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MANITOBA PUBLIC UTILITIES BOARD

Re: TO DETERMINE ALLOWABLE FEES
FOR CASHING GOVERNMENT CHEQUES

Before Board Panel:

Graham Lane	- Board Chairman
Monica Girouard	- Board Member
Susan Proven	- Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
April 17th, 2006
Volume IV
Pages 671 to 779

APPEARANCES

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7 Paul Edwards) MoneyMart
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1 --- Upon commencing at 10:07 a.m.

2

3 THE CHAIRPERSON: Okay. Good morning
4 everyone. We are here to conclude the public phase of
5 the Public Utility Board hearing on the topic of the
6 cashing of government cheques. So we will begin with Ms.
7 Southall's review of outstanding items and comments and
8 then we will hear from the Intervenors as we have no
9 applicant.

10 Ms. Southall...?

11 MS. ANITA SOUTHALL: Thank you and once
12 again, good morning, ladies and gentlemen. There were
13 two (2) small outstanding items or -- I don't know how
14 small they are, but nevertheless there were two (2) items
15 to follow up on from yesterday and, Mr. Edwards, you
16 indicated that there were a couple of undertakings that
17 you were going to follow up on arising from the March 8th
18 hearing day.

19 MR. PAUL EDWARDS: That's correct. And
20 we're prepared to answer those now or any -- any time
21 today at your pleasure.

22 THE CHAIRPERSON: Now would be best.

23 MR. PAUL EDWARDS: Okay.

24 MS. ANITA SOUTHALL: Thank you. Mr.
25 Edwards, perhaps then you could just proceed to indicate

1 what the undertakings were and what the responses are.

2 MR. PAUL EDWARDS: Yes, Mr. Bishop will
3 be answering these on behalf of MoneyMart.

4 THE CHAIRPERSON: Very good. Mr.
5 Bishop...?

6 MR. NORMAN BISHOP: Thank you. On page
7 306 of the transcript of March 8th there was an
8 undertaking regarding the 2005 cheque cashing survey, the
9 edited survey. And Mr. Williams was asking in relation
10 to the reasons why a customer uses MoneyMart.

11 The -- the summary, list at the top, three
12 (3) reasons and he was asking for an explanation as to
13 what were the -- the remainder of the reasons asked in
14 the survey. The -- comprised the remaining 56 percent of
15 the responses. And they were friendly tellers, need to
16 cash a cheque, nothing specific, no holds on funds like
17 bank, no bank account, no hassles, little paperwork, and
18 the last one was MoneyMart cashes most cheques without
19 question.

20 So those were the questions that were
21 asked as part of the survey to which responses totalling
22 56 percent were made.

23 Mr. Williams then asked to provide a sense
24 similar to your 2002 response in terms of what percentage
25 that are citing either the absence of a bank account or

1 the difficultly with the bank system. We took that under
2 advisement, however we would answer that question.

3 First of all, no bank account being the
4 reason cited in 2002, 14 percent said that was the
5 reason. In 2005, 8 percent said that was the reason.
6 With respect to difficulties with the bank, there was no
7 direct question asked, however one of them was open late,
8 bank closed; that was the only question that was referred
9 to specifically with the bank asked in both years. In
10 2002, 17 percent said that was the reason they used the
11 service. In 2005, 16 percent said that was the reason
12 they used the service.

13 So that would answer that undertaking
14 which was is undertaking number 4.

15 The next undertaking was undertaking
16 number 5. MoneyMart was asked to supply CAC/MSOS with
17 the amount of government cheques dishonoured on an annual
18 basis and the answer MoneyMart does not track that
19 specifically. They would track dishonoured cheques but
20 they do not break them down by category. Thank you.

21 THE CHAIRPERSON: Thank you.

22 MS. ANITA SOUTHALL: Thank you, sir. The
23 next and last item just to clear up was there was some
24 discussion about filing with the Board an agreed-upon
25 average annual income and I think there was going to be

1 reference to Statistics Canada and I'm not sure where
2 we're at with that. Thank you.

3 MR. PAUL EDWARDS: Thank you, Ms.
4 Southall. I can respond to that.

5 Members of the Board, there had been some
6 discussion in -- in the course of the evidence given by
7 MoneyMart and then My Friend Mr. Williams raised an
8 issue.

9 I have with me a document which I'd like
10 to share with the Board and -- and other counsel and I'll
11 just describe it. What it is, is it's just a printout
12 from the Statistics Canada website for average total
13 income by economic family types for the years 2003
14 through 2004.

15 I checked that website, had my office
16 check it yesterday and it hasn't been updated beyond 2004
17 so I was seeking for some better information, perhaps
18 you'll have more luck than -- than I, but this is, I'm
19 advised, the most current. We can -- we can only get up
20 to 2004.

21 So I have that document and I'll just
22 distribute it now.

23 THE CHAIRPERSON: Thank you.

24 MS. ANITA SOUTHALL: Thank you. If you
25 could just pass it to the secretary? Mr. Edwards, have

1 other counsel seen that or know that you're providing it?
2 Is there any consensus on it?

3 MR. PAUL EDWARDS: They haven't seen it
4 and I have just provided it to them now. Again it's just
5 off the website. I don't know if there will be any
6 objection.

7 MR. ALLAN FORAN: I have no objection on
8 behalf of the North West Company.

9 MR. BYRON WILLIAMS: I certainly don't
10 and I thank Mr. Edwards for his courtesy.

11 THE CHAIRPERSON: Yes, it's very
12 interesting. Thank you.

13 MS. ANITA SOUTHALL: Thank you. Mr.
14 Chairman, would you like us to mark that?

15 THE CHAIRPERSON: Yes, would you happen
16 to know the number?

17 MS. ANITA SOUTHALL: I think we would
18 mark it as perhaps the next standalone exhibit just --
19 pardon me. Let me just consult with Mr. Gaudreau for a
20 moment?

21 THE CHAIRPERSON: Sure.

22 MS. ANITA SOUTHALL: Thank you.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: We will mark the
2 Statistics Canada income table being two (2) pages as the
3 next MoneyMart exhibit so it would be Exhibit 7.10.

4

5 --- EXHIBIT NO. 7.10: Two (2) page Statistics
6 Canada income table

7

8 MS. ANITA SOUTHALL: And please note
9 that's different than 7.1. Thank you.

10 MR. PAUL EDWARDS: If I might, Ms.
11 Southall, there is one (1) other matter I would like to
12 just deal with as a preliminary matter flowing from the
13 visit that a number of us had to the MoneyMart store
14 yesterday.

15 There was a document which was handed out
16 and it is a standard form payday loan disclosure of costs
17 of borrowing a contract and you'll recall for those of
18 you who were at the tour that these were distributed. I
19 thought it would be appropriate this morning perhaps to
20 bring copies and -- and make sure that other counsel had
21 it, as well as it perhaps be marked as an exhibit. I'll
22 leave that to you.

23 THE CHAIRPERSON: I see no harm. I think
24 that it might help Mr. Williams.

25 MS. ANITA SOUTHALL: Thank you. So we

1 will mark that document on the basis that it's your
2 standard form -- it's obviously not filled in; it's an
3 example as Exhibit 7.11 for MoneyMart.

4 And it's properly described as what, Mr.
5 Edwards, if you could just enter something for the
6 record?

7 MR. PAUL EDWARDS: Well, I'm just reading
8 the title of it. It is entitled "Payday Loan Disclosure
9 of Costs of Borrowing" and it is a payday loan agreement
10 specific to National MoneyMart Company. It's a one (1)
11 page document.

12

13 --- EXHIBIT NO. 7.11: A one (1) page payday loan
14 agreement specific to
15 National MoneyMart Company
16 entitled "Payday Loan
17 Disclosure of Costs of
18 Borrowing"

19

20 MS. ANITA SOUTHALL: Thank you very much.
21 It doesn't affect cheque cashing transactions though?

22 MR. PAUL EDWARDS: No, that's correct.
23 It was just handed out in the course of the -- the
24 Hearing or the tour yesterday.

25 MS. ANITA SOUTHALL: Thank you. Mr.

1 Chairman, I think that concludes the -- those preliminary
2 points we wanted not to forget to cover. So I'll proceed
3 with my closing comments.

4 THE CHAIRPERSON: Please.

5

6 CLOSING COMMENTS BY MS. ANITA SOUTHALL

7 MS. ANITA SOUTHALL: The oral evidence
8 and presentations portion of the public hearings having
9 being completed, we turn now to closing comments and
10 submissions of the Intervenors.

11 In accordance with the legislative
12 amendment to the Consumer Protection Act directing the
13 Board on its course for the fixing of the maximum amount
14 or establishing a rate formula or tariff for cashing or
15 negotiating a government cheque, the Board must make an
16 order that is just and reasonable and it has discretion
17 in the factors to be applied to come to its decision.

18 The Board may consider the business and
19 operating requirements of persons who cash or negotiate
20 government cheques for a fee, the financial risks taken
21 by persons who cash or negotiate government cheques for a
22 fee, any data that the Board considers relevant and any
23 other factors that the Board considers relevant and in
24 the public interest.

25 As counsel to the Board, I take no

1 position on the merits of any submissions or matters
2 advance during the hearing process. As has been noted,
3 there is no applicant in these proceedings. There is no
4 onus carried by any participant.

5 Upon the publication of notice of public
6 hearings, hearings were held in Thompson, in Brandon, and
7 here in Winnipeg. In Thompson and in Brandon, presenters
8 were representatives of the cheque cashing industry and
9 presently are in the business in their local communities.

10 As we have noted previously, the Winnipeg
11 hearings included and to this date include three (3)
12 intervenors, including CAC/MSOS, MoneyMart, and North
13 West, who will shortly provide the Board with their
14 closing submissions on these matters.

15 The Board also received additional
16 evidence and presentations from representatives of a
17 number of entities who were contacted by Board counsel
18 and staff in an effort to ensure the Board had the
19 necessary factual foundation for its deliberations.

20 These contributions to the process also
21 added further perspective to the varied circumstances in
22 which people seek to cash government cheques and the
23 circumstances in which businesses seek to offer the
24 service. The pending administrative decision by the
25 Board requires it to consider these varied circumstances

1 both for the demand side of the equation with regard to
2 consumer needs and desires, as noted by Dr. Buckland, and
3 also for the supply side of the equation with respect to
4 cashers of government cheques.

5 Participants have drawn the Board's
6 attention to a variety of issues for its consideration.
7 While I do not guarantee a comprehensive recitation this
8 morning, the following certainly are apparent. Servicing
9 low income consumers who need to cash government cheques.
10 Supply side changes to the traditional bank and credit
11 union cheque cashing service offerings. And the growth
12 and introduction of convenience or fringe banks, as they
13 have been called.

14 The cost of doing business, and in
15 particular, analysis of the costs to cash government
16 cheques as part of a service offering in many different
17 and often quite unique market places, such as exist in
18 northern Manitoba, as an example and in remote Manitoba
19 communities. Consideration of the financial risk in the
20 negotiation of government cheques and the related legal
21 and regulatory requirements already in existence related
22 to these transactions.

23 A fair rate of return for the services
24 offered and the impact that a new rate or formula may
25 have on the existing market, impacting both consumers and

1 suppliers. The economics of the cash economy for the
2 unbanked or underbanked consumers who are recipients of
3 government cheques and matters related thereto.

4 Differences in current arrangements and
5 related risk management as between federal government
6 cheques under \$1,500 and provincial or municipal
7 government cheques. Variability of fees and other
8 consideration charged throughout Manitoba for cashing
9 government cheques in current unregulated industry.

10 Availability of clear comprehensible
11 consumer information respecting fees or charges for
12 cheque cashing, and related issues respecting a code of
13 practices for service providers. And finally, the
14 practicality of implementation and adherence to a new
15 cheque cashing tariff or formula.

16 The Board has made it clear that it may
17 make recommendations to the province within its first
18 government cheque cashing order on related matters, which
19 have come to the Board's attention as a result of this
20 specific regulatory mandate. Such recommendations have
21 already been received from various witnesses and
22 presenters, and may well be added to as part of the
23 closing submissions of the Intervenor here today.

24 In accordance with the legislation the
25 Board must issue an order, and must then review its

1 existing orders at least once every three (3) years.
2 Upon review the Board must then make a new order
3 replacing the existing order. If circumstances
4 respecting government cheque cashing change
5 substantially, such an order can be reviewed at an
6 earlier time.

7 So while the Board order will be final and
8 binding when issued, it is only the first such order.
9 Mr. Chairman and panel members, that concludes my closing
10 comments and you may now wish to turn to intervenor
11 counsel for their closing submissions. Thank you.

12 THE CHAIRPERSON: Thank you, and I think
13 we will. For CAC/MSOS, Mr. Williams.

14

15 CLOSING COMMENTS BY MR. BYRON WILLIAMS:

16 MR. BYRON WILLIAMS: Thank you and good
17 morning, Mr. Chairman and members of the Board. Lest I
18 offend my client, I should note that Ms. Desorcy has --
19 is here once again. She's been a regular fan of these
20 proceedings and with her is my colleague, Ms. Bev Froese,
21 who's spent a lot of time, especially in the early part
22 of this hearing, working with Dr. Buckland.

23 I often forget to do this, so let me start
24 off by giving some thank you's. As always, it's been a
25 pleasure for CAC/MSOS to appear before the Board. We

1 appreciate the assistance of counsel for the Board, as
2 well as my learned friends, and the witnesses that they
3 presented, as well as Dr. Buckland's participation, so, I
4 often forget to do that, so I thought I better cover that
5 off right at the start.

6 I also want to give you a -- an apology
7 off the start, as well, and with no disrespect intended
8 to my learned friends I seem to be running from one (1)
9 deadline to another this week, so if you see me exit
10 during your -- during your closing submissions it's not
11 out of a pique of rage or frustration, it's just because
12 we have other deadlines that we have to meet later today.

13 Mr. Chairman and members of the Board, you
14 may wish to have at hand, and I will be referring you --
15 to you five (5) documents during the course of my closing
16 submissions. I've notified Mr. Gaudreau of that.

17 One (1) is the form 10-K, which I believe
18 is Exhibit 7.9, which is the 10-K 2006 filing of Dollar
19 Financial Group, which Ms. Southall was nice enough to
20 share with me. She asked for it back; she will get it
21 back, but there may be some handwriting on it, I have to
22 confess.

23 Secondly will be the -- the -- another
24 document that you may want to have near at hand was a --
25 there was a small book of tables provided with the Board

1 on December 18th, I believe it's CAC/MSOS 5.4 -- 5.3, so
2 that's another document you may wish to have at hand.

3 Dr. Buckland's written evidence. I
4 certainly will be referring to that extensively this
5 morning, and finally, the transcripts from March 18 --
6 March 8th, excuse me, and December 19th. And I want to
7 start, and I'm going to be referring to -- specifically
8 to Dr. Buckland's written evidence at page 19 and 20.

9 But I want to start by talking about the
10 market, that -- that magical being is conceptualised by
11 neo-classical economists. And I just note on the record
12 of this proceeding, there's a -- an excellent discussion
13 of that on a -- in a variety of places. One (1) is Dr.
14 Buckland's evidence on page 54 and 55, pages 19 and 20,
15 as well as pages 153 and 161 of the transcript.

16 But I want to start by talking about the
17 market, because in theory, and many times in reality, the
18 invisible hand of the market can be a beautiful thing for
19 service -- for industry or service providers/producers,
20 for consumers, and for the public interest.

21 And Dr. Buckland talks about this at page
22 19 of his evidence and he basically says that neo-
23 classical economics can demonstrate, based on a number of
24 assumptions, that perfectly competitive markets are the
25 most efficient means of allocating resources to producers

1 and delivering goods or services to consumers.

2 And he talks about equilibrium. When
3 markets are in long-run equilibrium, firms receive normal
4 profits meaning that all their costs including the
5 opportunity costs of capital are paid for and competitive
6 markets, truly competitive markets, also ensure that
7 consumers' interests are maximized by leading to an
8 equilibrium price that generates what consumers call
9 consumers -- or economists call consumer surplus.

10 And as I understand Dr. Buckland's
11 evidence he suggests that a truly competitive market
12 works for the producers of the market and it allows an
13 efficient producer to recall -- recover all their
14 prudently incurred costs including a competitive cost of
15 capital.

16 And as I understand his evidence it also
17 works -- a truly competitive market works for consumers.
18 It allows them to maximize their personal utility and pay
19 no more than the reasonable and necessary costs of the
20 producers. And of course under a truly competitive
21 market both consumers and producers are price-takers.

22 It's a beautiful concept, equilibrium.
23 Think of the benefits for producers, fair return, for
24 consumers, fair prices, and for society, for the public
25 interest, maximum allocative efficiency.

1 In these circumstances most would agree
2 there is no need to regulate. When the market is working
3 well, my clients take the position, that it should be
4 left alone.

5 Of course at pages 19 to 22 of his
6 evidence there's a "but". Dr. Buckland talks about
7 circumstances where the market is not truly competitive
8 and the outlying circumstances in which we might see
9 indicia of imperfect competition.

10 There may be circumstances, whether
11 there's a monopoly or an oligopoly or a monopolist
12 oligopolist -- where there's one (1) or perhaps two (2) -
13 - I'm playing a little joke with words there, where one
14 (1) or two (2) dominant firms are not price-takers and
15 they have some market power. In those circumstances the
16 market is not perfectly competitive.

17 He also talks about how there may be
18 spatial monopolies whether in remote communities or also
19 in under-serviced inner city neighbourhoods. And when
20 you go refer to his evidence, I would urge you to go back
21 to his written evidence because I really think it's a
22 template for the way that -- that we can look at this
23 proceeding analytically.

24 He gives some examples of how in the
25 context of urban centres there's been determinations that

1 there are spatial monopolies in -- in the context of
2 under-served urban lower income areas and that's at
3 footnote 26.

4 He talks about the evidence of a spatial
5 monopoly in the food retailing industry in certain under-
6 provided areas of -- of the United Kingdom. He talks
7 about even in -- in the context of pricing, a study from
8 Quebec, which concluded that richer areas have a greater
9 negotiation power and benefit from lower interest rates
10 on loans and higher rates on deposits than lower income
11 areas and that's at footnote 26. So again another
12 example of imperfect competition.

13 And at page 22 another core key concept
14 Dr. Buckland talks about, where the market is not working
15 well for certain segment of the community due to income
16 maldistribution. In essence there's a two (2) tier market
17 -- one for the better off and one for the less well off.

18 And he speaks of a disconnection with the
19 formal economy serving better off consumers and serving
20 them well but failing to meet the needs of those who are
21 more economically marginalised, again, imperfect
22 competition.

23 Dr. Buckland goes on and I won't dwell on
24 it too much, but he also talks about limits to the market
25 when there's imperfect information and also when there's

1 unfair business practices such as tide selling. And he
2 talks about an example from the Northend in terms of
3 groceries and that's at page 19, footnote 19.

4 And I can see your eyes starting to roll
5 to the back of your head because I've been talking about
6 the market and I know Ms. Desorcy's probably will by now
7 as well, but I've spent a fair bit of time talking about
8 the market because really in my client's view, a central
9 question for this Board is how is a government cheque
10 cashing market functioning for consumers? Is it -- and
11 for producers?

12 Is it generally serving both the producers
13 and consumers well? Are we close to equilibrium? If so,
14 if we're close to equilibrium or we're at equilibrium
15 then we can take MoneyMart's advice and set cheque
16 cashing fees well above the current average for the
17 industry, confident that the market is doing its well --
18 doing its job well and that all we need to focus on is a
19 few rogue outliers, the 20 percentors; that's if you take
20 MoneyMart's perspective.

21 You may, however, decide that the
22 government cheque cashing market is not serving consumers
23 well or does not serve at least a substantial and
24 important segment of the market well. Whether because
25 there's dominant firms with some market power, spacial

1 monopolies or a disconnect between the market and a
2 certain segment of disadvantaged consumers.

3 What position should you take? Well
4 there's no doubt where the MoneyMart witnesses stand.
5 They were quite definite. By and large, their
6 perspective was, the market is doing a fine job, it's
7 doing well. From their perspective they are many players
8 in the market and competition is vigorous.

9 From their perspective there is no two-
10 tier service. There's not one (1) service for the rich
11 and one (1) service for the -- for the poor. And there
12 is -- from their perspective there is definitely no
13 targeting of low income areas. And from their
14 perspective all consumers are benefiting from the
15 convenience and respectful service offered by MoneyMart.

16 And certainly from their perspective in
17 the city of Winnipeg there is no spatial monopoly for
18 under- served areas. Arguably, from the MoneyMart
19 perspective, their rates don't really need to be
20 regulated because they're, from their perspective,
21 engaged in vigorous competition.

22 If anything you should be regulating the
23 rates of the other guy. The rogue outlier, the pawn shop
24 in the northend that is not located anywhere -- where the
25 near the more pristine world of MoneyMart.

1 As this panel will know, especially the
2 Chairman because he's seen my clients enough times, my
3 clients, Mr. Desorcy for the Consumer's Association and
4 Ms. Hunter for the Society of Seniors are eminently
5 reasonable individuals. And they've been here through
6 much of the course of this hearing. And after hearing
7 MoneyMart's evidence, they've naturally asked me the
8 question: Could MoneyMart be right?

9 Could the eminent Dr. Buckland, one (1) of
10 the foremost independent experts on this issue in Canada,
11 be wrong? Have we reached a new competitive Jerusalem?
12 Have we reached market equilibrium for cheque cashing
13 services in Winnipeg or in the province of Manitoba?

14 My clients have asked me, they're tough
15 people, is there anywhere on the record besides the
16 evidence of Dr. Buckland that you can point us to
17 suggesting that there is a dominant market player?

18 They've asked me, where's the evidence
19 besides from Dr. Buckland suggesting that there's
20 imperfect competition? Where's the evidence beside from
21 Dr. Buckland sugg -- suggesting that there's a dim --
22 diminishing supply of com -- competing banking services
23 to low income communities and low income neighbourhoods?

24 They've asked me, apart from Dr. Buckland,
25 where's the evidence that fringe financial services are

1 targeting low income neighbourhoods? And where's the
2 evidence, they've asked me, besides from Dr. Buckland
3 that there is also a consolidation in the fringe
4 financial sector favouring larger operators such as
5 MoneyMart?

6 Where's the evidence, they've asked me,
7 aside from Dr. Buckland, suggesting that economies of
8 scale and scope are likely to favour the large multi-
9 service fringe banks?

10 Happily, Mr. Chairman, at least for my
11 future relationships with my clients I can point them to
12 evidence on this record from sources other than Dr.
13 Buckland and I can assure them that there are key sources
14 on this record, apart from him, which support his case
15 theory.

16 And if you'll allow me for just a couple
17 of minutes I'd like to quote to you from one (1) of these
18 sources.

19

20 (BRIEF PAUSE)

21

22 MR. BYRON WILLIAMS: MoneyMart is an
23 industry leader in Canada. It holds a dominant market
24 share, and I'm paraphrasing, and then going to some exact
25 quotes. I'll give you the page numbers in just a second.

1 "While the United States market is
2 highly fragmented, in Canada MoneyMart
3 is the industry leader and holds a
4 dominant market share with an
5 exceptional brand and awareness.
6 MoneyMart enjoys almost twenty-five
7 (25) market share by outlet in Canada
8 and research estimates its market share
9 by volume of business to be
10 significantly higher."

11 So that's what this other source is saying
12 about the -- the market share and its message is that
13 there is a dominant player in the market, a key player,
14 especially in terms of volume.

15 What does this source say about where the
16 business opportunities for the fringe financial service
17 are? What it says is:

18 "Despite the demand for basic financial
19 services, access to banks have become -
20 - has become more difficult over time
21 for many consumers. Many banks have
22 chosen to close their less profitable
23 or lower traffic locations. Typically
24 these closings have occurred in lower
25 income neighbourhoods where the

1 branches have failed to attract a
2 sufficient base of customer deposits.
3 This trend has resulted in fewer
4 convenient alternatives for basic
5 financial services in many
6 neighbourhoods."

7 What else does this source say?

8 "The under-banked consumer market will
9 grow as a result of a diminishing
10 supply -- a diminishing supply of
11 competing banking services as well as
12 underlying demographic trends."

13 Are there growth opportunities? Is
14 MoneyMart targeting these growth opportunities? This
15 source says that there are significant opportunities for
16 growth in the industry as a result of failure of
17 commercial banks and other traditional financial services
18 to adequately address the needs of working class
19 individuals and trends favouring larger operators in the
20 industry.

21 It suggests the industry will see a
22 significant increase in demand for its products and
23 services and the industry will continue to consolidate as
24 a result of a number of factors including economies of
25 scales to larger operations, use of technology to serve

1 customers better and to control large store networks,
2 inability of smaller operators to form the alliances
3 necessary to deliver new products, and increased
4 licencing and regulatory burdens.

5 This consolidation process should provide
6 MoneyMart as operator of one (1) of the largest store
7 networks with opportunities for continued growth.

8 And just one (1) other point. What does
9 this source say who is MoneyMart serving? This source
10 suggest that the core customer group of MoneyMart
11 generally lacks sufficient income to accumulate assets or
12 to build savings. These customers rely on their current
13 income to cover immediate living expenses and often
14 cannot afford to wait for cheques to clear through the
15 commercial banking system. So that's what this source
16 says.

17 There you have it, MoneyMart, a dominant
18 player in the market filling -- filling the vacuum in low
19 income neighbourhoods of departing competing bank
20 services, serving a core group of those with insufficient
21 assets. And in the midst of an industry that is
22 consolidating, becoming more efficient in which the small
23 operators are expected to be squeezed out and increased
24 market share gobbled up by behemoths such as MoneyMart.

25 Who could say such a thing? Perhaps it's

1 another marginalised wide-eyed PhD in economics. Of
2 course it's not, and as I'm sure you know by now, I'm
3 quoting from the form 10-K, Exhibit 7.9.

4 And specifically, in order of appearance,
5 the pages I was citing were pages 4, page 17, page 3, 6,
6 back to 3, and then page 5.

7 So given this ringing endorsement of much
8 of Dr. Buckland's evidence by MoneyMart's parents, by the
9 Dollar Financial Group, perhaps now it's time, and
10 appropriate, to take a bit of a closer look at his
11 evidence.

12 And in the next few moments I want to take
13 a look at -- at least at a high level, at some of Dr.
14 Buckland's evidence and compare it to other information
15 on the public record. Again, considering what my
16 client's submit is a key threshold question; is the
17 government cheque cashing market functioning relatively
18 well, or are there market imperfections that require a
19 more active regulatory intervention?

20 In terms of Dr. Buckland, I do think it is
21 important to start out with a look at his credentials,
22 and those are set out to some degree at page 3 of his CV.
23 Don't worry, I'm not going to leave then, but there are
24 some conclusions that I -- that I think this Board should
25 draw from in terms of his credentials.

1 Dr. Buckland has PhD in economics, and is
2 an acknowledged expert in the areas of financial
3 exclusion and fringe banking; conclusion number 1.

4 Secondly, in the respectful submission of CAC/MSOS he's
5 the only independent expert this Board has heard from.

6 He has no financial axe to grind, he is
7 not an employer of a bank, and excuse me, not an employee
8 of a bank, he is not an employee of a credit union, nor
9 is he an employee of a fringe financial service provider.

10 Dr. Buckland has studied in this area
11 extensively. He has studied in Winnipeg, and he has
12 spent a lot time in Winnipeg's north end, to his credit.
13 But it's also important to note that he has also
14 canvassed extensively US and Canadian literature, and he
15 is jointly conducting a research project, not just in
16 Winnipeg, but involving three (3) Canadian inner cities.

17 This is not a -- just a guy who knows a
18 little bit about the north end. It's an expert with an
19 in-depth knowledge of the Canadian marketplace and
20 substantial work in the -- with the American literature,
21 as well. And again, I'll go into this in a bit more
22 detail.

23 But what does Dr. Buckland say, at least
24 at a high level? I think there's five (5) main points
25 that, as you review his evidence, that you can draw from

1 -- draw from him. Dr. Buckland agrees with the Dollar
2 Financial Group. He takes a position with the -- the --
3 with the closure of more and more banks in predominately
4 low-income neighbourhoods, there are increasing and often
5 insurmountable barriers to accessing finan -- mainstream
6 financial services.

7 I think, agreeing with Dollar Financial
8 Group, as well, he takes the position that fringe banks
9 have come to dominate these locations by providing
10 important services that might not be otherwise reasonably
11 accessible.

12 He takes the position, and I'm referring
13 to four (4) -- page 4 of his evidence, that there is
14 variance in current cheque cashing fees in Winnipeg, and
15 that consumers are often unaware, or not given sufficient
16 -- or are not given sufficient information in terms of
17 cheque cashing fees.

18 Essentially he argues that the market is
19 not functioning perfectly, it's an imperfect market
20 resulting in substantial barriers to a substantial group
21 of the public. Therefore, he says, market conditions can
22 not be relied upon as a sole means of establishing
23 competitive rates.

24 What guidance will he offer the Board in
25 terms of what you should be looking at in terms of

1 competitive rates? He'll speak to a few things.
2 Preserving the interests of the industry so that they can
3 enjoy -- an efficient producer can enjoy a competitive
4 return, but also protecting low-income consumers who lack
5 the competitive alternatives of others.

6 And at the same time as regulation is
7 intended to replicate the market, Dr. Buckland will talk
8 about efficiency and -- and ideally reminding the Board
9 that the purpose of an appropriate just and reasonable
10 rate is not to allow any producer or service provider to
11 earn a competitive return but to allow an efficient
12 service provider to earn a competitive return.

13 And again I'm -- I'm going to highlight
14 Dr. Buckland's evidence as it relates to a couple of key
15 points. And as you do review his evidence at a later
16 point in time I'd ask you to keep a close eye on page 9,
17 where he talks about the issue of financial exclusion and
18 he makes the point that those using cheque cashing
19 services and those unbanked, lacking access to bank
20 services, are disproportionately low income. They're not
21 all low income; they're disproportionately low income.

22 And he notes that the unbanked population,
23 the general population in Canada, is 3 to 5 percent but
24 there is 8 to 15 percent of low income adults who lack
25 access to banks.

1 And -- and Dr. Buckland, again at page 9,
2 draws a strong correlation between financial exclusion,
3 low income, receipt of Social Assistance, low assets, and
4 lack of home ownership.

5 And, in fact, on this point Dr. Buckland
6 is supported by the MoneyMart witnesses who appeared in
7 this Hearing. At pages 287 and 288 of the transcript
8 MoneyMart witnesses confirmed that only 66 percent of
9 their cheque cashing customers have bank accounts.

10 They confirmed that only 42 percent of
11 their cheque cashing customers owned vehicles. They
12 confirmed that only 18 percent of their cheque cashing
13 customers have RRSPs and they confirmed that only one (1)
14 in eight (8) of their cheque cashing customers owned
15 their own home.

16 MoneyMart witnesses, under oath, confirmed
17 that their cheque cashing customers have very few assets
18 relative to average Canadians and that they leave a
19 relatively small financial footprint.

20 So how does Dr. Buckland, and how should
21 we, make sense of this low income phenomenon? Why does
22 it matter? Well, there's a couple of things to keep in
23 mind -- one (1) is that their demand for financial
24 services may differ from the financial services that
25 banks wish to offer and which banks find most lucrative.

1 Lower income persons, and this has been
2 confirmed by the Dollar Financial Group as well, are more
3 concerned with transactional financial services --
4 getting cash, paying bills, buying milk. They have less
5 demand for asset-building transactions such as savings,
6 buying a home.

7 Dr. Buckland suggests as well that lower
8 income persons are less mobile and have less access to
9 information technology. He does this at page 11 of his
10 evidence. And I think that his position on that point
11 was confirmed under oath yesterday by Mr. -- Mr. Glass
12 and I have to say this, the part owner of Chochy's and
13 Elvis' pawnshop.

14 He said that the lion's share of his
15 customers -- and I'm -- I'm paraphrasing, I'm not -- but
16 he certainly used the word "lion's share" of his
17 customers arrive on foot and that his customers are drawn
18 from a one-half mile to three-quarter mile radius.

19 Again, and this was not under oath but it
20 was confirmed as well by the presenter for the Nine
21 Circles Health Clinic. Most of -- in his experience the
22 people that he served didn't -- don't have cars and don't
23 drive.

24 Why should we care? They're less mobile.
25 They have less information technology. In Dr. Buckland's

1 submission, and CAC/MSOS adopt that, we should care
2 because it leaves these consumers more disconnected from
3 mainstream banks especially as these banks rationalize
4 and move out of low income neighbourhoods.

5 And there's evidence from Acorn Cut Canada
6 (phonetic) on the record of a high rate -- rate of bank -
7 - bank closures in low income neighbourhoods, that's at
8 page 12, and the point being that we're moving further
9 competitive options for low income consumers.

10 And again, this vacuum is being filled by
11 fringe financial services. And if you're looking for
12 this, if someone -- if any of My Friends for example
13 suggest, well this is just a northend phenomena, I'd urge
14 you to look at a table presented in the Exhibit 5.3 the
15 CAC/MSOS small book of tables.

16 And there table 6, tab 6 in that document,
17 Dr. Buckland presents results of a correlation or an
18 analysis he did of fringe bank outlets and mainstream
19 bank closures in Winnipeg. And this is in a forthcoming
20 publication by Buckland and Don (phonetic). And again,
21 that's at tab 6 of Exhibit 5.3. But the conclusion he
22 draws - and he draws his conclusion verbally at page 151
23 of the transcript - is that lowest income neighbourhoods
24 have the highest per capita of fringe bank outlets and
25 more bank closures.

1 It's not just a northend phenomena. And I
2 think in fact that this -- or I would submit in fact that
3 this ev -- this position was, in fact, confirmed by
4 MoneyMart during their oral evidence at page 339 of the
5 transcript. And you'll recall that under cross-
6 examination we kind of did a rough quadrant of the four
7 (4) quadrants of the city of Winnipeg. And of the
8 fifteen (15) MoneyMarts, we only had one (1) in the
9 southeast quadrant and only two (2) in the southwest
10 quadrant.

11 So the evidence in -- in our submission is
12 clear. Banks are less of a competitive option especially
13 for those who are less mobile or have -- lack access to
14 information technology. And the evidence was clear
15 yesterday, and certainly from Dr. Buckland as well, that
16 bank services are simply not available to some whether
17 because they lack ID, the ID sufficient to start a bank
18 account or the ID to cash a cheque. So this leads us to
19 a key point.

20 Contrary to the impression that may have
21 been left by the MoneyMart witnesses in their oral
22 evidence, the decision to use fringe financial services
23 is -- for cheque cashing purposes is not simply a matter
24 of convenience. For some consumers, the banks are simply
25 not an option. And in the respectful view of CAC/MSOS,

1 this point was confirmed by MoneyMart and its parent.

2 At page 288 of the transcript, MoneyMart
3 confirmed that 33 percent of its cheque cashing customers
4 don't have bank accounts compared to 3.5 percent of the
5 Canadian -- 3 to 5 percent of the Canadian population.
6 And they noted at page 301 that a key reason that they
7 used MoneyMart for cheque cashing, and this is from
8 customer surveys and we heard some more results today, 19
9 percent in 2002 didn't have a bank account.

10 Another 6 percent, and these are both non-
11 normalized numbers, got turned down by a bank. Ms.
12 Smith, to her credit, also acknowledged at page 367 and
13 368 of the transcript that a very big part, and I'm
14 quoting, a very big part of it, of the choice to use
15 MoneyMart services rather than a bank, was related to the
16 hold period. And Dollar Financial Group in its 10-K
17 filing has made the same point.

18 Our core customer group generally lacks
19 sufficient income to accumulate assets or to build
20 savings. These customers rely on their current income to
21 cover immediate living expenses and often cannot afford
22 to wait for cheques to clear through the commercial
23 banking system.

24 So there's a disconnect market
25 imperfection, a two-tier market in terms of access to

1 financial services. Low income consumers
2 disproportionately desire transactional services. Banks
3 see better opportunities for return in asset building
4 services. And Dr. Buckland comments on that at page 12
5 and 13.

6 Mr. Chairman, I've got about twenty-five
7 (25) minutes to go. I have one thing I would like to
8 check with my client, so, we're kind of an hour in, so
9 with your permission, if we could stand down for maybe
10 four (4) minutes -- five (5) minutes?

11 THE CHAIRPERSON: Okay. We'll come back
12 at 11:10. Thank you.

13

14 --- Upon recessing at 10:55 a.m.

15 --- Upon resuming at 11:10 a.m.

16

17 THE CHAIRPERSON: Okay, Mr. Williams, any
18 time you're ready.

19 MR. BYRON WILLIAMS: Mr. Chairman and
20 Members of the Board, hopefully I left off at around this
21 point trying to make the -- the point that -- that for
22 some low income consumers it wasn't necessarily a choice
23 to use fringe financial services but a necessity.

24 And -- and I do want to spend just a
25 minute or two (2) addressing an analogy that's popped up

1 from time to time in this Hearing. It's been drawn by
2 MoneyMart and there is a suggestion that it's the 7-
3 Eleven of the financial services. As 7-Eleven is to
4 Safeway, MoneyMart is to a credit union or bank. Its
5 prices may be higher but that's because customers are
6 choosing to pay for convenience.

7 And I can understand the initial
8 attractiveness of that analogy but, with respect, you
9 don't need two (2) pieces of ID to shop at Safeway. You
10 don't need to be a member, i.e., have a bank account to
11 shop at -- at Safeway or Superstore or Sobeys and you
12 don't have an analogous situation to a hold period.

13 When you go to Safeway, you don't have to
14 wait three (3) to seven (7) days after you buy food to --
15 before you can take it home and eat it. So in the
16 respectful submission of CAC/MSOS, this is an analogy
17 that does not hold. It is low income customers remain
18 captive in terms of fringe financial services to a
19 degree, a significantly greater degree than we are
20 captured by the 7-Elevens of the world.

21 There's one (1) other difference that you
22 may take judicial notice of in terms of 7-Eleven versus
23 Safeway and you can take judicial notice of it. You can
24 drive around the city or just go to a phone book because
25 if you did either of those two (2) options, I'm pretty

1 hope that you will observe when you start at about page
2 16, is that while there are forty-four (4) cheque cashing
3 outlets that Dr. Buckland has identified within the city
4 of Winnipeg, twenty-eight (28) of them, or sixty-four
5 (64) percent, are owned either by MoneyMart or Rent Cash,
6 and as you'll recall from Dr. Buckland's oral evidence,
7 certainly this raises some concerns in terms of market
8 power.

9 And I'd ask you, also, to recall what the
10 Dollar Financial Group says. They say, Don't just look
11 at our number of store outlets, remember that our volume
12 of the business in Canada is significantly higher than
13 our store outlets.

14 Also at page 16 of Dr. Buckland's evidence
15 you'll see something else, and probably to my discredit I
16 haven't talked about this enough today.

17 You'll see the significant financial
18 consequences for low-income people who, for a variety of
19 circumstances, are obliged to use cheque cashing services
20 provided by a fringe financial provider rather than the
21 less expensive services offered by a bank.

22 And at -- at page 16 Dr. Buckland quotes
23 from a 2006 study by Buckland, Hamilton, and Rimer
24 (phonetic).

25 "We've found that the average fee for a

1 five hundred dollar (\$500) check is
2 sixteen dollars and seventy-nine
3 (\$16.79) in terms of cheque cashing.
4 Cashing two (2) such cheques each month
5 for one (1) year would cost a total of
6 four hundred and two point -- dollars
7 and ninety-six cents (\$402.96)
8 amounting to 1.11 percent of the
9 average household income of the north
10 end. Cashing cheques through a low-fee
11 account at a bank would cost a total of
12 forty-four twenty-eight (\$44.28)."

13 Or a three hundred sixty dollar (\$360)
14 difference. A significant amount of money for a low-
15 income family.

16 And again, Dr. Buckland talks on the -- on
17 the next page of his evidence at page 17, he uses the
18 Assiniboine Credit Union low-fee account example.

19 And he notes that you could cash a four
20 hundred and sixty-six dollar and eighty -- eighty cent
21 cheque (\$466.80), a welfare check, in other words, the
22 total cost at the Assiniboine Credit Union would be four
23 dollars (\$4). He notes that in terms of MoneyMart's cost
24 it would be sixteen dollars and forty-five cents
25 (\$16.45).

1 Of course, Dr. Buckland does underline a
2 key difference between the two (2) services; that five
3 (5) day hold, and there's the five (5) day hold at
4 Assiniboine Credit Union. So that's a -- a key reason
5 why a prudent consumer might feel obliged to -- to use
6 these more expensive services, because the -- the
7 mainstream's financial services are disconnected.

8 Dr. Buckland at pages 20 to 22 of his
9 written evidence, really goes through why he thinks this
10 is a highly imperfect market. And I'm not going to go
11 through it in -- in a -- in a -- detail, but I would note
12 at page 20 under "Imperfect Competition" that in -- in
13 terms of the cheque cashing industry he notes that we
14 find differential fees for cheque cashing, brand
15 proliferation, advertising. These are all indicators of
16 a potentially imperfectly competitive market. This is
17 the economist talking.

18 And he notes -- and this is a key point in
19 the future, not -- not just in terms of what the nature
20 and scale of competition is now but the direction that
21 it's going and he cites Robinson, a 2006 study, who talks
22 about the economies of scale in the industry and that
23 they're such over time that a few larger, multi-service
24 fringe banks will dominate the market and this could
25 become an oligo -- I'm not even going to try and say it -

1 - oligopolistic market.

2 And again this is not inconsistent with --
3 with what Dollar Financial Group is saying in its 10-K
4 filing. It's talking about consolidation of the industry
5 for those benefiting from economies of scale and scope.

6 A last point from -- from Dr. Buckland in
7 these few pages at least, earlier I talked about unfair
8 business practices and -- and one (1) of the ones that he
9 identified in his written evidence was tide selling and I
10 think you may have heard an example of tide selling
11 yesterday with the example of Chochy's Pawnshop or Mr.
12 Glass.

13 And again -- so that's another source of
14 concern.

15 Now, remember going back to -- and -- and
16 this is perhaps a key indicator of an imperfect market
17 functioning in the cheque -- government cheque cashing
18 industry. If we're at equilibrium, if we're at that
19 beautiful place, a prudent and efficient producer or
20 provider of services will own a -- earn a competitive
21 rate of return and no more.

22 And what Dr. Buckland cites and -- and so
23 one (1) of the questions that we would suggest that this
24 Board should direct its mind to is what kind of
25 information do we have on the record in terms of the

1 level of return that this industry is earning?

2 And I'm not privy to any of the in-camera
3 sessions and -- and so I -- I can't speak to the -- the
4 evidence which MoneyMart provided in -- in that forum or
5 -- or how strenuously it was tested but what I can refer
6 you to is page 28 of Dr. Buckland's evidence. There he
7 cites a study by Ernst and Young.

8 And Ernst and Young, this study was done
9 with the assistance of many participants in the cheque
10 cashing industry, and it really wasn't looking at the
11 return of the industry but has a very interesting comment
12 in there.

13 Ernst and Young note -- and I'm referring
14 you to page 29 where Dr. Buckland repeats this:

15 "As a group, payday lenders are earning
16 return on equity that are comparable to
17 other segments of the financial
18 industry."

19 And the -- the second part of that is:

20 "So as a group they're earning
21 comparable returns to the financial
22 industry, i.e., banks."

23 They're earning -- but also that a
24 significant proportion of the industry is not making
25 adequate returns. Indeed, seven (7) of the nineteen (19)

1 respondents noted that they were -- suggested that they
2 were losing money.

3 What Dr. Buckland then went to do and --
4 and my understanding is that his evidence was not
5 challenged on that -- this point, he -- he suggested --
6 and this is again at page 29:

7 "Given the return on equity reported in
8 the mainstream financial service sector
9 was reported as 18.97 percent. This
10 suggests that while the average return
11 for the group of payday lenders is near
12 20 percent -- this suggests that it's
13 near 20 percent -- but since several
14 firms are losing money, [and he
15 misspells losing], other firms must be
16 making much higher than 20 percent."

17 And he was not challenged on this to my
18 knowledge on the record. He concludes:

19 "This is evidence of some very high
20 profits among the most profitable
21 firms."

22 A couple other key points from Ernst and
23 Young which I would suggest for the Board's
24 consideration, like Dollar Financial Group, like Dr.
25 Buckland, they note that the larger firms experience

1 lower costs per transaction due to economies of scale.
 2 They also note that multi-line providers are experienced
 3 lower cost per transaction than mono-line providers. And
 4 as I understand economic theory and I'm not pretending
 5 that I'm anything but a lawyer, but that suggests also
 6 suff -- significant economies of scope.

7 So three (3) key points. This is an
 8 industry where some -- some efficient providers are doing
 9 very well earning returns above the average of the banks.
 10 This is an in -- industry with significant opportunities
 11 in terms of economies of scale and scope.

12 And the last point my client's would have
 13 -- have asked me to make on this is again to go to back
 14 the 10-K filing of the Dollar Financial Group, and note
 15 the tremendous up -- upside that that filing suggests for
 16 MoneyMart operations in Canada.

17 Essentially MoneyMart's the crown jewel of
 18 the Dollar Financial Group. For the first year ever, if
 19 you'll review page 1 of that document, Canadian revenues
 20 exceeding American revenues and they grew an explosive 40
 21 million in the 2006 fiscal year, from about \$108.2
 22 million US to \$140.7 million US. In fact Canada counts
 23 for 42.9 percent of the revenues of the Dollar Financial
 24 Group. So it's an industry as a whole that is a -- has a
 25 very positive upside.

1 Now that's the -- the industry as a whole,
2 the fringe mul -- financial services multi-service
3 providers. Is there anything that CAC/MSOS can tell you
4 about the economics of cheque cashing specifically? Is
5 there any assistance that we can offer in that area? And
6 I think there is and it's found at page 25 of Dr.
7 Buckland's evidence.

8 There he provides a study or provides an
9 overview of study from -- from Caskey (phonetic), who's
10 clearly the -- one the leading thinkers on this issue.
11 It's an American study and -- so you have to treat it
12 with a bit of care.

13 But what Caskey did was he looked at Ace
14 Cash Express and this is an interesting firm, it was a
15 mature firm with an annual cheque cashing volume of about
16 US \$4.5 million. And what was interesting about this
17 2001 Caskey study was it -- it was taken -- it was a
18 snapshot in time before Ace financial Serv -- Ace Cash
19 Express, excuse me, had moved aggressively into the multi
20 -- other lines of business.

21 At this point in time it was a mono-line,
22 so average revenues or average cheque cashing income 4.5
23 million, a mono-line of business. So it's a perfect
24 snapshot of the economics of cheque cashing.

25 And what does Dr. Buckland con --

1 conclude? And you can look at the table, it's presented
2 there. He can conf -- concludes that this Ace Cash
3 Express is one (1) important piece of data suggesting
4 that efficient cheque cashers can earn large profits.
5 Are there any analogies that can be drawn for the
6 Canadian situation?

7 Well, when you look at this Ace Cash
8 Express study, I'd ask the Board to remember that it
9 appears that the -- the volume of cheque cashing services
10 are -- are quite similar in size to MoneyMart, 4.5
11 million for Ace Cash Express.

12 If you do the math for the -- the -- is
13 set out in the 10-K filing, three hundred and seventy
14 (370) outlets in 2006, \$1.5 billion in cheque cashing
15 volume, you're getting pretty close to that \$4.5 million
16 figure per outlet. So it's a similar size of operation.

17 And what's also significant is that at
18 this point in time Ace Cash Express was a -- a mono-
19 provider or largely a mono-provider. If we look at the
20 work of Ernst and Young as one would expect that there
21 would be significant cost advantages as one develops new
22 lines of business, economies of scope.

23 The last point about MoneyMart that -- on
24 behalf of my clients I would like to make is in terms of
25 risk. We -- we hear a lot about the risk that MoneyMart

1 is facing and Dr. Buckland talks about it in his evidence
2 and I don't think this was challenged at page 27.

3 He talks about -- and this is aggregated
4 data in -- between the periods of 2002 and 2004 the
5 Canadian and United Kingdom data -- for the two (2)
6 operations, net write-offs amounted to 0.2 percent of the
7 total face value of cashed cheques. And of course when
8 you look at the 10-K filing at page 9 you'll see even
9 superior results for Canada in the 2006 year -- 0.11
10 percent.

11 I have to tell you I -- I feel a little
12 guilty about My Friend Mr. Foran, and his clients. He's
13 shaking his head but I know he feels neglected. I -- I
14 don't have a lot to say. I don't have a lot to say about
15 North West and I'm not bitter so -- but there were some
16 limits to the -- the degree to which my clients could
17 examine the record in terms of North West because of
18 commercial confidentiality.

19 So what if any advice can I give you about
20 North West? Well, I guess there's three (3) -- from the
21 limited access to their information that my clients have
22 had there's three (3) key conclusions or three (3) key
23 factors that you might want to take into account.

24 One is that in 2002, a 1 percent fee for
25 this admittedly different business model was fully

1 compensatory, and My Friend will correct me if I'm wrong,
2 but I believe including competitive return on capital.

3 So -- so we know where certainly the
4 figure of 1 percent in 2002 was a just and reasonable
5 rate at least from the perspective of the -- the North
6 West Company back in those days. I'm -- we're not privy
7 to inflationary factors since then but that's something
8 important to keep in mind.

9 We also know and I'm sure that North West
10 -- they've been quite frank about this -- their losses in
11 terms of cheque cashing are quite small and you can refer
12 to their written evidence to get a sense of -- of the
13 magnitude but relatively small in terms of the -- the net
14 write-off in terms of cheque cashing.

15 The other factor to keep in mind with
16 North West and -- and I want to be clear hear. We're not
17 suggesting that there is any abuse of market power by My
18 -- by North West at this point in time but there is that
19 potential. They're serving, to a large degree, remote
20 communities, communities in which there -- even compared
21 to the under-served inner city neighbourhoods, there are
22 few if any competitive opportunities.

23 So to quote directly the words of My
24 Friend, Mr. Foran, from yesterday we'd suggest to the
25 Board that it walk carefully, move carefully, in terms of

1 North West and -- and that's really the only guidance or
2 suggestion my clients can make to you.

3 Before moving to the recommendations of
4 CAC/MSOS, just a couple of comments about some of the
5 evidence we heard yesterday from Assiniboine Credit
6 Union. And they talked a lot about an apprehension of
7 risk. And I -- I would differentiate between what -- and
8 I'm using my own words to characterize. They talked
9 about an apprehension of risk.

10 And I asked them, do you have any
11 empirical information? And there didn't seem to be any
12 that they were prepared to share with me which seems to
13 be a common trend in -- in this Hearing but you can -- in
14 terms of the risk we do have evidence both from MoneyMart
15 and from -- from North West to their credit suggesting
16 that -- that the -- the magnitude is relatively small.

17 In terms of the recommendations of
18 CAC/MSOS, and I appreciate the Board's patience as I make
19 my way through this argument, I thought a useful way to
20 do this in Dr. Buckland's written evidence at page -- at
21 page 5 he has some recommendations and I-- and I thought
22 I would provide my client's kind of overview of -- of how
23 -- where they come down in terms of his recommendations.

24 First of all -- first of all, if the panel
25 members are looking for them I can wait for a couple --

1 okay. First of all, he talks about a fair disclosure of
2 fees, and the point Dr. Buckland is trying to make, and
3 which my clients concur, is while he thinks that
4 recovering both the fixed and variable cost is
5 appropriate given the -- the cost structure as we
6 understand it for alternative financial service
7 providers, there needs to be greater clarity in terms of
8 communicating to clients, or consumers, what it costs.

9 Take a -- and what Dr. Buckland suggests
10 is not only a posting of the -- the percentage and the
11 variable rate, but taking some common sense numbers, some
12 common numbers that cheque cashers might bring into a
13 cheque cashing service, how much is it going to cost to -
14 - to cash a two hundred and fifty dollar (\$250) cheque,
15 how much for a five hundred (500), how much is seven
16 hundred fifty (750), how much a thousand (1000). That's
17 a common sense practical solution in which my clients
18 heartily concur, and I believe MoneyMart, to it's credit,
19 did as well.

20 In terms of fee formulation, and -- and
21 there was some dis -- discussion amongst my clients.
22 because they have some concerns that having both a
23 percentage and a flat, you know, a fixed cost as well as
24 a variable cost is confusing to consumers.

25 But at the end of the day the clients do

1 concur with Mr. -- Mr. -- or Dr. Buckland's
2 recommendation that the Board should use both a -- a
3 fixed fee to hopefully recover some of the high fixed
4 costs that this industry experiences, as well as a
5 variable fee.

6 In recommendation 3, Dr. Buckland said,
7 that is the -- analytically, the thrust about his third
8 recommendation with analytically, if the Board seeks to
9 set a -- set a rate, he suggested that the Board should
10 look at a number of factors ensuring consumers pay no
11 more -- no more than reasonably incurred costs, insuring
12 that the corporation, the service providers were able to
13 earn a competitive return if they -- they operate
14 efficiency, and making sure, as well, that the rates were
15 appropriate, that they achieved that balance that kept
16 cheque cashers in business, but also protected the
17 interests of vulnerable captive consumers. And that's an
18 approach which we would recommend to the Board.

19 In terms of where Dr. Buckland comes down
20 in terms of an actual approach, I want to caution the
21 Board, because only part of his approach is set out in
22 his written argument. In his written argument he talks -
23 - or his written evidence, excuse me.

24 In his written evidence he talks at
25 establishing a cheque cashing ceiling less than or equal

1 to the prevailing industry average, and that's in
2 recommendation 4. And that -- that -- the descriptor he
3 offers for that is the firm average level, that's the
4 kind of approach that he would characterise that as.

5 But if you refer to the written
6 transcript, and I would refer you to pages 167, as well
7 as pages 172, and 173. Dr. Buckland, in his oral
8 recommendations, makes it clear that he's really talking
9 about two (2) different approaches that he is
10 recommending for the Board's consideration.

11 Clearly, he rejects kind of the rogue
12 outlier approach of -- of MoneyMart. One (1) approach is
13 the firm average and he supplies some data suggesting
14 that, that is -- it should -- if you went to less than or
15 equal to, you'd be looking at 2.94 percent, and a flat
16 rate of 2.24.

17 But starting at page 167 he also talks
18 extensively about a different approach, which he calls
19 the economies of scale approach. And -- and what he says
20 is, here he's building on the idea of Chris Robinson:

21 "The payday lenders are facing
22 significant reductions in their costs -
23 - per unit costs as their scale
24 increases."

25 And he so, he said:

1 "Under this approach if the level was
2 reduced -- was quite a bit lower than
3 the average, say 50 percent of the
4 Winnipeg average, under this approach
5 you'd -- you'd get a figure of 1.4
6 percent of the cheques face value plus
7 a \$1.12 in terms of the flat rate."

8 So those are the two (2) approaches that
9 Dr. Buckland extensively talks about in his oral
10 recommendations and in particular I would refer you to
11 pages 172 and 173.

12 And, like me perhaps, Dr. Buckland's a bit
13 of a whiner and he says, I don't have enough data to make
14 a -- a firm recommendation to this Board. Don't pick the
15 rogue outlier, don't pick the MoneyMart approach, but
16 look at these two (2) approaches.

17 And the guidance he -- he offers the Board
18 is if the Board is of the opinion that -- that these
19 service providers are earning above normal, super normal
20 profits then they should -- they should -- and if the
21 Board is also of the opinion that there's significant
22 economies of scale yet to be realized, they should go to
23 the economies of scale approach.

24 So that's what Dr. Buckland says and of --
25 of course, like him, my clients are -- have struggled

1 with this issue. So essentially in -- in -- in their
2 recommendation and I'll elaborate on this in just one (1)
3 second, they're looking at somewhere between the firm
4 average level, some -- they're looking at somewh --
5 something either at the firm average level or around the
6 economies of scale level.

7 And just to remind you the firm average
8 level is 2.94 percent as well as a flat rate of 2.24 and
9 the economies of scale is 1.47 percent and 1.12 flat --
10 flat rate.

11 In making their recommendation, CAC/MSOS
12 have to admit that they've found the evidence of Ernst
13 and Young, Mr. Robinson and Mr -- Dr. Buckland
14 persuasive. And they note, as far as they understand the
15 record, that there was challenge to his statement at page
16 29 of his written evidence that there was evidence of
17 very high profit rates among the most profitable firms.

18 And they also found the Ace Cash Express
19 example from the United States helpful, especially
20 because that suggests similar volumes to the Canadian
21 stores. And they also, in looking at this issue and
22 looking at whether there are future economies of scale to
23 be realized, they looked at not only Dr. Buckland's
24 evidence, but the very persuasive opinion of the Dollar
25 Financial Group in the form 10-K filing. And CAC/MSOS

1 are certainly of the view that MoneyMart should enjoy
2 greater economies of scope and scale in the future.

3 At the same time and -- CAC/MSOS are
4 concerned that currently low income sum -- consumers are
5 paying too much for low risk transactions. And I just
6 want to underline that point for one (1) more second.

7 If you look at the transcript of page 321
8 of this proceeding, MoneyMart confirms that the -- the
9 write-off for bad cheques has averaged the last couple
10 years about \$13,000 or about 0.7 percent of the \$18.4
11 million revenues on an annual basis.

12 Looking at it a different way, at page 321
13 of the transcript we did a rough calculation of the --
14 the revenues of -- of MoneyMart in a -- in a year and we
15 -- we -- we suggested that it was -- on cheque cashing
16 fees, not its net income, but its revenues were about
17 \$750,000, \$749,000. So again, compared to that figure,
18 the figure of 13,000 is relatively small.

19 So from my client's perspective, they're
20 not comfortable with an approach of a firm average
21 approach. They're not comfortable with a 2.94 percent
22 and a flat rate of 2.24. They -- they think it will be -
23 - that low income consumers are already paying too much.

24 So directionally they're inclined towards
25 that lower economies of scale number, but they are

1 cautious -- cautious individuals. So what they would
2 recommend for the Board and it's -- it's really a
3 compromise, is a 1.75 percent varied rate and a \$2 flat
4 rate. And in doing this my clients are focussing on what
5 they consider to be the lower level of risk, which should
6 drive the variable rates.

7 Just a -- a last conclusion, or a last
8 couple of comments. At page 6 of his evidence Dr.
9 Buckland talks about the need for better information on
10 the costs, returns, and risks to cheque cashing and
11 fringe banking. He gives you a blue sky list of what he
12 thinks would help this Board in future deliberations. My
13 clients wholeheartedly endorse his position.

14 Final comments; you've heard from other --
15 other parties. Assiniboine Credit Union has made some
16 recommendations, and my clients would like to comment on
17 two (2) or three (3) of them.

18 The idea of low-cost photo id, making that
19 available in -- in terms of improving accessibility to
20 mainstream financial services is one (1) my clients
21 wholeheartedly concur with, and they -- they think that,
22 that's something that if the province did that, that
23 would be -- if that could be recommended to them, it
24 might pro -- lead to an important social good.

25 They -- they found it interesting to -- to

1 learn how, in terms of one (1) stop direct deposit
2 shopping, that exists for the -- the federal government.
3 There's one (1) place you can go to for a variety of
4 federal government cheques, and my clients are persuaded
5 that, that's a great idea for the Province of Manitoba,
6 instead -- instead of having to go to different
7 departments. And -- so that's something that they would
8 strongly endorse, as well.

9 There was talk of an indemnification of --
10 by that province and -- and municipalities on terms of
11 cheque cashing fees, similar to what the federal
12 government does, and my clients are a little more
13 cautious on that.

14 They agree that it's an interesting idea
15 that should be explored. They're not quite sure what the
16 costs are and -- and so they -- they'd like to proceed a
17 little more cautiously on that one (1). From my client's
18 perspective, as well, recognizing that the legislation,
19 in my understanding, requires a material change in
20 circumstance

21 But we're really just feeling our feeling
22 our way out -- around in -- in this issue, and they -- my
23 clients certainly think that, not that they want to look
24 at incurring great regulatory costs, but three (3) years
25 might be too long, especially if the Board is inclined to

1 proceed cautiously.

2 In that -- those circumstances my clients
3 would recommend that we look at a shorter turnaround
4 period. Again I've taken a lot of the Board's time.
5 It's been a -- a great to be here, and my clients
6 appreciate this opportunity. Subject to questions, those
7 are the final submissions of CAC/MSOS.

8 THE CHAIRPERSON: Thank you, Mr.
9 Williams. I appreciate CAC/MSOS, and your own, and Mr.
10 Buckland's contributions. Thank you again.

11 I will now turn our attention to the two
12 (2) remaining Intervenor, and if I could just poll --
13 just quickly, so we can get an idea on time, Mr. Edwards,
14 how long do you think you'll take?

15 MR. PAUL EDWARDS: Less than Mr.
16 Williams. I would say under an hour, I'm hoping half an
17 hour to forty-five (45) minutes. I -- I don't anticipate
18 more than that. And in terms of a lunch break we're
19 happy to accommodate the Board, whatever you'd like. I'm
20 ready to proceed now if -- if you'd prefer that.

21 THE CHAIRPERSON: Mr. Foran, what's your
22 view on that?

23 MR. ALLAN FORAN: Keeping in mind the
24 caveat that lawyers are notoriously bad at estimating
25 time, I -- I have prepared comments, and I suspect mine

1 will be twenty (20) minutes.

2 THE CHAIRPERSON: What's your client's
3 travel arrangement?

4 MR. PAUL EDWARDS: The earliest departure
5 would require leaving at approximately 2:30 this
6 afternoon, so I don't think that will be problem.

7 THE CHAIRPERSON: Okay, well, why don't
8 we proceed with you right now, Mr. Edwards, and we can
9 get the whole thing -- if it looks like we can finish
10 with Mr. Foran before 1:00, we'll carry on until we're
11 done. Maybe during that period time we'll only take a
12 five (5) minute break or something, just to catch our
13 air.

14 MR. PAUL EDWARDS: Certainly, that --
15 that sounds fine.

16 THE CHAIRPERSON: Is that all right with
17 you?

18 MR. ALLAN FORAN: Perfectly acceptable,
19 thank you.

20 THE CHAIRPERSON: Very good. Okay, Mr.
21 Edwards.

22

23 CLOSING COMMENTS BY MR. PAUL EDWARDS:

24 MR. PAUL EDWARDS: Thank you very much,
25 and I -- I will try to be concise, and short, and to the

1 point. You've got a lot of material in front of you,
2 you've heard a lot of evidence and so I know that you'll
3 review that and I'm not intending to belabour reviewing
4 that evidence.

5 I might start by saying I'm somewhat
6 flattered on behalf of MoneyMart that we were the subject
7 of the vast majority of My Friends' comments and I'm
8 looking at My Friend next to me and I think he got two
9 (2) or three (3) minutes so we're -- we're going to --

10 MR. ALLAN FORAN: I did my job.

11 MR. PAUL EDWARDS: Exactly. Exactly,
12 obviously there was a problem with me.

13 In terms of the legislation let me -- let
14 me start there for a moment, Ms. Southall.

15 Sorry, let me start by thanking the Board
16 as well. We said that at the outset; we say it again.
17 MoneyMart's a volunteer to this process and we're very,
18 very pleased to have had the opportunity to be here and -
19 - and be granted Intervenor status.

20 It's a new issue for this Board. It's --
21 it's new for -- for MoneyMart. We're -- we're all, as
22 Mr. Williams said, kind of feeling our way through this
23 and it's been a very interesting process for my client
24 and for me personally. We've appreciated the assistance
25 of Ms. -- Ms. Southall throughout, it's been excellent

1 and My Friends Mr. Williams and Mr. Foran as well. So we
2 very much appreciate that.

3 In terms of legislation a couple of
4 points. Bill 24, of course was given Royal assent June
5 13th/'06 and the Board in that legislation is to set a
6 maximum amount. And I just want to make sure that we
7 don't lose sight of that word "maximum".

8 We're not setting as in a monopolistic
9 situation a -- a reasonable rate. We're setting a
10 maximum rate that is reasonable. So we need to be
11 cognizant of that and it's to be reviewed every three (3)
12 years or if there's a change in circumstances. So
13 clearly the legislative -- Legislature has intended this
14 Board to not just make one (1) decision for all time but
15 there's a regular process by which it will be revisited.

16 So that I think gives a bit of a backup if
17 you will in terms of this Board's confidence that as they
18 move into this area cautiously, we would suggest, in the
19 first instance they'll have the opportunity to see what
20 happens.

21 And we're all sitting here to a certain
22 degree predicting about what may or may not happen but
23 this will come back and if circumstances change and
24 there's a sense that the mischief which was perceived to
25 need to be addressed by this legislation is not being

1 met, this Board can come back and review and -- and alter
2 its decision.

3 The penalties of course are severe and so
4 the Legislature has been clear that this is an important
5 issue, one that they want compliance with and that they
6 want dealt with.

7 Getting to this issue of the -- issue of
8 the mischief to be addressed we have the comments of
9 Minister Selinger which were read into the record by Mr.
10 Bishop and I think they're instructive. When he was
11 introducing this bill he stated and I'll repeat. This is
12 May 24th, 2006, in the Legislative Assembly:

13 "Complaints about cheque cashing fees
14 as high as 30 percent of the face value
15 of the cheque have been received. It
16 is essential that limits on fees be
17 established so that consumers receive
18 the maximum benefit from these
19 cheques."

20 So we know what the Minister was -- was
21 concerned about and we had evidence -- very interesting
22 evidence -- yesterday from Anna Pazdzierski about a
23 thirty dollar (\$30) base rate plus 3 percent, seven
24 dollars (\$7) plus a percentage of -- of twenty (20) to
25 twenty-eight dollars (\$28) being paid on a two

1 hundred dollar (\$200) cheque. So we had some similar
2 evidence from her yesterday of what are clearly high and
3 unreasonable rates.

4 We're not certain, as a result of any of
5 the evidence here, who's charging those. We -- we
6 haven't had evidence from anybody coming forward,
7 understandably, from any of those operators. Mr. Glass
8 at Chochy's of course ties a lot of his cheque cashing to
9 purchases in the store and -- and paying him.

10 But it was interesting what he said when
11 asked about his rate that he would charge even if you
12 weren't in the -- buying something and he said, Well, we
13 like to be a little less than what the cheque cashing
14 operations charge, i.e. MoneyMart. He said, We would
15 typically charge a little bit less.

16 So to -- clearly the pawnshops -- and then
17 of course he also mentioned that, you know, he had
18 certain criteria to even cash a cheque if you weren't a
19 customer. But the reality is that the -- the industry as
20 represented before you really is charging rates here
21 which are pretty close to each other.

22 Professor Buckland has given you that
23 information of the forty-four (44) outlets in the city of
24 Winnipeg, and you'll see at his submission -- I just want
25 to take it to you briefly, his tables.

1 This was -- I don't remember the Exhibit
2 number, this was the tables dated December 18th/06 --
3 might have been 5.3. And in those tables at tab 2 is
4 where he sets out the -- the outlets in Winnipeg, and if
5 you add them up, which I did, there are forty-four (44).
6 Thirteen (13) of which were MoneyMart at the time, eight
7 (8) which were Rent Cash, and so on, and so forth.

8 And he comes up with an average, and --
9 and you'll remember in his evidence, I pointed this out
10 to him, he's got it written here as four dollars and
11 eight-one cents (\$4.81), in fact it's five dollars and
12 eighteen cents (\$5.18) for cashing a hundred dollar
13 (\$100) cheque. And the range is between three dollars
14 (\$3) and five dollars and ninety-eight cents (\$5.98).

15 So on a hundred dollar (\$100) cheque,
16 between three (3) and six (6) percent when you include
17 the flat fee as well as the percentage. Of course, it
18 goes down from there as the cheque amount goes up, but
19 nowhere near what Minister Selinger and Ms. Pazdzierski
20 are talking about.

21 MoneyMart believes it's in a very
22 competitive industry. We've got forty-four (44) outlets,
23 yes, that's true. In this survey, thirteen (13) of them
24 were ours, but look at the range. There's nobody here
25 exercising pricing which would suggest monopolistic, or

1 dominant, predatory types of pricing which you would find
2 where there was a lack of competition, it's the opposite.

3 That is not, in MoneyMart's submission, a
4 significant range, and the manner in which the pricing is
5 done is relatively similar. There are numerous
6 operations in this industry. That's the reality, that's
7 the fact.

8 Some of the indicia that Professor
9 Buckland points to is suggestive of imperfect
10 competition; advertising, he says -- well, I -- I don't
11 of many industries where there isn't advertising, that's
12 not suggestive of a lack of competition.

13 MoneyMart would suggest, what you need to
14 look at here in terms of determining whether there's a
15 competitive marketplace, just look at that range of fees,
16 look at the number of people in this industry. We're --
17 MoneyMart is charging the same at their one (1) location
18 on Selkirk Avenue as they are in St. Vital or St. James.

19 An interesting question to ask is, what
20 would Mr. Glass be charging if MoneyMart wasn't across
21 the street? The truth is that while we all might stand
22 up and say, well, you know, companies like MoneyMart
23 should be charging less, well, we've only got one (1)
24 outlet in -- in Professor's Buckland's designated area of
25 pronounced financial exclusion.

1 It was the first one (1). There have been
2 now fourteen (14) since, none of them has been in that
3 area. We dispute, and -- and -- and you've got the map
4 in front of you, that we're targeting the impoverished
5 neighbourhoods of this city. Our most recent outlet, as
6 you learned yesterday, is in Selkirk to open in two (2)
7 weeks.

8 So MoneyMart -- you've heard it from Ms.
9 Smith, and Mr. Bishop, and the evidence, the target
10 market is not the financially excluded. Ten (10) percent
11 of the cheques cashed are government checks. Of those,
12 two (2) to three (3) percent are the income assistance,
13 and -- and old age security.

14 This is not the business, and it's not the
15 future. And frankly, as Assiniboine Credit Union with
16 one (1) outlet even after their merger up on McPhillips.
17 MoneyMart has one (1) outlet in that area and our caution
18 to this Board is what everybody has talked about here,
19 everybody -- Professor Buckland and everyone -- is
20 access. It must be paramount that access be enhanced,
21 supported where -- where it exists and assisted where it
22 doesn't.

23 Access to these services is key because
24 the truth is if there's no access, if there aren't
25 service providers who are mainstream, accountable,

1 transparent like MoneyMart, like others, involved with
2 all kinds of tracking and regulatory authorities on their
3 transactions, if they aren't there, what is the option?

4 The option is the CFSC, which is
5 wonderful, is active, but the reality is that's going to
6 require either government intervention and support
7 financially or that of private companies stepping forward
8 to contribute like Assiniboine Credit Union which
9 deserves all of our commendation for that and the
10 Winnipeg Foundation for supporting.

11 But that's not a business. That is a --
12 becomes in reality, as Ms. Joyal made clear, a social
13 program of sorts that is going to require that kind of
14 financial support over the long term.

15 So MoneyMart's position first and foremost
16 is that's not the market they're in. It's an extremely
17 important market. It has dominated the evidence,
18 certainly that of -- of the Consumers' Association here
19 and maintaining access, maintaining an environment where
20 competitors are present is essential and it's -- I'll get
21 to it later in terms of the recommendation.

22 It's MoneyMart's position that the way to
23 maintain that, the way to ensure that that competition is
24 enhanced and continues to exist is to not distort it by
25 going below what is the maximum within that reasonable

1 range and you are setting a maximum rate.

2 Let me turn to Professor Buckland's
3 submission and I want to just take you to page 34. And I
4 want to select out just a couple of quotes which -- which
5 I want to be very, very clear that MoneyMart completely
6 agrees with. This is at page 34.

7 "From an anti-poverty perspective the
8 best scenario is the one that ensures
9 the lowest fees to low income people
10 but is not so low that a large number
11 of cheque cashers are put out of
12 business."

13 He goes on to state:

14 "If competition is ensured which is a
15 major challenge in an oligopolistic
16 market then the price of payday loans
17 may actually fall over time."

18 Well, here's the reality. The price has
19 fallen over time. We've had a decrease in the -- in
20 MoneyMart's experience in this business as the market has
21 perhaps -- and -- and it's clear from the 10-K report --
22 moved towards larger players in the market. We're not
23 the only one(1).

24 Prices have come down. That's true of
25 many industries. Just because there's a consolidation

1 within industries does not mean that competition is
2 decreased and prices come down. It's the opposite. The
3 10-K report, Exhibit 7.9, and this is a quote from the
4 risk factors portion of that and you'll find it at...

5

6 (BRIEF PAUSE)

7

8 MR. PAUL EDWARDS: Hang on here.

9

10 (BRIEF PAUSE)

11

12 MR. PAUL EDWARDS: Pardon me, just give
13 me one (1) second here. Yeah, this is page 25. This is
14 the quote from the 10-K report.

15 "The industry in which we operate is
16 highly fragmented and very competitive.
17 In addition, we believe that the market
18 will become more competitive as the
19 industry consolidates."

20 Not less, more. Goes on and this is the
21 sentence from that last paragraph of that -- or last
22 sentence of that paragraph.

23 "As a result, we could lose market
24 share and our revenues decline, thereby
25 affecting our ability to generate

1 sufficient cash flow to service our
2 indebtedness and fund our operations."

3 And what's interesting is that in the 10-K
4 report cheque cashing revenues have increased. My Friend
5 pointed that out, but the number of stores has increased
6 dramatically. You'll see that at page 14.

7 In Canada the number of stores between
8 2002 and 2006 went from two hundred and fifty-four (254)
9 to three hundred and seventy (370), so the cheque cashing
10 revenue per store, you'll see from this document, went
11 down. It's a declining business.

12 What MoneyMart has done has opened more
13 stores, very expensive stores and I'm -- I'm -- you've
14 had the in-camera evidence as to costs, but this is a
15 retail financial business. This is -- these are store
16 front, street front, labour intensive, long hours that
17 they're open, so a lot of labour costs. People are
18 there, this isn't an ATM machine where there's one cost
19 and somebody just comes and uses it themself.

20 This is, you walk in the door, you meet a
21 real employee who services you and it's street front and
22 it's -- it's retail, strip malls and Portage Avenue. So
23 it's a high cost business.

24 Now just to -- and I -- I want to just
25 digress for a moment. MoneyMarket does not -- Mart does

1 not see itself in opposition to the Consumer Association
2 of Canada and the Manitoba Society of Seniors. Despite
3 the instincts of most court room lawyers and litigators,
4 we like to engage of course, but MoneyMart declines.
5 That's not something we're interested in here.

6 We agree with a lot of what Professor
7 Buckland has said and most of his conclusions and frankly
8 the financially excluded in our society, we don't dispute
9 those figures and those findings and the recommendations
10 which have come forward are excellent. We -- and I
11 personally appreciated hearing from a lot of those
12 individuals. We don't see ourselves as -- MoneyMart
13 doesn't, as having contrary interests.

14 The evidence from Professor Buckland, of
15 course, stems from the task that was given to him and --
16 and, of course, if you look at the retainer letter which
17 is at tab 2 of the Consumers Association larger binder,
18 also dated December 18th, 2006, where his retainer is set
19 out, he is asked to address the issues as they relate to
20 low income cons -- consumers including seniors.

21 So we understand that -- that -- that's
22 the job that was given him. You here are, of course,
23 going to be tasked with setting rates for all consumers,
24 corner to corner. All demographics, all income levels,
25 province of Manitoba, throughout. And that frankly is,

1 our market, is all Manitobans.

2 Now, the task you have, therefore, in a
3 nutshell, I think is to balance the need to preserve and
4 enhance access and not negatively impact in any way the
5 competitive environment which currently exists. Maybe it
6 is imperfect but you know what, it is there and it -- it
7 certainly, on everybody's evidence, needs to be
8 maintained and enhanced in whatever shape it is. We say
9 it's in fine shape.

10 You need to balance that with the
11 protection of consumers from, of course, those
12 unreasonable rates and frankly those who might prey on
13 the poor. And consumers from all walks of life choose
14 these services. They choose them freely and -- and
15 voluntarily.

16 No doubt there are some as Mr. Glass
17 described who, frankly, they've got a half or three-
18 quarter kilometre radius and frankly they face barriers
19 getting out of that radius and they face barrier after
20 barrier after barrier in terms of accessing any financial
21 services.

22 And so part of that task of, I think -- as
23 I've said and MoneyMart believes, that you face is -- is
24 ensuring that there are as many options as possible and
25 that what you do balances that with the need of all

1 consumers in Manitoba to continue to be able to access
2 these services at a reasonable rate, as they currently
3 do.

4 Now, in terms of why people choose to
5 access MoneyMart's services you've got lots of evidence
6 on that. You've got a 2002 survey and a 2005 survey.
7 And as to who those people are, you've got lots of
8 evidence of that and we'll leave that with you.

9 Frankly, I was interested to note at the
10 Consumers' Association, MSOS Exhibit 5.10, that's the
11 IPSOS Reid study and you'll see there's very consistent
12 evidence there with MoneyMart's evidence at page 3 and
13 the statistics are set out in detail at page 11. I won't
14 take you to those but they tell you there exactly why
15 people are using these services.

16 I was interested to also note in the
17 Canadian Bankers' Association presentation, in terms of
18 where this market is going and where it's locating, it's
19 very consistent with that of -- of -- that MoneyMart's
20 put forward in terms of they're not seeking to avoid
21 banks; they're seeking to be near banks.

22 They see themselves as a -- as
23 complementary to banks and the Ryerson study supports
24 that and of course the Bankers' Association presentation
25 also supports that. I won't take you to those quotes but

1 -- but that's the gist of what they say.

2 With respect to -- oh, and I just -- one
3 (1) other citation on that point. In Consumers'
4 Association, MSOS materials Professor Buckland's report
5 from August of 2003, and this was attached to a large
6 package of materials which came in December 18th, 2006.

7 It's entitled "The Rise of Fringe
8 Financial Services in Winnipeg's North End" and in that
9 report just would draw your attention to what is page
10 small Roman Numeral xii where -- and this is part of the
11 Executive Summary and Recommendations -- the statement at
12 paragraph 3 point 5:

13 "Fringe banks are increasingly
14 operating in middle income
15 neighbourhoods in Winnipeg."

16 And it goes on to state at the end of that
17 paragraph:

18 "A research study could examine the
19 consequences for clients in this
20 process of normalization of a new
21 sector. A related question would be to
22 examine the social perceptions in
23 Canada towards fringe banks."

24 So there's an acknowledgement that -- and
25 that's back in 2003 that the industry was -- was moving

1 towards a middle income -- well that's four (4) years ago
2 and MoneyMart's evidence and position would be that --
3 that's happened, that's happened.

4 As well, just within that August of 2003
5 report, I'd refer you to what is page, small roman
6 numeral, vi, and there Professor Buckland states and this
7 is consistent with all the evidence you've heard:

8 "Fringe bank clients we interviewed
9 commented that they felt more
10 respectfully treated and that they had
11 a greater sense of control over their
12 money at fringe banks as compared to
13 mainstream banks."

14 Further up that page the statement is
15 made:

16 "On the one (1) hand the clients we
17 spoke to with thought that fringe banks
18 provided a service they needed."

19 So that's a -- that's specific to the low
20 income service providers, I think it's consistent with
21 everything you've heard.

22 The typical customer of MoneyMart, I think
23 if you review those statistics, will show and, of course,
24 there's lots of exceptions. You know, these are all
25 percentages and statistics and studies and any

1 statistician, any lawyer knows you can move and
2 manipulate and read statistics in -- in many different
3 ways.

4 But the evidence, we say, and it's in the
5 10-K report as well, in terms of the market and the
6 future of the market is, our typical customer is
7 relatively young, male, 60 percent are male and employed,
8 with a bank account.

9 And you'll see in the -- in the -- in the
10 report which is the 2005 report at with -- which I think
11 is quite interesting, this is Exhibit 7.6, you'll see
12 there at page 20, in fact 62 percent have a debit card.
13 Interesting. Not just a bank account, but a debit card.

14 And you'll also see in those studies that
15 the reality is the majority of the customers aren't
16 coming twice a month, twelve (12) months of the year.
17 Some certainly do. The majority are coming relatively
18 sporadically; that -- that's an issue for MoneyMart.

19 They're coming now and then when they need
20 the service, so MoneyMart would suggest that is a bit
21 like a 7-Eleven for the majority of their customers.
22 They are coming when they happen to need us, not always.
23 That is -- is in the -- those surveys.

24 The average income, you'll see in the
25 submission of MoneyMart 7.1, is -- in '05 was 32,500.

1 Well, that was one of the purposes of that document which
2 we put in this morning where the Stats Canada document
3 shows -- let me just find it. I handed it in, but I -- I
4 think I also kept a copy. Here it is.

5 This is now Exhibit 7.10. The -- the
6 figure we'd refer you to is at the very bottom of the
7 first page. Here's a non-elderly male, which MoneyMart
8 suggests is its typical client, and it has an average --
9 a household income in 2004, \$34,800.

10 Again, these are just statistics, we're --
11 we're basing these on majority numbers, but as far as our
12 average or typical customer with a -- an average
13 household income in the early part of 2005, because that
14 data was collected in March and April of 2005, so the
15 closest comparator is 2004. And we've got a relatively
16 close average income, so that -- that is the point that
17 was being made in -- in MoneyMart's evidence.

18 There are four (4) principals that
19 MoneyMart asks this Board to consider in its
20 deliberations and decision.

21 Firstly, that this is a -- the first time
22 for this process and that accordingly the Board should
23 proceed cautiously. Manitoba does not have experience.
24 This Board does not have experience in seeing and
25 understanding what the impact of its decision is.

1 So it's important, as a first step, to
2 proceed cautiously, especially because it's going to come
3 up again, and if something unexpected happens that the
4 Board determines is sufficiently is a change in
5 circumstance to come back, the Board has that right. So
6 as a first instance, a cautious approach should be taken
7 would be the suggestion of MoneyMart.

8 The second principle, and I don't think
9 there's any disagreement on this, simple is better, for
10 consumers, for the industry, for ease of enforcement your
11 decision should be easy to understand, and to publicise,
12 to administer, and to enforce.

13 Thirdly, that this is a province-wide
14 regulation. I've made that point. All consumers, those
15 who use, wish to use, and -- are -- are deserving of
16 consideration, and of course, that I think is made easier
17 to a certain degree in that the -- the -- the -- the
18 companies in this industry, like MoneyMart, really do
19 charge the same rate everywhere for the most part.

20 Certainly MoneyMart does, I think that's
21 consistent in the industry. The fourth principal, and
22 again, I don't think there's any dispute on this, and I
23 was interested in Mr. William's opening comment, which I
24 made note of, and I put a star beside, because I would
25 certainly agree.

1 There is no need to regulate when the
2 market is working well, he said. And the -- so the
3 fourth principal we would request consideration be given
4 to is that market-driven competition, even if imperfect,
5 is essential if access to services and reasonable prices
6 are to be maintained, and they should be left alone.

7 And if the maximum rate is set, MoneyMart
8 would suggest, and you've heard this evidence, below the
9 upper end of that range of what we would suggest are
10 reasonable rates within the industry, the competitive
11 industry, that will distort, will necessarily distort
12 that competitive environment to whatever degree, and
13 access will necessarily be lessened.

14 And nothing makes that clearer, in
15 MoneyMart's submission, than Professor Buckland's chart,
16 which is found at tab 10 of the smaller book of
17 documents, 5.3, I think. And I'm -- I'm going to ask you
18 to recall my discussion with Professor Buckland about
19 this tab 10.

20 This is a document entitled "Winners and
21 losers of different government cheque cashing ceilings."
22 And the only box where there are no consumers who lose or
23 even potentially lose, is the outlier ceiling.

24 Professor Buckland looks at the economies
25 of scale, looks at the firm average, which Mr. Williams,

1 and later in his second testimony Professor Buckland
2 recommended, but the reality is in both of those boxes
3 you will see losers include consumers.

4 And when I questioned Dr. Buckland on
5 that, and this is found at pages 183, and 184 of the
6 transcript -- don't need to look it up, I just want to
7 take you to it, it's quite short.

8 Now this is starting at line 13 on page
9 183, and this is the cross-examination of Professor
10 Buckland.

11 This is Dr. Buckland speaking,

12 "So I -- I think you've got point that
13 the status quo, which I think is really
14 the outlier scenario, causes the least
15 change in the industry but I would --
16 would suggest that maybe change is --
17 is necessary for consumers to -- to
18 overall benefit in maybe the medium in
19 the longer term."

20 I then asked:

21 "Okay, but just to be clear, the
22 outlier model is the only one where the
23 consumers are all either affected as
24 winners or neutral in your analysis.

25 DR. BUCKLAND: Yeah. In my analysis

1 these are the immediate winners and
2 losers so that is correct. The medium
3 and longer term effects are not
4 described in this table."

5 My question:

6 "And -- and what would you cast as
7 medium? How many years or what --
8 what's your definition of medium and
9 long-term?

10 DR. BUCKLAND: Well, medium term five
11 (5) to ten (10) years."

12 I asked:

13 "And long term?

14 DR. BUCKLAND: Ten (10) to twenty (20)
15 years."

16 So certainly for the next three (3) years,
17 which is really your focus, Dr. Buckland's evidence is
18 clear that the cautious approach which both protects
19 consumers, makes sure that none of them are losers in
20 terms of reduction of access and in terms of facing
21 unreasonable rates, is the outlier model.

22 So applying the four (4) principles,
23 MoneyMart suggests that the maximum rate be set at
24 something above the range established by active
25 competitors where competition exists and it does in

1 Winnipeg and so that's the range that Professor Buckland
2 has put forward and we accept it.

3 Mr. Bishop was asked and suggested four
4 dollars (\$4) or 4 percent or five dollars (\$5) and 5
5 percent. Those are his words. If the rate is set at
6 something less, we know that options for consumers will
7 be negatively affected.

8 We might all hope that all operators are -
9 - in a competitive environment are efficient operators.
10 There is a range of between the three (3) and the six
11 (6), in that range. They're not all identically
12 efficient but the reality is I think that's a pretty
13 close range.

14 I don't know of many industries where
15 there's perfect competition; in fact I don't know of any.
16 You can always get different prices and if that's
17 evidence of an imperfect competition then it clearly does
18 not exist.

19 The assessment of costs and that is a
20 factor you are required to look at in the -- in the
21 Statute, costs of -- of the companies in the industry and
22 we have identified those three (3) categories: Fixed,
23 processing costs, and then risk.

24 And you have MoneyMart's in-camera
25 evidence on its costs and fixed and -- and processing

1 costs. You've got the 10-K document but you've also got
2 a lot of in-camera evidence and suffice it to say that
3 it's MoneyMart's position that whatever supernormal
4 profits are, we're not earning them. It's just not
5 there.

6 That is speculation on the part of
7 Professor Buckland. He, frankly, in his report, bases it
8 on an extrapolation from the Ernst and Young report about
9 the banking industry and profits in the range of 18, 19
10 percent. Well, I invite you to study the numbers in the
11 10-K report and recall some of the evidence that was
12 given in-camera.

13 Compare the profit rate to gross revenue
14 in cheque cashing. It's nowhere near 18 or 19 percent in
15 the 10-K report. It's in the range of 5 or 6 percent.
16 Those figures can be found in the 10-K report.

17

18 (BRIEF PAUSE)

19

20 MR. PAUL EDWARDS: Cheque cashing figures
21 were broken out. Page 8 talks about the cheque cashing.
22 Pages 9 -- page 9 breaks out further cheque cashing
23 information. Then you've got financial data at page 35
24 of that report.

25 And further you've got Professor

1 Buckland's table. Again this is the shorter document of
2 tables at Tab 4 where he sets out net income and total
3 revenues. I'm not going to do the math for you. I've
4 done it. You can do it but it's nowhere near whatever
5 supernormal profits are; certainly nowhere near the --
6 the 19 or 20 percent talked about.

7

8 (BRIEF PAUSE)

9

10 MR. PAUL EDWARDS: As for the risk issues
11 there's no suggestion that the Provincial Government is
12 unable to honour it's cheques. We -- we talked about
13 that and -- and Mr. Bishop was clear in his evidence
14 about that element of risk.

15 What you also heard from Ms. Smith was
16 that you encounter specific problems when a cheque is
17 stolen or presented fraudulently and going through the
18 process of -- of collecting that and the Provincial
19 Government is not particularly quick or easy to recover
20 those funds and so there are those additional costs which
21 I just leave with you, but you heard clearly on the
22 evidence there's no suggestion here that risk includes
23 NSF cheques.

24 And frankly, in terms of the other non-
25 government cheque operations you also heard that -- and

1 you see from the 10-K document -- that's not a
2 significant cost either, frankly. MoneyMart's operations
3 are very efficient and successful, frankly, to a large
4 degree in recovering where there's non-payment.

5 The issues around the financially excluded
6 and -- and the suggestions that emanated from that, you
7 heard a lot of positive suggestions. We don't -- it's
8 not our role to make comment on those. You heard about
9 identification issues, transportation issues, lack of
10 information, some basic personal financial management
11 knowledge and skills and there's a suggestion of changes
12 to curriculum and education initiatives. You heard about
13 problems of disrespectful and demeaning behaviour.

14 All of those are I think key elements,
15 something that clearly this Board will take an interest
16 in and discuss in its report. Those are not issues we
17 would presume to comment on except to say the ones
18 certainly specific to cheque cashing operations that we
19 heard about -- lack of information, lack of transparency,
20 disclosure. You've heard MoneyMart's evidence on that.
21 We welcome that and we encourage that. There should be
22 that type of requirement. It's something that MoneyMart
23 has done as part of its corporate policy but certainly we
24 would welcome that type of initiative.

25 The only comment that strikes me and -- on

1 a personal note, having been in the position of being an
2 elected representative, is that these issues are not
3 simple; they're complex. You see from Professor
4 Buckland's reports and -- and everyone's testimony here,
5 these are linked to poverty and the systemic problems the
6 cycle of poverty brings with it.

7 There are not quick fixes. There
8 certainly are a lot of things that can be done. There
9 may be some simple things that government can do that
10 don't cost a lot of money and don't create whole new
11 infrastructures but simply that government can do and
12 I'll -- we'll leave that to you. We -- we had some very
13 good suggestions.

14 But certainly in this process, the limit
15 you've been given in terms of your authority as to
16 setting a maximum rate, you know, is a very, very
17 tangential, small piece of that overall issue. It leads
18 -- and -- and the Consumers' Association has, I think
19 importantly, led all of us to understand the -- the
20 broader issues, but the reality is at the end of the day,
21 you as a Board have a very narrow task here, and ability
22 therefore to in any way deal with and solve some of those
23 bigger issues, albeit it's an important task. I want to
24 be very, very clear on that.

25 Might it be appropriate to take that five

1 (5) minutes now and I'd just like to confer with Mr.
2 Bishop? I think I'm close to wrapping up, but I would
3 like the opportunity to confer.

4 THE CHAIRPERSON: Very good. Okay. We
5 will come back at 12:45.

6 MR. PAUL EDWARDS: Thank you.

7

8 --- Upon recessing at 12:35 p.m.

9 --- Upon resuming at 12:45 p.m.

10

11 THE CHAIRPERSON: Okay, Mr. Edwards,
12 whenever you are ready.

13 MR. PAUL EDWARDS: Thank you very much.
14 Just by way of conclusion. The suggestion has been made
15 that MoneyMart is a so-called dominant player and that's
16 been extrapolated by Mr. Williams to mean that that
17 negatively impacts competition. The suggestion MoneyMart
18 is that, whatever that terms means, we're certainly in a
19 competitive environment, that's clear from the 10-K
20 report and that's clear from the reality.

21 The interesting scenario is that, frankly,
22 if service providers in the government cheque cashing
23 industry are reduced, if there's any reduction in the
24 number of companies that provide those services so that
25 some are out of the business, frankly, that would make

1 the situation worse because MoneyMart does have economies
2 of scale. The reality is that if there's a reduction in
3 service providers it's going to worsen the very concern
4 Mr. Williams raises.

5 That's not to suggest that MoneyMart
6 accepts the statement that it in fact don -- dominant in
7 the way that he describes. The fact is this is a
8 declining market.

9 Access is essential and MoneyMart asks in
10 your deliberations and I started with this and I'll end
11 with this, to make that first and foremost in your
12 deliberations, that for all parts of the province and in
13 particular those lower income areas where there are
14 financially excluded individuals, in particular for them
15 access is key and whatever is done should ensure that the
16 number of providers who operate up front and in
17 accountable ways like MoneyMart should be allowed to
18 continue to compete freely, provide the best service at
19 the best price.

20 Those are the final submissions on behalf
21 of MoneyMart.

22 THE CHAIRPERSON: Thank you, Mr. Edwards.
23 And through you to MoneyMart and its witness panel and
24 Mr. Franchuk (phonetic) and Mr. Bishop our appreciation.
25 We're particularly appreciative of the fact that

1 MoneyMart came forward, as it was on a voluntary basis,
2 which has clearly assisted us in our ability to gain an
3 understanding of the industry and the situation and
4 everything related thereto. So we do appreciate that.

5 Mr. Foran, we've finally arrived at you.

6

7 CLOSING COMMENTS BY MR. ALLAN FORAN:

8 MR. ALLAN FORAN: Thank you, Mr.

9 Chairman, Members of the Board.

10 You're going to hear some seams that will
11 overlap in -- in my comments with those made from Mr.
12 Edwards and -- and I'm going to respond to a couple of
13 the comments that have been directed to the Board on
14 behalf of CAC/MSOS.

15 I -- I think where I'd like to start is --
16 is perhaps where you've started and that is the
17 legislation. The legislation provides that the Board
18 will affix the maximum amount or establish a rate formula
19 or tariff to determine the maximum amount for a cheque
20 cashing fee.

21 The legislation in this Hearing have a
22 direct impact on my client's operations. That was
23 recognized as a result of our applying for Intervenor
24 status and it being granted in November of 2006.

25 And in that specific decision I -- I think

1 what the Board is grappling with was actually set out
2 very well. In that decision the Board stated that these
3 proceedings are new and unusual. The Board suggested it
4 was interested in receiving information that would allow
5 you to come to a conclusion in an unbiased and well-
6 informed and thoughtful manner.

7 What my client's attempted to do -- to do
8 in this proceeding is to provide you with that
9 information and in particular from a different
10 perspective from the other Intervenors. We have a
11 geographical difference from really where you've heard a
12 lot of your evidence, and we also have another
13 significant difference and that is that we're a retailer.
14 This isn't our business, this is an adjunct to our
15 business.

16 I'm going to preface my comments with --
17 with a theme and the theme is this. I'm going to suggest
18 to the Board that what you have been tasked to do is to
19 protect the public. In protecting the public, however,
20 part of the goal is to ensure that this important service
21 can still be provided and so really there's -- there's
22 two (2) aspects to protecting the public -- reasonable
23 access and ensuring that the fees are fair to the
24 consumers.

25 We've approached this Hearing perhaps in a

1 manner that the Board has some familiarity with and that
2 is that we have really suggested to you that from -- from
3 my client's perspective we ought to focus on cost and
4 return. And I think that's something that -- that this
5 Board does on a very regular basis. It -- it looks at
6 generally a utility. It looks at the utility's
7 operation. It attempts to ensure the costs are
8 reasonable and then provide a reasonable return to the
9 shareholders.

10 In this regard, our evidence is actually a
11 little bit different from that that you've heard. I want
12 to stress that while North West is concerned about the
13 social issues involved, we haven't directly engaged with
14 CAC/MSOS, or their witnesses, on the social changes to
15 inner city Winnipeg; that -- that's not the service that
16 we provide.

17 My Learned Friend Mr. Edwards, and his
18 client, have addressed some of those social issues and
19 have also provided you with information as to their
20 business operations, and I'm going to come to -- to those
21 operations in a moment.

22 The North West Company has, in Manitoba,
23 forty (40) stores. Twenty-seven (27) of these stores are
24 in remote areas, and in twenty-three (23) of those
25 communities there are no financial institutions, by that

1 we mean banks. And I think one (1) of the
2 differentiating characteristics in -- in our evidence is
3 that, you -- you've heard a lot of the social issues with
4 -- with banks moving out of areas.

5 In our particular instance, there never
6 was a bank and possibly never will be a bank. And even
7 in a couple of those examples of communities where there
8 are banking facilities, you've heard evidence that it's
9 either by ATM, that does not carry a lot of cash, or
10 alternatively there are limited cash resources available
11 to satisfy the needs of the community.

12 In effect, the North West Company has
13 become the main supplier of financial services in remote
14 communities in Manitoba, and primarily is looked to, to
15 provide cheque cashing services. This actually has been
16 a very fascinating hearing for me because I've had a
17 chance to learn, as I always do, a lot about my client's
18 business.

19 But if you look at my client from the
20 perspective of what it does, and in this particular
21 hearing, what it's provided evidence on, one (1) of the
22 most fascinating things is that we retail food and
23 services, and if you look at cash as just another
24 commodity, the kind of evidence that we've attempted to
25 provide is the difficulties in sourcing this commodity

1 and delivering it to the customer.

2 You've heard about the cost structures, I
3 think, in-camera, certainly from my client, but -- but --
4 from -- from MoneyMart. And there might be some overlap,
5 we don't know. But what we can tell you is that there is
6 a high degree of staff involvement in this kind of
7 endeavour that we have unique operating expenses to
8 service our remote communities.

9 We need to purchase our cash inventory,
10 and then we need to move it in a manner that is safe and
11 secure not only to get to these very remote communities,
12 but also to ensure that it's safe while it's there, and
13 that our staff is safe while it's there.

14 And one (1) of the points that was brought
15 home to me is that, if you just physically think about
16 this commodity, we're -- we're talking about bills, and
17 we're talking about coins, and these are -- these are
18 heavy things, and requires a lot of -- of labour to -- to
19 move around.

20 The North West Company has to pay upfront
21 for its inventory, and if we talk about this in terms of
22 just being an ordinary retailer, we can't negotiate
23 discounts on this commodity. They're not available to
24 us. And again, one (1) of the ironies is not only is
25 this commodity not available at a discount, it must be

1 purchased at a premium.

2 Intuitively, that means that you need to
3 charge more than the face value of the bill just to
4 recover your cost. A one (1) dollar bill does not cost
5 one dollar (\$1), it costs more than a dollar, but the
6 public's not prepared to pay anything more than that one
7 (1) dollar to get the one (1) dollar.

8 Once this commodity is on the shelf, so to
9 speak, there is a shelf life. We have to maintain the
10 commodity, we have to have it available for our
11 constituency, and then we have to take what's been given
12 to us in exchange for that commodity and bring it back to
13 a place that will actually accept it. That's the
14 process, that is -- that is a process that's factored
15 into the cost of delivering the service.

16 And you've heard evidence that between the
17 time cash is ordered until such time as provincial
18 government cheques are received in return, there is
19 easily a lag of over fourteen (14) days. And in that
20 period of time there is a cost to my client in
21 maintaining this inventory. You heard evidence that, in
22 fact, this cash is the most expensive inventory sold. We
23 have had increased cost pressures over the last number of
24 years.

25 Financial institutions that provide the

1 cash commodity to North West are, in fact, discouraging
2 the handling of cash. And if you just think about us all
3 around this boardroom today, we have credit cards, we
4 have debit cards. My wife from time to time will say, do
5 you have cash to pay the sitter. We actually have to
6 think through whether somebody's got money to satisfy our
7 obligations.

8 But in this particular instance when we're
9 cashing cheques, it's a fundamental importance to remote
10 communities in Manitoba. I've said this before, but the
11 province of Manitoba does not send money through the
12 mail. It doesn't send cash and it doesn't send coins.
13 It sends something called a cheque.

14 And then it looks to the citizens to do
15 what they need to do to ensure that that cheque can
16 somehow be transformed into something that can be used.
17 Perhaps by default because we have the infrastructure,
18 the North West Company's in a position to provide that
19 service and we've been frank from a social perspective,
20 we've been looked to to provide that service and we do
21 provide that service.

22 I want to make one (1) point I think that
23 distinguishes many of the comments of CAC/MSOS and -- and
24 its expert from the North West Company to other possible
25 companies in this area and, that is, we don't build our

1 stores in an effort to take advantage of this. Our
2 growth is not being driven by which communities are
3 getting provincial cheques, where are we going to locate
4 our next store. It's the opposite. Our store is there
5 to retail and as an adjunct we provide the service.

6 I -- I really am focussing on this because
7 I think this is part of the -- the challenge and I
8 suspect you're all wincing because you've heard this from
9 all the legal counsel about how difficult your job is and
10 how sorry we feel for you, but Mr. Edwards said this,
11 whatever you do do is going to impact all Manitobans from
12 top to bottom and I think, very generally, we're the
13 Manitobans at the top.

14 What we have attempted to do and we have
15 been very clear on this, is we've attempted to set our
16 fees in a manner that provides for cost recovery and a
17 satisfactory rate of return. I've said this and I've
18 attempted to be delicate, but the North West Company, if
19 it can't meet those objectives can't deliver the service
20 and I think that that evidence is clearly before you.

21 We do have a current fee structure and
22 it's been referred to by My Learned Friend Mr. Williams
23 which has been in place since 2002. And that fee
24 structure was the greater of \$3 or 1 percent of the
25 cheque cashed.

1 We also provide you -- provided you with
2 evidence that in some situations that charge doesn't
3 apply; for example, elders or certain types of
4 government cheques. In fact, you heard evidence that in
5 some locations it's not applied at all and specifically -
6 because I think this is important - although it might
7 have been suggested it wasn't clear to me but it may have
8 been suggested that we have a -- I think if I've got the
9 terminology correct, a spacial monopoly.

10 North West doesn't agree and it provided
11 you with some examples. Some of its examples are that
12 there are other stores and retailers for whom rules can
13 be set that would allow for the cashing of cheques to
14 apply to -- to goods or people could travel out of the
15 community. They could remit the funds.

16 In at least one (1) instance, one of the
17 local government authorities arranged for a whole fleet
18 of buses to show up one (1) day and move everybody to
19 another community but be it as it may, because of the
20 close relationship between the citizens of the
21 communities and the North West Company, we do provide the
22 service and, realistically, we need to cover our costs
23 and make a reasonable rate of return.

24 I, again, focus on that because when we
25 talk about 2002 fees and here we are in 2007 and we talk

1 about the perspective effect of something that -- that
2 you may order being in effect for three (3) years is that
3 we have a very significant period of time within which we
4 have to deal with what existed before and what may have
5 been satisfactory and what is satisfactory now.

6 I now have to go to my speaking-only-to-
7 the- Board-and-nobody-else-in-the-room routine and that
8 is, that as part of the trust you played in us and that
9 trust was to allow an intervention and in good faith hope
10 that something was brought to -- to your attention that
11 would help you we've given you -- we've given you all the
12 details.

13 We've given you the information that the
14 public's not privy to. We've done it in confidence and
15 we put our trust in you that that information will be put
16 to good use but you do have the inner workings of how
17 this service works, the cost of the service, and the
18 reasonable rate of return that North West requires to
19 cover in order to make sure it can -- it can obtain its
20 cost of capital in the marketplace.

21 We've had the opportunity of participating
22 in the evidence. We've heard the evidence of Money Mart
23 and although our operations are different than those of
24 Money Mart, the concept of a fixed and variable fee is
25 something that North West supports. We did not cross-

1 examine Money Mart individuals. We have no particular
2 insight into the costs of their operations but I can tell
3 you that the North West Company is not offended by their
4 fee structure.

5 I found it of equally interesting
6 yesterday to hear from the Assiniboine Credit Union. And
7 the Assiniboine Credit Union told you that they had
8 billions of dollars in assets under control. They had
9 twenty-three (23) branches in Manitoba. This is their
10 business and a couple of interesting things that I wanted
11 to bring to your attention is they said typically they
12 don't negotiate these cheques from non-members.

13 I just want to contrast that from the
14 North West scenario where, I suppose, this is more of a
15 social thing. We are cashing all these cheques whether
16 they shop at North West or not.

17 You heard from the Assiniboine Credit
18 Union that there's risks in cashing provincial and
19 municipal cheques. We have not focussed on the risk but
20 I think it's noteworthy that those institutions that are
21 in this business, they do attempt to reflect the risk in
22 their cost structure.

23 The Assiniboine Credit Union -- and I mean
24 this as all positive statements by the way but -- but
25 they -- they are customer driven and they've, obviously,

1 been very successful. They have the ability to choose
2 their customers and, again, I just want to make that
3 point. Somebody applies and they're accepted or they're
4 not. They meet the criteria or they don't. They match
5 the rules or they're not offered the service.

6 The Assiniboine Credit Union has economy
7 of scale, and if I understood their evidence correctly,
8 in addition to a hold period to attempt to protect
9 themselves, which is not something that you see from the
10 North West Company's practices, they have a five dollar
11 (\$5) per cheque fee.

12 Again, I think I'll just make the comment,
13 that fee structure doesn't bother North West at all, and
14 -- and because we have no particular insight into how
15 they operate.

16 We had the opportunity of cross-examining
17 Dr. Buckland. I don't want to sound too jovial, but, you
18 know, it -- it was fun. He really -- he -- he didn't
19 give, I think, a lot of evidence that directly impacted
20 on the North West Company, but he -- he did say some
21 interesting things, and I'm not going to go into detail.
22 I -- think Mr. Edwards has given a number of -- of
23 factors to mull over, but what he did say was this -- I
24 believe that what he said is that, there needs to be
25 access to this kind of a service. That is important.

1 It's an important consumer function. And it's
2 particularly important if there are no other options for
3 the community generally, or the options are expensive to
4 take advantage of.

5 As I've mentioned, hopping on a plane and
6 flying to Winnipeg to cash you cheques, or pooling, I
7 mean, it just -- it really -- you could do it
8 theoretically, but practically that's very expensive.

9 So with access in mind as a key issue,
10 what we believe Dr. Buckland suggested to the Board was
11 that costs needed to be covered. So that's the first
12 factor, costs, and then a rate of return. And in my
13 view, what Dr. Buckland said, is that rate of return
14 needed to ensure there was no fee gouging. And that's
15 almost a direct quote, "fee gouging." And then he used,
16 and I don't know why the -- it brings a smile to my face,
17 but he -- he uses words like "supernormal profits".

18 So I suppose two (2) of the criteria that
19 you could consider when reviewing the confidential North
20 West information, is whether we are making supernormal
21 profits.

22 Profits are okay. Normal profits are
23 okay. But just if they hit that little touch higher of
24 being super, then they're not so good. And I think this
25 is an area of expertise of the Board, because you do see

1 a lot of utilities, and we've given you information as to
2 how this public company of North West operates.

3 But the second aspect of this is fee
4 gouging, and I think it's noteworthy that -- that a lot
5 of the factors that have driven this kind of a process
6 don't appear again to relate to North West. Knock on
7 wood. We didn't receive any evidence, I believe, of
8 North West fee gouging.

9 Now, you're in the best position to assess
10 that, but I would have remembered that, because I think I
11 would of had to have cross-examined on it. And so from
12 where I stand, the information you've received from the
13 North West as to this vital service that we provide to
14 remote communities from access perspective, a cost
15 perspective, and a fair return perspective is something
16 to be considered in setting a fee structure.

17 Have I hit my twenty (20) minutes yet?
18 Everybody's anxiously looking at that clock. I -- I'm
19 just about concluded. I -- I just have a couple of
20 things to say.

21 From a recommendation, I'm impressed the
22 CAC has actually given you number. We can't give you a
23 number, but we do have some principles, much like Money
24 Mart and Mr. Edwards have proposed.

25 The first is a fee structure that is

1 sufficiently flexible to meet the specific needs of my
2 client, and that would include the what-ifs: what if
3 fuel costs go up, what if labour costs go up, what if
4 risk mitigation efforts, for whatever reason, haven't
5 resulted in the kind of safety and security that we
6 achieved.

7 We -- we would encourage the Board to set
8 something that's flexible and in fact, Mr. Chairman, you
9 said something that really was -- I've taken to heart.
10 You said, Good regulation is there to ensure that it
11 allows for flexibility.

12 The next thing we would encourage the
13 Board to do is consider a fee structure that includes a
14 fixed percentage component. And I -- I'm likely
15 repeating myself, but as of that component please just
16 have, if you can see it, some cognisance of future fee
17 increases to avoid necessary re-attendances before this
18 Board. I suspect that although the option of having more
19 hearings before three (3) years is there, that all of us
20 would prefer not to do that.

21 We also have encouraged the Board to set a
22 structure up that is easily explainable. That's very
23 important for our constituency. It's important for North
24 West interaction with all the citizens of these twenty-
25 seven (27) remote communities, that it be in a position

1 from its local store management to be able to explain
 2 what we're doing and why. So the easier the fee
 3 structure is to explain, the easier it's going to be for
 4 the consumer in the deliver -- the deliverer of that
 5 service to provide it on an ongoing basis. And -- and
 6 again, it's -- it's -- I think it's fair, but all I can
 7 tell is that you have all the nuts and bolts of our
 8 operation, so you know what it is that we are looking
 9 for.

10 We really have appreciated the opportunity
 11 of participating. Much like my colleagues, I'd like to
 12 thank everybody. I'd like to thank the Board members.
 13 I'd like to thank the -- the two (2) other Intervenors
 14 and their counsel, Ms. Southall.

15 This has been a different proceeding than
 16 many we've been involved with. Don't know if the word
 17 "enjoyable" is quite the right word, but it has -- it
 18 has, I think, allowed us to fairly present all the
 19 evidence that we wanted to do in a manner that we hope's
 20 going to assist the Board. If there are followup
 21 questions, I'd be please to receive them. Thank you.

22 THE CHAIRPERSON: Thank you, Mr. Foran
 23 and thank you also to your witness panel who was here
 24 earlier. As with MoneyMart, we particularly appreciate
 25 you coming forward because in your absence it would have

1 been one (1) dimension of this particular puzzle that
2 would have been left to more the subject of guess work on
3 our part, so it is a very big contribution which we
4 appreciate.

5 I also want to thank Ms. Southall and Mr.
6 Gaudreu for their contributions to this. Without them it
7 would have been very difficult for us to traverse this
8 ground over a fairly lengthy period of time it has taken
9 to this point in time. So we now will sequest ourselves
10 and come to a conclusion on the matters before us.

11 You can anticipate a decision through a
12 board order, we would estimate, by the end of May. And
13 more than likely you can anticipate that our decisions
14 that are set in the fairly narrow range provided to us
15 will be accompanied by recommendations to government.

16 Just by way of note, Board decisions are
17 circulated to the parties involved in the Hearing and we
18 generally circulate them to you just in advance of
19 release so you have an opportunity to peruse them before
20 they come directly, immediately into the public forum.
21 And then we post them on our website and we generally
22 issue a press release to inform the public of our Board
23 decisions. Press releases are generally quite short.

24 So other than that, thank you to everyone
25 and we can stand now and as I said before, start working

1 on what we have to do. Thanks again.

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3 --- Upon adjourning at 1:18 p.m.

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6 Certified Correct

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Carol Geehan

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