MANITOBA PUBLIC UTILITIES BOARD

Re: TO DETERMINE MAXIMUM FEES FOR PAYDAY LOANS

Before Board Panel:

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

HELD AT:

Public Utilities Board
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--- Upon Commencing at 9:10 a.m.

THE CHAIRPERSON: Okay. Good morning everyone. I'm going to ask Ms. Southall to give us a road map for this week starting with today. Ms. Southall...?

MS. ANITA SOUTHALL: Good morning, Mr. Chairman, Members of the Panel and those present today.

Our proceedings this morning will begin with a presenter who has been scheduled for hearing before the panel this morning to start, followed by the continuation of the evidence of Dr. Clinton on behalf of Rentcash.

And that will, I anticipate, likely take us through the day today. To the extent we complete Dr. Clinton's cross-examination, we will move on with the direct evidence of C10 Loan which is another Intervenor in the process.

So, Mr. Chairman, we could move to the presenter. Thank you. Perhaps after the presenter, if I could, I will take a moment on the record to introduce some exhibits. We do have a little bit of housekeeping in terms of certain documents that need to be marked for the record.

THE CHAIRPERSON: Okay, we'll do that

just when we come back from the break.

MS. ANTA SOUTHALL: Okay, Thank you.

THE CHAIRPERSON: Okay. Good morning, Mr. Charlebois.

MR. GERRY CHARLEBOIS: Good morning.

THE CHAIRPERSON: If you'd like to introduce yourself, sir, and then you can begin.

PUBLIC PRESENTATION:

MR. GERRY CHARLEBOIS: Good morning, Mr. Chairman, Members of the Board. My name is Gerry Charlebois. I'm the President of C11 Holdings Limited.

I reside in Calgary, Alberta where my wife and I operate and oversee three (3) payday loan offices. One (1) office is located in Brooks, Alberta, one (1) office in Thompson, Manitoba and one (1) office in Yellowknife, Northwest Territories. In each of these locations we have other payday loan companies that we compete with.

Our success in establishing and competing in this business is that we offer a -- a comfortable and confidential service to people who often have no one else to turn to.

We do have to take high risk, but in doing so, we truly believe we are helping our clients with conventional -- when conventional financial institutions refuse to help, and when family or friends cannot help.

I can say that with confidence, as we often receive comments from our clients expressing their gratitude, a thank you, and sometimes even with a small gift for our staff members who have done what they could to help them.

We've had clients who may have used our service once for an unexpected trip home, or a vehicle repair, or in an emergency situation in their life, or, for other clients, who may have used our service until they had time to get back on their feet financially.

We have been helpful in providing immediate financial help to clients who may be experiencing family separations, family violence, domestic abuse, and other tragedies in life.

Understanding and compassion goes along with the job, and does not stop with the loan approval. The same understanding and compassion is there when we have clients who have run into difficulty and cannot repay on time, and -- and may require an extended time to repay or make monthly payments.

One (1) such situation exists now in our Brooks office where we have one (1) lady who used our service to attend a family funeral in another country, and when she returned home, she learned she no longer had a job. We have provided her with interest free monthly payments to repay her loan and get back on her feet.

We've had people requiring money to pay rent, pay damage deposit fees, need a mortgage payment, a deadline, or meet a car payment date, but do not have the money at that moment, but will have it when they get paid.

There have been cases of people requiring much needed medical supplies that did not have the resources to pay the pharmacist, but could not wait until they received their pay cheque.

These people have come to companies like ours for help. People have used our services to purchase bus tickets or airfares to get back to work.

The list of reasons why our services are in demand by many working men and women in our communities are far-reaching. This unique service is but a small example of what payday loan companies do across our Nation.

Most everyone has faced, or will face, a financial difficulty in one (1) -- at one (1) point or another in -- in their life.

Our staff members face people every day in these types of situations; age, gender, education level -

- no one is immune to financial hardship.

Working men and women of all ages, plant workers, miners, teachers, professional, and blue collar workers; anyone could have a sudden and unexpected turn in their life, and may -- and we may be the only ones that they can turn to for temporary help.

Unfortunately, we have very little protection in our business.  Risks are high and cost to offer the service is not cheap.

Even the most thoughtful and dependable customers can sometimes default on their loans, and when this happens, it is often an event that has happened that has changed their repayment capacity.

Having said that, 18 to 20 percent of our loans will not be paid on time.  Some of these will call us, and will pay within a month, others will ask for a payment plan, and the rest will not pay, and we will have to collect with the means we have available.

We have 5.44 percent of our loans that are not collectable for various reasons, and will have to be written off.  With clients who may be away or required to extend their loan for various reasons until -- until their next pay,  we will charge a one (1) time late fee of fourteen dollars ($14).

This is fourteen dollars ($14) to cover

administration fee, and is not fourteen dollars ($14) per one hundred dollars ($100).

Clients with situations that deem necessary to be put on payment plans are not charged interest, or penalties. However, their capacity to re-borrow diminishes, and they have to work to reestablish their credit with us.

In every business, there are high costs. In ours there is administration, rent, cost for operating money, and cost of well-trained staff suit -- suitable for the demands of their tasks.

To date, all costs to operate our business adds up to twenty-four (24) point - twenty-four dollars and forty-eight cents ($24.48) per one hundred dollars ($100) that we lend.

There will be additional costs imposed on us by licencing -- licencing fees and business insurance bonds. There will be inflation and wage increase demands as the years go by.

Our fee that we charge our clients is twenty-six dollars fifty cents ($26.50) per one hundred dollars ($100). For everyone's convenience and safety we give our clients their own ATM debit card. Our clients will then withdraw their money off the card at any bank or private ATM machine when it's safe and convenient for them.

Cost to process this card by the service provider and the banks is four dollars and seventy-five cents ($4.75) to five dollars ($5) depending on the ATM vendor.  Our client, in addition to our lending fee, is charged five dollars ($5) for the service.  It is five dollars ($5) for the service and not five dollars ($5) per one hundred dollars ($100).

We are members of the Canadian Payday Loan Association, and have been for a number of years.  The Association has asked the Board to approve a rate cap of twenty to twenty-three dollars ($20/$23) per one hundred dollars ($100).

We approve of many of the fine policies the Association has introduced in the past, however the rate cap suggested by the Association, if approved, would not allow small companies like ours to exist.

My position then and now remains the same in that the smaller centres such as Thompson, Manitoba, a mining town; wages are high and so is everything else that goes along with it.

For example, leasing costs are twenty-four to thirty-five dollars ($24/$35) per square foot in Thompson, and for similar space in Winnipeg it is twenty dollars ($20) to twenty-six dollars ($26).

Office staff wages are from seventeen dollars ($17) to twenty dollars ($20) in Thompson, where sim -- similar employment opportunities in Winnipeg are thirteen to sixteen dollars ($13/$16) per hour. These are but a few examples of smaller centre cost differences.

Also there's a higher transient population in smaller northern communities where larger city lifestyles is compelling, causing higher cost and collections and higher rates in uncollectible loans.

Large centres have the advantage of increasing their volume of business, where small centres have a limited pool of customers -- of consumers. I have taken the liberty of leaving you our company's financial statements to prove to you that the costs that I have just described are real.

Our personal in -- income information is left with you to show you that, as employers, we not -- we are not reaping large wages draining our company's bottom line.

I will conclude my presentation with the comment that consumers have many choices when choosing financial service providers, and I believe consumers are astute enough to make the right choices.

Our industry has grown and possibly

because we provide a service that is required by many Canadians. It is popular because the service is convenient, no appointments required, in most cases the offices are small and the people working in these offices can respond immediately to help the needs of our customers as individual working men and women.

The cost of borrowing to our clients have never been an issue. They understand they are receiving value for the service we provide.

Personally, I do not believe rate caps should be an issue. Our Canadian free enterprise system has always been self regulating. I do believe that the -- that policies and regulations may be needed to stop any business operators who may be operating a shady business, but this is where the Payday Loan Association has addressed in its Voluntary Rule of Conduct Practice Code.

In addition to the Payday Loan Association Code, I have also listed several recommendations that I believe will better protect consumers than a proposed rate cap. These recommendations I am leaving for you are under a separate cover.

I'll leave you with my invitation to have you call on me at any time if I can be of any help to you. Again, I thank you for allowing me to speak to you and I'm grateful for your time and attention.

THE CHAIRPERSON: Thank you, sir, and thanks for coming from Alberta. Just a couple of questions.

What trade name does your Thompson office go by?

MR. GERRY CHARLEBOIS: Thompson goes by A-1 Financing Loans. It's -- it's C11 A-1 Financing Loans as registered in -- in Manitoba.

THE CHAIRPERSON: How long has the Thompson operation been going?

MR. GERRY CHARLEBOIS: This is our second year.

THE CHAIRPERSON: Your company -- do I understand it right from having a quick glance at your financial information here; you're lending out the company's own capital, correct -- not relying on bank loans or any other source of funds?

MR. GERRY CHARLEBOIS: That's correct. Bank loans -- with the payday loan industry not being recognized, the banks will not lend to companies like -- like ours. I've had to borrow money and that's always had to be done through private means. So the -- the cost of borrowing is much higher through private than you would be paying if you were at a bank -- or rather lending institution.

THE CHAIRPERSON: Thank you, sir, and thanks for attending and presenting your views, we appreciate it.

MR. GERRY CHARLEBOIS: If I could just have -- could I just have a few more moments?

THE CHAIRPERSON: Sure.

MR. GERRY CHARLEBOIS: Okay. I wanted to just explain a little bit on the revenue, if I could.

On the -- on my income statement, you'll see that there's some areas where I removed, and one (1) is the rent income, because we do have, in Thompson, a low additional space, so we're renting that out.

And the reason I've taken -- where you have -- where you see removed, and just so that you have a clearer picture of our bottom line, and -- and you'll see our net income before tax is 7.63 percent of our -- and that's the margins we have.

So the -- the margins aren't all that high for the amount of volume that we do.

I have left you with the balance sheet so that -- I do not know if you have an accountant that you can hand these to just to confirm and verify the numbers that I have given you.

And the -- you should have a copy of -- of a T4 for this year for myself, as well as my wife, as well as the Notice of Assessment from last year showing income for myself and my wife, just to further confirm the -- the bottom line numbers that I'm giving you today.

THE CHAIRPERSON: Thank you, sir.

MR. GERRY CHARLEBOIS: Thank you.

MS. SUSAN PROVEN: I just had a couple of questions.

Are you a member -- I should know this, because we were given a list -- but are you a member of the CPLA the -- the Loans Association?

MR. GERRY CHARLEBOIS: I am. I have -- our Brooks office is -- is under the Association. So is our Yellowknife office.

Our Thompson office is not at this point, and the reason being is that when we started a company, cost is so high. It's so difficult to -- to run a company, I wanted the company to get off the ground first before we brought it into the Association.

So, it is doing fine now, but for a while it wasn't doing very well. And, at this point, that is the only office that's not a member. But I -- but our company is a member.

MS. SUSAN PROVEN: Okay. They have told us their -- their experience has been that for every first customer, they see about fifteen (15) return customers.

Would that be your experience, too?

MR. GERRY CHARLEBOIS: The first customer -- I'm sorry.

MS. SUSAN PROVEN: For every new customer that they get, they have about fifteen (15) that are returning on a regular basis.

Would you have that similar experience?

MR. GERRY CHARLEBOIS: Well, I would say that customers that come to us -- there are some customers -- I -- I wouldn't know. That's difficult to track.

There are some customers that may borrow from us and that'd be -- that might be the only time they borrow from us. They may just need it for that one (1) occasion. We may -- may not see them again.

And, so, in our data base, we have many customers, but we're not sure exactly -- there's a certain amount that come back, whether they come back two (2) or three (3) times a year, or they just come back the one (1) time.

There are -- there are a number that may use us for three (3) or four (4) months, and then we won't see them again. Other ones, we'll see them more on a regular basis.

So, as to the ratio one (1) to fifteen (15), I'm not sure if that -- how -- how that applies to our business, and I'm not sure if I was able to answer your question, but we have never kept track of -- of -- of the ones that have only used us for the one (1) time.

MS. SUSAN PROVEN: Okay.

MR. GERRY CHARLEBOIS: We just know what we have.

We have over -- between the three (3) offices, we have about twenty-five hundred (2,500) people that have used our services at one time or another.

MS. SUSAN PROVEN: The last question is on that insurance bond.

You seem to infer that that was something that you were going to have to build into your costs in the future.

Do you have that insurance bond now?

MR. GERRY CHARLEBOIS: No, I don't. No. I just understand that -- that the Government may have us purchase a bond to stay in business.

And so, this is what I was alluding to; is that there is costs that are not on my spreadsheet or on my income statement that could affect us, and -- but, what those costs are at the moment, I don't know.

Depending on what -- what amount of -- of bonding that we're going to need to -- to purchase, or what the licence fees will be.

MS. SUSAN PROVEN: Thank you.

MR. GERRY CHARLEBOIS: Thank you.

THE CHAIRPERSON: Thank you again, sir.

We'll turn back now to the agenda that we were pursuing before.

MS. ANITA SOUTHALL: Thank you, Mr. Chairman, I just note that Mr. Charlebois, pardon me, Charlebois has provided his written presentation to the Board. Thank you, sir. You're welcome to -- to stay for the proceedings. If you wish to depart, you're able to do that now if you wish.

MR. GERRY CHARLEBOIS: I want to thank the -- I want to thank Mr. Chairman and the Board for hearing my presentation, and -- and if there's any further questions, I'm very available for answering, so I thank everyone -- thank you.

THE CHAIRPERSON: You might find it of note that the transcripts are on the web site.

MR. GERRY CHARLEBOIS: Okay.

THE CHAIRPERSON: Okay, Ms. Southall...?

MS. ANITA SOUTHALL: Thank you. I believe Mr. Hacault is going to -- to have Dr. Clinton make some explanation of RC-20, the newest equilibrium paper, and then we'll proceed with the balance of his -- Dr. Clinton's cross-examination.

MR. ANTOINE HACAULT: Yes, thank you, Ms, Southall, Members of the Board. Hopefully the presentation will last between five (5) and ten (10) minutes, and it'll give sufficient detail on a level that we can relate to, so that if the Board can have that paper and, in particular, Table 2 of the paper in front of them.

Dr. Clinton will present that table and refer to some, I'm going to say, practical examples, to illustrate each line category that you have there, and explain how that example contrasts with the approach of Dr. Robinson; that was the purpose of the table.

KEVIN CLINTON, Resumed

CONTINUED EXAMINATION-IN-CHIEF BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: So that -- when you're ready, Dr. Clinton, we can proceed with your explanation.

DR. KEVIN CLINTON: Thank you, Mr. Chairman. And I must apologize for last time I was here letting my inner policy wonk take hold of me, and I'll try not to let that happen today.

So I'll go straight to the issue. My evidence and in general -- in particular, in the piece that we're discussing this morning, focusses on protecting the interests of consumers. In line with the objectives for payday loan fee regulation outlined by the Government, this would involve encouraging a competitive market with free entry, and a fee limit to eliminate excessive fees; that is those fees above a deemed normal limit.

And to this end, I've set out a method by which to identify which are excessive fees and have given the Board a road map on how it would approach regulation by this method in successive hearings over time.

So with that, I -- I would like to -- you to refer to Table 2 of my November 26th paper, RC-20. And under Heading A, "Consumers," you will see a subheading "Transfer from Lenders."

Now, Robinson has evaluated his proposals for flea -- for fee limits focussing entirely on this single, narrow aspect of consumer welfare; that is, the notional transfer of revenue from lenders that you would get when you impose a fee limit.

For example, if a lender charges twenty-five dollars ($25) per hundred dollar ($100) loan and a fee limit of twelve dollars ($12) is introduced, Robinson would say that the limit saves the lender's clients thirteen dollars ($13) per hundred dollars ($100) borrowed.

Now, this calculation ignores the negative impact of the fee limit on the volume and on the type of service that lenders provide.

For example, with a twelve dollar ($12) limit the industry would virtually shut down and generate no revenue to transfer to borrowers. The calculation also ignores the welfare costs or, what I call in -- in both of the pages I've submitted on this issue, consumer surplus. It's a standard term in economics. It's been around for about a hundred and fifty (150) years.

So I -- I use the term, really, in a way to show you the -- it's not something I'm introducing ad hoc for the purposes of this argument. This is an established economic principle.

But if you look at -- at the heading again, you -- you see that subheading "Consumer Surplus." What do I mean by that -- "Consumer Surplus"?

I -- I tried a technical approach and it -- it's probably not the best way to try to explain it. So today what I'd like to do is provide concrete examples so you can see in practice what -- what this concept involves.

So my first example is consider a young loan applicant who needs three hundred dollars ($300) to buy acceptable clothing for a job interview.

The consumer surplus of this loan is the value of the opportunity to go to the job interview. If she does not meet lender's toughened credit risk standards at a lower fee limit, and is refused a payday loan, she loses that opportunity.

The cost to her of losing a job opportunity will be much higher than the notional savings achieved by that calculation I explained before.

Here's another example. And this is -- this is drawn from a situation that somebody explained to me; it did happen in -- in practice. A handyman who one day sees the tiles he likes -- this is nothing to do with my bathroom tiles. This is -- just happens to be the tiles. It's a different individual. So a handyman one day sees the tiles he likes for his bathroom, mine for my basement floor. He sees tiles he likes for his bathroom at three hundred dollars ($300) reduced from six hundred dollars ($600).

If he cannot get a payday loan at the lower fee, resulting from the lower fee limit, again, because of his particular risk factors, he loses a buying opportunity that to him is worth three hundred dollars

($300).

Because, next week if he goes back when he does have the cash, they're going to be six hundred dollars ($600) again; regular price. So the lost consumer surplus in this case would be three hundred dollars ($300).

In the case of the young lady in my first example, it's more difficult to put an exact price on it. It could be in the thousands of dollars.

Now, finally, consider a perhaps more prosaic example. Someone with a payday loan who avoids an NSF charge of forty dollars ($40) and dis -- disconnect charges of fifty dollars ($50). The cost in lost consumer surplus to the person that doesn't get this payday loan would be ninety dollars ($90).

Now, in these cases, access to a three hundred dollar ($300) payday loan saves the borrowers money. Even the notional unrealizable cost saving as calculated by Robinson, will be very small relative to the lost welfare.

For example, between my thirty-six dollars ($36) recommendation and his twenty-one point eight two ($21.82) -- as I -- I calculated -- dollars limit. The notional saving between those two (2), my thirty-six (36) is 21.82 on a three hundred dollar ($300), would be forty-two point five four (42.54) -- forty-two dollars fifty-four cents ($42.54).

That's a much smaller magnitude. It's an order of magnitude lower than the kinds of numbers I was talking about in terms of consumer surplus.

Now, what causes the large losses of consumer surplus in the table? A major factor is that lenders will respond to lower fee limits by tightening credit standards. They will turn down requests from some riskier borrowers that they previously would have accepted.

From the point of view of these borrowers, this means loss of access to a service, and the loss will often have a high value. Okay, I move down a line to line marked B, "Taxpayers."

And my positive numbers here indicate welfare losses; costs. And you see that all those entries are positive on that line.

Now what does that mean? Well, again using the example of a thirty dollar ($30) -- a three hundred dollar ($300), I beg your pardon, thirty (30) day high risk loan, which is no longer offered, lets say, at -- at the lower fee limit, there will be no post-tax revenue generated.

The loan doesn't exist any more. The --

the client has been turned down. At the lower limit, the lender doesn't think it's -- it presents a return risk option that is worth taking. So he doesn't make the loan.

So, the profit that would have been generated from that loan now longer -- no longer exists. Therefore, the -- the corporate or personal income tax that he would pay on -- on this profit is -- is gone.

So there's a -- a cost there to the National and Provincial Treasuries and -- and, somehow or other, that has to be made good eventually, either through increases in other taxes or cuts in -- in Government services.

So that's what I mean by -- by that item. This impact, by the way, on -- on tax revenue is also ignored in the Robinson analysis.

Next, in table 2, you see line C, the heading "Lender's Post Tax," and, again, using the example of a three hundred dollar ($300) thirty (30) day high risk loan, which is no longer offered, there -- there's no post-tax revenue either, both -- so, again, there -- there's a loss there. And -- and that loss of course is -- is borne by the lender, and I think that is fairly straightforward.

So, when one considers all the required

components to get a true picture of the impact of lowered fee limits on consumer welfare, my conclusion and opinion is that the -- the consumer will suffer from a rate reduction in -- from -- from a reduction in the fee limit from the level I recommend.

Now, so far, you've just had to take my word for it that these costs are substantial. I can illustrate to you with examples why I think that would be so, but I can actually now start to cite empirical research that supports my position because research is now emerging which supports the reasoning in my welfare analysis.

A Federal Reserve Bank of New York staff report last month -- November 2007 -- finds that consumer experience in states that have banned payday lending -- this will be Georgia, 2003 and North Carolina 2004 -- has not been positive.

Oh, and by the way you may say, Well, we're not talking about a ban; we're talking about a fee limit. Well, actually the fifteen dollar ($15) fee limit, which is the assumption used that I call P -- PUB-2 in -- in my note, is effectively a ban, because it reduces industry output to zero in -- in my model.

The research at the Federal Reserve Bank of New York focusses just on financial costs, and ignores the kinds of lost opportunities that I described above, and which -- that would give to -- rise to much greater losses to consumers.

But it turns out that following the bans in each state, there were more bounced cheques; more consumer plaints -- complaints about lenders and debt collectors, and more filings for chapter -- Chapter 7 bankruptcy protection. That's one (1) piece of evidence.

The next piece of evidence, I've all ready referred to briefly, but I didn't indicate its source. It -- it was published out of Dartmouth University, but the research was conducted by Innovations for Poverty Action, which is an anti-poverty NGO -- that's Non-Government Organization. Yes.

MR. ANTOINE HACAULT: Sorry to interrupt you, but there's two (2) things; you've referred to that paper. We'll provide a copy of the paper to the Board. And you've referred specifically to more bounced cheques and -- and a cost to that.

Might I refer you to page 19 of that paper, and could you perhaps indicate what the study found that the increase in costs of -- of returned cheques was following that experience in -- in the banning of the payday loans?

THE CHAIRPERSON: So, Mr. Hacault, you're asking the witness to file -- oversee that as an exhibit the Federal Reserve Bank of New York's paper?

MR. ANTOINE HACAULT: That's correct, Mr. Chairman, members of the Board.

THE CHAIRPERSON: That would be appreciated.

DR. KEVIN CLINTON: I -- I have the paper.

MR. ANTOINE HACAULT: Could you go to page 19?

(BRIEF PAUSE)

THE CHAIRPERSON: Is this a lengthy document?

DR. KEVIN CLINTON: The document is about thirty (30) pages long.

THE CHAIRPERSON: Okay. Are you going to make a lot of references to it? Because if you are, I'd just as soon have it copied now.

MR. ANTOINE HACAULT: No, there is just this one (1) reference for an actual dollar amount.

THE CHAIRPERSON: Okay. We'll go on that basis, and then we'll have a look at it later.

MR. BYRON WILLIAMS: Mr. Chairman, if I

might, would it be possible to get copies of it at the break?

THE CHAIRPERSON: I would imagine that would be possible.

CONTINUED BY MR. ANTOINE HACAULT

MR. ANTOINE HACAULT: Yes. At the very bottom, the last sentence of the last full paragraph, it starts with ea -- "if each returned at cheque cost..."

Could you read that sentence in? Do you see that?

DR. KEVIN CLINTON: Yeah.

> "If each returned cheque cost depositors is thirty dollars ($30), depositors paid an extra $9 million per quarter; that is $36 million per year in returned cheque fees after the ban."

MR. ANTOINE HACAULT: So this illustrates, then, that when you look at the -- the whole analysis, if you look at Robinson, he just says, Well, you're going to save the consumer if you change it from thirty (30) to twenty-five dollars ($25). You sell -- you save them five dollars ($5).

But if, because of attempting to save them five dollars ($5), he now has to bounce a cheque at thirty dollars ($30), he's not representing the true benefit or cost to the consumer.

Is that how I'm understanding this?

DR. KEVIN CLINTON: Absolutely, yes.

MR. ANTOINE HACAULT: Please continue with respect to your reference to the Poverty Action published report. I think you referred to that last time.

DR. KEVIN CLINTON: Yes. This was a study conducted by that NGO -- that's Non-Government Organization; it's an anti-poverty action group. And they did that experiment in South Africa where a payday-type lender randomly relaxed its risk criteria on loan applications to give a group of poor people loans they would not usually get.

The expanded access to credit significantly improved their lives in the following years. The members of the group had more stable jobs, higher incomes and better nutrition than their peers.

Now, my -- my third piece of research that I'm going to cite refers to the United Kingdom. Now the United Kingdom has an enormous financial sector. It generates about 30 percent of their gross domestic product.

And they had a very large payday -- payday lending industry, by the way. It's -- it's four (4) times as large as -- as the Canadian industry. And, by the way, I should say that the UK authorities have enormous experience and sophistication in -- in regulating financial institutions. And the UK has no fee limits on payday lending, and that is not because they have not thought about it.

Well, consumer advocates -- I - I searched around as best I could for -- for what consumer advocates in the UK were saying about this situation. And, actually, I could not find much pressure on the consumer advocate side for free limits; but I did find an article by Collard and Kempson which has been cited in some of the consumer advocacy literature in Canada -- or these also, I should say, have -- have been cited as experts in the field; at least on of them.

And they have written a piece called "Affordable Credit, the Way Forward." And they actually argue against the limits in the following way.

They say:

> "Many of the proposals to tackle high-cost lending, while well-intentioned, could leave poor people with even less choice and higher costs."

In other words, the concern in the UK

seems to be not so much concerned with fee as with access. And it's very interesting that we heard Mr. Charlebois use the words, just twenty (20) minutes ago, that he didn't see that fee particularly was an issue to his clients.

And -- and that understanding is perfectly compatible with the kind of analysis that I've presented and the kind of analysis that those authors did in the UK.

So, my conclusion has three (3) basic points. My proposal for the fee limit has modest goals to eliminate excess fees without affecting the main volume of market activity. The welfare analysis confirms that -- that it would, indeed, achieve most net benefits to borrowers and the household sector.

The Coalition proposal has more ambitious objectives, but it would involve prohibitive costs to the economy and result in overall losses being suffered by consumers of considerable size.

Finally, the welfare analysis on which these conclusions are based has received strong support from research by the Federal Reserve by an anti-poverty NGO and by a pair of consumer advocates in the United Kingdom.

THE CHAIRPERSON: Mr. Hacault, does your

witness have those other papers; the Anti-Poverty Group and the UK Consumer Advocates?

MR. ANTOINE HACAULT: I would assume he does. I -- I haven't actually double-checked. I have a full box of materials that has been referred to by Dr. Robinson and others which I haven't gone through and cross-referenced, but there may be some cross-referencing in that, too.

If there isn't, we'll make sure that those are provided to everybody.

THE CHAIRPERSON: Please. I'd like to see those, yes. Thank you, sir. Okay.

MR. BYRON WILLIAMS: Mr. Chairman, I certainly have a copy -- copies of the Dartmouth study because I intend to use them in cross-examination so I can make those available if that would assist Mr. Hacault.

THE CHAIRPERSON: Yes, that would help. Ms. Southall...?

CONTINUED CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Dr. Clinton, I'm going to start with some questions on RC-20, the document you've just been talking about.

First, sir, is your paper based on the

area of economics called "welfare economics"?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And that area of economics was conceived in the late 1700s and later denoted as the Pareto Optimal Solution; is that right?

DR. KEVIN CLINTON: No, that is not right. The -- the origin of the concept of consumer surplus was the Cambridge economist, Alfred Marshall, and that would have been about 1870.

Pareto was an Italian economist around the turn of -- of the last century, around 1900, and I think he did most of his work in the 20th century. And I do not use the concept of Pareto -- every time I say a "P" the microphone explodes; I'll stand back a bit. Every -- I-- I don't use the concept of Pareto optimality.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: I do have a few more questions associated with this concept of the Pareto Optimal Solution. I take it you've heard of that term, sir?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Does the first theorem of welfare economics state that competitive equilibrium is Pareto optimal?

DR. KEVIN CLINTON: That sounds like a correct statement.

MS. ANITA SOUTHALL: Does this mean that social welfare is greatest in a decentralized competitive market economy, or not?

DR. KEVIN CLINTON: Well, I agree with the statement, but I wouldn't link the two (2). Because the concept of -- of Pareto optimality, as you first cited it, is strictly a theoretical concept.

But I would agree that a competitive market is the mainstay of the prosperity of -- of our economies, but it's not -- it's not using the word "competitive market" in the -- in the same abstract way that Pareto would have used it.

MS. ANITA SOUTHALL: And just move on, sir, I understand there is a second theorem in the Pareto Optimum that states that:

> "The optimum can be achieved as a competitive equilibrium once a social planner undertakes the appropriate redistribution of resources."

Do you agree with that?

DR. KEVIN CLINTON: I'm not sure that I do and -- and I think, really, this is outside the -- the bounds of my testimony because this is about highly abstract economic theories that have got very little to do with the testimony that I've presented.

MS. ANITA SOUTHALL: So, the -- the statement I've just indicated; are you in agreement or disagreement with that statement?

DR. KEVIN CLINTON: Could you repeat it?

MS. ANITA SOUTHALL: Sure.

"The Pareto optimum can be achieved as a competitive equilibrium once a social planner undertakes the appropriate redistribution of resources."

DR. KEVIN CLINTON: I would have to do a lot of study. There are a lot -- there's a lot of content in that sentence, and I -- I wouldn't -- I don't want to make a snap judgment right here. And I repeat, everything Pareto wrote is in the context of a highly abstract mathematical model. Those are statements about mathematical properties within a model.

MS. ANITA SOUTHALL: Within this concept of the second theorem of Pareto, and the role of the social planner in bringing the competitive optimum and social optimum together, does the Board play the role of the social planner?

Are you able to comment on that?

DR. KEVIN CLINTON: Well, I think you used a word there that just about summarized the hesitation I had earlier on. You used the word "theorem". This a mathematical theorem. Now, I -- I do not see the Board as -- as algebraic variables.

MS. ANITA SOUTHALL: Dr. Clinton, then, if you could turn to your -- your paper, RC-20, I have a series of questions for you associated with the content.

First of all your paper deals with the calculation of welfare costs, benefits and transfers that would result from the four (4) different scenarios.

Is that correct?

DR. KEVIN CLINTON: That's right.

MS. ANITA SOUTHALL: And when you speak of welfare, you mean the welfare of society as a whole, correct?

DR. KEVIN CLINTON: That's right. And -- and the groups within society that I've identified.

MS. ANITA SOUTHALL: And you're looking at the issue of the efficient allocation of resources, correct?

DR. KEVIN CLINTON: Not necessarily. I start -- my analysis can start from any given situation and then say, Well, do these changes make it better or worse? So I don't have to start from an -- from an optimal position.

Now, it so happens that in this case, we are starting with an unregulated market that a lot of economists would say has many virtues. So, all I say, though, is we're starting with an unregulated market, and we're -- we're introducing a filament.

Now, the question we have -- we all have to ask ourselves, and it's a difficult question and, it -- in practice, it's not often asked. The question we have to ask ourselves is: What purpose does a filament serve in a competitive market?

Now regulators in Ottawa in the financial sector have been asked to do a lot of things over the years, but they've never been asked to -- to regulate fees or interest rates. So, we're a -- we're a novel territory here.

MS. ANITA SOUTHALL: Sir, your evaluation, as I think you've been sharing with us earlier this morning, is an analysis of gains and losses of various sectors of Canadian society under these various scenarios, correct?

DR. KEVIN CLINTON: That is correct.

MS. ANITA SOUTHALL: And for the purpose of the exercise, you have assumed a loan of three hundred dollars ($300) over two (2) weeks, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And you've assumed annual revenues from fees of $600 million for payday loan companies across Canada, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: In your model, maximum fees of thirty-six dollars ($36), thirty dollars ($30), twenty-one dollars eighty-two cents ($21.82) and fifteen dollars ($15) were analysed, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: Now, can we turn to Chart 1 on page 4 please, Dr. Clinton?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And this is a chart indicated as "Free Frequency and Mean Unregulated Market," correct?

DR. KEVIN CLINTON: That is correct.

MS. ANITA SOUTHALL: The horizontal axis shows the fees you obtained from the five (5) surveys and the information you extracted from those, correct?

DR. KEVIN CLINTON: That's right. Each column is -- is the average across five (5) surveys. Simple average.

MS. ANITA SOUTHALL: And we see this ranges from seventeen dollars ($17) to sixty dollars

($60)

Is that right?

DR. KEVIN CLINTON: That is correct.

MS. ANITA SOUTHALL: The surveys cover all of Canada based on that material from which you extracted the data, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And from the chart we note that fees between twenty-one dollars ($21) and twenty-seven dollars ($27) occurred most frequently.

Is that correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And we see that the mean for all of the fee ranges on Chart 1 is twenty-five dollars ($25) -- pardon me, twenty-five point five dollars ($25.5) indicated by the little arrow which you've drawn on Chart 1.

Is that right?

DR. KEVIN CLINTON: Yes, that is correct. And I -- I'd like to explain that mean.

I -- I think this is one (1) of the areas where I got into trouble the other day, because it's -- it's -- it's not just a flat average over all of those fees.

Instead, it -- it takes those frequency

weights and weights each observation by -- so sixty dollars ($60) is -- is weighted by, it looks like, about point zero one (.01).

So, in other words, the mean that I am using here is not quite subject to the same outlier problem that a simple average has, because the outliers in my case have a very small weight.

But if -- if I use -- if I use that frequency distribution as my weighting, then that's how I got my twenty-five point five (25.5). It's fre -- it's frequency weighted.

MS. ANITA SOUTHALL: Now, Dr. Clinton, looking at Chart 1, if you were to remove all of the fees above thirty-seven dollars ($37) and performed the same calculations --

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: -- the mean for the remaining fees will be less than the twenty-five point five dollars ($25.5), is that correct?

DR. KEVIN CLINTON: Yes. Well -- and the exact number is twenty-four point four (24.4). And I referred to this in one (1) of my moments of lucidity as opposed to technical obscurity the other day. I referred to -- it -- it's like slicing a ham.

Because what I'm doing is slicing off the

-- parts of the distribution of -- we're going to exclude with our fee limit. And then what is left is what I call -- and again, this is a -- a technical mouthful, but I -- I think you'll understand it now you've got more context. I call it a "limit constrained mean."

And the -- the interesting thing, by the way, about these different means for the different fee limits is the following. I think we're inclined to think when you hear me say "thirty-six dollar ($36) limit," that I'm in favour of the thirty-six dollar ($36) fee and so on.

Well, no. Most fees are going to be below the limit. And even my limit, you see, it reduces the mean from where we now are. You might think thirty-six dollar ($36) would not reduce the mean fee from what we have today, because, as you're saying, most of those fees are below thirty dollars ($30) actually. But it does.

It reduces it to twenty-four point four (24.4) and if --

MS. ANITA SOUTHALL: Could I just carry on then, Dr. Clinton?

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: If you don't mind because --

DR. KEVIN CLINTON: I think we'd all be

better off if you did.

MS. ANITA SOUTHALL: Thank you, I will do that then, sir. So, as you cut off the higher end of the fees, the mean value falls, correct?

DR. KEVIN CLINTON: That's right.

MS. ANITA SOUTHALL: And that's what you've done or showed in Charts 2, 3 and 4 in RC-20, correct?

DR. KEVIN CLINTON: Yes, that's right.

MS. ANITA SOUTHALL: And this is what you've shown in Table 1 for each level of maximum fee set, there is an implied market fee shown on the left -- pardon me, on the right. I'm just going to --

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: -- I'm just going to refer you --

DR. KEVIN CLINTON: Yes, that is it.

MS. ANITA SOUTHALL: -- to Table 1.

DR. KEVIN CLINTON: Yeah, I'm -- I'm with you. I've got it. That's correct.

MS. ANITA SOUTHALL: Table 1 is on page 2 for those.

DR. KEVIN CLINTON: Yeah, the exception, of course, is PUB-2 -- the fifteen dollar ($15) fee, because we don't observe any fees that low. So if that were the limit, then that would also be the implied average market fee. It's the only -- it's -- it's the only number we have.

MS. ANITA SOUTHALL: And referring back to Table 1, that is just the average or mean of the fees charged by those payday loan companies left in the market?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Is that correct?

DR. KEVIN CLINTON: That is correct.

MS. ANITA SOUTHALL: And it's the mean values from these four (4) charts that you've used in your model?

DR. KEVIN CLINTON: Yes, that's correct.

MS. ANITA SOUTHALL: If we could turn to that model and look at figure 1 on page 7, please.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: This figure, Dr. Clinton, reflects the current market situation, no regulation of fees, correct?

DR. KEVIN CLINTON: That is correct, yes.

MS. ANITA SOUTHALL: And the mean fee you're using is twenty-five point five dollars ($25.5) as derived from your survey extractions?

DR. KEVIN CLINTON: And the calculation

as per figure 1, yeah.

MS. ANITA SOUTHALL: And you've calculated a total of twenty-three point five (23.5) million payday loan transactions?

DR. KEVIN CLINTON: That's right. That's correct.

MS. ANITA SOUTHALL: And you have drawn in a demand line on the figure, correct?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And you've indicated to us that the product is inelastic, which means that the customer is willing to pay higher prices to have the product available. Correct?

DR. KEVIN CLINTON: You said the product is inelastic. It -- it's demand that --

MS. ANITA SOUTHALL: Demand, thank you.

DR. KEVIN CLINTON: -- that is inelastic.

MS. ANITA SOUTHALL: Thank you.

DR. KEVIN CLINTON: Yes, and the -- I have not ex -- assumed extreme in -- inelasticity here. I was -- I was -- technically, my assumption is point five (.5) -- zero point five (0.5). There would be a lot of other products with similar elasticity of demand. If the -- if the elasticity is less than one (1), we say it's "inelastic demand." If it's more than one (1), we say "elastic."

MS. ANITA SOUTHALL: So this is inelastic demand.

DR. KEVIN CLINTON: It's -- it's inelastic, yeah, fairly steep slope, yeah.

MS. ANITA SOUTHALL: And you've also indicated a supply line on a figure 1 which is demarked as S-1, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: The supply line is quite elastic because the suppliers of this product can easily increase the availability of the product.

Is that correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And figure 1 gives us a market mean fee of twenty-five point five dollars ($25.5) and a total twenty-three point five (23.5) million customer --

DR. KEVIN CLINTON: It's unit.

MS. ANITA SOUTHALL: -- per payday loan transactions, correct?

DR. KEVIN CLINTON: The twenty-three point five (23.5) is of the nature of an index number. Let me tell you how I got it.

Remember the size of the industry that I'm assuming is 600 million. Well, I know the price is twenty-five point five (25.5), so I divide the six hundred (600) by twenty-five point five (25.5) and say I have twenty-five (25) -- 23.5 million units. But it's like an index number.

This may sound obscure to the Board, but actually we use index numbers for output just as often as we use index numbers for prices.

For example, we -- we have a -- a monthly index of output in -- in the Canadian economy that's called "real domestic product." And -- and similarly, it's -- it's an index. Now -- now usually when you construct an index, for convenience, you put its initial value equal to a hundred (100), and then changes are just percentage changes.

But the -- the hundred (100) is chosen arbitrarily. So here I've chosen the -- the unit, arbitrarily; twenty-three point five (23.5) just so -- so that my initial starting point gives me a -- a sales revenue equal to 600 million.

MS. ANITA SOUTHALL: Thank you for that, sir. And this, as is -- as is noted in figure 1, is the unregulated market equal -- equilibrium, correct?

DR. KEVIN CLINTON: Yes, that's right.

MS. ANITA SOUTHALL: And just so we are

clear, Dr. Clinton, the range of fees shown in Chart 1 of seventeen dollars ($17) to sixty dollars ($60) would still continue to exist. Each company will not reduce their fee to twenty-three and a half dollars ($23.50), correct?

DR. KEVIN CLINTON: That -- that is correct.

MS. ANITA SOUTHALL: Or twenty-five and a half dollars ($25.50).

DR. KEVIN CLINTON: That is correct. The twenty-five point five (25.5) remember is -- is also a kind of price index, because I've -- I've weighted and -- and averaged all those prices just as you do with a basket of consumer goods to get the consumer price index, so -- so both of those axis are a kind of -- of index number.

They bunch together. On the horizontal access, you've got non-homogenous goods, because you -- you've got service there, as well dollar loan volume. And -- and likewise on -- on the vertical axis, you've got risk premiums, and -- and all sorts of things.

And it's all -- it's all weighted, and -- and brought together by means of that averaging process. So it's -- it's not -- it's not as simple as -- as one might -- might quite think, just looking at the chart.

MS. ANITA SOUTHALL: Dr. Clinton, this figure 1 represents the situation, or demonstrates that the un-regulated market equilibrium maximizes the welfare to society.

Do you agree with that? Or -- or is that what you were attempting to --

DR. KEVIN CLINTON: For my purposes, this is -- is just the starting point. But it -- it would happen in this case that that starting point has certain optimal properties.

MS. ANITA SOUTHALL: Is it the best solution?

DR. KEVIN CLINTON: The way I've set it up here, that market equilibrium point will give you maximum consumer and supplier surplus combined. It's the combination of the two (2). It's not guaranteed to give you maximum con -- consumer surplus.

MS. ANITA SOUTHALL: Mr. Chairman, I do have a bit more to complete with Dr. Clinton.

I don't know when the Board would like to take its morning break?

THE CHAIRPERSON: I think you're well into it, you might as well continue.

MS. ANITA SOUTHALL: Thank you.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Dr. Clinton, you then went on in figures 2, 3, 4, and 5, and changed the mean fee in each example to show how the welfare or benefit of each group changed, and how the welfore, or -- pardon me, welfare or benefit to the whole society changed.

Is that accurate?

DR. KEVIN CLINTON: On -- on the charts, I can only identify two (2) groups; it's the consumer and the producer.

MS. ANITA SOUTHALL: On the figures.

DR. KEVIN CLINTON: Yeah. It just gets too complicated to try to do anything more.

MS. ANITA SOUTHALL: Okay. Thank you.

And those benefits -- and you took us to table 2 today during our explanation.

Those benefits are shown on table 2. Correct?

DR. KEVIN CLINTON: Figure 2?

MS. ANITA SOUTHALL: Table 2.

DR. KEVIN CLINTON: Oh. Oh.

MS. ANITA SOUTHALL: Sorry.

DR. KEVIN CLINTON: Yeah. Yes. Table 2 and figure 2 --

MS. ANITA SOUTHALL: This is table 2.

DR. KEVIN CLINTON: -- should have a certain consistency, yeah.

MS. ANITA SOUTHALL: Table 2, page 3. Correct?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: If we look at the first column in table 2, the column Clinton Thirty-five Plus One, we see a gain for consumers of $5 million.

Is that correct?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And if we go right under PUB-1, the 130, which is the second column --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- we see consumers suffering a loss valued at $2 million.

Is that correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And if we go the right column -- the far right column, PUB-2, fifteen dollars ($15), we see consumers suffering a loss valued at $600 million in your analysis.

Correct?

DR. KEVIN CLINTON: Yes, and on the chart, I almost ran out of space. There's a very big triangle of lost consumer welfare.

MS. ANITA SOUTHALL: And as we move away from the existing market equilibrium price, we see consumers having losses of greater amounts in your analysis.

Is that correct?

DR. KEVIN CLINTON: No, it's not correct.

With -- it so happens that with my thirty-five (35) plus one (1), there's a negative entry. So consumers actually benefit.

And if you want to look at the chart, I can show you the reason for that. I can give you the intuition for it.

MS. ANITA SOUTHALL: Sorry. If I could just clarify that.

When -- when we move away from the Clinton Thirty-five Plus One model.

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: If I could maybe correct it to that reference, we see consumers having losses of greater amounts.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Can you agree to that?

DR. KEVIN CLINTON: Yes, I can, but

remember here we should be dealing with orders of magnitude. And I'm showing a gain of minus five (-5) for -- for my suggestion, and for PUB-1, I'm showing a number of two (2).

Well, these -- these are both very close to zero, so, what I would say is those suggestions involve very modest changes whereas the suggestions under the heavy reporting columns involve substantial losses. So that's -- that's the way I would read it. I -- I wouldn't draw a strong distinction between the thirty (30) and the thirty-five plus one (35 + 1). It's -- it's there. It's obviously there but...

MS. ANITA SOUTHALL: And, sir, with respect to the consumer line A, the losses accounted for as we move towards the right-hand columns, the heavy reporting columns, for consumers are mainly by the reduction of storefronts -- I'm talking about payday lending options -- storefronts, reduced options available to consumers who wish to borrow.

Is that a fair statement?

DR. KEVIN CLINTON: Well, remember I said I'd modified my views on -- on this? I -- I think actually the -- the most important withdrawal of service would be to do with risk. Lenders would withdraw from -- from the riskier loans.

And -- and this is one (1) thing that would make that supply curve very elastic because I'm including risk tolerance in my measure of output. If -- if -- I'm saying if lenders' risk tolerance goes up, in a way that is a -- a form of increased supply. It's opening up access to borrowers that otherwise won't be able to get the loan.

Now, this is something that lenders can do. They can vary their risk tolerance without employing any more or less employees or opening branches. This -- this can give a lot of elasticity to that line without changing their employment or factors of reduction.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Dr. Clinton, if you could look at Chart 1 on page 4 of your RC-20? We talked about this a few moments ago, sir. The date of -- from those various surveys is for all of Canada, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And so hypothetically if I tell you that there are no fees in Manitoba over thirty-six dollars ($36), the resultant mean in chart 1 would fall if we were -- if were applying that to the chart; is that correct?

DR. KEVIN CLINTON: Hypothetically, yes.

MS. ANITA SOUTHALL: And the equilibrium point in Figure 1 would change as well, correct, looking at Figure 1?

DR. KEVIN CLINTON: Yes, yes, yes.

MS. ANITA SOUTHALL: And all of the results in Table 2 on page 3 would change, specifically the consumer gains in all cases would increase; do you agree?

DR. KEVIN CLINTON: This is all hypothetical because --

MS. ANITA SOUTHALL: It is and I'm just asking --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- you from a hypothetical point of view.

DR. KEVIN CLINTON: Well, let me get it back to a factual point of view.

MS. ANITA SOUTHALL: No, sir, with respect, I need you to answer my question on that.

DR. KEVIN CLINTON: Okay.

MS. ANITA SOUTHALL: I've put a specific hypothetical to you.

DR. KEVIN CLINTON: But what we're dealing with here is a sample, not the whole population.

Now, are you asking --

MS. ANITA SOUTHALL: Can you provide an answer to the question I posed?

DR. KEVIN CLINTON: Can you repeat it?

MS. ANITA SOUTHALL: Sure. We talked about that hypothetical assumption of no fees in Manitoba over thirty-six dollars ($36). We talked about the fact that the resultant mean in Chart 1 would fall; that the equilibrium point in Figure 1 would change. We've got through all of that and I've asked you -- and the results in Table 2 would change?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Specifically the consumer gains would increase? And I -- I guess the question is: Do you agree or disagree with that statement on my hypothetical?

DR. KEVIN CLINTON: You just said "gains," now, I've estimated losses. If -- if the -- if the pre-regulation equilibrium price is lower, then the losses estimated all the way across would be lower. The ranking wouldn't necessarily change.

And I repeat, this is -- this is all hypothetical because I regard my numbers as coming from a sample and we don't have the whole population. There could -- there could well be numbers in there that we haven't recorded above thirty-six dollars ($36).

MS. ANITA SOUTHALL: Dr. Clinton, we don't have the specific data for Chart 1 for Manitoba, is that correct? Now Chart 1, again, is on page 4.

DR. KEVIN CLINTON: That is correct. It includes Manitoba, but it's not confined to Manitoba.

MS. ANITA SOUTHALL: And we can't say with certainty that the Clinton thirty-five (35) plus one (1) is the correct baseline from which to start for Manitoba, I take it?

DR. KEVIN CLINTON: Well, I'd have to look at the numbers. It's -- I've explained how I've done my calculation and I've also explained that I would like to have much more comprehensive data and, indeed, that the Board will have such a thing in 2010, which is the first opportunity to employ my scheme properly.

But my thirty-five point five (35.5) is the best I could come up with with the data I had available.

MS. ANITA SOUTHALL: So my question is: We cannot say with certainty whether that is the correct baseline for Manitoba today?

DR. KEVIN CLINTON: There is no certainty about any empirical magnitude in economics.

MS. ANITA SOUTHALL: Okay, thank you sir.

If we did have the complete data set to arrive at that number, that number would be a reflection of the current and regulated market fees. Is that right?

DR. KEVIN CLINTON: That's correct.

MS. ANITA SOUTHALL: And if the Board were to adopt that number, it would simply be adopting the existing market status quo; correct?

DR. KEVIN CLINTON: No. It would change the status quo, and that's immediately obvious when you look at the mean market fees. My suggestion reduced is the mean market fee, from the unregulated equilibrium.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Dr. Clinton, would that be in the long run versus the short run?

DR. KEVIN CLINTON: No.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Dr. Clinton, why would the complete data set, if it was available to you for Manitoba, allowing you to arrive at the number, why would that not be a reflection of the current unregulated market fees?

DR. KEVIN CLINTON: In 2010, we will have a fee limit, I assume, of some kind. So at that point, we -- we -- we'll be in a -- a somewhat different situation to the situation that we have right now.

We'll have certainly better and more comparable and more -- and it should be absolutely comprehensive data. But it -- it will have changed in that it's -- it would all have been subject to a fee limit that we don't have right now.

MS. ANITA SOUTHALL: Right, sir. And I -- if I somehow left with you -- you with the impression that I was talking about the future, I was trying to pose the question with respect to the -- what -- if complete data were available today in terms of the current market.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: The current market's unregulated, you'll agree with that?

DR. KEVIN CLINTON: Yes, absolutely.

MS. ANITA SOUTHALL: And so if we had the complete data set today to arrive at the number, it would be a reflection of the current unregulated market fees, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And if the Board were to adopt that number, it would be adopting the existing market status; correct?

DR. KEVIN CLINTON: The fee limit would be a function of the existing market status. But once it's imposed, it would change the market. Because by lopping off that tail, you're going to change the mean fee in the market.

So my -- let me put it this way perhaps -- perhaps I can satisfy all customers. My fee limit was designed to have the least impact, to have a minimal impact, on market competition while at the same time eliminating extreme rates.

So it -- it's designed not to disturb the existing equilibrium but it does a little bit.

MS. ANITA SOUTHALL: In the absence of your fee limit, sir, and with -- hypothetically if the Board was adopting some number based on the market status quo, would the Board be meeting the requirements of the legislation for setting payday lending rates?

Do you have an opinion on that?

DR. KEVIN CLINTON: Yes, I do. Can I refer to the Consumer Protection Act?

MS. ANITA SOUTHALL: Absolutely.

DR. KEVIN CLINTON: I think I have it right here.

(BRIEF PAUSE)

DR. KEVIN CLINTON: It says:

"An order under this -- an order made under this section -- "

Now by the way, I'm not a lawyer. It's going to be just as painful for lawyers to hear me talking about the law as it was for me listening to a CEO and a lawyer talking about economies of scale last week. But I'll -- I'll read this and see if I -- you tell me if I've got it right. It says:

"An order made under this section must be one that the Board considers just and reasonable in the circumstances having regard to the factors and the data considered by it."

And I took that as my marching instructions. So I come from there.

MS. ANITA SOUTHALL: I -- I -- I'm a bit hesitant to ask you to elaborate too much further but, quite frankly, it -- by referring specifically to that section and -- and that concept, a fair and reasonable rates occurs in the Public Utilities forum routinely but under a variety of different circumstances.

Is there something specific you go to from that --

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: -- information in the legislation? Would you mind just taking a moment to try and --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- explain that?

DR. KEVIN CLINTON: Yeah. I -- well first of all, I substitute "regulation" for "order". So I -- I'm not using -- I'm not substituting the word "fee". So I'm saying what I've come up with is a regulation that is just and reasonable.

And that will allow the market within that framework to set a whole range of different fees for all sorts of qualities of service and risk tolerance. And that -- that -- that process will -- will result in -- in the just and reasonable setting of fees.

MS. ANITA SOUTHALL: Thank you. Those are my questions with respect to RC-20. For the panel I have approximately fifteen (15) minutes left of my remaining cross-examination and then we would be able to move to the other counsel for their cross-examination.

Did -- did we want to have a break at this point?

THE CHAIRPERSON: Okay, we'll have the

break now. Thank you, Dr. Clinton.

MS. ANITA SOUTHALL: Thank you.

--- Upon recessing at 10:25 a.m.

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

THE CHAIRPERSON: Okay, folks, if we could get back to it, it would be appreciated. By the way, the Board has another appointment at lunch so we're going to be closing down this morning at quarter to 12:00 but we'll restart again at 1:15.

This is the time of the season where all sorts of meetings get fitted in. Okay, Ms. Southall...?

MS. ANITA SOUTHALL: Thank you, Mr. Chairman.

MR. BYRON WILLIAMS: Excuse me, Ms. Southall, sorry. It's Mr. Williams. Sorry to interrupt. Are -- are those documents ready --

MS. ANITA SOUTHALL: They are being copied at the present time.

MR. BYRON WILLIAMS: Thank you. Sorry, to interrupt.

MS. ANITA SOUTHALL: That's fine.

MR. ALLAN FORAN: And perhaps I could interrupt as well, I'm sorry, Ms. Southall. It's Mr.

Foran.

Just -- the one (1) question that came to my mind is there was a presenter this morning that -- that appears to have filed a whole series of documents with the Board and I was wondering how that was being treated by the Board; whether this documentation is going to be distributed to Intervenors, whether it's confidential or whether it's in fact been accepted.

THE CHAIRPERSON: Well, the report that the gentleman provided we can copy and circulate to the parties.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay, Ms. Southall...?

MS. ANITA SOUTHALL: Thank you.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Dr. Clinton, could you just refer to one (1) of the binder sets of reference documents, I think there may be one (1) behind you on a table, and turn to Tab 46 which is your initial report filed with the Board.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And could you turn to page 7 of your report, please. At line 11 to 15 of your report you indicated that the -- the statement is made:

"Payday lending critics contend that the existence of a wide range of charges across the industry means that there is little competition. This is a non sequitur as the degree of competition or of monopoly, for that matter, has no bearing on the dispersion of prices. A spread of prices of more than 20 percent at different outlets for consumer items that are more or less the same is the norm rather that the exception."

And I take it you maintain that position, sir?

DR. KEVIN CLINTON: Yes, this summarizes results obtained by Bay, Professor Bay (phonetic) and his collaborators at Indiana University who investigated a huge database of prices. In their cases they were -- in their case they were comparing items that were exactly identical and they had something like 4 million different observation points. And the 20 percent is their number, not mine.

MS. ANITA SOUTHALL: Thank you. At line 20 of the same page of your report, sir, you indicate that the payday loan product is heterogeneous.

Could you just provide us with the definitions of heterogeneous and homogeneous for the purpose of the concept of the payday loan product?

DR. KEVIN CLINTON: Yes, well, the -- the key there is -- the key sentence is the product is heterogeneous, that is to say, it -- it differs somewhat from lender to lender.

And I think when I was here last week I -- I did mention that I've had a change of view on this and -- or maybe I had this idea in the first place and just forgot to write it down but the -- the key aspect to -- to my mind now is differences in risk tolerance. Some lenders have very different risk standards from -- from others.

MS. ANITA SOUTHALL: And that's what differentiates the hundred dollar ($100) loan for a two (2) week period or the three hundred ($300) loan for a two (2) week period from lender to lender?

DR. KEVIN CLINTON: I think that would be the main single aspect differentiating the product of one lender from another.

Now, I -- I also said that geographical location, as far as an individual is concerned, will be an important factor as well; in fact, it could be a crucial factor. If you were living in a small town with only one (1) store, the closure of that store would -- would have a significant impact on you.

But, from the point of view of corporate strategy, I -- I don't think that firms have different strategies to differentiate their products. I think they're all basically looking for the same things; in other words, good coverage of a city in areas that have easy access by car and that are highly visible. I think that's what they're all looking for and there are plenty of such locations in -- in Manitoba.

MS. ANITA SOUTHALL: Thank you, Dr. Clinton.

On pages 8 and 9 of your report -- I'm not going to take you to a specific section, but you do address the issue that the Board is facing with respect to fixing the limit on extension fees or rollover fees.

Do you recall that?

DR. KEVIN CLINTON: Yes. Yes, I do.

MS. ANITA SOUTHALL: At -- if you could turn to Tab 49 in the reference materials, please.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And the question asked -- PUB-RC-1-B44, the response -- sorry, the question was:

"Does the author..."

That being yourself, Dr. Clinton:

"...come to any conclusion re: extension fees or charges?"

And the response provided to the question was that your basic position with regard to applying fee limits with respect to payday loan extensions is based on simplicity, i.e., keep the fees -- pardon me, keeps the same limit as per the original loan.

And if you could go to the bottom of that response at Tab 49, this is an extract from your report on page 9, and the statement beginning at line 26 is:

"The objective of minimizing the costs of regulation, however, suggests that the fee limit should be uniform, i.e., the same for a renewal as for the original loan. Uniformity reduces the avenues for avoidance and, hence, reduces the costs of compliance and enforcement."

Do you see that?

DR. KEVIN CLINTON: Yes, I do.

MS. ANITA SOUTHALL: And I take it you maintain that position in terms of where you've come to with regard to what the Board should do with respect to rollovers or extensions?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: Could you just address, briefly, how the uniformity principle, as you've outlined it in your response, benefits lenders, or is a detriment to lenders, and likewise consumers?

DR. KEVIN CLINTON: Well, whenever we talk about extensions, or repeat loans, or whatever you want to call them, I see the Board as -- as having two (2) reasonable objectives, although I -- I must say I don't think there's anything in -- in the legislation that says these should be the objectives.

But one (1) would be to reduce the -- reduce the -- the frequency of high frequency borrowing. In other words, reduce the number of situations in which con -- borrowers are resorting to this type of loan excessively frequently, overusing the -- the product.

And I come at it from two (2) ways. Once the loan is out there, it -- it's essentially the borrower that decides when -- when they're going to pay back.

So -- just a second. No, I'm -- I'm getting confused with a -- a default fee.

Yeah. Let -- let me back right up, and just say I -- I think the -- the only principle involved in -- in this particular case that I would rely on is -- is the one (1) of simplicity.

MS. ANITA SOUTHALL: And so you -- you haven't turned your mind to the -- the benefits, or detriments to consumers of allowing that same fee to be imposed with no additional borrowing being advanced in a rollover extension situation?

DR. KEVIN CLINTON: Oh -- well, rollovers we've agreed, or I think we've all agreed, are a very -- very different thing from -- from a repeat loan.

And in fact with my background where I spent a lot of time dealing with the way our payment system operates, there is a very clear distinction between settlement on a given day and a sort of passive rolling over of a -- of a position.

For risk control purposes, those -- those two (2) things are -- are very different.

But here my position would be, set the fee limit in such a way that it's flat and -- and then if -- if the cost the processing are higher for the initial loan, the -- the vendor -- the lender would have to swallow that.

And I think I gave the example if just in the same way as if I go to a video rental store each time I pay the -- the same amount if I -- if I rent a CD or DVD rather, but obviously on the first visit the -- the costs were very much higher. So that -- that's the way I -- I approach the -- the issue of repeat loans.

MS. ANITA SOUTHALL: Okay, the -- the question that you were originally asked was with respect to extensions, which for the sake of this dis -- this question I'm equating to rollovers.

DR. KEVIN CLINTON: Oh, okay -- okay --

MS. ANITA SOUTHALL: So I mean, I --

DR. KEVIN CLINTON: -- Oh, good --

MS. ANITA SOUTHALL: -- this is not --

DR. KEVIN CLINTON: -- good.

MS. ANITA SOUTHALL: -- this was never phrased originally as a repeat loan situation. So could -- could you just -- because I think it's --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- to be honest now possibly unclear on the record what your actual answer is --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- are you still applying the uniformity principle in your recommendation for --

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: -- rollovers or extensions?

DR. KEVIN CLINTON: Yes, I am. Okay.

MS. ANITA SOUTHALL: Okay, thank you.

DR. KEVIN CLINTON: I -- I --

MS. ANITA SOUTHALL: I -- I don't know that you need to explain it unless you feel the need to clarify.

DR. KEVIN CLINTON: Yes, I'm -- I'm sorry I got confused. I did start to talk about rollovers, and then I thought, just a second, this is dealing with repeat loans.

With the rollover issue I -- I still come to the conclusion a flat fee would be the best compromise, because I see they're two (2) conflicting objectives.

As far as the borrower is concerned, and really when it comes to -- in our current situation where from the lender point of view rollovers are -- rollovers are banned, in the current situation once the loan is out there, the initiative as to whether it gets repaid or not is with the borrower.

So you -- you might say well from that perspective the borrower should be charged a -- a penalty fee for behaving in this way. You -- so from that perspective you'd want a higher fee on the rollover to encourage the borrower to pay back.

But if you look at it from the supply side, you would say no. If you were to do that then you are giving the -- the lender an incentive to structure the loans in such a way that he deliberately causes defaults and rollovers. So from that perspective, you might want to say that there shouldn't be any fee allowed on a rollover. So there are the two (2) conflicting objectives. There are two (2) -- two (2) -- competing aspects, and I don't see how you would resolve that one.

So this is -- this is where, again, I rely on my principle of simplicity and say keep it flat.

MS. ANITA SOUTHALL: Thank you. Dr. Clinton, could you look at tab 50 of the reference materials, please. And this is a response to Coalition-RC-1-4, and specifically question sub A, the word arise -- sorry, arising out of a reference in your report, as I understand it.

The definition of the term 'middle class," and the answer that was provided to the question for sub

A was:

"In the context of this discussion, middle class may be families with annual post tax income between twenty-thousand (20,000) and one hundred thousand dollars ($100,000)."

Do you see that?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And could you advise if there is some standard point of reference for that particular definition of middle class?

DR. KEVIN CLINTON: No it's fairly arbitrary. I would say that the data that we often look at -- are organized in units of -- of ten thousand (10,000), so very often your cutoff points are -- are gonna be in those round numbers.

MS. ANITA SOUTHALL: Could you look at tab 47, please, which is your rebuttal evidence. And specifically at page 5. The pages aren't numbered. I will try and direct you to -- the heading I'm looking for, I believe, is "The Market is Competitive." And it happens to be point number 5, starting at the top of what I have identified --

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: -- as page 5.

And in the second paragraph, you make reference to the current state of the Manitoba market:

"The 62 percent market share with respect to the two (2) current dominant players in Manitoba [I think you're referring] has no theoretical or practical import."

Do you see that statement?

DR. KEVIN CLINTON: Yes, I do.

MS. ANITA SOUTHALL: And if a third major player comes in from the United States, which it -- which we understand it to have occurred just recently, Advance America opening a number of outlets in Manitoba.

DR. KEVIN CLINTON: Mm-hm.

MS. ANITA SOUTHALL: If that third large firm then joins in terms of dominance in the market, does that have any impact on your views with respect to the state of competition?

DR. KEVIN CLINTON: Not really, because the competitive threat was always there. And the current lenders, especially the large ones, would have been very well aware of it.

MS. ANITA SOUTHALL: I -- I don't intend to take you specifically to a reference point, but feel free to look at your point number 6 on the next page of the rebuttal evidence, if you wish.

There, you address again, I believe, the concept of there being no barriers to entry to the market currently.

Do you recall that?

DR. KEVIN CLINTON: Yes. Yes, I do.

MS. ANITA SOUTHALL: Would you say that the Criminal Code 60 percent maximum interest rate at the moment is a barrier to entry?

In other words, there may be some financial institutions who may be prepared to lend but are not lending because of the Criminal Code maximum?

DR. KEVIN CLINTON: I hadn't thought about that, but I -- I think I would agree with that.

MS. ANITA SOUTHALL: Thank you.

Mr. Chairman, those are my questions of Dr. Clinton. Thank you, Dr. Clinton.

We'll now move on to the cross-examination by other counsel. I believe, Mr. Chairman, starting with Mr. Foran.

THE CHAIRPERSON: Yes, that's correct.

Mr. Foran...?

CROSS-EXAMINATION BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Good -- thank you,

Members of the Board.

Dr. Clinton, I'd like to actually start just where Ms. Southall left off.

One (1) of the questions that I had for you is whether you viewed the Criminal Code prohibition as a barrier to entry and my understanding of your response is that you do.

Is that correct?

DR. KEVIN CLINTON: Yes, that's correct.

MR. ALLAN FORAN: That being the case, if it's been a barrier so far, how will the exemption for licensed payday lenders affect the level of competition in the Manitoba marketplace once this Board sets a maximum rate?

DR. KEVIN CLINTON: Well, as I understand it, before the Section 347 was changed, the activity was or could have been illegal, which would certainly have in -- inhibited the entry of -- of any number of potential lenders, I would think.

MR. ALLAN FORAN: So you think it's likely that there will be more competition in the marketplace once the Board sets the rates?

DR. KEVIN CLINTON: I think there is already, since that -- the change to the law.

We -- we've removed the barrier, so where we are right now is a situation of competition with free entry. And if -- if we have a limit, that will pose a -- a barrier.

In my -- in the case of my proposal, it's a rather modest one, but once you have that kind of limit, then clearly there are some kind of -- there may be some lenders that would offer a service that might otherwise be competitive; that is, that would not be competitive with a limit.

So it depends where that limit is set, whether it's a material barrier or not. But the -- the potential is there that -- that the limit could become a barrier.

MR. ALLAN FORAN: Okay. In your initial report of September 17th, my understanding is that you indicated that: "The operating objective for the Board should be the prevention of charges above the normal industry range?

Do you recall that, sir? It's actually on page 2 of your initial evidence.

DR. KEVIN CLINTON: Could you remind of the Tab? Or I have it probably in one of my --

MR. ALLAN FORAN: Yeah, I haven't cross-referenced the tab numbers. Whatever the tab is of the initial evidence.

DR. KEVIN CLINTON: Yeah, I -- I have it.
MR. ALLAN FORAN: Forty-six (46).
DR. KEVIN CLINTON: Yeah. Page number?
MR. ALLAN FORAN: Page 2, sir.
DR. KEVIN CLINTON: Yeah.
MR. ALLAN FORAN: Lines 27 to 28. "The objectives should be the prevention of charges above the normal industry range."
DR. KEVIN CLINTON: Yes.
MR. ALLAN FORAN: Did you conduct any analysis to determine what that normal range might be in Manitoba?
DR. KEVIN CLINTON: Well, the data I used were data from all across Canada; they were national data. So they included Manitoba data but they weren't confined to Manitoba data.
MR. ALLAN FORAN: Okay. And if I just put the question to you:
The recommendation that's been presented to the Board on behalf of CPLA with respect to a range of fees that should be considered by Board, is that within the normal industry range that you have identified in -- in your evidence?
DR. KEVIN CLINTON: It's within the range but the philosophy underlying that limit would be in

direct conflict with the approach that I'm adopting, because you would be cutting right into the meat of the distribution. Whereas -- whereas under my proposal we would -- we would only lop off the -- the out layers, the thin end of the distribution.

MR. ALLAN FORAN: So, for example, if I looked, and you can just help me with this, at RC-20, and that's a document that my learned friend, Ms. Southall --

DR. KEVIN CLINTON: Yeah.

MR. ALLAN FORAN: -- took you through at length this morning.

DR. KEVIN CLINTON: Yeah, I'm familiar with it.

MR. ALLAN FORAN: Okay, and --

DR. KEVIN CLINTON: I just have to find it.

MR. ALLAN FORAN: -- specifically Table 1 of that on page 2.

DR. KEVIN CLINTON: Yes, I'm with you.

MR. ALLAN FORAN: And if I look at the -- and you'll -- you'll correct me if I'm not interpreting this accurately, but if you look at right-hand side of that table, there's a heading, "Implied Mean Market Fee."

DR. KEVIN CLINTON: Yes, that's correct.

MR. ALLAN FORAN: And if I go down to the second notation under PUB-1, there's a market fee of twenty three dollars and twenty-two cents ($23.22).

DR. KEVIN CLINTON: That's correct.

MR. ALLAN FORAN: Now if we take that as being as an example of -- of a range that the CPLA has recommended, is it your suggestion that that ultimate market fee may well then be appropriate to be charged by the marketplace, but a maximum fee must be higher in order to allow that to happen?

DR. KEVIN CLINTON: I think you've encapsulated the idea exactly.

MR. ALLAN FORAN: And your calculation is to get to that mean market fee of approximately twenty-three dollars ($23) the maximum fee should be thirty dollars ($30)?

DR. KEVIN CLINTON: That would work, yes.

MR. ALLAN FORAN: And can you provide me with your comments and, again, this is one of those questions where I'm actually just going to ask you the question without -- without the point --

DR. KEVIN CLINTON: Mm-hm.

MR. ALLAN FORAN: -- to it. But can you tell me that if the Board sets the rate at thirty dollars ($30) to allow the mean charge to be twenty-three dollars and twenty-two ($23.22) cents, would you expect the marketplace, and competitors in the marketplace, to move their fees up to the thirty dollars ($30)?

DR. KEVIN CLINTON: No, I would not.

And I would expect a number of operators that currently have fees above thirty dollars ($30) -- rather than dropping out of the market entirely I would expect them to come down to the thirty dollars ($30).

But at the same time I think their risk reward calculation would now tell them the product is going to be slightly different from now on and we -- we are going to be more selective in our application of lending criteria.

So they would -- they would lower the risk profile of their clients.

MR. ALLAN FORAN: If the fee was set at twenty-three dollars ($23) per hundred by the Board, is it possible that the mean would simply become the norm? And that is that the twenty-three (23) as opposed to being the mean would in fact be the charge?

DR. KEVIN CLINTON: Yeah, I would see a risk of that happening if you went that low.

MR. ALLAN FORAN: Is there anything inappropriate with that happening -- happening, if in fact that's determined to be the correct that should be charged?

DR. KEVIN CLINTON: Well, I can see two (2) things happening. One (1), again, would be the reduction of risk profile accepted by a number of firms, which is to my way of looking at it, that is in itself a bad thing, because a distinctive feature of the -- the service provided by this industry is indeed that it will provide loans to high-risk clients.

And when we look at -- at the kinds of situations, those -- those high-risk clients are in the potential is there for really huge gains in consumer surpluses if those loans are made.

So the -- the very fact that the high-risk loans are being ruled out to my mind is -- is a detriment.

Now the other thing is this. Once you've set a fee limit that is right in the middle of where the market would have been anyway, you run into this danger: You run into the danger that the regulatory authority becomes a de facto price leader for the industry.

And so the industry, instead of competing with one another on price, they'll set the price where the regulator sets it and then in the public relations and so on if consumers or journalists complain about the price list they: You know, we just follow the price that is set by the Board.

So to my mind that would be a possible outcome and it would be a -- a bad outcome.

And I would regard behaviour in which firms came up to the fee limit set by the Board as being extremely unlikely if it was set in the levels where -- near the level what I'm recommending, because it's outside the -- it's just outside the normal range.

But if you -- if you go down to twenty-five (25), twenty-four (24), twenty-three dollars ($23), you're right in there with a competitive rate.

MR. ALLAN FORAN: If the Board was in a position where it -- it did set the rate somewhere around that twenty-three dollars and twenty-two cents ($23.22), looking at your Table 1 again, and I'm trying to understand this, does that -- that still allows competition to take place but the only loss is the theoretical consumer surplus.

Do I have that correct?

DR. KEVIN CLINTON: Are we talking about the thirty dollar ($30) limit which gives --

MR. ALLAN FORAN: Well I'm just -- I -- I want to avoid the thirty dollar ($30) limit for just --

DR. KEVIN CLINTON: Yeah.

MR. ALLAN FORAN: -- a moment, I want to just focus on the twenty-three (23) -- twenty-three dollars --

DR. KEVIN CLINTON: I'm sure you do.

MR. ALLAN FORAN: -- and twenty-two cents ($23.22).

But if I focus on that and that's in effect --

DR. KEVIN CLINTON: Yeah.

MR. ALLAN FORAN: -- what the rate is and -- and let's even go further --

DR. KEVIN CLINTON: Yeah.

MR. ALLAN FORAN: -- assume that everybody charges that rate so that the mean becomes the norm, is all that's lost the consumer surplus? The theoretical consumer surplus.

In that there's still competition; there's still opportunity for consumers; or is there something else that I'm missing?

DR. KEVIN CLINTON: Well if you set that as the limit, I'm sure there would be a lot of lenders that would price their loans at -- at the twenty-three, twenty-two (23.22).

But there will be no reason for other operators that are operating all across the coun -- in some cases, all across the country with a pricing model that they find is -- is working well for them, it will be difficult to see them changing that just for Manitoba.

So even with your twenty-three, twenty-two (23.22) limit, I'm -- I'm sure that you would still have an array of fees out there below that limit but they would -- but then you would find a bunching up, a crowding, right at the limit. I'm sure that's what would happen.

MR. ALLAN FORAN: I would like to go to a different topic for a moment.

In your original evidence on page 4, one (1) of the things you identified as being something of value to consumers, or the special features of payday loans to customers, was that they had instant access to cash whether it's bank notes, a deposit or on a card.

Do you see that?

DR. KEVIN CLINTON: I don't see it but I do remember it.

MR. ALLAN FORAN: Okay, you'll agree with that as being one of your observations?

DR. KEVIN CLINTON: Yeah, yeah.

MR. ALLAN FORAN: Is it your view that bank notes, deposits and debit cards are interchangeable from a customer's perspective, as immediate to cash in hand?

DR. KEVIN CLINTON: In today's economy, I think there are a vast number of consumers for whom that would be true.

Not necessarily for everybody, but --

MR. ALLAN FORAN: I'm going to paraphrase something I believe you said in your evidence, and that was that when customers are thirsty, they want to drink.

And I took it from that that when somebody wants a payday loan, they want the money.

DR. KEVIN CLINTON: Yes.

MR. ALLAN FORAN: In your view, does a cheque being mailed out within five (5) to seven (7) business days offer the same immediate cash in hand liquidity as cash?

DR. KEVIN CLINTON: Well, I would say if they've chosen that option, they're going to get the cash exactly when they need it.

So it -- for their purposes, it -- it's cash.

MR. ALLAN FORAN: Can you put your observation in?

What do you think? Do you think that --

DR. KEVIN CLINTON: I think it's cash.

MR. ALLAN FORAN: Do you think that's immediate, five (5) to seven (7) days?

DR. KEVIN CLINTON: Well, if they have an expense to meet next Wednesday, and the -- the cheque arrives on Wednesday, they've got immediate cash exactly when they wanted it.

MR. ALLAN FORAN: I have no further questions.

THE CHAIRPERSON: Thank you, Mr. Foran.

Mr. Williams, you've been waiting patiently.

MR. BYRON WILLIAMS: Thank you, and good morning members of the Board.

Just -- I'm going to be -- in the initial stages of my Cross, I'm going to be referring to, I think, four (4) documents.

One (1) is Dr. Clinton's evidence, which I believe is Tab 46 in Ms. Southall's book.

One (1) is your rebuttal, which I'm not sure which -- forty-seven (47).

One (1) is RC-20.

And the other one (1) is the transcript from December the 3rd. And I don't know, Mr. Hacault, if you have a -- a copy to share with the witness?

(BRIEF PAUSE)

MR. BYRON WILLIAMS: I appreciate your courtesy, Mr. Hacault. Thank you.

CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Dr. Clinton, of course after referring you to those four (4) documents -- I'll let you pour your tea. I like a tea drinker.

Of course, after referring you to those four (4) documents, I'm going to go elsewhere just very quickly. But don't worry, it's -- I'll be -- I'll be back soon.

I've seen you studiously looking at the Legislation today, the Consumer Protection Act, and I wonder if you'll agree with me that under the Act, that payday loan is -- is defined as a loan of money with an initial term that is no longer than sixty-two (62) days.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And, again, if you're looking for reference in your evidence, you can probably go to page 7 or 8 of your September 17th filing, which is at Tab 46 of the PUB book of documents.

But would it -- that -- is that kind of the -- for the purposes of your evidence, oral and written, is that the kind of working definition you used as well; a period of no longer than sixty-two (62) days, sir?

DR. KEVIN CLINTON: Well, I'm uneasy about a term as long as sixty-two (62) days, because I regard the -- the payday loan as being -- it is a credit instrument; it obviously has credit properties.

But the way I look at it, its -- its distinctive character is -- is more as -- as a -- a transactions instrument than a credit instrument.

So when -- when you extend the term to -- to a term as long as sixty-two (62) days, it seems to me you're -- you're verging maybe only ever so slightly -- but you're verging into a term that is comparable to conventional credit.

MR. BYRON WILLIAMS: Okay, thank you. So -- and if -- I'm gonna try and restate your answer just to make sure I have it correct.

You've indicated that you're uneasy, for your purposes, in -- with the definition of sixty-two (62) days which is about two (2) months.

Is -- is that fair to start with?

DR. KEVIN CLINTON: Yes, that's correct.

MR. BYRON WILLIAMS: And -- and one (1) -- one (1) reason you're uneasy with the definition of that magnitude or length of time is because it's -- you see payday loans as transactional instruments rather than credit instruments.

Is that right, sir?

DR. KEVIN CLINTON: They have both properties, but they -- to -- to my mind they are more transactional than credit.

And, let me just indicate the -- the thinking. My thinking is when you get a payday loan whether you're paid on a two (2) week basis or a one (1) month basis, what you're essentially doing is -- is getting liquidity for an asset that you already have; the asset is your accrued earnings that you can't get access to.

MR. BYRON WILLIAMS: Okay, that's very helpful.

So it -- really when you're speaking of payday loans you're focussing on shorter terms such as two (2) weeks or one (1) month.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

And the one (1) month is only there because we have retirees, and public school employees, and the like who -- who are paid on a monthly basis.

MR. BYRON WILLIAMS: So when you think of a -- a payday loan, a loan for a period of for example six (6) months would not fit within your definition of a payday loan.

Is that right, sir?

DR. KEVIN CLINTON: That is correct. A six (6) month loan would clearly be in the region of conventional credit.

MR. BYRON WILLIAMS: And would likewise a four (4) month loan clearly be within the region of conventional credit?

DR. KEVIN CLINTON: Well, there are shades of grey in these things, but it -- it wouldn't be a payday loan.

MR. BYRON WILLIAMS: Yeah. So you're uneasy with -- with two (2) months; you -- you wouldn't consider four (4) months a payday loan?

DR. KEVIN CLINTON: No.

MR. BYRON WILLIAMS: I don't know, Dr. Clinton, if you have a calculator nearby or if you'd --

DR. KEVIN CLINTON: Yes, I do.

MR. BYRON WILLIAMS: -- like to borrow.

And these are, I -- I know you work in complex calculations so mine are tremendously trivial, but you'll have to -- to bear with me.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: I can assure you you won't have to use any of your complex functions on this, sir.

But if I was looking at -- you had a bit of a discussion with Ms. Southall about middle income in the Canadian context, and we'll come back to this later, but just for -- if I'm looking at someone's who making twenty-five thousand dollars ($25,000) a year pre-tax, am I looking at someone on a biweekly basis who's making about nine hundred and sixty dollars ($960) biweekly.

Is -- would that be fair, sir?

DR. KEVIN CLINTON: Um.

MR. BYRON WILLIAMS: Twenty-five thousand (25,000) divided by twenty-six (26) you'll accept -- accept is about nine hundred and sixty (960) --

DR. KEVIN CLINTON: Yeah, I'll -- I'll take your word for it.

MR. BYRON WILLIAMS: -- a week. And, I appreciate that; I don't want to wear out your fingers on the -- on the calculator.

And again, for someone earning about thirty-five thousand dollars ($35,000), I wonder if you'd accept, subject to check, that they -- they make about one thousand three hundred and forty-six (1,346) biweekly.

Would that be fair, sir?

DR. KEVIN CLINTON: That sounds about right.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Now you mentioned this study today, Dr. Clinton, but at footnote -- I'm referring you to Rentcash 20, you're -- the exhibit. The one that you've spent quite a bit time with --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: -- with Ms. Southall today.

DR. KEVIN CLINTON: Yes, I'm...

MR. BYRON WILLIAMS: And at footnote 5 to Rentcash 20, you make reference to a -- a study by Karlan and Zinman; Zinman being from Dartmouth -- Dartmouth College, is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And that's what you refer to as the Dartmouth College Study from time to time in your evidence. Is that right, sir?

DR. KEVIN CLINTON: Yes, the reason for that is the original source I came across was Dartmouth College -- a Dartmouth College web site.

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: But it's -- it's -- I should say it's -- it's probably not the best way to cite that article.

MR. BYRON WILLIAMS: That's fair enough.

But it's -- the actual name of the article is "Expanding Credit Access Using Randomized Supply Decisions to Estimate the Impacts."

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Now, again in the transcript -- that's the document that Mr. Hacault was kind enough to share with you -- at page 2,187 -- 2,187.

DR. KEVIN CLINTON: 2,187?

MR. BYRON WILLIAMS: 20 -- yes, 2,187.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Do you have that page in front of you, Dr. Clinton?

DR. KEVIN CLINTON: Yes. Yes, I do, yes, and I apologize for the delay.

MR. BYRON WILLIAMS: No problem.

And in terms of that page, first of all at lines -- at least in my version -- at lines 3 to 5, you're responding to a question by the Chairman, and the Chairman's question is:

"You are saying a population of borrowers has not been followed through

a long enough successive period of
time?"

Do you see that question, sir?

DR. KEVIN CLINTON: Yes, I do.

MR. BYRON WILLIAMS: And I've read it prettily and accurately?

DR. KEVIN CLINTON: Yes, yes.

MR. BYRON WILLIAMS: That -- that's good too, right.

And in response to that study -- I'm referring you now to lines 9 through 13 -- you -- you refer to a study which results I started -- I -- I cited to you.

It was done at Dartmouth College where they did stay with some payday loan borrowers over a long period of time -- a longish period of time.

Do you see that, sir?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And is that the same Dartmouth study --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: -- that is? So that's the study by Karlan and Zinman.

Is that right, sir?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And, at a high level, and I'm not -- you've given details of the Dartmouth study before, but at a high level, you cite this study, and you did again this morning, for the proposition that payday loans benefit individuals in terms of whether it's avoiding malnutrition, or allowing them to re -- repair their cars, et cetera.

Is that right, sir?

DR. KEVIN CLINTON: That's correct.

MR. BYRON WILLIAMS: Now, when I look at the Dartmouth College study at page 12 of page 2,187 -- no, just at page 12 of the text -- you're referring it to as a study of payday loan borrowers.

Is that right, sir?

DR. KEVIN CLINTON: The correct way to say it is a "payday loan-like product." It's a payday loan-like.

In South Africa they have licenced payday lenders, but they also have un -- unlicenced lenders, and I -- I think this study was referring to the unlicenced lenders.

MR. BYRON WILLIAMS: Now, do you have a copy of that study nearby, or available, sir?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Okay. And I wonder,

Mr. Gaudreau, if -- if you could share that with -- with the Board?

MS. ANITA SOUTHALL: For the -- for the record, the Karlan and Zinman study referenced as the Dartmouth Study previously titled "Expanding Credit Access: Using Randomized Supply Decisions to Estimate the Impacts," would be noted as RC-21, for the record.

--- EXHIBIT NO. RC-21: Karlan and Zinman study, titled "Expanding Credit Access: Using Randomized Supply Decisions to Estimate the Impacts"

MS. ANITA SOUTHALL: I will perhaps, just at this point, so I -- I don't interrupt further as we go forward, to the extent that the other studies referenced by Dr. Clinton will be referred to.

The second study referred to today, Federal Reserve Bank of New York staff reports "Payday Holiday: How Households Fair After Payday Credit Bans", November 2007, RC-22, for the record.

--- EXHIBIT NO. RC-22: Federal Reserve Bank of New York staff reports "A Payday

Holiday: How Households Fair
After Payday Credit Bans",
November 2007

MS. ANITA SOUTHALL: And a -- a third report referenced by Dr. Clinton as Collard -- C-O-L-L-A-R-D -- and Kempson, 2003.

There is an excerpt of that which is being circulated, and that is noted for the record as RC-23.

--- EXHIBIT NO. RC-23: Excerpt from Collard and
Kempson study, 2003

MS. ANITA SOUTHALL: And thank you for -- Mr. Williams, for allowing me just to get those on the record.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: I exist only at the pleasure of the Board, Ms. Southall.

Now, Dr. Clinton, when you originally referred to the Dartmouth study, I was thinking it might be an American study, but am I correct in suggesting to you that it's a study of -- of a South African lender?

Is that right?

DR. KEVIN CLINTON: Yes, I just said that.

MR. BYRON WILLIAMS: And in terms of the -- those surveyed in this study, and if you're looking for a reference, I can refer you to the -- the top of page 7. I wonder if you would agree with me -- oh, excuse me, --

DR. KEVIN CLINTON: No, no, --

MR. BYRON WILLIAMS: -- yeah, it's top of page 7.

DR. KEVIN CLINTON: My copy doesn't have page numbers.

MR. BYRON WILLIAMS: Page numbers...? So, it is in the page just above Methodology, Part III. I'll give you a copy that does have page numbers.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Yeah.

DR. KEVIN CLINTON: We may have downloaded from different sites, this is 3 of 7, oh, yeah.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I guess I'll start with the bottom of page 6, just after footnote 10, Dr. Clinton; the very last line on page 6, right at the bottom, and then we'll turn over to --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: -- page 7. I'll read it to you:

"In this experiment, 98 percent of the borrowers received the standard loan for first-time borrowers which is a four (4) month maturity at 11.75 percent per month."

Did I read that correctly, sir?

DR. KEVIN CLINTON: Yes, you did.

MR. BYRON WILLIAMS: Okay. And so, my under-standing of this study is that it's studying the impact upon individuals taking out four (4) month loans.

Would that be right, sir.

DR. KEVIN CLINTON: Yes, that is right.

MR. BYRON WILLIAMS: And, in fact, 98 percent of the borrowers received a standard loan for first-time borrowers, being a four (4) month maturity.

Is that right?

DR. KEVIN CLINTON: Is that the same page?

MR. BYRON WILLIAMS: Yeah, it's the same statement. That's the top of page 7, sir.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Okay. So in terms of this study, they weren't taking out payday loans as we would have them described under the Consumer Protection

Act, which would be for sixty-two (62) days or less.

Would that be fair, sir?

DR. KEVIN CLINTON: That would be fair.

MR. BYRON WILLIAMS: Would it also be fair to say that they weren't taking out payday loans for the term that you more commonly use, being two (2) weeks or one (1) month.

Would that be fair, sir?

DR. KEVIN CLINTON: That would be fair, and the direction you're going in would actually strengthen the conclusions that I've already drawn, because these loans would be like a repeatedly rolled-over payday loan in Canada.

MR. BYRON WILLIAMS: They don't come closer to your definition of credit instrument, sir?

DR. KEVIN CLINTON: No. In Canada this would be regarded as the abuse of a payday loan.

MR. BYRON WILLIAMS: So, in your view, the fact that they're for a four (4) month term doesn't make them more like a credit instrument.

Is that your evidence?

DR. KEVIN CLINTON: It does make them more like a credit instrument and, in Canada, if we saw payday loans being used that way, we'd say the product was being abused. But nevertheless, the borrower is benefited. We would say this is a terrible thing Canada; the borrowers are rolling over their loans or taking out repeated extension loans. But even under those circumstances, the borrowers win.

MR. BYRON WILLIAMS: Well, maybe -- maybe I misunderstand, sir. Are they not taking out a loan for a four (4) month period?

Is that not right, sir?

DR. KEVIN CLINTON: That is what they're doing. You couldn't do that with a payday loan in Canada. And we would regard it as inappropriate. But even so, even with those strikes against it, the borrowers win.

MR. BYRON WILLIAMS: Now, just to -- to follow through, this is not, then, a transactional instrument; it's more like a credit instrument.

Is that not right, sir?

DR. KEVIN CLINTON: This is more like a credit instrument.

MR. BYRON WILLIAMS: Now, you're familiar with the lender in question. I wonder if you'd agree that the lender in this study doesn't offer two (2) week loans?

Would that be correct, sir?

DR. KEVIN CLINTON: I'd have to re-read the document.

MR. BYRON WILLIAMS: If you look at page

6, footnote 10, you'll see that the lender has one (1), six (6), twelve (12) and eighteen (18) month products, is --

DR. KEVIN CLINTON: Well, he has one (1) month products.

MR. BYRON WILLIAMS: Yeah, and, sir, if you'll recall my question; they don't offer a two (2) week product?

Is that right, sir?

DR. KEVIN CLINTON: For all I know in South Africa these individuals are being paid monthly. So it would be exactly like a Canadian payday loan.

MR. BYRON WILLIAMS: Do you have any indication that they're offering bi-weekly products, sir?

DR. KEVIN CLINTON: No.

MR. BYRON WILLIAMS: Would it also be fair to say that the -- I know you don't like the calculation of APR, but would it also be fair to say that the calculation of APR in this study; that were paying an APR of about 200 percent? Would you accept that, sir?

DR. KEVIN CLINTON: Well, let's backup. I approve, actually, of the calculation of APR, and I would like to see APR displayed in large letters in -- in outlets and web sites.

And the reason that I would like to see it displayed in that way is not to help payday loan borrowers decide -- make their decisions or -- and it wouldn't be an appropriate variable for the -- the Board to make a decision on.

It would be there as a flag that if -- if you have needs that extend to a period as long as a year, you should be looking at some other kind of credit. So I am actually in favour of -- of -- of APR.

MR. BYRON WILLIAMS: Okay, thank you for that. The second part of my question is that the APR in terms of these loans was 200 percent?

You'll agree with that, sir? If you're looking for a reference --

DR. KEVIN CLINTON: Yes, yes.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Now, in your advice to the Chairman, and -- and I'm just going back to page 2,187 of the transcript, sir -- page 2,187 of the transcript -- you're suggesting that this study was -- stayed with some payday loan borrowers over a long period of time, a longish period of time, is that right, sir?

DR. KEVIN CLINTON: A longish period of time, yes.

MR. BYRON WILLIAMS: Is it correct that the long or longish period of time was six (6) to twelve (12) months?

Would that be fair, sir?

DR. KEVIN CLINTON: I'm not sure about that.

MR. BYRON WILLIAMS: If you're looking for a reference; page 10 or page 13. If you're looking for a reference on page 10, it's the -- the paragraph just about sub (c):

> "Each survey was conducted within six (6) to twelve (12) months of the date that the applicant entered the experiment."

Do you see that, sir?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: So in your evidence, or in your view, a period of six (6) to twelve (12) months is a sufficient period of time.

It's the longish period of time, is it?

DR. KEVIN CLINTON: I would like to see a longer period of time.

MR. BYRON WILLIAMS: But you considered it reliable in this context?

DR. KEVIN CLINTON: Yes, I did.

MR. BYRON WILLIAMS: Now I'm just going to turn to one of your -- your writings just for a -- a second. And I haven't ready many of your publications, I have to -- to admit, but would I be correct in suggesting to you that you did perform a -- write paper back in -- way back in 1988 on the subject of transactional costs and covered interest arbitrage?

Does that ring a bell, sir?

DR. KEVIN CLINTON: It does indeed. Perhaps I can provide some background on this.

MR. BYRON WILLIAMS: Well, not too much background. I just want to confirm, first of all, that you wrote it, sir.

Is that right?

DR. KEVIN CLINTON: Yes, I -- I -- I'm proud to claim ownership of that.

MR. BYRON WILLIAMS: Good. Now, and in terms of the paper, that was published by the Journal of Political Economy.

Is that right, sir?

DR. KEVIN CLINTON: That is correct.

MR. BYRON WILLIAMS: And the Journal of Political Economy; am I right in suggesting to you that it's published by the University of Chicago Press, sir?

DR. KEVIN CLINTON: That's right, and it's one (1) of the top three (3) journals in economics.

MR. BYRON WILLIAMS: Okay. Now that's nice background; that's kind of what I was looking for. I just want to make sure that it was from that -- that institution.

Mr. Chairman, I'm moving to a -- a new section which is a rather -- not a -- not a real long one, but it's probably to take thirty (30), thirty-five (35) minutes.

So what would you prefer?

THE CHAIRPERSON: Well, given the meeting, I think we'll stand down for now and return at 1:15, thank you.

MS. ANITA SOUTHALL: Sorry, is it possible just to enter a few more exhibits before we leave --

THE CHAIRPERSON: Of course.

MS. ANITA SOUTHALL: -- only because I -- I keep missing the opportunity to introduce these and clean up the record. Thank you. Just -- I'll just get my reference.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Thank you, so just for the record we're -- we're missing a few exhibit references. First of all, Progressive Insurance Solution an intervener who testified previously brought forward a Certificate of Insurance that we have in our reference materials. It should be just identified as Progressive-1 for the record.

--- EXHIBIT NO. PROGRESSIVE-1: Certificate of Insurance

MS. ANITA SOUTHALL: Secondly, and it will be circulated as we take our break here today for review by all interveners and other interested attendees today, the Board received a letter from the Consumer -- Consumers Bureau dated December 7, 2007, with some enclosures. And this relates to information which was put on the record respecting the role of Mr. Hansford (phonetic) for the Consumers Bureau.

And so the Consumers Bureau as I -- as I indicate has provided a letter to the Board. So we'll circulate that. Perhaps -- perhaps Mr. Gaudreau's currently doing that. That documentation because it was simply submitted to the Board with no further attendance or through an intervener would then be identified as PUB-24.

--- EXHIBIT NO. PUB-24: Letter from the Consumers

Bureau dated December 7, 2007,
with some enclosures

MS. ANITA SOUTHALL: We also have two (2) documents involving Advance America. And as I think I've previously indicated on the record information has been provided to the Board with respect to references to Advance America, and they have now located in Manitoba through various outlets and have commenced operations in Manitoba. So two (2) documents related to that.

First of all, a -- a 10Q report for Advance America filed in the United States, their home jurisdiction, for the period ending September 30, 2007, and that would be identified on the record as PUB-25.

--- EXHIBIT NO. PUB-25: 10Q report for Advance America filed in the United States for the period ending September 30, 2007

MS. ANITA SOUTHALL: And secondly, a Advance America 10K report which would be an annual report versus a quarterly report. The version we have for that is to -- for the period ending December 31, 2005, and this would be noted on the record as PUB-26.

--- EXHIBIT NO. PUB-26: Advance America 10K report for the period ending December 31, 2005

MS. ANITA SOUTHALL: Thank you for -- for that, that allows us to -- to have the record cleaned up with respect to exhibits.

THE CHAIRPERSON: Very good. We'll see you back at 1:15.

MS. ANITA SOUTHALL: Thank you.

--- Upon recessing at 11:40 a.m.

--- Upon resuming at 1:17 p.m.

THE CHAIRPERSON: Okay. Welcome back. Mr. Williams...?

MR. BYRON WILLIAMS: Thank you and good afternoon members of the panel. We'll wait for the tea again.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Dr. -- Dr. Clinton you don't need to turn here in your evidence, but you certainly mention in your evidence and you're aware of the fact that under the -- the Payday Loan Regulation, part of the disclosure in terms of stores will be that a -- the example of a cost of a three hundred dollar ($300) loan must be posted in a visible location in the store.

Is that right, sir?

DR. KEVIN CLINTON: I believe that's correct, yes.

MR. BYRON WILLIAMS: And if you're looking for a reference, you actually say that at page 6 of your evidence, lines -- line 14. You don't need to turn there if you'll accept that, sir.

(BRIEF PAUSE)

DR. KEVIN CLINTON: Page...?

MR. BYRON WILLIAMS: Page 6, line 21 of your September 17th evidence.

So you say you believe so and you'll accept that, that your understanding is that under the new regulation, the cost of a three hundred dollar ($300) loan must be posted in a visible location in the store, sir?

DR. KEVIN CLINTON: Yes, that's correct.

MR. BYRON WILLIAMS: Okay. And I just want to run through with you for a couple of minutes how that might work in practice.

Let's assume -- we're going to use my

favourite store in the industry that Mr. Williams, Byron Williams is operating a store on Selkirk Avenue called Chochy's and that I'm offering payday loans.

If I'm charging fifteen dollars ($15) per hundred (100), would that mean for -- my posted fee for a three hundred dollar ($300) loan should be forty-five dollars ($45), being three (3) times fifteen (15).

Would that make sense, Dr. Clinton?

DR. KEVIN CLINTON: That sounds correct, yes.

MR. BYRON WILLIAMS: So, if you walk into Chochy's on Selkirk, going by Mr. Williams, you'll see a posted sign for a -- for a three hundred dollar ($300) at forty-five dollars ($45), you'll accept that?

DR. KEVIN CLINTON: Yes, I accept that.

MR. BYRON WILLIAMS: And let's assume that with all the knowledge he's gained in regulatory proceedings over the last year or so, Mr. Foran is my competitor.

And he's operating a store on Phillips, we're going to call that Elvis'. And his -- and if you need a pen, you can just stay with me.

But his fee -- he's charging a fifteen dollar ($15) flat rate and 10 percent of the total value of the loan.

Do you have those two (2) assumptions, Dr. Clinton?

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: And again, if I walked into Foran's store -- I wouldn't recommend that because I think you'll get better service at Chochy's -- but if you do, if you walk into Foran's store, a fifteen dollar ($15) flat rate and then 10 percent of three hundred (300) that would be fifteen (15) plus thirty dollars ($30) would give you forty-five dollars ($45) for three hundred (300).

Would that be fair, sir?

DR. KEVIN CLINTON: Yep.

MR. BYRON WILLIAMS: Now let's just assume that the same customer walks back into my store where I charge fifteen dollars ($15) per hundred (100).

Would I be correct in suggesting to you that it would -- it would cost fifteen dollars ($15) per hundred (100) for a hundred dollar ($100) loan?

If we're going from --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Yes?

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Okay. Would I also be correct in suggesting to you that if I went into Mr.

Foran's store, Elvis' to borrow a hundred dollars ($100) at a fifteen dollar ($15) flat rate and 10 percent of a hundred (100), that cost would be twenty-five dollars ($25) per hundred (100).

Would that make sense?

DR. KEVIN CLINTON: That's correct, yes.

MR. BYRON WILLIAMS: And like -- and, likewise, and if you'll accept subject to check, if I went into -- back to Mr. Williams' store, Elvis', at five hundred dollars ($500) -- trying to borrow five hundred (500), I'd be paying seventy-five dollars ($75) per hundred (100) -- five (5) times fifteen (15)?

DR. KEVIN CLINTON: That one was the 10 percent --

MR. BYRON WILLIAMS: Excuse me, no this is the five (5) -- this is the fifteen (15) over a hundred (100).

DR. KEVIN CLINTON: Okay, so we just multiply --

MR. BYRON WILLIAMS: Yeah by five (5), fifteen (15) by five (5).

DR. KEVIN CLINTON: Fifteen (15) by, yeah, seventy-five (75), yeah.

MR. BYRON WILLIAMS: And if I misspoke I meant to say Chochy's, I apologize for that. And likewise for Elvis', that's the one with the fifteen (15) per -- fifteen dollars ($15) flat, and the 10 percent, I'd be paying sixty-five dollars ($65) per hundred.

DR. KEVIN CLINTON: Yep.

MR. BYRON WILLIAMS: Would that be fair, sir?

DR. KEVIN CLINTON: Yep. That's correct.

MR. BYRON WILLIAMS: Going back to the Chochy's example, which is the fifteen dollar ($15) flat rate and the 10 percent of the total amount; if I wanted -- you'll -- we've agreed all ready that that -- the charge for that for three hundred dollars ($300) would be forty-five dollars ($45).

Right? For that -- that's for Chochy's.

DR. KEVIN CLINTON: For the hundred (100) -- for both?

MR. BYRON WILLIAMS: Yeah.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Would I also be correct in suggesting to you that if I was trying to calculate the rate for Chochy's; instead of for three hundred (300), for a hundred (100) that it would be wrong to simply divide the forty-five dollars ($45) by three (3)?

That would only get you fifteen (15)?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Okay. Now in your -- there's two (2) exhibits that I would like you to have near at hand, Dr. Clinton.

One (1) is your response to Rentcash number 20, and the other is -- or not your response, but Rentcash Exhibit number 20.

And the other one (1) is -- I believe it's Rentcash number 12, which is your recommendation for payday loan fee limit in Man -- for Manitoba.

I hope I have the correct exhibit number for Rentcash number 12.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Do you have both of those documents?

DR. KEVIN CLINTON: Yeah. The one (1) I'm searching for is my recommendation.

Do we have it -- do we have it in the --

MR. BYRON WILLIAMS: You're -- you're looking for a copy of a recommendation for payday loan fee limit, which is RC number 12.

DR. KEVIN CLINTON: Yeah. Is it in this--

MR. BYRON WILLIAMS: Perhaps Mr. Gaudreau could assist you, and share that with you.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Thank you, Mr. Gaudreau.

DR. KEVIN CLINTON: I have it here somewhere. Yeah. Good. Thank you.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Now, if -- if I can just be clear.

In terms of Rentcash number 20, page 4, Chart 1 -- page 4, Chart 1 of Rentcash 20 --

DR. KEVIN CLINTON: yeah.

MR. BYRON WILLIAMS: You have that there.

Reading -- am I correct that this is derived from -- you indicate that it's derived from Rentcash number 12, the recommendation for payday loan fee limits for Manitoba.

Is that right, sir?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Okay. So that's where we're going to turn, is Rentcash number 12.

You indicate on Rentcash number 12, under heading number 2, that you have five (5) survey data sources.

Is that right, Dr. Clinton?

DR. KEVIN CLINTON: Yes, that's right.

MR. BYRON WILLIAMS: And two (2) of those surveys were Clinton 206 and Clinton 207.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that's right.

MR. BYRON WILLIAMS: Now, it may have escaped me in the barrage of material that we've had on the record, but are those surveys actually -- have they actually been filed in this proceeding?

DR. KEVIN CLINTON: I -- I believe so. I gave an Excel spreadsheet -- yeah. I was -- I think that was an undertaking at some point.

MR. BYRON WILLIAMS: I'm not sure I've seen them, so.

MR. ANTOINE HACAULT: I'm not sure that we were able to produce a table. I know we have the information, but it hasn't been printed yet.

I -- so I think the simple answer is no, not yet.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: So at -- I -- I take it that you've already undertaken to provide those.

If you haven't, you would undertake to provide these results, and I'm not --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- any blame to you, Dr. Clinton.

DR. KEVIN CLINTON: I'm sort of surprised that you don't have them.

MR. BYRON WILLIAMS: Okay. Okay.

--- UNDERTAKING NO. 74: Mr. Clinton to provide Clinton 206 and Clinton 207 surveys

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Well, I don't have them in front of me, so you'll -- you'll bear with me if -- and I know you've had a few questions on this, but I want to make sure I understand a little bit about the methodology for both these surveys.

DR. KEVIN CLINTON: Mm-hm.

MR. BYRON WILLIAMS: Now, the survey that you undertook in -- in 2006, Clinton 206, could you indicate first of all the size of loan that you were inquiring about?

DR. KEVIN CLINTON: In 2006, and in 2007 as well, I inquired -- well, in 2006 I inquired about a hundred dollar ($100) loan and a three hundred (300).

By 2007, I was focussing my thoughts more and the one (1) I -- I concentrated on was the three hundred dollar ($300).

Now, in some instances, I couldn't get exactly three hundred dollars ($300); in fact in one (1) case I could only get a quote for a hundred and ten dollars ($110) because they said we're note going to lend you three hundred dollars ($300) as a new borrower. So, if I couldn't get the three hundred (300), I just took whatever I could and grossed it up.

MR. BYRON WILLIAMS: Now, let me -- and just to -- just to make sure I understand. So my understanding was that in 2006 the data that you gathered related both -- you aimed at gathering what's -- aimed at both one hundred (100) and three hundred dollar ($300) loans; is that right in 2006?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Thank you. And in 2007 your focus was on the three hundred dollar ($300) loan amount with the -- and --

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: -- recognizing that in -- excuse me for interrupting. You've indicated that's correct -- recognizing that in certain cases information on a three hundred dollar ($300) loan was not available?

DR. KEVIN CLINTON: That's correct, yes.

MR. BYRON WILLIAMS: And we're going to do this, hopefully, with some sequence to this. So just so I'm clear, in terms of your 2006 survey, being Clinton 2006, am I right in suggesting to you that you covered Canada or what -- what area did you specifically cover, Dr. Clinton?

DR. KEVIN CLINTON: I covered everything I could find in the Yellow Pages in -- in Ottawa, and I think I also got a sprinkling of lenders elsewhere. But they were -- they were mainly Ottawa lenders.

MR. BYRON WILLIAMS: And can you give me an idea of how many firms you sampled in Ottawa?

DR. KEVIN CLINTON: I would have contacted maybe fifteen (15) or sixteen (16), and I didn't -- in some cases I didn't -- I -- I didn't get usable replies; the phone was busy or something like that.

MR. BYRON WILLIAMS: Okay. So of the fifteen (15) or sixteen (16) you contacted, how many usable replies would you have received?

DR. KEVIN CLINTON: I think there were about ten (10). Some of -- if -- if I can add, some of the lenders that I contacted that -- and that I did not get replies from, didn't seem to be conventional payday lenders as -- as we understand it.

MR. BYRON WILLIAMS: Are there any Chochy's Pawnshops in there?

DR. KEVIN CLINTON: That -- yeah. Yeah, there -- there could -- could have been pawnshops. And I -- I must say in some cases, having phoned, I felt I was being pulled into a bait and switch because they started to -- to try to sell me a title loan, so, in some cases, I -- I just dropped.

MR. BYRON WILLIAMS: That's fair enough. So just so I'm clear, in terms of 2006 it was primarily Ottawa with perhaps a sprinkling of elsewhere.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Your originally sampled -- tried to sample between fifteen (15) and sixteen (16) and you got about ten (10) usable samples.

Is that right?

DR. KEVIN CLINTON: Something like that. There are the orders of magnitude, yes.

MR. BYRON WILLIAMS: And in terms of the ones that were not usable, at least as I understand your -- your answer, in some cases they seemed to be pawnshops and in other cases they seemed to be operating a bait and switch; is that why you considered them not usable? That's what I'm trying to --

DR. KEVIN CLINTON: Yes. Yeah, and -- and to be fair, they were -- they were in the Yellow Pages. There -- there was no section -- I don't think there is now -- that says "payday lenders." It's just "loans" so...

MR. BYRON WILLIAMS: Now, in -- in terms of the 2006, and then we'll move to 2007 in just one (1) second, can you indicate were you working off a set script that you were using in terms of your discussions?

DR. KEVIN CLINTON: In 2007, certainly.

MR. BYRON WILLIAMS: And in 2006?

DR. KEVIN CLINTON: More or less.

MR. BYRON WILLIAMS: In terms of the script that you were more or less using in 2006, would you be able to provide that, sir?

DR. KEVIN CLINTON: No, I was doing it on -- on the phone. I -- I didn't keep notes. But in my spreadsheets, sometimes you -- I indicate what the problem was.

MR. BYRON WILLIAMS: Now in -- in terms of 207, we'll move to that -- oh, actually, let me back up to 206 for one more second. Of the ten (10) firms that you got useable results for, can you indicate how many charged only a flat rate per hundred (100)?

DR. KEVIN CLINTON: I'm afraid I don't

recall. There -- there were a few, but I -- I don't want to give out a number that I'm not confident about.

MR. BYRON WILLIAMS: Okay. And just more directionally, so there were a few that charged a flat rate per hundred (100)?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And would it also be fair to say that there were a few that might have used a mixed fee structure --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Yes.

DR. KEVIN CLINTON: Oh, if I can back up. I've remembered another reason why I -- I could not get useable answers for -- for some. And -- and this is something the Board may want to consider when they're asking companies to report on a standardized basis.

Some of the Internet lenders will only give you a quote, and some of the pawn shops are the same, by the way. They will only quote you a price after you have already supplied them with a -- with the personal data that you would need to get the loan.

So in -- in a couple of instances with the Internet lenders, I found that to be a problem.

MR. BYRON WILLIAMS: And out of -- you'd have some reluctance in sharing that information with them?

DR. KEVIN CLINTON: Oh, absolutely.

MR. BYRON WILLIAMS: Is that fair? Yeah.

DR. KEVIN CLINTON: Yes. I mean, I stopped right there.

MR. BYRON WILLIAMS: Okay. Just going back, staying with the 206 survey for just one (1) more second, in terms of the ones who did not charge a flat rate per hundred (100), were there more than a few?

Were over half, for example, those that did not charge a flat rate per hundred? And if you can't answer it, I understand, sir.

DR. KEVIN CLINTON: Yeah, I can't answer it. And the non-flat rates included at least one (1) where there was an initial fee, and there may have been two (2) because it's as soon as I got -- well for the first loan the fee exists, and for some -- from that point I -- I said, okay I'm only going to ask about repeat loans in future.

So, because of that process, I'm not sure exactly how many of them would have had some kind of sliding scale formula; like, I couldn't tell.

MR. BYRON WILLIAMS: And just so I'm clear, in terms of those that had some sort of flat rate -- a fixed fee for the first time customer and then some sort of sliding option, the information you chose to get in your 2006 survey was based upon repeat loans, not first-time loans?

DR. KEVIN CLINTON: That's correct.

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: And in 2007, I -- I never came across such cases, so.

MR. BYRON WILLIAMS: Well, let's turn to 2007. In -- my understanding in 2007 is that you were inquiring only about three hundred dollar ($300) loans.

Is that right?

DR. KEVIN CLINTON: I inquired about, not universally, but I inquired about some hundred dollar ($100) loans as well. I focussed though for my analysis on -- on the three hundred (300).

MR. BYRON WILLIAMS: In terms of the calculations that you've used in your -- in your fee recommendation, were those calculations derived from three hundred dollar ($300) loans for 2007, Dr. Clinton?

DR. KEVIN CLINTON: Yes, they were.

MR. BYRON WILLIAMS: And what regional area did you sample for your work in 2007?

DR. KEVIN CLINTON: It was every lender that I could contact in Manitoba, and every lender I could contact in -- in Ottawa, and a -- a smattering of other lenders in Western Canada.

There -- there was -- there were a couple; one (1) in Saskatchewan, one (1), I think, in BC. So, basically, I was calling a lot of people, and I could get them to answer the phone, I counted it as a data point.

MR. BYRON WILLIAMS: Okay. Now, just so I'm clear, in terms of the 2007 Clinton results, and I'll -- I'll zone in a -- in a second, but I'm -- my understanding is you had three (3) geographical areas you focussed on; those being Winnipeg, Ottawa, and we'll call Western Canada being one (1) in Saskatchewan and one (1) in BC.

Would that be fair, Dr. Clinton?

DR. KEVIN CLINTON: I was looking to get as large a sample as -- as I could. And I did this thing fairly quickly.

MR. BYRON WILLIAMS: And, I'm not -- that's fine --

DR. KEVIN CLINTON: So --

MR. BYRON WILLIAMS: -- I'm not criticizing, I'm just trying to understand.

DR. KEVIN CLINTON: The -- the sample consisted of it -- it of lenders in -- in Ottawa, in Manitoba, and a -- a few from further west.

MR. BYRON WILLIAMS: A smattering.

DR. KEVIN CLINTON: A smattering, yeah.

MR. BYRON WILLIAMS: Yes.

DR. KEVIN CLINTON: Sprinkling.

MR. BYRON WILLIAMS: In terms of the number that you had from Ottawa, how many firms did you attempt to sample, and then how many did you get usable samples for?

DR. KEVIN CLINTON: It would have been about the same as in 2006, so less than ten (10).

(BRIEF PAUSE)

MR. BYRON WILLIAMS: In terms of the ones in Manitoba, how many did you attempt to sample, and then how many did you get usable samples for, Dr. Clinton?

DR. KEVIN CLINTON: Well, you can -- you can see exactly the number that I contacted, because I used the CPLA list on -- on the web site. So I -- I contacted all of them on the CPLA list.

So there are -- there are the big national ones and four (4) or five (5) local firms, something like that. I -- I now I'm assuming that -- that the Money Marts and the Rentcash's have the same fees in -- in Manitoba as they do elsewhere.

Oh, and by the way, when I did those visits to individual stores, that turned out to be the case, so their -- their pricing is national.

MR. BYRON WILLIAMS: Okay, and that's fine. Now in terms, just so I understand though, in the Manitoba sample, did you -- and I may have -- be misstating this, so I'm trying to be careful here -- you sampled the big two (2) or three (3) plus four (4) or five (5) others?

Do I have that right or am I -- am I understating the sample, sir?

DR. KEVIN CLINTON: You can see exactly just by looking at the CPLA web site. And I think there are four (4), they -- they list three (3) or four (4) non-member companies, and I -- I contacted them.

One (1) of them, by the way, called Can Cash got me confused, because when I called them I thought I was calling a single store operation. And I thought, Well this is gonna be interesting.

And I had already gone in to the store in St. Boniface on Marion Street. They'd already quoted me twenty (20) -- twenty dollars ($20) for a hundred sixty dollars ($160). Well, it was sixty dollars ($60) for the three hundred (300), sorry, it twenty (20) -- twenty dollars ($20) per hundred (100).

But when I called them, the -- the phone message responded "Money Mart on Marion." So I -- I wasn't sure what category that particular lender belonged to.

MR. BYRON WILLIAMS: Okay, and I -- I apologize for my lack of clarity before. So you contacted all the CPLA members in Manitoba, and three (3) or four (4) non CPLA members.

Would that be fair?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Thank you. So in terms of your experience in 2006, you indicated that a few were offering a flat rate and that some were offering -- I'm going to call them mixed rates, if you'll accept that.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And your experience in 2007 was what, in terms of flat versus mixed rates?

DR. KEVIN CLINTON: I can't remember exactly. There -- there were some -- there were a few where I used -- I had to calculate with a -- my old friend here. So there were a few.

MR. BYRON WILLIAMS: Okay.

And -- and in terms of calculating with your old friend here, if you got -- just so I understand, Dr. Clinton, if -- if they're using mixed rates and you're taking a sample for three hundred (300), would you simply divide by three (3) or would you actually put the fee structure into a hundred dollar ($100) loan? Just so I understand.

DR. KEVIN CLINTON: Yeah. I would calculate it for three hundred (300) and then divide by three (3).

So I would use the formula, get the exact -- or what I thought would be the exact fee per three hundred (300) divided by three (3).

MR. BYRON WILLIAMS: And you indicate you have a script of some sort when you did your survey in 2007? Or --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: And could you provide that, sir?

DR. KEVIN CLINTON: Yes. I -- I would say I want to borrow three hundred dollars ($300) for fourteen (14) days or thirty (30) days and I need three hundred (300) to spend, so any charges I want you to add to that, and how much would it cost me?

MR. BYRON WILLIAMS: And so would you inquire about, for example, debit card fees?

DR. KEVIN CLINTON: No. I -- I

specifically exclude all what I call "ancillary services."

MR. BYRON WILLIAMS: And just so -- because I want to make sure we're talking on the same page.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: Just so I understand. So by ancillary services, a one (1) time only debit card fee would be one (1) of them? The eight dollars ($8) at Rentcash, for example?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And you would also exclude if there needed to be a -- a loading fee of two dollars and fifty cents ($2.50), you would -- that would not be counted in your calcula --

DR. KEVIN CLINTON: Yeah --

MR. BYRON WILLIAMS: Am I right?

DR. KEVIN CLINTON: I'm answering in the affirmative, you are right.

MR. BYRON WILLIAMS: I should pose my questions more correctly, sir.

DR. KEVIN CLINTON: The "not" in there threw me for a little while, yeah.

MR. BYRON WILLIAMS: I apologize for that.

And for -- again, another one. If there was insurance, for example, optional insurance, that certainly wouldn't been included in your figures?

DR. KEVIN CLINTON: No.

MR. BYRON WILLIAMS: Is that correct?

DR. KEVIN CLINTON: That is correct.

MR. BYRON WILLIAMS: And you determined, leaving aside ancillary fees, an amount that would be charged by three hundred (300) and then for those with a mixed fee structure, you divide it by three (3).

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Now, Dr. Clinton, one of the other surveys you used is the survey of Dr. Buckland et al from 2007. Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And you said some nice things about Dr. Buckland et al.

DR. KEVIN CLINTON: Yes, he -- he does very thorough -- well, it's a team. We call it "Buckland" because his name begins with "B", but they do good team work. Yeah.

MR. BYRON WILLIAMS: And I'm going to go to Buckland in a second but there's a question I forgot to ask you about the 2007 survey.

In -- in terms of Money Mart just so I understand --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- and if I've got this incorrect, you'll correct me.

But my understanding is with Money Mart, loans tend to be payable the day before your -- your pay -- your payday.

Is that your understanding as well, Dr. Clinton?

DR. KEVIN CLINTON: The way I put the question, I think -- I'm pretty sure the answer I got referred to how much I would have to pay if I came into them with cash on my payday.

I'm -- I'm confident that that is the answer I got.

MR. BYRON WILLIAMS: So just so I understand then. You're dealing with the circumstances where there would be a -- the fee charged if you come in with cash on your payday would include a cheque cashing fee of a certain amount, a certain amount in interest and a two dollar and ninety-nine ($2.99) cents flat fee? If I've got it about right.

DR. KEVIN CLINTON: Well, yes, but may I qualify that?

MR. BYRON WILLIAMS: You always can.

DR. KEVIN CLINTON: The -- the

qualification is that I -- I think over the period, I -- it's a two (2) year period now, I think Money Mart has changed its formula three (3) times. So that's the qualification.

MR. BYRON WILLIAMS: Okay. So, for example, the information you collected from Money Mart in 2006 might differ from the information you collected in 2007?

Is that your point, Dr. Clinton?

DR. KEVIN CLINTON: The -- the fee -- their fee schedule changed, but there should be a certain consistency because I specified that I wanted to -- I wanted to know how much to repay on -- on my payday.

MR. BYRON WILLIAMS: Now in terms of your experience in the Manitoba marketplace, it would be fair to say that some of the firms charged a flat rate per hundred (100) and some of the firms charged a mixed structure, is that fair?

DR. KEVIN CLINTON: Yes, I think so.

MR. BYRON WILLIAMS: And going back to Dr. Buckland et al, the Buckland team --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: -- study. You're aware that their survey results are not based upon a loan of one hundred dollars ($100) or based upon a two hundred and fifty dollar ($250) loan, is that right, sir?

DR. KEVIN CLINTON: Yes. I grossed them up.

MR. BYRON WILLIAMS: Yeah.

And then to translate the Buckland et al fees at two hundred and fifty (250) down to a hundred (100), did you divide by two point five (2.5)?

DR. KEVIN CLINTON: Yes. Yeah. Yeah.

I believe actually in some cases also they had the situation that I had, where you couldn't get exactly a quote for two fifty (250), I think in some cases it was sort of one fifty (150), but I just applied the same procedure. If it was one fifty (150) I would divide by one point five (1.5), so.

MR. BYRON WILLIAMS: And let -- let's just go back to my hypothetical for a minute, that I asked you quite some time ago.

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: For a firm like Mr. Foran's firm, Elvis' on McPhillips, with the fifteen dollar ($15) flat rate and 10 percent of a hundred (100), if you -- that equally -- and a fee of forty-five dollars ($45) for three hundred (300), to calculate the fee for one hundred (100) you would divide by three?

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Okay.
DR. KEVIN CLINTON: Yeah.
MR. BYRON WILLIAMS: Have we also agreed that the fee for Elvis' would be twenty-five (25) bucks a hundred?
DR. KEVIN CLINTON: I had it written down but long lost it. I -- I accept that.
MR. BYRON WILLIAMS: Mr. Chairman, if you can give me just one second.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: I do not want to tire out your -- I'm going to move to a slightly different subject, I don't want to tire out your arm too much, but I have one (1) other hypothetical that -- that I want to put to you, Dr. Clinton.
I want you to assume that we have seven (7) payday lenders in the Manitoba market -- and you might want to take notes on this one, Dr. Clinton.
DR. KEVIN CLINTON: Okay.
MR. BYRON WILLIAMS: Do you have a pen?

(BRIEF PAUSE)

DR. KEVIN CLINTON: I lost my notebook. I'll just write it down, that doesn't belong to me. Yeah. I believe I know that one.

MR. BYRON WILLIAMS: Thank you, Mr. Singh.

DR. KEVIN CLINTON: Thank you. Yes.

MR. BYRON WILLIAMS: So firms -- if you want a number the one (1), two (2), three (3), four (4), five (5), six (6) and seven (7).

DR. KEVIN CLINTON: Okay.

MR. BYRON WILLIAMS: And I'm -- I'm going to give you two (2) lines to put in beneath these four (4) firms: One is market share in terms of volume and the other one is fee. So that's the second line.

So going from left to right, I'm going to ask you to assume that firm one (1) has 50 percent of the market share in terms of volume; firm number two (2) has 30 percent of the market share in terms of volume; and the next five (5) firms have 4 percent of the market share in terms of volume.

And in terms of their fee per hundred (100) I'm going to make it a simple one.

I'll ask you to assume that firm number one (1) has a fee of seventeen dollars ($17) per hundred (100). Firm number two (2) has a fee of twenty-two dollars ($22) per hundred.

DR. KEVIN CLINTON: Twenty-two (22)?

MR. BYRON WILLIAMS: Yes. I'm sorry if I misspoke.

And firms three (3) through seven (7) have fees of thirty-five (35) per hundred (100).

Now -- and I -- I'm -- if you're looking for a reference from your evidence on -- last week, I'm going to page 2165 of your evidence, Dr. Clinton, just so -- I -- sorry, Dr. Clinton, the transcript which is to your right, if you just want to have it nearby, it's page 2165 that I'm referring you too.

DR. KEVIN CLINTON: Oh.

MR. BYRON WILLIAMS: Keep -- keep the assumptions there. Am I screwing up your -- you're okay there, you've got this? Page 21--

DR. KEVIN CLINTON: 2-1-6-5?

MR. BYRON WILLIAMS: Yeah.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Now going back to the hypothetical that I gave you, would I be correct in suggesting that one (1) way to calculate the mean would be based upon the prices weighted by the probability as determined by the number of firms that quote that price?

DR. KEVIN CLINTON: That is correct.

MR. BYRON WILLIAMS: Would I also be

correct in suggesting to you that another way to calculate the mean would be based upon the prices weighted by the probability as it comes from the volumes of transactions?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And would I be correct in suggesting to you, using my hypothetical, that under -- we're going to call the first one the number of firms approached --

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: -- that under the number of firms approached the mean would be much closer to thirty-five (35) than it would be under the volume approach?

DR. KEVIN CLINTON: Your first approach was what we could call the market share approach because--

MR. BYRON WILLIAMS: No my -- excuse me, the -- one (1) of them -- the one approach was the -- the number of firms --

DR. KEVIN CLINTON: Number --

MR. BYRON WILLIAMS: -- quoting that price.

DR. KEVIN CLINTON: Okay, but that is also the way we measure market share --

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: -- in this industry.

Yeah. Okay.

MR. BYRON WILLIAMS: And the other one is by volume.

DR. KEVIN CLINTON: Volume. Yeah.

MR. BYRON WILLIAMS: Now, would I be correct in suggesting to you that under the number -- I'm going to call it "the number of firms approached," you call it -- but the first approach --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- the mean would be much closer to thirty-five (35) than it would be under the volume approach?

DR. KEVIN CLINTON: If -- if all the -- if -- if all the firm --

MR. BYRON WILLIAMS: You've got five (5) firms --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- five (5) firms quoting at thirty-five (35).

DR. KEVIN CLINTON: Well, if the market -- if I can use the word "market share." If the market share in terms of volume is the same as the market share in terms of the number of the firms, we're going to get the same answer.

MR. BYRON WILLIAMS: Let me back up then--

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- and maybe I've misspoken.

DR. KEVIN CLINTON: So...

MR. BYRON WILLIAMS: How did you calculate, for the purposes of RC number 20, the mean?

DR. KEVIN CLINTON: It's weighted by the number of firms.

MR. BYRON WILLIAMS: So using my hypothetical, if I weighted -- if the mean was calculated by the number of firms, is it likely that the mean would be closer to thirty-five (35) than it was weighted by the volume, sir?

DR. KEVIN CLINTON: Oh, I -- I see. Yeah, you're saying because -- this is just to clarify your -- your question.

MR. BYRON WILLIAMS: Yeah.

DR. KEVIN CLINTON: If we weight by volume, firm one is -- is going to have a higher weight and so on. So the average will come out closer to seventeen (17) on the bottom measure. I -- I see now.

MR. BYRON WILLIAMS: That's -- that's right.

DR. KEVIN CLINTON: I see now what your question is. Yeah. Okay, we're on the same --

MR. BYRON WILLIAMS: Okay. Now, would I be correct in suggesting to you that ideally for -- for the -- for RC-20 you would have liked to have had the prices weighted by the probability as it comes from the volumes of transactions.

Would that be right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: You'd be -- feel more confident in your results?

DR. KEVIN CLINTON: Yes, I would.

MR. BYRON WILLIAMS: Okay. And I'm sorry about my awkward way of asking that question, but that was helpful, thank you.

Dr. Clinton, I'm -- I'm going change speeds for a -- for a moment. For a few moments.

You're aware that Rentcash has suggested in its rebuttal evidence that it's a serious oversight that the -- that the government -- that the government of Manitoba has not banned rollovers in the Consumer Protection Act.

Are you aware that Rentcash has suggested that?

DR. KEVIN CLINTON: I try -- I try to regard Rentcash as just one other data point; I maintain a sort of arm's length relationship with them. But I -- I think I remember that statement.

MR. BYRON WILLIAMS: And -- and I appreciate that, and certainly that's commendable for an expert.

Based upon the marketplace and -- and I think you've answered this from your question with Ms. Southall, but am -- am I right in suggesting to you that you're not of the view that rollovers should be banned?

That would be too gross or too serious of an interference in the market?

DR. KEVIN CLINTON: No, I'm in the opposite camp. And the -- the reason is bankers and specialists in payment systems, and I come from that background, draw a very sharp distinction between a passive rolling over of a loan and the paying off of a loan and the taking out of a new one even though those two (2) transactions may only be separated by seconds.

And -- and this actually is a crucial principle in -- in large value transactions: Here we're at the opposite end of the spectrum, I would say there's equally a -- a crucial distinction here.

MR. BYRON WILLIAMS: Okay, and -- and just so -- because I want to make sure I --

DR. KEVIN CLINTON: Yeah.

MR. BYRON WILLIAMS: -- understand your

proposal or your -- your approach.

DR. KEVIN CLINTON: Yeah, I am against rollovers.

MR. BYRON WILLIAMS: You're against rollovers, but if -- am I correct in understanding your evidence with Ms. Southall this morning -- and maybe I'm going to muddy the water further.

In terms of rollovers what, if any, rate ceiling would you propose for rollovers?

DR. KEVIN CLINTON: Well, I would keep the rate ceiling flat, but this purely a pragmatic judgment on my part to say keep it simple.

MR. BYRON WILLIAMS: So -- and -- and just -- if I'm misstating you you'll correct me, but I just want to make sure I under -- understood that. That while in -- in terms of the recommendation to the Board you would recommend that rollovers be kept at the same rate as the first loan.

Is that right, sir?

DR. KEVIN CLINTON: That's right.

MR. BYRON WILLIAMS: Oh, okay.

But in terms of the -- the merits of rollovers, you're not opposed to the idea that they should be banned? Or -- or --

DR. KEVIN CLINTON: I'm in favour of the

ban.

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: I -- I think they should be banned.

MR. BYRON WILLIAMS: Okay, just so I understand.

DR. KEVIN CLINTON: Yeah. Because if I'm looking at that product as a transactions product, anything that muddies that upsets me.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Clinton, I want to turn you to your actual evidence of September 17th; I know it seems so long ago.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And in particular I believe it's at tab 46 of the -- the Board's book.

DR. KEVIN CLINTON: I have it.

MR. BYRON WILLIAMS: You have it?

DR. KEVIN CLINTON: Yes, I have it.

MR. BYRON WILLIAMS: And in particular, I'd ask you to take a look at the bottom -- turn to page 9 if you would.

And without elaborating, page 9 and through to page 10, you're providing some background to the Board on economic regulation.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And again, I'm -- I'm gonna try and move through -- through quickly. If you feel a need to elaborate, you will, but hopefully I can ask you some -- some questions that you can answer with -- with yes's and no's for a couple of seconds anyways, but you'll let me know.

DR. KEVIN CLINTON: We've been doing pretty well so far this afternoon.

MR. BYRON WILLIAMS: We've been doing tremendously and I thank you.

At the bottom of page 9, lines 35 and 36, you talk about both the direct and indirect costs of regulation.

Is that right Dr. Clinton?

DR. KEVIN CLINTON: That is correct.

MR. BYRON WILLIAMS: And you -- in terms of indirect costs, you indicate they involve unintended side-effects in the market, is that right?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And you go on to say:

"There is always a risk that regulation

will create market distortions that
outweigh the benefits."

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Okay. And at the end of that sentence there's a footnote, Footnote 6, I thought you'd enjoy this, you cite George Steiger.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And you're nodding very eagerly, so I thought you might want to talk about Mr. Steigler for a second.

As I understand it you cite him for the proposition, he's the founder of the economic theory of regulation.

Is that right, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And he and his followers have argued that the regulations he studied favoured politically connected interest groups but not the general public.

Is that fair, sir?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And that's your under-standing of Mr. Steigler's theory -- economic theory of regulation -- one (1) of the conclusions that he draws from it?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: Now I'm going to get back to your evidence in just a second but I -- I thought we should chat about Mr. Steigler for just a minute.

My understanding is that he was an economist from the University of Chicago and a contemporary of Theodore Schultz and Milton Friedman.

Is that right, sir?

DR. KEVIN CLINTON: I don't know about Schultz, but he was a contemporary of Milton Friedman.

MR. BYRON WILLIAMS: And he's a -- was considered a leading member of, I think we can rightly call, the famous Chicago School of Economics?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And I think like his colleague Mr. Friedman, he might have won a Nobel prize for Economics, is that right?

DR. KEVIN CLINTON: Yes, that is correct, for the Economics of Information.

MR. BYRON WILLIAMS: Now I want to stay on the economics of -- the economic theory of regulation.

When you reference the fact that he was founder of the economic theory of regulation, I take it you're referring to the articles he wrote in the 1970s, such as the Theory of Economic Regulation?

DR. KEVIN CLINTON: I was an undergraduate in those days, I -- I think I know what you're looking at.

MR. BYRON WILLIAMS: And you're familiar at least at a high level with that text?

DR. KEVIN CLINTON: I am no longer familiar with it.

MR. BYRON WILLIAMS: Okay. When -- when you said that in terms of your interpretation of Dr. Steigler, you -- to a certain degree you were relying upon his thinking in -- in articles such as the Economic Theory of Regulation.

Is that right, sir?

DR. KEVIN CLINTON: No, I'm -- I'm much more pragmatic; Steigler is -- well, unpleasantly -- from the way I look at it, unpleasantly doctrinaire.

But I've worked for many years in institutions that do public policies so I'm one of the gang, if you like, that Steigler is criticizing; I -- I see regulation as -- as possibly -- if it's done right, if it's done appropriately, as being absolutely necessary in the financial sector, and I -- I can see useful roads for -- for regulations in the payday loan industry.

So I -- I don't subscribe to everything

that's -- I probably subscribe only to a small fraction of what Steigler would say.

MR. BYRON WILLIAMS: Well, you cite him here in terms of the suggestion that:

"The regulations he studied favoured
politically connected interest groups
but not the general public."

Am I to take it that that's not your point of view on regulation?

DR. KEVIN CLINTON: That's not my point of view.

MR. BYRON WILLIAMS: And is there a reason you cited Steigler for that point in your evidence?

DR. KEVIN CLINTON: Yes, just to indicate that there are serious economists that look at regulation with a much more jaundiced eye than -- than I do.

And if Steigler and Friedman were here, they could make a very good debate of the issue I'm sure.

MR. BYRON WILLIAMS: Well, it's too bad you're not a follower because we could have had so much fun. But I wonder if you could define for me the concept of "just and reasonable rate" as you understand it.

DR. KEVIN CLINTON: Well, as I indicated this morning, I have focussed more on just and reasonable regulation. So I would have got a just and reasonable rate as being one of those many rates that would emerge under an appropriate regulatory framework.

MR. BYRON WILLIAMS: Well, that's not helping me a lot, and it's probably because I -- my -- my question might have been in -- in-precise.

You understand that in setting rates the -- the order of the Board must be just and reasonable in all the circumstances?

DR. KEVIN CLINTON: The way I read it in the payday loan area, the Board is to make a -- a just and reasonable order.

MR. BYRON WILLIAMS: That's what I said.

DR. KEVIN CLINTON: But I -- I would answer your question though in the affirmative. I -- I would say that, having adopted the approach I'm suggesting, the rates that you would see quoted will be just and reasonable.

MR. BYRON WILLIAMS: Yeah. And what I just wanted to understand, Dr. Clinton, if -- if I might. In terms of the idea of just and reasonable, have you reviewed how it is used in the regulatory context in terms of rate setting or rate ceiling?

Have -- have you examined literature on the idea of just and reasonable?

DR. KEVIN CLINTON: No, I have not.

MR. BYRON WILLIAMS: So I can't talk to you about my other -- besides Stiegler, my other form of favourite reading is Bonbright, for example.

You're not -- are you familiar with Bonbright?

DR. KEVIN CLINTON: I don't know what it is.

MR. BYRON WILLIAMS: No, it's not -- okay.

DR. KEVIN CLINTON: By the way, if -- if I could backup and not take up too much time. To indicate the difference between me and the Chicago school, Milton Friedman advocates the abolition of central banks.

So we're -- we're not on the same page.

MR. BYRON WILLIAMS: Okay. That's -- that's encouraging. Now, in terms of a just and reasonable -- the -- the regulatory literature on just and reasonable, that's not something that you've read or -- or reviewed?

DR. KEVIN CLINTON: No, I came to my idea of just and reasonable independently.

MR. BYRON WILLIAMS: This goes back a long time ago to your direct evidence. But you -- I believe you were referring to the evidence of Wendy Pyper.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: And you -- I think

you used the adjective to describe Ms. Pyper's work as "an excellent piece of work."

Do you recall that?

DR. KEVIN CLINTON: Yes, indeed.

MR. BYRON WILLIAMS: And the document you were -- were referring to was "Wendy Pyper, Perspectives on Labour and Income" when she discussed payday loans.

Is that right, Dr. Clinton?

DR. KEVIN CLINTON: Yes, that is correct, yes.

MR. BYRON WILLIAMS: Okay. And there's just one (1) phrase, and I don't know if you have Ms. Pyper's material nearby or not.

DR. KEVIN CLINTON: I think I do. But if you want to read it to me I'll -- I'll accept that.

MR. BYRON WILLIAMS: Yeah. You know, and if you -- you're uncomfortable, you can always refer back to it.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: She makes a statement on -- in my version, on the bottom of page 3 at the end of summary. And she says:

> "While the survey of financial security does not tell us directly [excuse me] does not directly tell us why families

borrow through payday loans. Important indicators of past and current financial difficulties suggest that families who do, have few other option."

I -- I'll show this to you if you wish, Dr. Clinton.

DR. KEVIN CLINTON: It's okay.

MR. BYRON WILLIAMS: Is that a statement that you concur with?

DR. KEVIN CLINTON: Not completely.

MR. BYRON WILLIAMS: Can you indicate first because you -- you don't completely concur with it--

DR. KEVIN CLINTON: Mm-mm.

MR. BYRON WILLIAMS: -- the manner in which you -- you agree, and then you can go onto where you disagree, sir.

DR. KEVIN CLINTON: Yes. The survey data that I've looked at, and I'm thinking of two (2) surveys from memory. I -- I'm -- I can't remember exactly what they were. But there -- there were at least two (2) that asked payday borrowers if they had other options. And, in each case, a clear majority of payday borrowers did have other options.

Moreover, in the Pyper piece, I'm not sure that her approach to the question allows her to -- to make a definitive judgment on that particular question.

MR. BYRON WILLIAMS: So, in --

DR. KEVIN CLINTON: I think --

MR. BYRON WILLIAMS: -- okay.

DR. KEVIN CLINTON: -- I think she was drawing more -- now I'm -- I'm speaking from memory, but I -- I think she was drawing from the Ipso Reid study.

MR. BYRON WILLIAMS: So just -- you'll accept that some may have few other options, but you'll -- you're position is that many have other options.

Is that right?

DR. KEVIN CLINTON: Yeah, my position is they've probably had other options, but they've used them all up.

MR. BYRON WILLIAMS: So that their options are exhausted?

DR. KEVIN CLINTON: That's right. I think that would apply to many payday loan -- payday loan borrowers.

MR. BYRON WILLIAMS: So while they may have had options in the past, at the -- by the time they go to apply for payday loans -- it's your view that they have no other options because they've exhausted it.

DR. KEVIN CLINTON: That's right. For example, it would be almost certain that they'd maxed out their credit card.

MR. BYRON WILLIAMS: So from your perspective, it would not be a matter of convenience that they are using payday loans; it's a matter of having exhausted their other options.

DR. KEVIN CLINTON: Yes, that's right.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: In terms of -- I'm speaking now specifically of preparing your expert report and your rebuttal. Would it be fair to say that you did not conduct an exhaustive study of American jurisdictions using rate ceilings?

DR. KEVIN CLINTON: I -- I conducted no -- no study of rate ceilings in the States.

MR. BYRON WILLIAMS: So to the extent that there's material on the record in this hearing with regard to rate ceilings, that was not prepared by you.

DR. KEVIN CLINTON: That -- that was not prepared by me.

MR. BYRON WILLIAMS: And would it also be fair to say in preparing your expert evidence or your rebuttal, you made no study of what American payday lenders are charging in US States with rate ceilings?

Would that be fair, sir?

DR. KEVIN CLINTON: That is correct.

MR. BYRON WILLIAMS: And in preparing your expert evidence or rebuttal, it's fair to say that you did not study the number of American payday lenders operating in various jurisdictions where rate ceilings are imposed.

Would that be fair?

DR. KEVIN CLINTON: Yes, that is correct.

MR. BYRON WILLIAMS: And, again, speaking of American data, in preparing your direct and rebuttal, did you review American data on repeat loans or rollovers?

DR. KEVIN CLINTON: No, I did not.

MR. BYRON WILLIAMS: Okay, thank you. I just have a couple of questions with regard to Rentcash exhibit number 22, which is the FCAC's -- excuse me the -- I've got my cites wrong -- the Federal Reserve Bank Study, which you cited earlier today.

Do you have that --

DR. KEVIN CLINTON: Yes --

MR. BYRON WILLIAMS: -- Dr. Clinton?

DR. KEVIN CLINTON: -- yes, I do.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I want to direct your attention to page 8 of that study, just above the heading "Supply." There's a statement that most payday borrowers are repeat customers. If they borrow once, they are likely to borrow eight (8) to twelve (12) times per year. And they're citing both the Centre of Responsible Lending and SKIBA and TOBACMAN 206.

DR. KEVIN CLINTON: Yes.

MR. BYRON WILLIAMS: Do you see that, Dr. Clinton?

DR. KEVIN CLINTON: Yes, I do.

MR. BYRON WILLIAMS: Within the American context, are you in a position to disagree with that statement?

DR. KEVIN CLINTON: In the American context, no.

MR. BYRON WILLIAMS: And I realize that there's some confidentiality issues around the Banister surveys, but you did cite the Banister, your review of the Banister material. And -- and so I'm gonna ask you to high level --

DR. KEVIN CLINTON: Yes, I did.

MR. BYRON WILLIAMS: -- with those, fine. Based upon your review of Banister research, does this appear generally consistent with Banister research in terms of repeat or rollovers?

DR. KEVIN CLINTON: Well, the -- the mention that I make of Banister in this context is to criticize the methodology which it -- it's as if the -- the way they went about the -- the survey was designed to grossly overestimate repeat borrowing.

Because the way they distributed their questions was by means of a -- a little poster in the stores. Well, who comes into the stores most frequently? It's the frequent borrowers. So they're gonna pick up a lot of frequent borrowers.

The guys that are not coming in to borrow at all this year are not gonna show at all in that survey. I suspect actually that may be something that's happening in this US number.

MR. BYRON WILLIAMS: Okay, but just in --

DR. KEVIN CLINTON: You got to be very careful about survey design and the questions you ask on this particular claim.

MR. BYRON WILLIAMS: Okay, and just so I'm clear though, you're not in a position -- you've not researched the American issue to take issue with the conclusions of -- that are cited in --

DR. KEVIN CLINTON: No, I haven't. I --

MR. BYRON WILLIAMS: Okay.

DR. KEVIN CLINTON: -- I would have to

know a lot more about those studies to.

MR. BYRON WILLIAMS: And recognizing your concerns with the Banister methodology, but recognizing also that the Board and -- and my clients don't have access to it, are the results of Banister inconsistent with the results that I've just presented to you from the American studies?

DR. KEVIN CLINTON: I honestly can't remember.

MR. BYRON WILLIAMS: And, again, without getting into the specifics, it's fair to say that the Banister research suggests a high number of repeat -- repeat customers.

DR. KEVIN CLINTON: I can't remember. I just focussed on the defect in their methodology.

MR. BYRON WILLIAMS: Just a bit lower on page 8 under, "Supply," in the first paragraph under "Supply," you'll see a quote about two-thirds (2/3) of the way down from statement 207 documenting the phenomenal expansion in the number of payday stores in states that permit them.

Do you see that, Dr. Clinton?

DR. KEVIN CLINTON: Yes, I do.

MR. BYRON WILLIAMS: In just five (5) years, this study states, store numbers in Ohio and Oregon doubled and in Arizona, they tripled.

Did that I read that correctly to you, sir?

DR. KEVIN CLINTON: Yes, indeed.

MR. BYRON WILLIAMS: Now do you know what year Stegman (phonetic) was conducting his study in?

DR. KEVIN CLINTON: No, I don't.

MR. BYRON WILLIAMS: Are you aware of what -- first of all, whether there is a rate ceiling in the State of Ohio and, if so, are you aware what that rate ceiling is?

DR. KEVIN CLINTON: I have no idea.

MR. BYRON WILLIAMS: Are you aware whether there is a rate ceiling in Arizona and, if so, what that rate ceiling is?

DR. KEVIN CLINTON: No, I have no idea.

MR. BYRON WILLIAMS: Now, I -- I may have miss -- misheard you this morning. You're not suggesting that in the American experience there are no payday lenders charging rates less than fifteen dollars ($15) per hundred (100) are you?

You're not --

DR. KEVIN CLINTON: I have no idea.

MR. BYRON WILLIAMS: -- okay. Mr. Chairman, if -- if I might have five (5) minutes I'll just chat with my colleague and see if I have any further areas of inquiry.

THE CHAIRPERSON: That's fine.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay, we'll adjourn till 2:30.

--- Upon recessing at 2:20 p.m.
--- Upon Resuming at 2:35 p.m.

THE CHAIRPERSON: Okay, Mr. Williams, you can continue your dialogue with Dr. Clinton on the record.

MR. BYRON WILLIAMS: I -- I don't -- Mr. Chairman, after reviewing my notes, I have no further areas of cross-examination with Dr. Clinton.

THE CHAIRPERSON: Oh, all right. Thank you, Mr. Williams.

We have just a couple more questions if you like and then we'll go to Mr. Hacault for any re-direct that he might have. I think it's probably fair if I ask these questions before call-back on him.

Just a potpourri of issues that have built up after listening to you for a few days, Dr. Clinton, if you don't mind; pretty simple stuff.

Dr. Clinton, banks stratify their loan rates. Some borrowers get "X" for a rate; some borrowers get "Y" depending on a variety of different reasons: credit bureau reports, income levels, whether they were current customers of theirs, et cetera.

Does such an approach have any merit with respect to payday lenders?

DR. KEVIN CLINTON: No, I don't think so.

THE CHAIRPERSON: Sort of the one-size-fits-all that you've been recommending?

DR. KEVIN CLINTON: Yes, because banks keep credit scores on -- on their clients, they have access to credit bureaus. They could -- they -- they can do a fairly precise credit rating for each client individually.

And of course the loan amounts and -- and the interest revenues are sufficiently high that it's worth doing that. But for the payday lending industry, I -- I don't think it would be feasible.

THE CHAIRPERSON: Okay. Thank you. Dr. Clinton, your recommendation is based on the supply -- with respect to a maximum rate, it's based on the supply being restricted below a certain price point.

That's correct is it not? The assumption--

DR. KEVIN CLINTON: Yes. Can I say it the way I prefer, and see if it fits?

THE CHAIRPERSON: Sure.

DR. KEVIN CLINTON: It's that as the price goes down, supply would drop, not -- to some extent by dollar loan volume, but more importantly, supply in the sense of the overall service because you would get the lenders cutting out their riskier clients.

THE CHAIRPERSON: That was what I was getting at, yes.

DR. KEVIN CLINTON: Yeah.

THE CHAIRPERSON: If new supply arrived at a much lower price point, would that affect your recommendations?

DR. KEVIN CLINTON: It would affect my recommendations for the review in 2010, yes.

THE CHAIRPERSON: You mentioned that that we'd have better data by 2010.

DR. KEVIN CLINTON: Yes.

THE CHAIRPERSON: Dr. Clinton, we understand that Quebec effectively dissuaded payday lenders from operating by setting a maximum interest rate of 35 percent, and that the Desjardin System offers small loans at low rates the less affluent, and this has mitigated the supply problem to some degree.

Does such an approach provide any

advantages for Manitoba consumers?

DR. KEVIN CLINTON: I think that alternative credit vehicle was not exactly comparable to a payday loan, but I don't know enough about it to make an informed judgment.

THE CHAIRPERSON: So you don't have a great degree of knowledge of what Quebec's experience is--

DR. KEVIN CLINTON: No, I have no knowledge.

THE CHAIRPERSON: -- what the borrowers that here would rely on a payday lender, where would they go in Quebec?

DR. KEVIN CLINTON: No, I -- I have no knowledge of that.

THE CHAIRPERSON: Thank you. Dr. Clinton, do you understand and accept that the revenue requirement of payday lenders includes covering off the interest costs and the normal returns that one would expect for a shareholder?

DR. KEVIN CLINTON: Yes, I do.

THE CHAIRPERSON: Do you understand that with regulation, the interest cost and the normal expected return for the shareholders may fall?

DR. KEVIN CLINTON: It may fall for some firms. For some firms, I -- I could imagine under certain circumstances it would increase.

THE CHAIRPERSON: I can't recall whether you were here when Mr. Schinkel was talking about the normal expected return given the risk of the industry.

DR. KEVIN CLINTON: Yes, I -- I heard some of his testimony; I -- I think I heard him on that subject.

THE CHAIRPERSON: Just to follow up. I'm trying to understand what you would mean by -- how would the rate increase for some firms if regulation reduced the legal risk?

DR. KEVIN CLINTON: If the rate regulation was such that you did create a monopoly, the rate of return on that firm could easily go up.

You -- you could imagine the -- that a large surviving firm for example, if there were just a few, perhaps buying out the other firms and then doing what we often see in these situations and embarking on a large scale closure of -- of offices and layoffs of staff.

That would bring its costs down and that would also increase volumes per store. Of course, the clients would have to be bearing the cost because they would be travelling further to get to the stores. So you'd be increasing your volumes per store -- per store.

And everybody I think has agreed that there are some economies of scale at the store level, not necessarily at the firm level but at the store level.

Like any retailer, if you can increase your sales per square foot, your -- your net revenues would go up.

So I could easily imagine scenarios where a tight feel in it caused rates of return for some firms, not all firms, to go up.

THE CHAIRPERSON: You're speaking about the rate of return that they'd actualize, not the interest rates they'd be charged by a lender lending money to them.

DR. KEVIN CLINTON: I'm talking about rate of return on capital or equity. It's mostly equity in this business, so it's virtually the same thing.

THE CHAIRPERSON: In other words the economies of scale would provide them an opportunity to earn a higher rate of return?

DR. KEVIN CLINTON: Yes, but they're weird economies of scale.

Normally when we think of economies of scale, we think of the firm expanding. I -- I think it would be more likely in this case that -- that what we would be seeing would be large scale closures of -- of -- of stores.

And by that means they -- they -- they

would get increased volumes per store.

THE CHAIRPERSON: Are there not economies of scale when you get involved into chain operations with accounting -- common accounting platforms and data processing communications, public relations and all the rest of that?

DR. KEVIN CLINTON: I think these days in this industry they're -- they're pretty minor. You can buy software quite cheaply to -- to do this kind of thing.

And I did a count of stores, nationally, offering rates below a mean -- I was looking at my sample of data and I -- I had also data on numbers of stores. So I -- I looked at fees and I looked at store numbers and -- and what I found was that something like five (5) or six (6) of eight (8) firms that were below the median had less than four (4) branches.

In other words, there are lots of small firms that are -- are actually competing on price -- we -- and -- and not necessarily service.

They're matching -- small firms are -- are matching in some cases the pricing of Money Mart.

THE CHAIRPERSON: Mr. Schinkel said something of the same ilk with one (1) of his surveys at one (1) -- an outlier on the low end of the scale, I think.

DR. KEVIN CLINTON: Yeah.

Where I -- I would differ with that is -- I already said, I think you should use a logarithmic scale on those axes. And actually I've done that with the Ernst & Young data and the Deloitte data and I can undertake to provide that; it's not the appropriate time to drag it out now.

But when you put that stuff on the logarithmic scale, the outliers disappear and you stretch out all the little -- all the smaller ones that are squeezed up against the vertical axis on the left-hand side. So...

THE CHAIRPERSON: Well, we heard something of that in the common parlance earlier I believe where someone was indicating that this was the type of an industry that you could start up an operation with a second mortgage on a house and be in with a relatively low level of capital.

DR. KEVIN CLINTON: Yeah. And I tried that out -- idea out on -- on Mr. -- the -- the owner of the small -- he was here before me this morning, Mr. Gerry Charlebois, and I said to him, Do you think you could make a go of a single payday loan outfit on two hundred thousand dollars ($200,000) in -- in a large urban area, and he said, Yeah, sure, so.

THE CHAIRPERSON: I think you answered this question in your other answer in a sense, but I might as well just cover it off a bit.

So your assumption then is if the maximum was set that discouraged the number of lenders, some of the displaced demand would go to the surviving lenders?

DR. KEVIN CLINTON: Some of it would. I'm worried about the part that won't. I'm worried about those risky borrowers who are going to be told: I'm sorry, you just don't qualify for the loan, and so therefore it's an out.

And I know this concept of consumer surplus may seem very abstract but in concrete terms we could be talking not about tens of dollars but hundreds, easily hundreds, and in -- in some cases thousands of dollars. If -- if somebody is deprived of an opportunity that they could exploit with a three hundred dollar ($300) loan, it could -- it could have a very large impact on their economic welfare.

THE CHAIRPERSON: You're assuming then that the payday lenders within the industry have widely disparate criteria for lending?

DR. KEVIN CLINTON: I'm pretty sure they do because some lenders will know that a borrower has already been turned down.

THE CHAIRPERSON: Yes, we heard one (1) statement of that nature.

DR. KEVIN CLINTON: And some borrowers will lend even to borrowers that have recently or even may currently still be in an unresolved situation. And they'll use their judgment; if they think, well, given where my fee is and given my assessment of where this person now is I think I could make money on this loan, they -- they could well go ahead.

THE CHAIRPERSON: Thank you, sir.

One (1) last question. As I said it's a potpourri; they're not rated in any particular list.

DR. KEVIN CLINTON: It's all right, Mr. Chairman, I speak in potpourris.

THE CHAIRPERSON: Dr. Clinton, when one industry has, say, two (2) or three (3) models of providing service of equal value and nature to consumers, and one of the models has by its nature of delivery higher costs which require higher rates, generally speaking, in economics, does comp -- what does competition generally result in?

Do the various models end up surviving?

DR. KEVIN CLINTON: If a firm was simply high cost it would eventually go out of business. With a given price, one (1) firm having higher costs than the others it -- it would get driven out.

THE CHAIRPERSON: Thank you, Dr. Clinton.

Mr. Hacault, do you have any re-direct?

MR. ANTOINE HACAULT: You mentioned analysis; I don't know if the Board has any interest in seeing that analysis.

THE CHAIRPERSON: Yes, if you don't mind.

MR. ANTOINE HACAULT: We'll undertake to provide that analysis.

THE CHAIRPERSON: Thank you.

--- UNDERTAKING NO. 75: Mr. Clinton to provide his analysis

RE-DIRECT EXAMINATION BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: The second aspect results from some questions of the Board Chair but also of Mr. Foran, and I'll frame it in the sense of a twenty-three dollar ($23) maximum.

Can you provide us with concrete situations which you might think of, certain types of loans that might be excluded by this which you know exist in the industry?

DR. KEVIN CLINTON: Twenty-three (23)?

MR. ANTOINE HACAULT: There was a twenty-three dollar ($23) number that was thrown around.

DR. KEVIN CLINTON: As a limit?

MR. ANTOINE HACAULT: As a limit.

DR. KEVIN CLINTON: If -- if you used a twenty-three dollar ($23) -- if you imposed a twenty-three dollar ($23) limit in the industry you -- you would be going below where the -- certainly where the -- the mean fee currently is. Probably -- probably -- well, it would be below the median fee as well.

That would imply a -- a risk -- not a certainty, a risk, that over half the firms in the industry would have to exit. Now with that kind of exit the -- the consumer surplus calculations would -- would show extremely heavy losses.

MR. ANTOINE HACAULT: For example, we've heard evidence with respect to longer term loans, the ones that exceed fourteen (14) days --

DR. KEVIN CLINTON: Oh, yes.

MR. ANTOINE HACAULT: -- and higher amounts.

Do you have any comments on that type of product and whether it might be able to survive?

DR. KEVIN CLINTON: Oh yes, I see, I beg your pardon.

Yeah, the -- the longer term loan would be in -- in serious jeopardy, I -- I suspect all across the industry. And the reason is not so much the cost of capital going up at -- at the thirty (30) day term as -- as compared to the fourteen (14) day term, but it's -- it's a well known proposition in -- in finance that the longer the term the -- the larger the risk premiums get.

So by -- with a twenty-three dollar ($23) limit you would be eliminating loans with -- with high risk premiums and -- and that's the area where -- where I see large potential losses of consumer surplus.

MR. ANTOINE HACAULT: For example, we also heard Mr. Charlebois this morning, I guess, bear his heart; he's the only one who offered to give us financials without any confidentiality in saying that it costs him twenty-four fifty (24.50) something.

Do you have any idea what might happen to somebody like that?

DR. KEVIN CLINTON: I'm afraid Mr. Charlebois will be out.

MR. ANTOINE HACAULT: Those are all my questions.

THE CHAIRPERSON: Thank you, sir.

Thank you very much, Dr. Clinton. You've been a very forthright witnesses and very patient too. You've been very patient, as well.

DR. KEVIN CLINTON: I think you've been very patient with me. Especially with my -- my performance last week. And I appreciate that you let me come back and I hope I was more clear.

THE CHAIRPERSON: Oh, we didn't find your performance disappointing, Dr. Clinton.

I mean, it just sent us back to the textbooks over the weekend, that's all.

(WITNESS STANDS DOWN)

THE CHAIRPERSON: Ms. Southall, do you want to remind us where we are now. I think we're moving on to 310 Loan, are we not?

MS. ANITA SOUTHALL: Yes, we are.

And -- and I neglected most of the day to -- to indicate to those present that Mr. Hollis Singh has been assisting me at counsel table today.

Mr. Singh is an Associate Secretary of the Board. So I apologize to Mr. Singh for not indicating that earlier and to those present who may have wondered who is at my side today besides Mr. Gaudreau to my left.

And in addition to that, Mr. Bob Peters has joined us as well, and he is a partner of mine and also counsel to the Board on many regulatory matters.

For those who -- who do not know Mr. Peters he's just behind me to my right. And he will be conducting the process with respect to Board representation on the 310 Loan portion of the evidence, including cross-examination. He will also be present tomorrow at the Hearing as I am required to be elsewhere at another hearing tomorrow. So just for information purposes and to introduce Mr. Peters.

So we -- we are in a position then to proceed with the direct evidence of 310 Loan.

Mr. Slee I think is prepared to proceed with that, and I believe that -- well, I -- I don't believe, I know that Mr. Slee has prepared written direct evidence, and I believe that's been circulated to the panel members.

Do you have that available to you?

Mr. Gaudreau will provide it to you now.

THE CHAIRPERSON: Okay. Well, we'll begin then with Mr. Slee's direct evidence and then we'll move onto cross-examination tomorrow.

(BRIEF PAUSE)

THE CHAIRPERSON: No questions today. We know who Mr. Slee is; we've been introduced before at the opening comments. So Mr. Gaudreau, if you'll just swear in Mr. Slee, we'll get underway.

NATHAN SLEE, Sworn

THE CHAIRPERSON: So welcome back and the floor is all yours.

DIRECT EVIDENCE OF 310-LOAN:

MR. NATHAN SLEE: Thank you. So I've prepared -- this -- this is not my normal realm so I'm -- I'm not prepared to ad-lib my direct.

I am going to be reading my statement so I've -- I've been given everybody copies, so if it's more helpful for you you can follow along.

I'll try not to let it get too dry. I appreciate it might be a little more interesting if -- if a lawyer is sort of directing the questions. So, hopefully, you guys can stick with me. It -- I believe it'll take me about twenty (20) minutes to get through, so.

I guess first of all I'd like to thank the Board for the opportunity to participate again in these proceedings and speak to my evidence.

Having had the opportunity to hear from

other Intervenors and observe the questions that have been put forward by both the Board and the Board counsel, I've tried to tailor my presentation in a way that it attempts not only to build on my evidence but also to try to address some of the topics that have come up.

First topic that I'd like to touch on briefly before I talk about our company 310-Loan and our evidence, is the situation in Quebec. And, Mr. Chairman, you just brought it up again so I hope this may be of some use.

We heard I guess on the first day of testimony from Ms. Elizabeth Carlyle of the Canadian Federation of Students and she asked the Board to consider the Quebec example where payday loans are effectively outlawed.

Obviously, in the context of these hearings, at least it's obvious to me, it's important to consider the fact -- to consider if, in fact, Quebec has got it right and if Manitoba should be following their example.

Mr. Chairman, you asked the question of the Quebec experience to the CPLA panel and received some anecdotal feedback from Mr. Norm Bishop.

Mr. Bishop testified that to his knowledge, the short term small sum credit market was served in

Quebec through an extensive pawn shop industry and he made some comments about concern around the safety of attending some of these establishments. I'm just reminding the Board of -- of his testimony.

I did try to get some more information on Quebec and had very little success. But what I did find was some -- some research that was done for the British Government and I'm hoping the Board might find it useful.

As you may or may not know and I guess we did hear a bit more about this already today from Mr. Clinton, the UK has a long history of making credit widely available to all ranges of consumers and they've elected not to put a cap on their small sum, short term credit providers.

So the following is an excerpt from 2006 research report on illegal lending in the UK. It was conducted by Policis on behalf of the Department of Business Enterprise and Regulatory Reform. And I believe at the time when it was done that Department was called "DTI", which I am guessing stands for "Department of Trade and Industry."

So I'll read some pieces from the report and this is just from the executive summary and I guess it goes as follows:

"In contrast to many European credit

markets, including France and Germany, lenders in the UK serve even the highest risk borrowers including those with an adverse credit history, the over-indebted, the un-banked and even bankrupts.

It's this diversity and the accessibility of credit across the risk spectrum which fundamentally shapes the scale and nature of illegal lending in the UK.

Illegal lending in the UK appears small scale with the incidents low relative to that of other major European countries. Previous research indicates that the incidents of illegal lending in Germany is two and a half (2 1/2) times higher than in the UK and that in France it's three and a half (3 1/2) times higher than in the UK.

The lower incidents in the UK appears to be explained by higher risk borrowers in the UK having more legal credit options than is the case in either France or Germany."

And the other point they make here is:

"In the UK the supply vacuum, and thus the opportunities for legal lenders, appear not only to be smaller than in neighbouring European markets but to occur in a different part of the socioeconomic spectrum.

In advanced credit markets which have tighter regulatory environments [and there they're referring to France, Germany and Japan] illegal lenders target middle income, credit impaired borrowers, who in the UK are served by the legal sub-prime lenders."

It's not my intention to put you guys to sleep with a long list of quotes, but I do feel it's important that the record show that the alternative to a viable payday loan industry is not desirable and there is, in fact, broad consensus on this issue.

So I'll put forth two (2) more quotes to finish this point.

The following is from a 2002 consultation document prepared by the Consumer Measures Committee, this document was titled, "Consultation Paper on Framework Options for Addressing Concerns With the Alternative

Consumer Credit Market." It was put together by the Alternative Consumer Credit Market Working Group and put forth in autumn of 2002.

And my quote comes from page 3. So the quote is:

"Some consider that full enforcement of existing law could have the potential consequence of shutting down the alternative consumer credit market, leading consumers to less desirable credit options associated with loan sharking and organized crime.
The consistent message from stakeholders has been to address the undesirable practices within the industry in a manner that allows its continued existence. Provincial and territorial governments agree with this approach."
End quote.

Finally, I'd like to remind the Board of the November 13th testimony from Mr. Scott Hannah, from the Credit Counselling Society. Mr. Hannah stated, quote:

"We believe that it's important to have competition, innovation and allow market forces to prevail, which would ensure that consumers would be able to access the lowest cost and best service provider. And in that we believe that consumers will be better protected than by lowering the fees dramatically and perhaps providing [or, excuse me] perhaps driving the majority of reasonable businesses out of business and having that business go underground. Certainly over the years we've have many clients exposed to, we'll call them loan sharks if you like, and our advice for those consumers is always the same: Please pay that above everyone else for your own physical well being. So certainly we wouldn't want to see that -- wouldn't want to see this industry driven to that effect."

I hope that these quotes have given the Board some level of comfort that regulating a viable and competitive payday loans market will deliver a more desirable outcome than following the model of Quebec, France and Germany, and that the majority of Canadian stakeholders agree with this approach.

All that being said, I would like to tell you a little bit about 310-Loan and provide you with our view on how consumer interest would be best served in the payday loans market.

310-Loan is, by our measures, the largest direct payday lender in Canada; we employ twenty-two (22) people at our head office Surrey, BC, and we have serving Canadians from across the country since 2000.

We do operate two (2) store-front locations in British Columbia and 97 percent of our business is conducted over the phone or online.

And I just want to clarify, that's what I mean by "direct business."  I know some people have mentioned, you know, direct versus the broker model where you're actually issuing your own funds, so I'm talking in terms of "direct" meaning virtual.

So with that in mind I'd like to comment very briefly on the insinuations that were made by at least some of the presenta -- at least -- excuse me, at least one (1) (1) of the presenters on November 13th about what they termed "Internet lenders."

What may be very confusing for someone who is searching the Internet for payday lenders is the existence of lead generation companies in the United States.  These are companies that create websites that appear to offer payday loans but really just collect payday loan applications and sell those applications to the highest bidder.

Each lead generation company may have as many as one hundred (100) different websites that all attract payday loan applicants but behind the scenes they will have a much smaller pool of lenders who actually provide the loans.

I'll just interject here. So this is -- I'm not talking about a broker model like we have with Rentcash, I'm talking about websites that -- they don't service the customers, they don't do anything other than generate an application which then gets sold to another company that actually services the loan and maintains the client relationship.

So it's important to note that this practice is really only occurring in the United States. Canadians will find these websites doing a Google search but if they spend any time there, they'll quickly find out that these sites only serve US customers.

In order to be a direct lender in Canada, you must have a Canadian bank account to issue funds to consumers. This requires -- this requirement ensures that direct lenders in Canada will have at least some form of operations here in order to serve this market.

In Canada, direct payday loans are offered primarily by four (4) different firms, each of which are Canadian owned and operated. These companies are: 310- Loan, Mogo, Zippy Cash and CashX.

Both Zippy Cash and CashX have sold website franchises; so they have a few other brands under their umbrella.

Mogo also has twelve (12) bricks and mortar locations to complement its direct business.

So moving back to our evidence. I'd like to speak now about our objectives as a company and how I think these objectives line up with the consumer protection objectives of policy-makers and consumer advocates.

The objective of the management team at 310- Loan is to build a financially viable business and maximize our return on investment. And our ability to do that depends on a number of factors, including how efficiently we can issue funds, how effectively we can attract new customers, and how well we can manage our bad debt.

Our ability to manage our bad debt hinges directly on our ability to identify payday loan applicants who are reasonably capable of repaying their loan and then providing credit to those individuals at a level that they can manage.

I'd like to explain to the Board how we manage our credit risk and ensure that consumers we extend credit to are reasonably capable of repaying that loan.

First -- the first thing that we have is we have a set of minimum criteria that all applicants must meet. In our case, all our applicants must be actively employed.

We do not extend to applicants who are any form of social assistance, whether it be welfare, disability, child tax credit, Worker's Compensation, or any other form of assistance. We also do not extend credit to individuals on a pension.

Applicants must be at their job for at least two (2) months.

They must have an active bank account with at least seven (7) transactions in the last thirty (30) days. They may have no more than two (2) NSF or stop payments and no more than one (1) other payday loan transaction on their bank statement.

They must have an active phone that we can reach them at and they must not have filed for bankruptcy in the past twelve (12) months.

In a typical month we will reject 30 percent of the applications that we receive because they don't meet our minimum criteria.

For those applicants who do meet our minimum criteria we've developed a credit rating system that assigns a level of credit that we deem to be manageable for the customer based on the information that they've provided us.

This system will assign each customer a credit limit that's between 25 percent and 55 percent of their net pay.

On average our typical loan equates to 28.8 percent of the customers net pay.

In a further effort to ensure that the consumer is not over burdened, if we are aware of a payday loan that they may have with another lender we will adjust the credit limit so that the combination of our loan plus the other lender's loan all put together will not exceed the percentage of income that our system has identified as being a reasonable limit for that customer.

At our current rate of twenty-four dollars and twenty-six ($24.26) cents for a one hundred dollar ($100) loan, our ability to earn a reasonable rate on our -- our investment and our time depends on our success at applicant screening and credit rating, effectively minimizing the extent to which we lend to financially vulnerable individuals.

I feel that the data we have provided to the Board on our customer demographic supports the extent to which we have minimized the number of financially vulnerable individuals who use our product.

As you may recall from my information request responses, in Manitoba only 11 percent of our customers earn less than twenty thousand dollars ($20,000) a year. In the general population the Census 2001 data show that 45 percent of Manitobans earned less than two hundred (200) -- or excuse me, less than twenty thousand dollars ($20,000). And then when that sample is narrowed down to full year, full time earnings the number of those Manitobans who earn less than twenty thousand dollars ($20,000) is 23 percent. So still more than double our number.

Looking at the industry as a whole, Dr. Buckland has developed another measure that is helpful when looking at the extent to which Winnipeg's most vulnerable residents are effected by payday loans.

In respect to his 310/Coalition 1-16 -- or sorry. In response to 310/Coalition 1-16, Dr. Buckland indicated that by his estimates the residents of Winnipeg's North End Community spend 0.15 percent of their income on payday loan fees.

So just to be clear that's -- that's not 15 percent, it's not 1.5, it's 0.15 percent.

I recognize quite clearly that there are some individuals from impoverished communities who have been affected by payday loans in a negative way, and in a minute I will speak to how I think that should be addressed.

But going back to Dr. Buckland's data, it indicates to me that payday loan fees are a marginal component of the typical North End resident's budget; suggesting that Winnipeg's most vulnerable community is not part of the payday loan demographic.

Now, building off of how our motivation as a company is aligned with the interests of the consumer, I'd like to now discuss how the market as a whole fits into the consumer protection framework.

Dr. Buckland and Dr. Robinson used the high level of concentration of business amongst a small number of firms to demonstrate the existence of imperfect competition in the Manitoba payday loan market today.

I have made a similar point using the product life cycle to illustrate how the market is not yet evolved as it would have under normal conditions. While the Coalition experts argue that the market has failed and the only hope for consumers is a competition reducing rate cap, I submit that what is distorting the market can and will be corrected and a repaired market will deliver better results to the consumers over the long term.

I'd like to remind the Board of the two (2) market distortions that I've spoken of to date and would also like to introduce a third observation of how the market may not be protecting the most vulnerable consumers.  Once I have touched on these I'll illustrate how they can be corrected and how an effective market can be restored.

First of all, as I mentioned in my pre-filed evidence, in my Responses to Information Request, and my opening statement, the legal risks and regulatory uncertainty in the payday loan industry has been a major barrier to entry that has prevented new entrants and investment from flowing into the industry.

Second, the lack of uniform disclosure standards has skewed consumer behaviour.

Because different lenders calculate and disclose their fees so differently it's quite difficult for consumers to compare rates.

If consumers cannot easily compare prices between lenders they'll use other criteria to choose a lender and give an inaccurate perception of their preferences.

As a result, lenders will not differentiate their product in a way that accurately reflects the desires of the consumer.

Finally, the third observation that I'd like to speak to came to my attention during the opening day of these hearings when I listened to the presentations from Ms. Anna Pazdzierski, and I hope I said that right, and Ms. Mary Ann Cerilli.

When I heard the story of a woman on welfare who had had to choose between paying for diapers for her children or paying her payday loan fees, I struggled to understand what type of business model could possibly -- possibly sustain extending credit to such a financially vulnerable individual.

When mention was made not once but twice about a rate of fifty dollars ($50) per hundred (100) it dawned on me that perhaps if a lender can get enough customers to pay a high enough fee, they may be able to sustain the astronomical default rate that would result from lending to individuals with such meager financial resources.

I would also guess that this lender must operate on a very small scale as there would be a very limited number of customers who would pay these rates given the alternatives in the market.

If the market is to operate effectively for both producers and consumers, then I suggest three (3) measures must be taken.

First, regulations must be put in place to eliminate the legal risks that are present in the industry and allow competition to thrive.

Advance America has already given us a glimpse of the new level of competition that is pending at the onset of regulations. Since October 18th they've opened seven (7) National Cash Advance locations is Manitoba.

They're also so eager to avoid any legal risks that they are not charging any administration fee on their loans until the Board issues their order.

So just to be clear, they'll be losing money on every single loan until you guys make your decision.

Just in case -- I think the Board is familiar now but in case you're not, Advance America is the world's largest payday lender with over two thousand nine hundred (2,900) locations and over 550 million in revenue in 2006.

Second, the second point that I think is required, is disclosure must be standardized amongst lenders so that consumers can easily compare prices.

Fortunately, Manitoba's new regulations will stipulate consistent disclosure practices amongst all lenders.

And, finally, I suggest that rates must be capped at such a level that will erode the financial viability of business models whose success depends on the exploitation of Manitoba's most financially vulnerable individuals.

On the topic of rates -- on the topic of rates the Board has heard a number of recommendations, including roughly 12 percent to 20 percent of the loan amount from Dr. Robinson (and this is if you were to use his formula on a three hundred dollar ($300) loan); twenty (20) to twenty-three dollars ($23) from CPLA; twenty-five dollars ($25) from 3-10 Loan; thirty-five dollars ($35) from Dr. Clinton; and thirty-seven fifty (37.50) from Rentcash.

Dr. Robinson's recommendation hinges on a large scale reduction in competition so that the remaining participants will be granted greater levels of efficiency and be able to sustain lower rates in the short term.

While he acknowledges that, quote,

> "Competition even-footing may lead to lower prices and high quality for everyone,"

end quote, he's adamant that even footing cannot be achieved and that prices must be reduced at all costs even if that cost is a regulations-induced monopoly.

Unfortunately for consumers, his recommendation ignores their non-price interests and the long-term efficiency implications of a reduction in competition.

While he and Dr. Buckland point out that the current market closely resembles an oligopoly, which they correctly identify as undesirable for the consumer, he does not recommend solutions to bring balance to the market but rather, suggests that effective competition is hopeless and a reduction in competition is required.

I think this viewpoint is counterproductive and I think it ignores the long-term well-being of the consumer.

The CPLA has stated that they support a highly competitive market but I would like the Board to consider that their position may be more closely aligned with Dr. Robinson's in supporting the existence of an oligopoly or worse.

In considering the CPLA's input I will ask you to consider carefully how many of the CPLA members can support a cap of twenty dollars ($20).

I know that what they've said is twenty (20) to twenty-three (23) but unless the Board is planning on setting a range of rates determining who can charge --

and determining who can charge what within that range, then I have to assume that you will select a single rate. And I should also assume that you will consider the lowest rate that the industry says it can sustain.

We've already heard from Deloitte that the five (5) lenders that they study operate on average cost of twenty-six dollars and eight-nine ($26.89) cents, so surely a rate of twenty dollars ($20) excludes those lenders and all other lenders who are similar in size and operating model.

A quick scan of the membership list at the CPLA website shows that eleven (11) of their twenty-three (23) members or 48 percent of their membership operate just one (1) store. So if the Deloitte study is, in fact, representative of the costs for small operators -- operators, then it's hard to understand how the CPLA's position represents the interests of those members.

The alternative to the CPLA in Dr. Robinson approach is a rate cap that'll foster competition and restore a functioning market that effectively and efficiently meets consumer's needs. Our position follows the recommendation of Dr. Ian Ramsay in his third way approach to consumer credit recula -- excuse me -- consumer credit regulation.

He's put forth eight (8) recommendations which we highly endorse and are included in our pre-filed evidence. On the matter of rates, he recommends, quote:

"Regulating prices through interest rate ceilings established at a rate significantly above the competitive rate for that market that are designed to be a proxy for overreaching behaviour." End quote.

To establish the rate of twenty five dollars ($25) per hundred (100) that we're recommending, we surveyed the Manitoba market and estimated that the average price on the market was twenty-three dollars and seven cents ($23.07) for a one hundred dollar ($100) loan.

Now, in hindsight, it seems that we have misinterpreted the rates charged by the Cash Store, and as such the actual market rate may be higher than our estimate. We also did not factor in the cost of licensing and bonding, so the Board may want to consider that when looking at our proposal.

A rate above the competitive rate in the marketplace today will yield two (2) distinct differences compared to the competition reducing recommendations of the CPLA and Dr. Robinson. 1) I think firms will be highly motivated to become more efficient, and 2) firms will be highly motivated to differentiate their products, both to the significant benefit of the consumer.

If a firm's ability to charge a certain rate is mandated by a regulatory body based on a reasonable rate of return then the most efficient firm in the market will have little incentive to improve their efficiency; doing so would lead regulators to lower rates even further and restore the firm's previous rate of return.

Further, if the cap -- if the rate cap is set just slightly above the most efficient firm's current price then there may be some incentive for that firm to actually raise their rates up to the level of the cap.

In a competitive market where a maximum rate is above the market rate, even the most efficient firm will be highly motivated to invest in efficiency improvements because in the short-term they'll able -- be able to enjoy a higher return on investment.

And in the long-term they'll be better positioned to defend their marketshare as competition intensifies. Other firms will also be highly motivated to improve efficiency for similar reasons. Over time, as the market become saturated, firms will use the gains they enjoyed from their efficienc -- efficiency improvements to invest in lower rates, better service, and/or a differentiated product as they attempt to compete for a scarce marketshare.

On the topic of differentiation in a mature and competitive market where firms must fight to maintain marketshare, they'll be highly motivated to differentiate themselves in a way that will attract more customers. In her cross-examination of the CPLA, Ms. Anita Southall asked Mr. Norm Bishop:

> Quote: "What's so different in a fourteen (14) day loan for three hundred dollars ($300) between one (1) company and the next?" End quote.

Mr. Bishop mentioned hours of operation in his response. And I'd like to add level of service, number and location of branches, time it takes to process an application, how onerous the application process is, how funds are delivered whether it be cash, cheque, debit card, or direct deposit, and repayment options to round out the way the product is differentiated today.

Looking forward, as long as the payday loan is defined as a six (6) -- as a loan of sixty-two (62) days or less and fifteen hundred dollars ($1,500) or less, then the Board must also consider the opportunity for differentiation within this spectrum.

One (1) clear option that customers may find attractive would be to change the term of the loan.

For example, customers might be attracted to a loan that they could pay off over a longer period of time. Or going back to the fourteen (14) day fir -- excuse me -- fourteen (14) day term, firms may wish to offer a preferred rate to customers who have a previous history of repaying their loans on time.

For these options to be viable, the Board must allow for a wide range of rates. For example, offering a loan that can be paid off over a longer period of time will dramatically alter the capital requirements of the lender, and they may need to charge a higher rate to make that product viable.

Despite a higher rate, this product could very well serve the consumer better than the current payday loan product. In an oligopoly, duopoly, or monopoly where competition is low, firms have relatively easy access to customer because they'll be a shortage of competition.

In this environment, their motivation to enhance their product will be low because little effort is required to maintain their marketshare. With all due respect to the Members of the Board, I don't believe that a regulatory body can replace the product creativity and drive for efficiency that will exist in a highly competitive market.

You have an opportunity to foster this level of competition. You have the opportunity to measure the outcome, and you have the opportunity to make adjustments over time.

It's our recommendation that you take this approach, and that no other approach will serve the consumers better.

That wraps up my -- my statement and I would be open for questions but apparently, that's tomorrow.

THE CHAIRPERSON: Thanks very much, Mr. Slee.

MR. NATHAN SLEE: You're welcome.

THE CHAIRPERSON: So, Ms. Southall, I guess we'll stand down for today. I'm just going to check here for a minute.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Mr. Peters is prepared to commence his cross-examination, Mr. Chair, if you would like him to use the remaining time today.

THE CHAIRPERSON: Then please let him proceed.

(BRIEF PAUSE)

THE CHAIRPERSON: Welcome, Mr. Peters.

CROSS-EXAMINATION BY MR. BOB PETERS:

MR. BOB PETERS: Thank you, Mr. Chairman, Board Member Proven, Board Member Gerard. It's good to be back. I won't call it my chair, but it's good to be back in the chair. And Mr. Slee, good afternoon. Thank you for your direct evidence.

MR. NATHAN SLEE: You're welcome.

MR. BOB PETERS: Can I start with you, sir, in that you tried to come to differentiate your product before the Board as suggesting that it's a -- an internet primarily-based service. Is that correct?

MR. NATHAN SLEE: Just to clarify, about 70 percent of our customers reply over the web and 30 percent would apply over the phone. So I would call it a direct product as opposed to an internet product.

MR. BOB PETERS: Well, let me just make sure the Board understands your evidence then from before.

Did I correctly hear you say, just a few minutes ago in your direct evidence, that 97 percent of your customers are served from the internet?

MR. NATHAN SLEE: I believe I said over the phone or on line.

MR. BOB PETERS: I'm sorry. That's correct. And then the balance of that was through your store fronts in BC?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Presently no other store fronts in Canada?

MR. NATHAN SLEE: No.

MR. BOB PETERS: Do you have any store fronts in the United States?

MR. NATHAN SLEE: No, we do not.

MR. BOB PETERS: Do you offer telephone or internet service to any potential customers in the United States?

MR. NATHAN SLEE: Yes, we do on -- on a pilot basis at this point.

MR. BOB PETERS: Can you help explain that to the Board in terms of what do you mean by a pilot basis?

MR. NATHAN SLEE: Sure. One of the objectives that we have is to differentiate our product and because we can't offer cheque cashing online, we -- our option is to look at other markets.

So we have been trying to make some headway into the United States. Quite frankly, we've had zero success. So we've -- we've taken a couple of runs at the United States market, and the results have been negative, we'll say.

MR. BOB PETERS: And in light of those negative results, is the Board to interpret that answer to mean that anytime you do loan money to a citizen of the United States, you lose money?

MR. NATHAN SLEE: I'm not directly responsible for the US pilot so I don't want to give misleading data. My CEO is responsible for that project, but I do know that in our most recent trial in the United States, our NSF rate was above 50 percent. So we are losing money in our US trials.

MR. BOB PETERS: Is the US trial being run out of the same corporate structure as is the Canadian payday loan company?

MR. NATHAN SLEE: Just so I understand, do you mean out of the same office, same staff, that sort of thing?

MR. BOB PETERS: No, I mean, is it under the same corporation?

MR. NATHAN SLEE: We do have a separate legal entity that actually lends the money to Americans -- if that's how I understand your question.

MR. BOB PETERS: Yes, thank you. But I take it then following up on your previous answer, you use the same office in British Columbia to conduct your US business as well as your Canadian business?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: When you say you have twenty-two (22) employees, I have that number correct?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And do I take it that those twenty-two (22) employees are predominantly in a -- in a phone centre or a telemarketing centre?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: In terms of officers running the day-to-day business, it's yourself and a chief operating officer?

MR. NATHAN SLEE: If you like, I can give you the breakdown.

MR. BOB PETERS: Please.

MR. NATHAN SLEE: Sure. We have four (4) departments; we have an accounting department with a controller and two (2) accounting assistants, we have a collections department with a collections manager and two (2) collectors, we have a call centre department with a call centre manager and anywhere from between eight (8) to ten (10) staff. We have an IT staff right now of two and a half (2 1/2) people, and we also have our CEO.

MR. BOB PETERS: Is your CEO Andrew Smith?

MR. NATHAN SLEE: No.

MR. BOB PETERS: And who is the CEO?

MR. NATHAN SLEE: Her name is Luba Rapaport (phonetic).

MR. BOB PETERS: And Ms. Rapaport is also a resident in British Columbia?

MR. NATHAN SLEE: Yes, she is.

MR. BOB PETERS: From that answer -- and I thank you for that, Mr. Slee -- I take it there are no employees resident in Manitoba?

MR. NATHAN SLEE: That's correct.

MR. BOB PETERS: Do I gather from your opening comments to the Board probably a month ago -- November 13th -- that you are considering opening a storefront in Manitoba?

MR. NATHAN SLEE: Yes, that's correct. Right now we're evaluating what our options are, given what we know about the regulations and we've been working with Nancy Anderson (phonetic) in that regard to get some clarity around what exactly will be required; whether, you know, we need an actual storefront and prime property ,or if there might be just an office location will do. We're -- we're trying to figure those things out.

MR. BOB PETERS: So you are looking at it from the perspective of what requirements will exist in Manitoba to obtain your license to conduct business here?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: I'm going to come back to this with you, Mr. Slee, but just so the Board has an under-standing at the outset, when you say "do business in Manitoba," would I be correct that last year you conducted approximately thirteen hundred (1,300) loans in the Province of Manitoba?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And when I say "conducted them in the province of Manitoba," more accurately you conducted them with Manitoba residents?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And the average amount of those thirteen hundred (1,300) loans was in the range of two hundred and eighty dollars ($280)?

Take that subject to check?

MR. NATHAN SLEE: Sure, I'll assume you're reading right from my responses? I don't have that off the top of my head but, sure.

MR. BOB PETERS: Maybe you could check First Round Question 2, maybe it's sub (h), I'll -- I'll find it if you need me to find it.

But having said that, of those thirteen hundred (1,300) loans in Manitoba, the experience with 310-Loans is that approximately nine (9) out of ten (10) of your customers are repeat customers?

MR. NATHAN SLEE: In -- in Manitoba or Canada-wide?

MR. BOB PETERS: Well let's start with Canada-wide.

MR. NATHAN SLEE: Sure. I think the number that I put on the record was twelve point nine (12.9) something to one (1) was the ratio of repeat to new customers.

MR. BOB PETERS: And is there any reason to suspect it's different in Manitoba?

MR. NATHAN SLEE: It is in fact different in Manitoba. In Manitoba it's seven point five (7.5) to one (1).

MR. BOB PETERS: Why -- to what do you attribute that difference?

MR. NATHAN SLEE: The reason is the length of time that we've been in Manitoba, so of that twelve (12), let's call it thirteen (13) to one (1), of that thirteen (13) to one (1) on a given month, for example, in November of 2007, that would have included customers who would have come to us in 2000, 2001, 2002, 2003, et cetera, --

MR. BOB PETERS: Yeah.

MR. NATHAN SLEE: -- so these are not twelve (12) -- these are not customers who are having twelve (12) loans in a row; these are customers who are coming back to use our service.

MR. BOB PETERS: All right. So you have a longer history in other provinces, and how long is that history in British Columbia?

MR. NATHAN SLEE: Since April of 2000.

MR. BOB PETERS: Is that the same in Alberta?

MR. NATHAN SLEE: No, it's not. I don't have the exact dates off the top of my head. We would have began to roll over -- we started off with the storefront model and introduced the direct lending model in December of 2000. And we began advertising campaigns in provinces outside of BC incrementally, and I believe we did start with Alberta, so it would have been 2001 in Alberta.

MR. BOB PETERS: And so as we work our way east, are you in Saskatchewan as well?

MR. NATHAN SLEE: No, we're not in Saskatchewan.

MR. BOB PETERS: When you say you're not

in Saskatchewan, what precludes you from being in that province?

MR. NATHAN SLEE: This goes back to probably in about 2001 we were looking at Saskatchewan. At that point they had some licensing requirements for payday lenders and we spoke to the licensing body there and they indicated that, it would have been, like, a five thousand dollar ($5,000) charge to apply, and they had given a sort of verbal indication that, without a location there, they probably wouldn't give us a license. So, it's a fairly tiny market. We didn't pursue it any further.

MR. BOB PETERS: All right. In addition to British Columbia, Alberta, and Manitoba -- when -- when did you start in Manitoba?

MR. NATHAN SLEE: That's a good question. I'm gonna say some time in -- probably in 2003 by looking at the number of loans we did there. If we did a hundred and twenty-five (125) in 2003, I can't imagine we would have done very many in 2002.

MR. BOB PETERS: All right, we'll take that and if your answer changes you could certainly notify the Board when you -- when you come back. In addition to Manitoba, what other -- sorry -- in addition to British Columbia, Alberta, and Manitoba, what other Canadian jurisdiction do you operate in?

MR. NATHAN SLEE: We offer loans to customers everywhere but Saskatchewan and Quebec.

MR. BOB PETERS: And does that also in -- include the Northern Territories?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: You've made no further research into Saskatchewan from what you conducted in approximately 2001 and when you were told of the requirement for residency and the five thousand dollar ($5,000) licensing application fee?

MR. NATHAN SLEE: Right, that is correct. And, at this point, with legislation pending in that Province, we're pretty much in a holding pattern waiting until the dust settles on that to decide if we want to go into Saskatchewan.

MR. BOB PETERS: I'll come back to this one too, but we'll show the Board some of the risk issues that you've identified. One (1) of them was class action lawsuits.

Am I correct in that?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Can you tell the Board whether 310 Loan is involved in any Canadian class action lawsuits?

MR. NATHAN SLEE: We do have one lawsuit

on -- concerning our operations in British Columbia.

MR. BOB PETERS: And your answer is specifically to a class action suit in British Columbia, not a -- not an individual lawsuit by a single plaintiff or a few plaintiffs.

Have I got that right?

MR. NATHAN SLEE: Well, yes, right now it is a single plaintiff who's attempting to classify it as a -- or excuse me --

MR. BOB PETERS: Certify.

MR. NATHAN SLEE: -- certify it as a class action so, yes.

MR. BOB PETERS: Can you explain to the Board what the nature of the complaint is without indicating any proprietary or confidential information that will be used to defend the claim?

MR. NATHAN SLEE: Sure, I think the nature of the claim is pretty similar to the other number of lawsuits of this nature that are going on in Canada that the rates that we're charging are -- I believe the term is "unconscionable."

MR. BOB PETERS: And it's based on an interpretation of the Criminal Code interest rate?

MR. NATHAN SLEE: I couldn't comment on -- on much more, but I'm --

MR. BOB PETERS: All right.

MR. NATHAN SLEE: -- to be honest it was filed a long time ago, and I haven't really studied it very closely.

MR. BOB PETERS: Can you indicate to the Board what the amount of the claim is that this single plaintiff is seeking?

MR. NATHAN SLEE: I don't have that information. And I -- again that's -- I'm not trying to avoid the question; it's just it came across my desk probably in 2002, and it's been in the lawyers -- our lawyers hands since then, and every once in a while I get an update, and it --

MR. BOB PETERS: Probably a bill.

MR. NATHAN SLEE: -- seems to take for -- yeah, yeah, by way of a bill, exactly.

(BRIEF PAUSE)

MR. BOB PETERS: In your direct evidence and also your pre-filed evidence, Mr. Slee, am I correct in summarizing it that you believe the Board, at the end of the day in Manitoba, should come out with a rate ceiling that is a single fee significantly above the competitive rate in this Province?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And that rate that you're proposing is 25 percent?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And that 25 percent rate will include all administrative and related charges including optional charges from the payday lender as well as the interest component.

MR. NATHAN SLEE: On the issue of the -- for the most part, yes. I think that there may be some, and I don't have any optional features in our product, so I don't have a lot of experience in that department. And I'll probably leave that one up to the Board, but I think that and I've stated it in -- in one of my Information Request responses -- that if there is any optional product that truly, truly is optional, then, yeah, that should probably have a separate fee attached to it.

But if -- it's quasi-optional and, you know, maybe not really used as optional, then I think it should be included.

MR. BOB PETERS: All right. You're going to have to help me out so that the Board can also understand, I think.

When you say "quasi-optional," what would be an example of -- what -- what is in on the face to it may be optional, but you're telling the Board in reality really isn't?

MR. NATHAN SLEE: Sure. I think -- and I don't want to step on anyone's toes -- but I think with regard to a debit card product -- I know a lot of people are -- are offering them. But if it's a situation where the -- the alternative is really not that viable for the customer, then we may want to look at whether or not it's -- it's really optional.

MR. BOB PETERS: Okay. So -- if I can understand your evidence and summarize it for the Board's benefit, if a payday lender included a charge to load up a debit card, your position is that should be included in the 25 percent rate ceiling fee?

MR. NATHAN SLEE: Or something should be included to cover it, because I think what you want to avoid is that the debit card becomes a way that a lender can work around the -- the fees.

I mean, there's definitely a cost involved with issuing the debit card, and some customers may find it to be advantageous.

And, you know, certainly if I'm offering a debit card, I can't offer it for free. I've got to pay the provider some money. But I think the Board would consider a cap on that to make sure that we're not charging an extra twenty dollars ($20) for a debit card, for example.

MR. BOB PETERS: All right. I -- I take from your answers now to me that you've changed a little bit from you said in your evidence that's been filed in a sense that debit card fees, for example, would not necessarily be included in the rate ceiling that you're proposing?

MR. NATHAN SLEE: Can you refer me back to my Information Request response, and I can make sure I'm keeping myself on my own same page?

MR. BOB PETERS: Okay. I'll -- I'll come up with that for probably starting tomorrow then.

MR. NATHAN SLEE: Sure. And, I mean, it's not something I've given a lot of thought to again because I don't offer debit cards.

MR. BOB PETERS: All right. But I got the 25 percent rate ceiling correct?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And you're saying that's significantly above the competitive rate in Manitoba?

Would that be correct?

MR. NATHAN SLEE: The -- the principle that I think should be adopted is a rate that is significantly above the competitive rate. I will say that if -- that the rate that I've put in -- I understood the competitive rate to be around twenty-three dollars ($23), and I suggested twenty-five (25).

And when I looked at my numbers, I looked at, I believe, ten (10) lenders, and that rate of twenty-five (25) would include ten (10) lenders -- excuse me -- I looked at eleven (11) lenders, and my rate would have included ten (10). So I had eleven (11) lenders who -- eleven (11) lenders total; ten (10) were in that range, and then the eleventh, I believe, was charging thirty dollars ($30).

So that eleventh would have been lopped off, so to speak. I think that covers it.

MR. BOB PETERS: Now, Mr. Slee, if we can keep the Board with you on that answer. If the Board and you could turn to appendix B to your pre-filed evidence that was filed September 17th of 2007.

In appendix B, you surveyed a number of lenders operating in Manitoba, and you got their quotes on loaning out a hundred dollars ($100) or two hundred and seventy-nine dollars ($279) or three hundred dollars ($300).

Have I got that correct?

MR. NATHAN SLEE: I would have talked to them about their rates for one hundred (100) and three hundred (300) and attempted to ascertain how the rate was come -- was -- was derived. And then I would have -- I -- I extrapolated the two seventy-nine (279) myself.

MR. BOB PETERS: Now, if we look at that list of companies; these are ones that were operating in Manitoba, but you're not suggesting this is all of the ones?

MR. NATHAN SLEE: No, I think we've -- we've heard of a number of others that have come out, so I don't think this list is exclusive or inclusive, excuse me, of all of the lenders.

MR. BOB PETERS: And when you come up with the competitive rate, I think you just told the Board, you thought it was around twenty-three dollars ($23)?

MR. NATHAN SLEE: That's right, twenty-three dollars and seven cents ($23.07) for a one hundred dollar ($100) loan.

MR. BOB PETERS: And, in fact, 310-Loan is above the competitive rate?

MR. NATHAN SLEE: Yes, that's right.

MR. BOB PETERS: And you're suggesting that even more so the Board should draw the line at twenty-five dollars ($25), and that would be the rate ceiling that 310-Loan is urging the Board to accept?

MR. NATHAN SLEE: That is our

recommendation, yes.

MR. BOB PETERS: And as a consequence of accepting that, you're telling the Board that a consequence may be that Zippy Cash will not be able to operate in Manitoba, and that may be one (1) of the casualties?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Zippy Cash is also an Internet provider?

MR. NATHAN SLEE: Yes, they are, and they -- they are strictly Internet. They -- I don't believe they have a -- a call -- a phone option.

MR. BOB PETERS: And your argument to the Board and your submission to the Board and your evidence is that if the Board is to set a rate ceiling that is above the competitive rate, and at twenty-five dollars ($25) in your submission, that would encourage more entrants to come into the market, that's one (1) of the things that would happen?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And you don't know that for certain, but you suspect that would be the case.

Is that correct?

MR. NATHAN SLEE: I think -- sure, that's correct.

MR. BOB PETERS: All right.

MR. NATHAN SLEE: That is my hypothesis.

MR. BOB PETERS: And -- and there's no way to test it in advance of actually going down that road.

Would that also be true?

MR. NATHAN SLEE: That's -- that's a good question.

MR. BOB PETERS: Okay. I'll -- I'll take that as a yes.

MR. NATHAN SLEE: But I don't -- I guess to answer the question more directly, I don't think there'd be a way to test the effect without actually doing it.

MR. BOB PETERS: And one of the -- in -- in your hypothesis continues that if twenty-five dollars ($25) was the rate ceiling and that allowed more entrants to come to Manitoba, those additional entrants will come up with competitive products.

MR. NATHAN SLEE: I think the gist of my recommendation is the more entrants we can get into the market, the better it will be for the consumer. Because as the market becomes saturated and as it becomes more difficult to obtain market share, firms will be much more motivated to differentiate their products on a number of different levels; not just, you know, longer hours and that sort of thing, but maybe even coming up with terms that may be more attractive for the customer because they're going to be attempting now to fight even harder to get those customers.

MR. BOB PETERS: All right. And in terms of differentiating their products, you gave the Board some examples in your direct evidence of a few minutes ago, and in addition to the hours of service, you talked about new entrants will either bring with them or force existing companies in Manitoba to add a level of service that before they didn't have.

MR. NATHAN SLEE: I think I listed a number of ways that they could differentiate themselves; level of service could be one of them.

MR. BOB PETERS: And when you say "level of service," what are you telling the Board would happen as a result of new entrants coming in under a twenty-five dollar ($25) rate ceiling?

MR. NATHAN SLEE: I think one (1) of the things that new entrants would have as motivation would be to deliver a level of cust -- excuse me, deliver a level of customer service that exceeds what's available in the marketplace today.

I know that's one (1) option.

MR. BOB PETERS: Well, if I can interrupt you --

MR. NATHAN SLEE: Yeah.

MR. BOB PETERS: -- "provide a higher level of service than exists in the marketplace today" means what? What -- give me an example or give the Board an example of what you're referring to.

MR. NATHAN SLEE: Well I think, in terms of service, I mean, anyone who flies a lot would probably have no problem understanding the difference in service between, say, WestJet and Air Canada.

You know, I know I swear every time I take Air Canada I'm never going to take them again. So I think we could look at people who are recruiting more senior staff who can work with customers at a more effective level.

I think there's -- I work in the call centre sector so we have -- it's very clear that there's different levels of service within our sector, depending on what company you're going to be dealing with. You're almost guaranteed to be frustrated when you talk to some of them.

And others, again, WestJet's a good example, ING Direct is a good example, any time you deal with those companies over the phone, you get off actually feeling good about your experience. And that has a lot to do with how much they invest in their staff and their training.

MR. BOB PETERS: So that's something that's not quantifiable, but it's a qualitative --

MR. NATHAN SLEE: That's correct.

MR. BOB PETERS: -- matter. And you also said that number and location of branches would be something that could be -- could be increased if the cap was up to twenty-five dollars ($25)?

That would be for the bricks-and-mortar-type companies, would you agree?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And those bricks-and-mortar companies, they have costs that you don't?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Do you have costs that they don't?

MR. NATHAN SLEE: Yes, I do.

MR. BOB PETERS: As example...?

MR. NATHAN SLEE: My challenge is in attracting customers. Bricks-and-mortar stores will have locations that actually serve as advertising, whereas I only have a web site that people will find or a phone number that they will find through advertising dollars that I'm spending.

So that's where my challenge lies; is getting people to visit our web site, getting people to call our phone number.

MR. BOB PETERS: And if the rate ceiling in Manitoba was increased to the twenty-five dollars ($25) or set at the twenty-five dollars ($25) that you're suggesting, how would that assist the customer in the time it takes to process an application?

MR. NATHAN SLEE: I think -- what I'm suggesting again is a rate that will encourage more competition. So if more competition comes in, those new companies are going to be highly motivated to deliver a product in -- in a way that's better than the companies that are already here. So, for an example, I mean we could talk about our own company.

Right now ,we can -- we -- about a year ago we invested a fair chunk of change in creating an email money transfer system and a fax-less application process in order to differentiate ourselves from our competitors.

So now we're the only firm that offer a truly fax-less application process in terms of all the direct lenders and that is -- it's been a huge win for us.

So what I'm suggesting is if the new firms going to enter, maybe they're doing it in the bricks-and-mortar model, they're going to come up with ways to serve the customer even better so that they can steal those customers from Money Mart, from Rentcash and from the other people who are in the market.

And I think the net beneficiary of that is the customer.

MR. BOB PETERS: Okay. Maybe I'm jumping ahead of myself here, Mr. Slee, and excuse me if I am. But when you "a fax-less product," that doesn't apply to those who apply over the telephone does it?

MR. NATHAN SLEE: Sorry. Yeah, I would have to give a little more background to the direct lenders. In order to qualify for a loan from us after you've applied, you have to then provide us with a bank statement and a void cheque and also sign our loan agreement form.

So, traditionally, the way that's been done is that the consumer will print out a copy of the loan agreement forms and then fax that back to the direct lender and we've come up with some electronic ways that allow the customer to do that completely paperless, completely digitally, so to speak.

For the phone people, they do have to still fax something in.

MR. BOB PETERS: If the rate ceiling was set above the competitive level at approximately twenty-five dollars ($25), as you're advocating, what flexibility would that give 310 in terms of the repayment options that a customer has?

MR. NATHAN SLEE: We are currently working on three (3) different differentiated products that we intend to test in, hopefully, as soon as January 2008, and for competitive reasons I can't get into the details of those.

I would be happy to share them with the Board confidentially, if they'd accept that. We think they're fantastic ideas that are -- are going to really improve our product and help us attract more customers. But again I don't want to -- I don't want to tip our hat on that one.

MR. BOB PETERS: All right. I'll -- I understand your answer, and we'll leave at that unless the Board will direct it otherwise at a subsequent time.

If the rate ceiling was set above the existing competitive level, at the twenty-five dollar ($25) number you've mentioned, would that cause 310-Loan to use debit card services?

MR. NATHAN SLEE: I would say debit cards are one thing that we have looked at because it would kind of give us a presence in the customer's wallet. But in the surveys that we've done, our customers prefer to get the funds directly deposited into their existing bank account than receive another debit card.

But, again, our model's quite different than the store front model.  So I -- and that's just in our direct lending experience.

MR. BOB PETERS:   The last item I want to mention here that you had in your direct evidence as to what 310 can see happening with either a -- with a -- with a  higher rate ceiling than the competitive rate, would the ability for additional entrance in the market which would lead to lower rates from some of them, correct?

MR. NATHAN SLEE:   That's right.

MR. BOB PETERS:   Help me understand and help the Board understand that argument and that submission; if your -- your hypothesis is that if more people come to Manitoba with payday loan industry -- in the payday loan industry, they would only get market share if they offered a lower price?

MR. NATHAN SLEE:   No; that's not necessarily correct.  They could differentiate themselves in a number of different ways.  Service -- I think all the things I've listed; not necessarily just price.

MR. BOB PETERS:   Is it your expectation then that if the rate ceiling was set above the competitive rate, that that would result in lower rates in

Manitoba?

MR. NATHAN SLEE: Yes, I believe it would. In combination, excuse me, with the disclosure requirements.

MR. BOB PETERS: Interesting point. If I go back to Appendix 'B' of your pre-filed evidence, there's a listing of the -- the rates that are charged by ten (10) or eleven (11) payday lenders in Manitoba.

Is it your suggestion to the Board that at the low end, Mogo can charge eighteen seventy-five (18.75) on a hundred dollars ($100) but Zippy Cash can charge thirty dollars ($30) because there's not a disclosure requirement?

MR. NATHAN SLEE: I think right now, and I've -- I've stated this already. I think it's very difficult for the customer to compare rates. Some companies disclose their rates in one (1) way, some may disclose it in other ways.

Rentcash has a -- a minus system, as they've described it. Money Mart has a -- the loan is due the day before your payday system. Other lenders use what's called "the plus system" where you -- if you borrow a hundred (100), and you're rate's twenty (20), you owe on twenty (20).

So, I think it's very difficult for

customers to really understand what the actual rates are in the market place and make decisions in that way. So I think customers are making their decisions for reasons other than the rate at this point.

MR. BOB PETERS: And in terms of the publication of rates, that will then cause -- that may be all the more reason to have a single rate as opposed to multiple rates. Would you agree with that?

MR. NATHAN SLEE: Can you elaborate on what you mean by multiple rates?

MR. BOB PETERS: Well, an all-in rate, let's use your twenty-five dollar ($25) example and that's all in for everything including loading up of debit cards, allowing for repayment over three (3) paydays as opposed to one (1). But it's all in, it's one fee, and -- and not pancaked fees where there's certain levels added on for different features.

MR. NATHAN SLEE: Right, I understand the question and, yes, I would -- I think the more straight forward you can make the fee the better, and if you can include everything in there, I think that would be great for the customer.

MR. BOB PETERS: And just before I leave your recommended rate of 25 percent, that -- and maybe because I haven't been here enough -- but that implies for a fourteen (14) day loan and the use of a hundred dollars ($100) over that fourteen (14) days?

MR. NATHAN SLEE: Well, that's how the product is mostly delivered today, but I -- I would believe that that rate would include anything within the sixty-two (62) days and fifteen hundred dollar ($1,500) range.

So it could be a two (2) month loan, and it would still be at twenty-five dollars ($25) for a hundred (100).

MR. BOB PETERS: All right. I thank you for that clarification then, and at -- at fourteen (14) days you'll acknowledge that the -- the APR of that calculation is 652 percent.

MR. NATHAN SLEE: Subject to check, yes.

MR. BOB PETERS: All right.

MR. NATHAN SLEE: Yes.

MR. BOB PETERS: Thank you. Is the -- would the Board be correct in understanding that currently 310-Loan charges average fees of twenty-four dollars ($24) and -- I'm sorry -- 24.26 percent?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: So you're almost at the 25 percent level in any event?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And again, subject to check, that's the approximately six hundred and thirty-two dollars ($632) of a -- an annual percentage rate?

MR. NATHAN SLEE: Yes.

MR. BOB PETERS: Am I correct that the rate that you charge in Manitoba is the same rate that you charge in every other jurisdiction in Canada?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Is it the same as every other jurisdiction in the United States?

MR. NATHAN SLEE: I believe so, yes.

MR. BOB PETERS: And are the terms in Manitoba the same terms as you offer in other jurisdictions, that is fourteen (14) days as an example?

MR. NATHAN SLEE: Yes, our product is the same across the board.

MR. BOB PETERS: And in terms of that product being the same across the board, that 24.26 percent that you talk about contains 22 percent of an administration fee?

MR. NATHAN SLEE: Yes, that's right.

MR. BOB PETERS: And the balance of it is the interest calculated at 59 percent per annum over the term of the loan?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And if I did the math properly, all of that would then be rolled into the 24.26 percent number?

MR. NATHAN SLEE: Yes, that would -- you're right, that would be a fourteen (14) day loan.

(BRIEF PAUSE)

MR. BOB PETERS: There's one (1) example I think the Board may benefit from your explaining in a bit greater detail, Mr. Slee, and that's found at the PUB questions to 310, second round, number 3.

MR. NATHAN SLEE: I should have it. Do you want me to have it with me?

MR. BOB PETERS: You might want to turn it up, please.

MR. NATHAN SLEE: Sorry, it was PUB number 2-3?

MR. BOB PETERS: Yes, sir.

MR. NATHAN SLEE: Okay, I've got it.

MR. BOB PETERS: And would I be correct in saying that 310's answer to PUB question 2-3, this is a numerical example of how 22 percent is the administrative fee and 59 percent per annum interest over the term of the loan is added on as the balance charged.

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: Can you explain to the Board where 310 sources its capital?

MR. NATHAN SLEE: We've been self-funding since 2002 probably, so we -- my partner would have put in some funds at the beginning when we started and we've grown with our own capital since then.

MR. BOB PETERS: Can the Board take from that answer, Mr. Slee, that -- that you don't borrow from any other institution?

MR. NATHAN SLEE: We have a line of credit, an operating line with -- with our bank and that's our only source of debt.

MR. BOB PETERS: So the equity's been injected by yourself and your partner?

MR. NATHAN SLEE: Just by my partner.

MR. BOB PETERS: And the operating line is there only on operating expenses or it also covers loans?

MR. NATHAN SLEE: That's -- it's -- it could be used for anything but no, right now we only use it for operating.

MR. NATHAN SLEE: In that 22 percent of administration fee includes a rate of return for 310, is that correct?

MR. NATHAN SLEE: That's correct.

MR. BOB PETERS: And in your answer to PUB, First Round Information Request, Number 1, you've suggested to the Board that there -- if the Board wants to calculate a rate of return for the industry, one of the ways to do that, and I've interpreted two (2) in your answer, but one is to pancake up various risk premiums and that's what you're suggesting here by adding a risk-free rate of return such as a long Canada bond?

MR. NATHAN SLEE: Yes, that's one (1) option.

MR. BOB PETERS: And then on top of that an equity risk premium, and then on top of that a small company risk premium, and then layered on top of that is a payday loan specific risk premium?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And you're not in the position to quantify the latter two (2), that is, the small company risk premium or the payday loan specific risk premium?

MR. NATHAN SLEE: No, I'm not.

MR. BOB PETERS: Have you any recommendations to the Board that if they wanted to go this route how they would quantify the risk-free rate of return?

MR. NATHAN SLEE: As I understand it, the risk-free rate of return is -- and actually maybe I should back up because I don't want to get myself into trouble on these concepts.

Basically this was -- when I got these questions, I went to my accountant and said, "Please help," and this was the formula that he put forth and basically I was presenting it to try to be helpful but I -- I really can't speak to it and that's why I, sort of, went off in a different direction.

MR. BOB PETERS: Okay. Well, thank you for that. And -- and the different direction that you went off in is to say to the Board, A second way to look at the rate of return would be to look and see what's out there already in the market at our -- the best comparisons?

MR. NATHAN SLEE: I did my best to do that, yes.

MR. BOB PETERS: All right. And maybe I'll end on this note, but on your Information Request 1, First Round Number 1-B, you've provided a risk scale from the highest risk to the lowest risk and that the lowest risk you put the Big 5 Canadian banks, or your accountant has.

Have I got that right?

MR. NATHAN SLEE: Yes. This was -- this

was my work and again, this is not really part of my day-to-day job, so I'm again trying my best here to put some ideas forward.

MR. BOB PETERS: And how did you determine that the Canada's Big 5 banks have a return of 19.32 percent?

MR. NATHAN SLEE: I asked Mr. Gaudreau to provide me with the formula that the Board wanted to use, and he suggested that it be net income before tax divided by equity plus long-term debt. And that's what I used.

MR. BOB PETERS: All right. And then when you came to the other one such as Rentcash, you went to their public filings?

MR. NATHAN SLEE: Yes, that's correct.

MR. BOB PETERS: And all of the other ones are all public -- they're all publicly traded?

MR. NATHAN SLEE: Yes.

MR. BOB PETERS: Then you're expecting the Board then to look at these comparisons and say, Well, based on these comparisons an appropriate number would be 25 percent, or some --

MR. NATHAN SLEE: I think I said -- I think I said 25 to 35 percent.

MR. BOB PETERS: Correct. Are you able to narrow your range of recommendation?

MR. NATHAN SLEE: Again, this is really outside my sort of realm of expertise. I think my argument before the Board is to set a rate that is above the competitive rate so that we could bring as much competition to the market for the consumers benefit.

So all my attempts on these ones again are, I mean, you know, just based on my sort of general knowledge and my Bachelor degree and this was the best I could come up with. So, I don't think I'll really be presenting as an expert on these topics.

MR. BOB PETERS: All right, well, thank you for that answer and, Mr. Chair -- Chairman, in light of the hour, this might be an appropriate time to stand down. And I'll review my questions and tidy up in first thing in the morning and then hand off to the next in line.

THE CHAIRPERSON: Thank you, Mr. Peters. Thank you, Mr. Slee. We'll see you tomorrow morning.

MR. NATHAN SLEE: Thank you.

THE CHAIRPERSON: We stand adjourned.

(WITNESS RETIRES)

--- Upon adjourning at 4:00 p.m.

Certified correct,

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Wendy Warnock, Ms.