com -- combined, restrictive and banned
21 states.

22 And so I don't quite understand why --
23 if we're using three (3) regimes, if we're looking at
24 three (3) regimes, why not have three (3) bars rather
25 than two (2)? And why combine the restrictive and

1 banned data together?

2 I -- I don't understand the rationale
3 for this. I find it confusing. It would be much
4 clearer to me if those data were separated because
5 that's the whole premise of this analysis, to have
6 three (3) regimes. So I'm -- I'm concerned about
7 that.

8 And additionally, I'm concerned about
9 the fact that what we have here are percentages and we
10 don't have volumes. And so, for instance, the -- the
11 statement that the -- in the banned and restrictive
12 states, people are moving to internet lending in a
13 large way, I don't know how many consumers are moving
14 there, and I don't know what the volume of loans is
15 there.

16 All I know is the shares from this
17 data. And so is it one (1) person? I'm -- well,
18 obviously, that's a great exaggeration. Is it ten
19 (10) people or is it a million people? I -- I can't
20 say. I just know the shares. And so that was a
21 concern that I had.

22 And I can't tell from this data what
23 the result is. And I just don't see sufficient data
24 here to support the narrative in the slides
25 themselves.

1 MR. BYRON WILLIAMS: Thank you, Dr.
2 Buckland. That was a hard job. And thank you, Dr.
3 Robinson, as well.

4 DR. CHRIS ROBINSON: You invited me to
5 comment on this.

6 MR. BYRON WILLIAMS: Darn --

7 DR. CHRIS ROBINSON: Well, yes. Well,
8 no, you don't have to. You're -- you're --

9 MR. BYRON WILLIAMS: Dr. Robinson,
10 your -- your re -- your insight is always appreciated.

11 DR. CHRIS ROBINSON: Well, I'm -- I'm
12 a very simple man, and -- and so I'm going to appeal
13 to common sense.

14 And the first thing I might ask
15 everybody here -- it's the sort of thing I do in the
16 class -- is: How many of you have checked your credit
17 reports with either TransUnion or Equifax? Has
18 anybody here done that? Okay.

19 What I really want to ask you as
20 experts in your own limited experiences: Were they
21 right? Oh, you don't know. Okay. Well, mine was
22 not. It turned out not to be material in my case. I
23 haven't -- I don't borrow money, I lend it, but in
24 case anybody is in trouble, I can help you out.

25 I have talked to the people involved

1 with this. It's dirty data and it's because of the
2 nature. In fact, if you were to put -- if you were to
3 ask Al C11 to testify about the quality of their own
4 data, they would admit, if they had to report to that,
5 they wouldn't be sure they'd get it all right. In
6 fact, they virtually said that in their pre-filed
7 testimony.

8 So my job par -- at this point for the
9 Board is perhaps partly to advise you what information
10 and evidence presented to you do I think you should
11 pay attention to, now, leaving aside of course, you
12 know, my own -- my own work.

13 So let's think about -- and -- and the
14 tests are very simple, in my opinion, not complex.
15 Dr. Buckland has talked to you about social science
16 research, but I'll just talk to you about Does it seem
17 to agree with other stuff we've heard? And is there a
18 reason for it?

19 I can -- give me a computer and a bunch
20 of data and I can give you correlations and
21 statistics, and tell you any store you like. You just
22 keep searching until it works.

23 But is there a reason for it? Long-
24 term capital management. A huge bankruptcy that
25 threatened the world financial system in the US was

1 because a bunch of Nobel prize winners did not
2 understand that correlation does not mean there's any
3 reason for it.

4 So Al C11 has told us a story about a
5 small operation with certain challenges that are
6 concerning them. What they said agrees with what we
7 have heard from lenders -- or sorry from borrowers,
8 from other lenders, from all sorts of sources. And
9 when we think about how a small business operates and
10 what it would do in this business, we all know a lot
11 about pay lend -- payday lending now, what they say
12 makes sense.

13 We would expect to see these. We would
14 have an a priori economic expectation that the thing -
15 - sorts of problems and things they're saying are
16 valid. So when Ms. McCandless was asking me about
17 their evidence, I took it very serious. And that was
18 actual evidence. It was pre-filed and sworn.

19 Now, think about the oral test -- the
20 oral account given by Cash Money, who's --
21 unfortunately who I've hurt their feelings by not
22 perhaps choosing my language carefully enough, but
23 what did I do with that? I looked at it and said:
24 This looks like the other evidence I've got, so I'm
25 going to use it. And I'm going to present it to you

1 even though it hasn't been sworn, even though I don't
2 have the audited statements. I will present it to
3 you, and use it.

4 Very risky sort of thing to do, but I
5 like taking risks. And so that evidence likewise made
6 sense. It looked like this was the business. We were
7 looking at the business of Cash Money. And so
8 therefore again it seems to me quite credible.

9 Now I come to the Policis evidence.
10 You've heard what Dr. Buckland has had to say. It
11 doesn't seem to agree with other things we've seen.
12 It has avoided looking at -- looking -- searching for
13 things to -- you know, to object to it, unlike us who
14 have searched and the -- and the Coalition have
15 searched for the things that might not match up, who
16 have put in front of you people whose testimony we
17 could not control.

18 But most important to me the story is:
19 Don't restrict the payday borro -- lenders. Give them
20 high rates. And they will magically protect you from
21 the boogeyman of the Internet, how are they going to
22 do that by that means. And there, there is no
23 economic reason how or why that will work. And,
24 indeed, the evidence in the UK seems to say it -- it
25 doesn't happen that way.

1 So as -- in contrast to the other
2 evidence we've seen, which is of course more -- is
3 Manitoba based, this evidence which is drawn from
4 elsewhere does not seem to have a common -- either an
5 agreement with what else we've seen or have a common
6 sense economic reason why that story should actually
7 be true.

8 Why would it -- why would that
9 protection work? Are payday lend -- are the payday
10 lending stores such good Samaritans that they are
11 going to slay the Internet boogeyman? They're of
12 course very worried about it. Understandably. It
13 attacks their own business.

14 But quite aside from that, what says
15 that if we change the regulations it will protect
16 them? I don't know how we deal with the possible
17 threats of the Internet. I think given the loan
18 losses we find the Internet is not as big a deal, and
19 that a lot of them just go bankrupt. We won't even
20 hear about it. They just stop business.

21 But changing your regulations in fear
22 of the Internet, I don't buy the Policis's story
23 because I don't see either the evidence or the common
24 sense behind the story that I'm being told in contrast
25 to the stories that I have heard from the other

1 evidence provided not just by my colleagues, but
2 provided by the CPLA and by A1 C11. And by the people
3 that have -- have spoken in front of you, even if they
4 have not been under oath.

5 MR. BYRON WILLIAMS: I'm sorry. I
6 need some guidance. I only have one (1) or two (2)
7 questions of re-direct. I don't -- and -- and my
8 memory is escaping me. I'm not sure, should I do it
9 now and then leave it to the -- let me back up. But
10 for redirect, I am -- I have completed my examination
11 of the witnesses. It may be open to Ms. McCandless,
12 the Board, or the CPLA to ask some additional
13 questions.

14 I'm just notifying you I have two (2),
15 perhaps three (3) questions, of redirect at the end of
16 the -- at the end of the matter.

17 MS. KATHLEEN MCCANDLESS: I mi -- I
18 might suggest that, given the concerns raised by Ms.
19 Ko with respect to the introduction of the undertaking
20 this morning, that she simply advises to whether she
21 has any questions of the panel arising out of the
22 under -- undertaking; I myself do not, so.

23 MS. PATTY KO: In -- in light of the -
24 - the undertaking, the written portion of it, and Dr.
25 Buckland and Dr. Robinson's evidence-in-chief, if I --

1 if I can call it that, my client does require some
2 time to review that undertaking as well as, obviously
3 when the transcripts become available, review what was
4 -- what was said in that before we can give a full
5 response.

6 So specific to that, what I propose is,
7 in terms of me asking questions today, I don't think
8 that will be productive in relation to that. Perhaps
9 on that point we can simply proceed with written and
10 closing argument on -- on Monday, obviously, and
11 perhaps with the -- with the Board's indulgence, give
12 my client until next Wednesday to respond in -- in
13 writing if there are any comments or -- or whatnot in
14 relation to that undertaking.

15 MS. KATHLEEN MCCANDLESS: Mr.
16 Williams, do you have any comments with respect to
17 that?

18 MR. BYRON WILLIAMS: I think I would
19 like to take -- reflect with my clients on that. I --
20 I'm not -- I'll offer some preliminary views. And
21 again, our client did not invite Policis. Our client
22 didn't pay for Policis to attend. And our client
23 didn't avoid the evidentiary process.

24 I certainly sympathize with My -- My
25 Friends, but I -- I would observe that it is an issue

1 that I believe that the CPLA authored. And we heard
2 the -- the frank comments of the -- the chairperson in
3 terms of how that information was anchored in the --
4 to the Board's attention, which was a grave unfairness
5 to our clients outside the well-established rules.

6 By -- not by a -- if that was a C11,
7 that would not be an issue for us. We would -- you
8 know, we would expect that, but not from sophisticated
9 Intervenor like the CPLA, so that is problematic for -
10 - for our clients. I can try and contact them over --
11 over lunch, but I do not have in -- instructions to go
12 to the Wednesday.

13 And I -- I try to be sympathetic and
14 fair on this one. I think I may have challenges with
15 my client.

16 THE PANEL CHAIRPERSON: I think we'll
17 take a moment with our panel here to decide what we're
18 -- what we're --

19 MS. PATTY KO: And -- and if I -- if I
20 may, simply for clarity, we're not trying to take the
21 opportunity to quote/unquote, "defend the Policis
22 presentation." We recognize Ms. Ellison and Policis
23 for what they are. They are presenters.

24 The difficulty that I'm dealing with
25 here is I'm just -- I'm facing new information that we

1 just recently got. We have an incomplete panel who
2 all put their input into this -- this written
3 response. And -- and in light of the -- the verbal ex
4 -- evidence put into today and the response, we were
5 simply asking for time to review both the written
6 response as well as the transcripts.

7 And it might very well be that we may
8 have no further commentary or anything of that sort,
9 but it's simply an opportunity for my client to be
10 able to fully review what has been put in today.

11 MR. BYRON WILLIAMS: And I'll simply
12 reinforce that, if -- if you're paying for someone to
13 come here, it's incumbent upon you to have a mastery
14 of -- of the strengths and weaknesses of that
15 information. And I'll leave it at that.

16

17 (BRIEF PAUSE)

18

19 MR. REGIS GOSSELIN: Before we --
20 before we close today I wanted to ask some questions
21 in relation to the letter we received this morning
22 from Ms. Soper. And I -- and I think you indicated
23 that you probably had the wrong choice of words with
24 respect to --

25 DR. CHRIS ROBINSON: Oh, I'm not sure

1 that I did. I regret if it was --

2 MR. BYRON WILLIAMS: Let -- let --

3 DR. CHRIS ROBINSON: I'm sorry.

4 MR. BYRON WILLIAMS: -- let him finish
5 the question, please.

6 MR. REGIS GOSSELIN: But what I simply
7 wanted to -- to ventilate with you is the -- is the --
8 you're approaching the data from one (1) perspective.
9 I mean, you're doing it from -- from your experience.
10 She is approaching the information from a different
11 experience. She's running the place.

12 She's one of the ones -- one of the
13 people running the place. And so -- so beyond the
14 return that they're getting, which you've indicated is
15 -- is the right return, she may be saying, you know,
16 the -- the return is only one (1) element of a
17 decision-making process.

18 They may have trouble getting staff.
19 They may have trouble, you know, meeting government
20 regulation and so on. And from that standpoint she
21 may very well be right that -- that they're hanging on
22 by a thread.

23 You know, the return that -- that
24 they're earning doesn't justify their presence in the
25 Manitoba marketplace. So I just want to -- you will

1 concede that she may be approaching the decision from
2 a very different standpoint than you would be as the
3 economist and accountant?

4 DR. CHRIS ROBINSON: Well, I can only
5 comment from the point of view of what the numbers are
6 that she presented, the values that she presented and
7 which I then analyzed in what I believed to be the
8 appropriate decision-making context, which is, are you
9 earning your cost of capital. Are you earning more or
10 less than the cost of capital.

11 Her own evidence is that she is earning
12 more than her cost of capital. And my evidence also
13 says that she's overstating her cost of capital.
14 After all, she doesn't encounter it, it is something
15 imposed by her head office. So this is not her
16 evidence, in fact. This is her head office saying,
17 You cover this percent -- this amount of our head
18 office costs and you -- and this is the cost of
19 capital.

20 So head office can say to anybody, Yes,
21 your cost of capital is 25 percent. We expect you to
22 earn that rate of return. That doesn't mean that
23 that's a fair and just rate for Manitoba. So I don't
24 accept her -- the conclusion she draws from the
25 numbers she presents, that they are hanging on by a

1 thread.

2 If that's their decision, that would
3 not be a -- a well informed and rationale business
4 decision. They're doing fine. However, what her
5 evidence shows, taken in conjunction with my own, is
6 that there's certainly an -- and argument that -- that
7 we might not go to 15 percent.

8 And it all hinges, not on the cost of
9 capital, or getting staff. It actually hinges on that
10 bad debt rate, as we saw. And they're doing a lot
11 worse than Money Mart and even worse than Cash Store
12 was, but maybe that is the reality. And that, of
13 course, I simply can't judge.

14 I said her story was credible, as I
15 could use the numbers, and it was because that when I
16 re -- engineered them they all looked like they could
17 be a reasonable rep -- you know, a reasonable -- this
18 is what's happening, especially since the bad debt
19 rates look higher than two (2) people, but in the same
20 sort of numbers, right. We're not talking a half a
21 percent or .1 percent like a bank.

22 We're not talking 20 percent like an
23 internet lender. We're talking something 4.4 percent,
24 which is about what British Columbia is showing across
25 its whole system. So I'm -- so that's why I could use

1 those numbers, because it -- it fit everything.

2 As to are there other parts of her
3 decision, is she burned out, what that would say is is
4 she being paid enough, are her staff being paid enough
5 to in fact do this job and are people quitting all the
6 time and this job -- this business -- and that's
7 something, of course, I can't answer to and she didn't
8 really speak about.

9 MR. REGIS GOSSELIN: I think the issue
10 is -- I get the sense from the letter that her
11 truthfulness was disparaged. And because of that she
12 feels it's important to provide data to confirm the
13 truthfulness of her testimony.

14 And so -- so it's really about that
15 issue, I think. And -- and that's why I want to make
16 sure that you're not questioning the truthfulness of
17 her testimony, you're questioning the analysis that
18 was done of the -- of the data.

19 DR. CHRIS ROBINSON: Absolutely. I
20 would -- if I were -- if I had the kind of doubts
21 about her work that I -- about her statement that I
22 have about Policis's statements, I would not have done
23 what I did in front of the Board.

24 And it took me some time to decide
25 that, to -- you know, to do the manipulations. You

1 know, Mr. Williams doesn't give me time to -- to
2 sleep, and so I -- he doesn't give himself time to
3 sleep either. So I was able to do that and satisfy
4 myself that the story -- I mean, I'm talking stories -
5 - that the story is a credible one.

6 And so I'm sorry and -- I don't -- I
7 think the -- the -- I think the transcripts will show
8 that I said that she's drawing an incorrect inference
9 from the data. But in any case, I'm quite happy to
10 apologize openly that I did not intend to inspair --
11 disparage her.

12 I did not at the time feel that there
13 was anything untruthful about what she was saying. I
14 knew instantly that I would tell a different story
15 from that data because she's drawing the wrong
16 inference, in my opinion, but I thought, hey, this
17 sounds -- right on the face of it -- I mean, I took
18 those notes because, hey, somebody's actually finally
19 talking to me, and I continue to -- to believe that.

20 So I'm actually concerned whether she
21 submits that data or not. I think it would be better
22 if she did, but if I don't see it and instead Mr.
23 Cathcart and -- and Grace and the Board staff analyze
24 it and discuss it with you, that will not concern me
25 in the least.

1 (BRIEF PAUSE)

2

3 THE PANEL CHAIRPERSON: We're just
4 going to step down for a minute. Did you want to make
5 one (1) comment, Mr. Williams, before we --

6 MR. BYRON WILLIAMS: I just wanted to
7 -- and we'll certainly be pleased -- we'd be honoured
8 to convey that to Cash Money, but we appreciated the -
9 - the time that that witness spent and -- and the
10 opportunity to use information from another lender.

11 And the -- the fact I wasn't jumping up
12 and down, although I may have had a few heart
13 palpitations when Dr. Robinson did it, I think should
14 be a reflection of the -- the -- that our client felt
15 that that information was -- whether we agreed with
16 the conclusions, that it was representative of one (1)
17 reality in the industry. So I'd --
18 I'd just like to indicate that.

19 THE PANEL CHAIRPERSON: Okay. Thank
20 you, Mr. Williams. We're just going to step down for
21 a minute.

22

23 --- Upon recessing at 12:00 p.m.

24 --- Upon resuming at 1:20 p.m.

25

1 THE PANEL CHAIRPERSON: Welcome back,
2 and thank you for indulging us. I would like -- I
3 have something -- the Board has made some decisions
4 around some of the material, and I just want to report
5 on that.

6 The Board understands that counsel for
7 the CPLA has requested until Wednesday of next week to
8 provide written argument in response to the
9 undertaking -- undertaking given by the Coalition this
10 morning with respect to the information presented by
11 Policis. The Board has heard from counsel from CPLA
12 that the CPLA is not asking for time to file
13 additional evidence, but only time to respond in
14 argument.

15 With that in mind, and given the
16 Board's hearing schedule in which five (5) days have
17 been set aside for the hearing, the Board expects that
18 all Intervenors will be ready to proceed with closing
19 submission on Monday, April 18th, at which time all
20 issues before the Board shall be addressed by the
21 Intervenors.

22 As such, the Board is not prepared to
23 allow the request for additional time from counsel for
24 the CPLA. The Board is mindful that the parties may
25 be addressing the information from Policis in closing,

1 but it is also mindful that the information was in the
2 form of a presentation.

3 The Board also received correspondence
4 this morning from Melissa Soper of Cash Money in which
5 she expressed concerns about some testimony given by
6 Dr. Robinson. The letter was read into the record
7 this morning by Board counsel, and in the letter, Ms.
8 Soper offered on behalf of Cash Money to provide the
9 Board with financial information in confidence to
10 address some of what Dr. Robinson raised.

11 The Board understands that there is no
12 objection from counsel for either the Coalition or the
13 CPLA, should the Board wish to accept Cash Money's
14 offer. The Board wishes to take up Cash Money's
15 offer, and intends to review the financial information
16 in confidence, appreciating that this will be
17 information to the Board but not evidence filed by an
18 Intervenor.

19 So those are my comments as to -- in
20 terms of the Board's decision in those two (2)
21 matters.

22 Now, I'd just like to go to Ms. Ko. I
23 understand you have something to enter on the record?

24 MS. PATTY KO: Yes, thank you, Madam
25 Chair. For the record, and I think it's been

1 distributed to be entered as CPLA Exhibit number 13.
2 As you will recall, yesterday the CPLA gave an
3 undertaking to provide some of the reporting
4 requirements across the country, and you have before
5 you the standard reporting requirements in a chart
6 form for BC, Nova Scotia, and Ontario.

7 My understanding is that none of the
8 other provinces have similar requirements, and that's
9 why you don't find other provinces on this chart.

10 Thank you.

11

12 --- EXHIBIT NO. CPLA-13: Standard reporting
13 requirements in chart form
14 for BC, Nova Scotia, and
15 Ontario

16

17 THE PANEL CHAIRPERSON: Thank you very
18 much for that information. Now, I'd like to call upon
19 Mr. Williams. I believe you have a -- a couple of
20 questions for re-direct?

21 MR. BYRON WILLIAMS: Yes, and -- and
22 thank you.

23

24 RE-DIRECT EXAMINATION BY MR. BYRON WILLIAMS:

25 MR. BYRON WILLIAMS: I'm going to ask

1 -- I want to pull up a couple of questions from Board
2 counsel yesterday to -- to Dr. Robinson. And -- and
3 I'll -- I'll ask Diana to pull up and draw to the
4 attention of Dr. Robinson the response to PUB/CPLA-I-
5 IR-15, which is the '07/'08 Deloitte report. And
6 perhaps, Dr. Robinson, I'll direct your attention to
7 page 9 of that report.

8

9

(BRIEF PAUSE)

10

11

MR. BYRON WILLIAMS: Diana, if you
12 would go on one (1) more page, please. Maybe my
13 pagination is different. Keep -- keep going down on
14 that page, please.

15

16

(BRIEF PAUSE)

17

18

MR. BYRON WILLIAMS: Well, actually I
19 want to -- I want to keep going. I apologize, just
20 one (1) second, please. Diana, it's just back two (2)
21 pages from that. My -- my bad. It's under Section 4.
22 And one (1) more page. Right there. Thank you.

23

24

25

Dr. Robinson, without asking you to
elaborate, I'll just ask you to confirm that you
recall a conversation with Board counsel in which you

1 were asked to consider the utility of the '07/'08
2 Deloitte report which was filed in the -- in -- in the
3 -- in terms of Manitoba data that was filed in the
4 first payday lending hearing in this province?

5 DR. CHRIS ROBINSON: All I can testify
6 is that I recall that something was said.

7 MR. BYRON WILLIAMS: Okay. Thanks.

8 DR. CHRIS ROBINSON: I can't remember
9 what it was.

10 MR. BYRON WILLIAMS: Okay. Well, I'll
11 ask you to accept, subject to check, that you were not
12 prepared to accept the -- the validity of that report.

13 Would you accept that, subject to
14 check?

15 DR. CHRIS ROBINSON: Oh, I'm sorry.
16 You don't need to check that. Yes, that's what I
17 said. I couldn't remember what Board counsel asked
18 me.

19 MR. BYRON WILLIAMS: Yeah. Fair
20 enough. And the question was imprecisely put. And
21 constraining you to that specific issue, Dr. Robinson,
22 I would ask you to provide some insight to the Board
23 in terms of why you were uncomfortable using this as a
24 -- a source.

25 DR. CHRIS ROBINSON: At the top of the

1 table, it says, "Based on all five (5) responses." In
2 another part, it tells you that they contacted
3 thirteen (13) payday lenders and got five (5)
4 responses. They attempted to contact people who were
5 not members as well, which, by definition, would have
6 meant Cash Money -- or, sorry, Cash Store Financial.
7 I think it's Rent Cash then.

8 The -- I don't think thirteen (13) is
9 even the full number of stores that were -- of
10 companies that were operating. But I don't think
11 that's important. However, they received only five
12 (5) responses.

13 You can see from this table that the
14 total loan volume was 7.8 million, and the per-store
15 average was seven hundred and fifteen thousand
16 (715,000). We know that those numbers are not in the
17 least representative of the Manitoba market. These
18 are among the smallest stores in Manitoba.

19 Money Mart, Cash Money, and Cash Store
20 Financial were not in this sample. In fact, you know,
21 if I were to give you some guesses, I could guess even
22 who's in it. But they are small stores, so it's quite
23 unrepresentative.

24 In particular, it doesn't address the
25 issue that I said that we need an efficient lender so

1 that there isn't enough information here for me to
2 rely on any part of it. Even the average loan size is
3 well below two sixty-eight ninety-nine (268.99), well
4 below the average loan size that the industry and I
5 were quoting at the time, which was more like three
6 fifty (350).

7 So this is not a representative sample,
8 and therefore I'm not -- I was not willing to rely
9 upon any of the data from it. Some of it does seem
10 like it might be the same as everybody else's, but in
11 the most part, it contradicted the data and certainly
12 did not agree at all with the data that I had from
13 Money Mart which is not in this sample.

14 MR. BYRON WILLIAMS: Thank you. And I
15 have no further questions.

16 THE PANEL CHAIRPERSON: Okay. Thank
17 you very much. Okay. And, yes, is there any --
18 anybody from the panel have any questions? Thank you.

19 I'll turn it over to Ms. McCandless
20 then.

21 MS. KATHLEEN MCCANDLESS: I believe
22 that then completes the evidentiary portion of the
23 hearing, so we will resume on Monday morning at 9:00
24 a.m. for closing.

25 I understand that counsel for CPLA will

1 not be present, but Mr. Bishop will be here.

2 MS. PATTY KO: Sorry, Mr. Keyes will
3 be here.

4 MS. KATHLEEN MCCANDLESS: Pardon me.
5 Mr. -- Mr. Keyes, and that counsel for CPLA will
6 advise the Board as to whether or not they intend to
7 make any submissions via teleconference on Monday.

8 DR. CHRIS ROBINSON: May -- may the
9 panel -- may -- say one (1) more thing? On behalf of
10 the panel -- and I know I'm speaking for all four (4)
11 of us -- we are enormously appreciative of the high
12 quality of support and attention that we have received
13 during the hearing, okay, from the advi -- from the --
14 the consultants, from the gentleman who has been so
15 accurately capturing what we are saying and getting
16 our spellings correct, from Mr. Christle who I hope is
17 going to pay me, from Diana who has brought up things
18 faster than we could imagine possible, from counsel
19 for CPLA, who has been so careful with us, and from
20 the panel, who paid so much attention, stayed awake
21 during all of our boring discussions.

22 We feel that we have been treated
23 really wonderfully well. And we are very appreciative
24 of everything that all of you have done for us. Thank
25 you.

1 THE PANEL CHAIRPERSON: Okay, on that
2 note, I also would like to thank both Dr. Robinson and
3 Dr. Buckland for being here and providing us with this
4 information. And I understand you won't be here on
5 Monday, so enjoy -- are you both in the coun -- in the
6 city? Or one (1) of you's going away and -- are both
7 of you --

8 DR. CHRIS ROBINSON: I will be marking
9 final exams.

10 THE PANEL CHAIRPERSON: He might have
11 some fun; I won't be.

12 MR. BYRON WILLIAMS: We're sending one
13 (1) of them away.

14 THE PANEL CHAIRPERSON: Anyway, thank
15 you. And I'd also like to thank Ms. Ko for her
16 participation. We appreciate that very much. And I
17 don't know whether the rest of you will be here for
18 closing submissions or not, but we really appreciate
19 having an audience. We don't often get a very large
20 audience for our hearings so it is really good to see
21 people from the industry and citizens, et cetera, here
22 in this forum.

23 So thank you very much. And we will
24 see you on Monday at 9:00 a.m. for those that will be
25 participating in the closing submissions. And I thank

1 the panel for continuing. And I hope we all have a
2 good weekend despite the marking.

3

4 (PANEL STANDS DOWN)

5

6 --- Upon adjourning 1:32 p.m.

7

8

9

10 Certified correct,

11

12

13

14 _____

15 Robert Keelaghan, Mr.

16

17

18

19

20

21

22

23

24

25