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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  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
January 10th, 2008  
Pages 3461 to 3676

APPEARANCES

1  
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6 ) Payday  
7  
8 Antoine Hacault ) Rentcash Inc.  
9 Michael Thompson )  
10 Mona Pollitt-Smith )  
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12 Allan Foran ) Canadian Payday Loan  
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22 Steve Sardo ) Cash X  
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24 Kent Taylor (np) ) Progressive Insurance  
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1 --- Upon commencing at 9:19 a.m.

2

3 THE CHAIRPERSON: Okay. Good morning,  
4 everyone. Welcome to 2008. Mr. Williams, you look like  
5 you're reaching for the microphone.

6

7 COALITION PANEL:

8

9 DR. WAYNE SIMPSON, Resumed.

10 DR. CHRIS ROBINSON, Resumed.

11 DR. JERRY BUCKLAND, Resumed.

12 MR. JOHN OSBORNE, Resumed.

13

14 MR. BYRON WILLIAMS: Probably to  
15 apologize. First of all, Mr. Chairman, I'm sorry for the  
16 delay this morning. You'll -- we're glad to be back,  
17 we've missed you all terribly.

18 The -- just in terms of the panel of  
19 witnesses for the Coalition, I can just -- we've got four  
20 (4) of the August body here. Dr. Carter had a prior  
21 commitment; he is coming a bit later this morning.

22 And Ms. Friesen, when I talked to her  
23 yesterday, was all feisty, but I -- my understanding is  
24 she's suffering from a terrible migraine, so she might be  
25 a bit -- I'm not -- we'll check on her status at -- at

1 lunch or at noon -- excuse me, at the coffee break.

2                   If I could, the -- we had four (4) follow-  
3 up Undertakings from before Christmas. Two (2) of them  
4 I'm going to -- to defer. They're ready, but one (1) is  
5 the redacted notes and the -- I think, to assist  
6 everyone, they should be numbered.

7                   And that, hopefully, will assist Mr.  
8 Hacault. And he's been courteous enough to say that he  
9 could defer his cross-examination on that til this  
10 afternoon. So I think that would assist everyone.

11                   And the other one; Mr. Hacault had also  
12 had a question about comparing the results of the  
13 telephone survey of prices, table number 3 to the mystery  
14 shopping.

15                   And we do have a response to that. But  
16 part of that was prepared by Ms. Friesen, so I'd just  
17 like to review it over -- at the coffee break and then  
18 assist the Board in that way.

19                   But I do have two (2) Undertakings that we  
20 would like to share with the Board. So I'll ask Mr.  
21 Gaudreau to hand out both the letter to Mr. Williams --  
22 is it -- just one (1) second.

23

24

(BRIEF PAUSE)

25

1                   One is the letter to -- to Mr. Williams  
2 from Dr. Buckland, and the other one is a summary of the  
3 mystery shopping results. And I'll have the panel speak  
4 to -- to both of them.

5                   And, Mr. Chairman, while Mr. Gaudreau is  
6 patiently assisting me, and he's gone above and beyond  
7 the call this morning for which I thank him.

8                   We do have a -- a guest here today. And  
9 I'm going to do a disservice to her last name. Her first  
10 name is Caty. She's a new Canadian who's studying  
11 English as a second language at Red River college and  
12 she's interning with the Public Interest Law Centre,  
13 volunteering for the next couple of weeks.

14                   And she's been a great help already, so  
15 I'm glad to welcome her here. And I'll give the -- the  
16 Board her full name, because I can't pronounce it, sadly.

17

18                   (BRIEF PAUSE)

19

20                   Thank you so much, Mr. Gaudreau, and I'm  
21 sorry to have dropped that on you this morning.

22                   Dr. Buckland -- I guess, Mr. Chairman,  
23 perhaps I could recommend we give them exhibit numbers.

24                   THE CHAIRPERSON:     Yes, what is the next  
25 Coalition number?

1 MS. ANITA SOUTHALL: Good morning, Mr.  
2 Chairman. The first document, which would be a -- a  
3 letter from Mr. -- or pardon me, Dr. Buckland to Mr.  
4 Williams dated December 19, 2007 and attachments, would  
5 be Coalition-32.

6  
7 --- EXHIBIT NO. COALITION-32: Letter from Dr. Buckland  
8 to Mr. Williams dated  
9 December 19, 2007 and  
10 attachments.

11  
12 MS. ANITA SOUTHALL: And, secondly, the  
13 document entitled "A Summary of Mystery Shopping Results  
14 from Serving or Exploiting Report and Recommendations on  
15 Disclosure," which is a multi-page document. will be  
16 Coalition-33.

17  
18 --- EXHIBIT NO. COALITION-33: Document entitled 'A  
19 Summary of Mystery Shopping  
20 Results from Serving or  
21 Exploiting Report and  
22 Recommendations on  
23 Disclosure.'

24  
25 THE CHAIRPERSON: Thank you.

1 MR. BYRON WILLIAMS: Thank you as well,  
2 Ms. Southall.

3 Dr. Buckland, if I could just get you to  
4 turn your attention briefly to Exhibit Coalition 32,  
5 being the letter from you to myself dated December 19th.

6 My understanding was it was in response to  
7 an enquiry by the Chairman for a further breakdown of  
8 non- mortgage debt data.

9 Is that right?

10 DR. JERRY BUCKLAND: That's correct.

11 MR. BYRON WILLIAMS: I wonder if you  
12 could just briefly highlight the -- the -- what you have  
13 prepared in response?

14 DR. JERRY BUCKLAND: Yeah. Okay. So I  
15 wanted to just provide the limited breakdown information  
16 that -- that's available regarding debt, and just a  
17 reminder that what we had -- what I had presented was  
18 that the debt to income levels had been rising for the  
19 past twenty-seven (27) years. I think the latest data  
20 was 116 percent household debt to disposable income.

21 And so the question was, well how does  
22 that break down? It's different types of debt and,  
23 specifically, the mortgage debt, and I think I reported  
24 previously that the mortgage debt had -- as a proportion  
25 of total, had declined slightly. And then, well, what

1 about credit card and other types of debt?

2 So, just to kind of summarize the data  
3 that is available, I -- I'll just read some -- some  
4 portions of, I guess, paragraph 3 in that letter.

5 "I believe that credit card and  
6 installment debt includes all credit  
7 card debt, including credit cards from  
8 sub-prime lenders..."

9 Because I think that was a -- a question  
10 that the Board was interested in -- in identifying; if  
11 sub-prime lender credit was somehow separated out in  
12 these stats.

13 And I don't believe it is. So, on the one  
14 (1) hand, we've got credit card debt and we've got  
15 installment debt. So those could include both the, you  
16 know, mainstream bank credit cards, the retail store  
17 credit cards and the sub- prime lender credit cards.

18 And then the installment debt could  
19 include a variety of loans and I also mention Rent-to-Own  
20 as another kind of sort of fringe bank service.

21 So, in terms of the credit card debt, it  
22 rose from 3.2 percent of the total debt to 3.4 percent  
23 between 1999 and 2005. So a slight increase.

24 The other debt which includes, and I  
25 quote:

1                   "The amount owing on other loans from  
2                   financial institutions, unpaid bills,  
3                   et cetera."

4                   This row declined -- I'm sorry, declined  
5                   from 4.1 percent to 3.7 percent between '99 and 2005.  
6                   And, sorry, just a reminder, the two (2) data points we  
7                   have are 1999 and 2005 because it's from a survey on  
8                   financial security.

9                   And just sort of parenthetically -- I  
10                  thought this was interesting -- the line of credit debt  
11                  is one that showed a market increase from 5.7 percent of  
12                  the debt in 1999 to 9 percent in 2005.

13                  So, I -- I just wanted to kind of add, if  
14                  Chairperson Lane was interested in debt information  
15                  specifically related to sort of fringe bank or sub-prime  
16                  lenders, I don't think these data are currently available  
17                  from these data sets.

18                  This may be because these categories --  
19                  the fringe bank and the sub-prime lender category -- have  
20                  not been identified by Stats Can as a formal or major  
21                  categories for which they need to collect data.

22                  But I also wanted to add that there is,  
23                  from what I understand, a -- a committee that is looking  
24                  at the question of financial capability. That's the --  
25                  the concept that they're kind of focussing on --

1 financial capability among Canadians. And I would  
2 imagine this committee would be very interested to hear  
3 from the Board about the kinds of questions they're  
4 looking to answer. And, for instance, that question  
5 about payday lending on the survey for financial  
6 security, I think is the result of interest on the part  
7 of government parties, academics, et cetera, that have  
8 said to Stats Can, you know, We need more data on this.

9           So, I just wanted to say that if the Board  
10 was interested, I'm sure I could find the committee  
11 responsible and a contact person, because I think what  
12 you've done with the government cheque cashing, and now  
13 with the payday loan, you -- you've raised a lot of good  
14 questions and -- and need more data and I think they  
15 would be interested to -- to hear what you're looking  
16 for.

17           And -- and it does, in the end, affect  
18 organizations like Stats Can. They do listen. So that's  
19 sort of what I wanted to present.

20           MR. BYRON WILLIAMS: Thank you, Dr.  
21 Buckland. I'd ask you now to turn to the document marked  
22 as Coalition 33, which is titled "Summary of Mystery  
23 Shopping Results and Recommendations on Disclosure."

24           And, first of all, my understanding that  
25 this was in partial response to a -- a request from

1 counsel for Rentcash, who was seeking or -- or at least  
2 we had undertaken to provide some sort of consolidation  
3 of -- of ideas from the -- the Buckland et al in terms of  
4 the best way to give inform -- consumers information  
5 about the -- to assist in their purchase or in their --  
6 in their decisions.

7 Is that right, sir?

8 DR. JERRY BUCKLAND: Yeah, that's what I  
9 understand. Mr. Hacault, from the -- the lawyer for  
10 Rentcash, had asked some of us to look at this question  
11 of disclosure, and what are sort of some of the keys  
12 issues that we think have to do with the disclosure  
13 question.

14 And so what we thought we would do is we -  
15 - we'd go back to the mystery shopping results and --  
16 because that's really where, I think, we get most of our  
17 ideas about this disclosure question. So we wanted to  
18 sort of highlight those mystery shopping results first,  
19 talk about what we think are sort of some key principles  
20 about disclosure, and then make a couple of  
21 recommendations.

22 MR. BYRON WILLIAMS: Okay, and just -- if  
23 -- if you can just very quickly -- certainly, you don't  
24 need to read the document in, but if -- highlight at a  
25 high level what you were trying to do, and then if there

1 are some of your key recommendations, that would be  
2 helpful.

3 DR. JERRY BUCKLAND: And if I could just  
4 -- just very quickly re-summarize what we did in the  
5 mystery shopping. We did both in-person mystery shopping  
6 and, depending on how you count the numbers, we did  
7 twelve (12) in-person -- we called them "enquiry plus  
8 probe mystery shops."

9 We did four (4) loan mystery shops and  
10 four (4) extension mystery shops. So twelve (12) plus  
11 four (4) plus four (4) is twenty (20). And, in addition  
12 to that, we did a telephone call, which we -- I think  
13 referred to it as a kind of "quasi-mystery shop."

14 So that's another twenty (20) calls there;  
15 actually there was some triangulation on that one, where  
16 we called more than one (1), so it's actually more than  
17 twenty (20). But just to remind you that we've done  
18 roughly forty (40) of these mystery and quasi-mystery  
19 shops.

20 So, the -- the general kind of results  
21 from the mystery shopping; first of all, only a few  
22 lenders provided a definition of a payday loan and a  
23 general explanation of what a payday loan process -- how  
24 it -- how it works.

25 In terms of fee information; we found that

1 there was not written information about fees available at  
2 any of the outlets in terms of brochures, pamphlets,  
3 posters, videos, et cetera.

4           In five (5) of the twelve (12) cases, we  
5 did not receive the total fee for the initial loan or --  
6 in either lump sum or APR at the inquiry step. That was  
7 the first part of the first in-person mystery shop. We  
8 did the inquiry and then the probe.

9           So five (5) of twelve (12) cases, we  
10 didn't get that total fee; meaning in seven (7) of twelve  
11 (12) case we did. In some cases the fee information  
12 provided during the inquiry visit of the mystery shopping  
13 was incomplete. So, in four (4) cases we went on to do a  
14 loan and we found there were more fees in some cases.

15           In some cases the total fees to be paid  
16 would not be known by the customer until the final stages  
17 of actually taking out the loan occurred.

18           In some cases the fee seemed  
19 straightforward, but the formulas used in actually  
20 calculating the fees were not made clear, so it was not  
21 possible for the customer to accurately replicate the  
22 calculations of the fees. And this occurred with two (2)  
23 of the four (4) lenders that we went forward with the  
24 loan mystery shop.

25           Staff were not always knowledgeable about

1 fees. In -- in other words, they could not or did not  
2 give information about the fees, or they did not know how  
3 to calculate the total fees for a given amount borrowed.

4                   Now in terms of the loan rules -- like how  
5 the loans work and -- and the rules around the loans --  
6 we found in terms of the terms and condition -- terms  
7 and conditions of the loans, information provided about  
8 other rules, other than fees, about payday loans, like,  
9 for instance, the requirements to qualify, repayment  
10 deadline, charges incurred and options available, et  
11 cetera; that this information was incomplete at the  
12 inquiry stage, so the first step of the in-person.

13                   Personal information requirements vary by  
14 lender and, at some, seem to be excessive. Assurances of  
15 confidentiality provided by lenders seemed insufficient  
16 to the mystery shoppers.

17                   And -- and another point which was a very,  
18 I think, important point was that staff were generally  
19 polite. That was a -- a clear outcome. However, at some  
20 times we found that they weren't necessarily proactive  
21 about providing all the information necessary.

22                   So I wanted to just sort of step through  
23 those results, because that's really where we come up  
24 with -- okay, well then what are the principles here that  
25 we feel are needed to ensure good disclosure.

1                   So on page 3, we have key objectives of  
2 disclosure. So basically here we're saying that all  
3 payday lenders provide comprehensive written and verbal  
4 information in order that potential payday loan customers  
5 would not -- would -- sorry, would be able to quickly and  
6 easily understand fees and rules.

7                   The following information should be  
8 readily available from the outset of the consumer  
9 relationship:

10                   What a payday loan is and what the process  
11 involves.

12                   All the information that is required of  
13 them in order to qualify.

14                   All terms, conditions and fees associated  
15 with borrowing including information on the right to  
16 rescind.

17                   How the fees are calculated and, in  
18 addition, actual fee amounts for a set of standard loan  
19 sizes. For instance, the average loan size, maybe three  
20 hundred dollars (\$300) then some fraction and/or some  
21 multiple of that loan.

22                   And, of course, we realize with this,  
23 specifying the amount here might not make sense after the  
24 Board makes the decision about the fee scale, depending  
25 if they go for a tier or a rate. Because if it is a

1 tiered proposal, then it would be important to provide  
2 the loan fees for the different -- for examples of loans  
3 and the different tiers.

4                   Also, when the repayment is due, and the  
5 full implications, the fees and process if the consumer  
6 does not repay the loan when repayment is due.

7                   So those are sort of key objectives of the  
8 disclosure, and provide the information up front is what  
9 we're saying. Of course ,not all consumers are going to  
10 take it all in and process it all immediately. But it  
11 seems to us for a fair relationship, it needs to be there  
12 at the beginning.

13                   So then, in terms of specific -- specific  
14 recommendations -- I will not go through these in detail.  
15 We've got several there. We've broken them into  
16 categories in terms of the general explanation of the  
17 payday loan.

18                   It would be worthwhile to provide verbally  
19 and in written form, a clear simple definition, and we  
20 give an example -- something like a payday loan is an  
21 unsecured high cost small sum -- maximum \$1,500, short-  
22 term, 1 to 14-day loan, et cetera.

23                   So, to -- to be very clear about what -  
24 what is a payday loan?

25                   Secondly, regarding fees; all fees should

1 be combined into a total fee and expressed in a simple,  
2 consistent amount. And I know there's some debate;  
3 should it be a lump sum or an APR. I think -- I think  
4 maybe both pieces of information would be useful, myself.

5           And we've got some other points about  
6 fees, and then in terms of loan rules, we would want to  
7 recommend that full disclosure of all requirements to  
8 qualify and details of each be provided at the beginning,  
9 as well as some other points there under loan rules.

10           And then, finally, the agreements; we  
11 believe that blank copies of all agreements that the  
12 customer will need to sign should be made available to  
13 the potential customers, and written in clear and concise  
14 language.

15           And, actually, receipt of the loan; it  
16 should be clearly stated in writing exactly when the  
17 customer will receive the loan funds, and in what form  
18 they will come: cash, debit card, cheque in the mail, et  
19 cetera.

20           And just a couple of miscellaneous points;  
21 there are some good pieces of information out there. The  
22 FCACs "Cost of Payday Loans" is a useful brochure, and  
23 the Consumer Measures Committee report entitled,  
24 "Stakeholder Consultation Document on a Proposed Consumer  
25 Protection Framework for the Alternative Consumer Credit

1 Market" has some important comments about the disclosure  
2 question.

3 So that's all I wanted to say.

4 MR. BYRON WILLIAMS: Thank you, Dr.  
5 Buckland, and thank you for stepping in for Ms. Friesen,  
6 who I think had done a lot of the work on this. So I  
7 appreciate that.

8 And Mr. Chairman, we do have two (2) more  
9 Undertakings we will file either after the coffee break  
10 or at lunch. And I apologize for the delay, but I think  
11 the witnesses are ready.

12 THE CHAIRPERSON: Very good, Mr.  
13 Williams. Okay, over to you, Mr. Hacault.

14 MR. ANTOINE HACAULT: Thank you. Just as  
15 a matter of information, members of the Board, the last  
16 reference to the FCAC pamphlet; that pamphlet is found in  
17 Exhibit 4 of your materials that were filed initially and  
18 distributed to everybody. And a portion of it is also in  
19 the extracts that I've distributed this morning.

20 With respect to these recommendations,  
21 what we propose to do is to have a discussion after the  
22 Hearing to see how we can further these and, hopefully,  
23 come up with a joint recommendation between Rentcash and  
24 the -- the Coalition on these disclosure recommendations.

25

1 CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

2 MR. ANTOINE HACAULT: Dr. Buckland, in  
3 the report that was prepared and submitted to the Board,  
4 and specifically at page 38, there's reference to studies  
5 being needed and a lack of data with respect to the cost  
6 to individuals and society, depending on what loans are  
7 cut off with specific caps.

8 Do you believe it would be important to  
9 conduct such a survey to determine what clients want and  
10 whether clients believe they are well-served or  
11 exploited?

12 DR. JERRY BUCKLAND: Yeah, I think that  
13 what we found in -- in our research is that the studies  
14 of the actual impact of payday loans on the client are  
15 quite limited.

16 And, for instance, I know in the -- the  
17 last session in December, there was some conversation  
18 about the net present value calculation that I presented  
19 in my direct evidence where the scenario was that the  
20 person had borrowed two hundred dollars (\$200) to repair  
21 his car, and it cost thirty dollars (\$30) to -- to repay  
22 the loan at the end of the payday loan period.

23 And what I had done was I had imagine a --  
24 a narrative, essentially -- a story -- where instead of  
25 the -- the person paying off -- or if -- if the person

1 had waited for the two weeks to repair the car, and taken  
2 the bus, then, depending on the scenario that we -- we  
3 set up, he or she may have been better off because -- and  
4 -- and I know that Mr. Foran had very usefully pointed  
5 out that the scenario I had described had a limitation,  
6 because what he -- what he pointed out was that whether  
7 you take the payday loan or not, you have to pay for the  
8 car repair.

9                   And so, the -- the one point that I did  
10 want to make in -- in regards to Mr. Foran's point is  
11 that if you don't take out the payday loan, if you wait  
12 two (2) weeks for the -- to repair your car, you actually  
13 are thirty dollars (\$30) to the good. So instead of  
14 paying two hundred dollars (\$200) plus thirty (30) for  
15 the payday loan, you know, and -- and being required to  
16 pay two hundred and thirty dollars (\$230), you just pay  
17 two hundred dollars (\$200).

18                   So, I think Mr. Foran raised a very  
19 important point that my narrative was just that. It was  
20 a narrative. Nevertheless, you're better off, in my  
21 narrative, because you only have to pay two hundred  
22 dollars (\$200), because you didn't -- you don't have to  
23 pay the fees.

24                   So, but -- but my -- now, I wanted to  
25 answer Mr. Hacault's question, and that is that what

1 we're doing is we're -- we're spinning out narratives and  
2 stories which are -- are useful to -- to talk about to --  
3 to try to understand how payday loans are affecting  
4 clients.

5                   But they are -- they are narratives. They  
6 are stories. We're trying to figure out, okay, what are  
7 the likely assumptions and -- and affects that payday  
8 loans are -- are going to occur.

9                   And in my narrative, you're still better  
10 off to wait two (2) weeks, you know, based on the -- the  
11 assumptions that I made, than to take the payday loan  
12 under the -- the new scenario.

13                   But going back to Mr. Hacault; yeah, I  
14 think it would be very useful if the industry, you know,  
15 if Rentcash and other members of the industry, the -- the  
16 Canadian Payday Lender's Association, would undertake  
17 some serious analysis of how payday loans are affecting  
18 their clients.

19                   I mean, going back to the micro-credit  
20 phenomenon, and I think I made this distinction; that  
21 micro-credit internationally has been quite a -- a major  
22 -- has made quite a major impact in the -- in the world  
23 and Mohammed Yunus won the Nobel Peace Prize. And I  
24 think one (1) of the reasons why is because, well, first  
25 of all they are charging much lower APRs to start with,

1 usually they're non-profit, although increasingly it's  
2 gone into commercial banks.

3 But those organizations have readily  
4 wanted evaluation. They said, Yeah, you come and  
5 evaluate us, and not just industry evaluations, but  
6 third-party evaluations. Objective folks coming in and  
7 evaluating, yeah, how are these payday loans affecting  
8 clients? I think it's a very important thing that needs  
9 to be done.

10 MR. ANTOINE HACAULT: So am I wrong to  
11 summarize that what we don't have information about here,  
12 and you said they're narratives, is how severely  
13 consumers will be impacted by not letting the current  
14 product be provided to them. We don't have that  
15 information from consumers. The most important people we  
16 want to help, we don't have information about.

17 Is that correct, sir?

18

19 (BRIEF PAUSE)

20

21 DR. JERRY BUCKLAND: Well, what we -- we  
22 have only the facts, and the facts are that payday  
23 lending companies have grown in numbers and many  
24 Canadians have used them. So we can only seek to analyze  
25 how those customers have been affected by payday loans.

1                   We can't really do the counter-factual;  
2 what would happen if there were no payday lenders in  
3 Canada? It would be a difficult analysis to do given  
4 that they're here.

5                   I mean, I think the best place to start  
6 would be to say, Okay, how are they affecting Canadians?  
7 And let's do those studies.

8                   MR. ANTOINE HACAULT:    Yeah. But, for  
9 example, you said they're just scenarios, but if we had a  
10 -- a teacher that needed her car to go to work, and she  
11 couldn't use the bus because there's a lot of people that  
12 commute here in Winnipeg, and she needed a taxi. Instead  
13 of incurring the bus fees, she might have to incur, each  
14 and every day her car is down, a tax fee.

15                  That's a scenario. And for that person it  
16 would make a lot of sense to get a payday loan and pay  
17 the two hundred dollars (\$200) so she didn't have to pay  
18 a taxi every day for two (2) weeks, wouldn't it, sir?

19                  DR. JERRY BUCKLAND:   Well, I think what -  
20 - what is useful is to try and build plausible cases.  
21 And the -- the narratives that are, I think, more useful  
22 are plausible narratives where we make assumptions about  
23 what the standard payday loan client is -- is likely to  
24 do.

25                  And I think the data has shown that

1 there's a good chunk of payday loan clients who are not  
2 very well off. We don't know where they are in terms of  
3 LICO. We don't know that, but we know that there's a --  
4 there's a good chunk of folks who are not very well off.  
5 They're not likely to be taking a taxi. I think if  
6 they're getting to work, they're -- they're likely going  
7 to be taking the bus.

8                   So -- but, yeah, I mean I also agree with  
9 Mr. Hacault that, you know, under that scenario -- but  
10 then the question I'd have to ask is what proportion of  
11 payday loan clients are going to be taking a taxi to --  
12 to work. I don't think there's a big -- big number of  
13 them.

14                   MR. ANTOINE HACAULT: I don't want to get  
15 into all the data that we have, but the best data we have  
16 has been produced by the CPLA and I had actually been  
17 surprised. When I had come into this Hearing, I had  
18 assumed -- as many people on the street, I think, assume  
19 -- that it's low-income people that use this product.

20                   But there were as many people over a  
21 hundred thousand dollars (\$100,000) using the product as  
22 there were below twenty thousand dollars (\$20,000),  
23 according to the surveys.

24                   So, the bottom line is we don't know how  
25 those consumers would react. Somebody at a hundred

1 thousand dollars (\$100,000) may very well want to take a  
2 taxi, wouldn't they, sir?

3

4 (BRIEF PAUSE)

5

6 DR. WAYNE SIMPSON: Well, you're asking  
7 questions now about the CPLA survey or you're posing  
8 questions based on the CPLA survey so --

9 MR. ANTOINE HACAULT: Well, my question  
10 was to Dr. Buckland as to whether that might be a  
11 scenario, and we don't know anything about that because  
12 there hasn't been any studies. That was the point of my  
13 question.

14

15 (BRIEF PAUSE)

16

17 MR. BYRON WILLIAMS: Just a minute.  
18 Just in terms of I'd ask the witnesses to be responsive  
19 to Mr. Hacault's question. If you disagree with the  
20 premise, you can certainly say that, but let's just  
21 respond if you -- if you can.

22 DR. JERRY BUCKLAND: Okay. So, the --  
23 the data that I'm relying on, I guess, most heavily are  
24 the -- the national data sets and that would be the  
25 survey on financial security, the FCAC data sets, and I

1 think also the CPLA study from 2004 that are showing that  
2 payday loan clients are, more typically, lower income  
3 than the average Canadian. So I'm thinking -- I'm  
4 drawing on that from my plausible story.

5                   So I'm not -- I'm not disagreeing with  
6 you, Mr. Hacaault. I think there are some wealthy people  
7 who are using payday loans. I mean, clearly, and -- and  
8 to generalize, to -- to try and overgeneralize I think  
9 would be a mistake. So, yeah, sure, there's going to be  
10 some payday loan clients who earn a hundred thousand  
11 (100,000) a year and will possibly take a taxi. And for  
12 them, the -- taking out the loan would make sense.

13

14 CONTINUED BY MR. ANTOINE HACAULT:

15                   MR. ANTOINE HACAULT: Another thing we  
16 haven't done in this Hearing is we haven't or you haven't  
17 asked consumers how they would feel if a certain service  
18 was cut or certain longer-term loans or certain riskier  
19 loans were no longer available to them.

20                   We haven't asked consumers what they think  
21 about that, have we?

22                   DR. JERRY BUCKLAND: We didn't undertake  
23 any kind of national surveying. We are simply reporting  
24 on what we read from the national surveys we identified.  
25 So -- and -- and to answer your question, I have not seen

1 that. Again, it's -- it's a kind of counterfactual  
2 question which is always difficult to -- to ask because  
3 people then have to think, okay, what I do if -- but,  
4 nevertheless, I have not seen that question asked.

5 MR. ANTOINE HACAULT: Okay. Thank you.  
6 Now, you draw from Robert Mayer's paper quite extensively  
7 in your September 17 written presentation.

8 Do you just agree with some of his  
9 theories and recommendations, or do you agree with his  
10 conclusions and his recommendations in general?

11 DR. JERRY BUCKLAND: Yeah, I -- I think I  
12 understand your question, and the -- the reason why I  
13 think Robert Mayer provides a useful service to the Board  
14 is because I thought he encapsulated in two (2) concepts  
15 that he defined -- the -- the sufficiency and the  
16 relative advantage exploitation -- the -- the thing  
17 that's caused so much controversy about payday loans.

18 And it -- it seems like in the US, because  
19 they've been around longer and there's more of them, the  
20 controversy maybe has become better articulated in -- in  
21 documents. I mean, it's just very controversial and it  
22 seems the sufficiency exploitation where the question of  
23 is it poor people who are paying more for services that  
24 rich people pay less for. You know, that kind of idea.

25 And then the relative advantage

1 exploitation -- the idea of people getting kind of  
2 trapped into back-to-back loans. Those -- in my reading  
3 of the literature those two (2) problems seem to have  
4 really created the controversy.

5                   So that's why I liked Mayer; that he --  
6 I -- I appreciate that what he did was he take -- he  
7 looked at -- he scanned the literature, he said, These  
8 are two problems out there. Let's pull them out, let's  
9 name them, let's describe them, and then let's ask, okay,  
10 is this -- you know, is -- is this the case?

11                   So I -- that's why I liked his -- his  
12 work. Because he identified controversies and he named  
13 them and -- and he described. And I don't think anyone  
14 else -- I haven't seen anyone else that's done it quite  
15 so succinctly.

16                   MR. ANTOINE HACAULT: I'm not too sure  
17 that you understood my question. My question was whether  
18 or not you agreed only with that part of his analysis, or  
19 whether you agreed with his conclusions and analysis  
20 generally.

21                   DR. JERRY BUCKLAND: Okay, and I -- and I  
22 remember in the rebuttal -- I think it was the rebuttal  
23 report from Rentcash that you pointed out that Mayer does  
24 not support or recommend rate caps. He's more concerned  
25 with relative disadvantage exploitation, and he concludes

1 that rate caps aren't justifiable.

2                   So -- so I -- I think that's where you're  
3 going. What -- what I think is that we've got a  
4 particular situation here in Canada, and we've got a  
5 particular reality here in Manitoba. And I believe that  
6 the conclusions that we make in the serving or exploiting  
7 report are consistent with, then, the conclusions that  
8 Chris Robinson's made about the rate cap. And I think  
9 Dr. Robinson has clarified that they're not that far off  
10 what the CPLA or, I should say, Dr. Gould is recommending  
11 as rate caps.

12                   So I guess what -- what I'm trying to --  
13 to do is to answer your question. No, I don't agree with  
14 Mayer's ultimate conclusion about the rate cap question.

15                   MR. ANTOINE HACAULT: Okay. Could I ask  
16 the Board Secretary to distribute -- I took extracts from  
17 the papers that you had referenced in your material so  
18 that we could look at that specific issue. So there's  
19 two extracts that I've taken and can be distributed, I  
20 believe.

21                   I don't know what Exhibit number it's been  
22 given.

23

24

(BRIEF PAUSE)

25

1                   MR. ANTOINE HACAULT:    I believe that it's  
2    been given Exhibit number 27.

3

4                                   (BRIEF PAUSE)

5

6                   THE CHAIRPERSON:    We'll just accept it's  
7    number 27 until we check it out.

8                   MS. ANITA SOUTHALL:    Yes, it is.  Thank  
9    you.

10

11                                   (BRIEF PAUSE)

12

13                   MR. ANTOINE HACAULT:    Now, if we turn to  
14    --

15                   MR. BYRON WILLIAMS:    Mr. Hacault, it's  
16    certainly quite appropriate that you've shared these  
17    because these are already on the record.  Just -- I just  
18    want to make sure that the witness has had a chance to  
19    just look through the documents for a couple minutes,  
20    because he's filed a fair bit of information on this  
21    record, so -- hundreds of pages -- so it might be helpful  
22    just to give him a chance to peek at it for a couple  
23    minutes, if you would?  Thank you.

24

25                                   (BRIEF PAUSE)

1 MR. BYRON WILLIAMS: Thank you for your  
2 patience, Mr. Hacault. The witnesses are ready.

3

4 CONTINUED BY MR. ANTOINE HACAULT

5 MR. ANTOINE HACAULT: You struck a little  
6 bit of curiosity on my part when you said there's, I  
7 believe, something to the effect you said, well, there's  
8 a particular reality in Manitoba with respect to payday  
9 loans which doesn't exist in the US

10 I haven't copied the entire paper, but at  
11 the top of page 22 it indicates:

12 "Payday loans are marketed as a way for  
13 cash-strapped workers to get out of  
14 short-term financial jam, but when  
15 loans are rolled over again and again  
16 they become the jam from which  
17 borrowers cannot escape."

18 I think there's general agreement in -- in  
19 this hearing that rollovers should be banned. Is this a  
20 particularity to Manitoba or US -- this writer seems to  
21 think it's applicable both in the US, and you -- do you  
22 think it's applicable here?

23 What's particular about Manitoba in that  
24 regard?

25 DR. JERRY BUCKLAND: I was thinking more

1 about the -- the way in which government and government  
2 legislation and government policies operate in Canada as  
3 being different from the US. So I was thinking more on  
4 the -- the government side, not as much about the -- the  
5 payday loan consumer side.

6 I -- I mean, just one (1) difference that  
7 I believe is clear -- or I shouldn't say difference --  
8 one (1) noted characteristic about payday loans in the  
9 US is that there is a disproportionate use of payday  
10 loans in the US by minority Americans; people of colour,  
11 Hispanic, African-American people. We don't have that  
12 data for Canada.

13 So I don't know if it's different than  
14 Canada, but I -- I know that has been identified in -- in  
15 the US.

16 MR. ANTOINE HACAULT: When you talk about  
17 difference in policy, about half of the states in the  
18 United States of America don't regulate and the others do  
19 and they set cap rates, and we had gone through in the  
20 evidence, at least one (1) of the provinces here decided  
21 not to regulate, but that the Minister of this Province  
22 indicated it wasn't his intention to drive companies out  
23 of business.

24 Is that the policy that you're talking  
25 about, is that we shouldn't be driving any of the

1 companies in business here out of business?

2 DR. JERRY BUCKLAND: I Was thinking even  
3 more abstractly. I was thinking that the way -- and --  
4 and we have a parliament, they have a congress, they have  
5 states with certain powers, we have provinces with  
6 certain powers.

7 So I'm -- I'm sorry if that kind of led  
8 you in -- in a direction that -- I don't think I was  
9 trying to make a point about where the regulations are  
10 going in terms of payday loans right now.

11 MR. ANTOINE HACAULT: Okay. On that  
12 point though, given that you've raised the policy issue,  
13 I've also provided to the Board Secretary a document  
14 which is a press release by the Minister Salinger on  
15 March 13 of 2006.

16 I don't believe it's been distributed yet.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: So this is another  
21 statement by the Minister, and it's -- there's parts of  
22 it that are underlined and I'll quote it. Sorry, what's  
23 the exhibit number?

24 MS. ANITA SOUTHALL: Rentcash 25.

25

1 --- EXHIBIT NO. RENTCASH-25: Press release by Finance  
2 Minister Salinger, on March 13, 2006.

3

4 MR. BYRON WILLIAMS: Could -- could I  
5 just clarify; it was described as a "press release." It  
6 -- it looks like a news story.

7 Is -- is that correct? Is this from the  
8 CBC web site?

9 MR. ANTOINE HACAULT: It's from the CBC  
10 website so it might not be a news release. It might be--

11 MR. BYRON WILLIAMS: A report?

12 MR. ANTOINE HACAULT: -- a report and --

13 MR. BYRON WILLIAMS: Thank you.

14

15 CONTINUED BY MR. ANTOINE HACAULT:

16 MR. ANTOINE HACAULT: -- they seem to be  
17 quoting, because it's in quotation marks, Salinger's  
18 statements with respect to this.

19 And he talks about protecting consumers  
20 while respecting some Manitobans choice to use payday  
21 lenders. And then talks about research in the community  
22 and that some people using the service are paying what  
23 they consider to be -- are paying what they consider to  
24 be exorbitant rates of interest with no real regulation.

25 And then in the following paragraph, and

1 I'm quoting:

2 "The intention is not to drive the  
3 companies out of business because  
4 people are showing an interest in  
5 having this service, but to make sure  
6 that when they offer the service they  
7 do it in a way that's just and  
8 reasonable."

9 Now, we saw Mr. Gerry Charlebois -- a very  
10 humble, very simple man -- says that it takes him -- I  
11 forget what the number was exactly -- twenty-five (25) or  
12 twenty-six dollars (\$26).

13 He's shown his financials to the Board.  
14 He certainly talked about people being very appreciative  
15 of the service that he provides; getting thank you cards.

16 You'll agree that your proposal is going  
17 to knock him out of the industry.

18 DR. JERRY BUCKLAND: Well, if I could  
19 comment on my understanding of this quote about Minister  
20 Salinger first. My understanding is that -- I mean, my  
21 interpretation is that Minister Salinger wants a payday  
22 loan industry, and he's asked the Public Utilities Board  
23 to now set a cap for the -- the various components of the  
24 payday loan fees.

25 And the Public Utilities Board then has

1 that responsibility to determine how to achieve the basic  
2 goals that he has set out. And I think, as Dr. Robinson  
3 has -- has shown in his presentation, the payday -- the  
4 payday loan industry is rapidly changing.

5                   And -- and -- I mean, we know that. I  
6 mean it's grown very rapidly in the last five (5) to ten  
7 (10) years from virtually being non -- you know, non-  
8 existent. So it's rapidly changing and now Advance  
9 America has, I believe, six (6) or eight (8) outlets in  
10 Manitoba under Nation Cash Advance.

11                   And the Public Utilities Board has this  
12 mandate to set the cap, and I understand that Minister  
13 Salinger wants the payday loan companies to be able to  
14 provide this service.

15                   So, I -- I understand that there are some  
16 payday loan companies that charge fees that are higher  
17 than the rate caps that have been proposed, for instance,  
18 by the -- the CPLA.

19                   I think there are some payday loan  
20 companies that charge higher than that. And there are  
21 some payday loan companies that charge higher than the  
22 rate cap proposed by Dr. Robinson.

23                   And I guess the -- the question then is  
24 where is the public interest protected, and in my mind  
25 it's protected where the Board sets a cap that ensures

1 there's a viable industry and no firm can charge a fee  
2 that's too high.

3                   And so I feel -- I mean, there's an  
4 emotional side to me, yeah. I -- I think it's  
5 unfortunate if there's some payday lenders that are very  
6 small who have to leave the industry.

7                   But, on the other hand, I think that this  
8 is a very complicated product. It's not selling shoes.  
9 You know, it's not renting DVDs. This is -- this is a  
10 loan, this is a credit relationship, and I think it's  
11 more important that the -- the firm that charges high  
12 fees, maybe they can retool and maybe they can learn  
13 from, you know, their competitors.

14                   I mean, maybe they can go and talk to some  
15 of the -- -- the players in this room and -- and, you  
16 know, learn from them what -- what they're doing -- not  
17 all the players but some of the players -- learn from  
18 them and -- and, you know, follow a strategy that's going  
19 to provide the service at a lower fee.

20                   But I think it's in the public interest to  
21 provide the payday loan service at a reasonable fee.

22                   MR. ANTOINE HACAULT:    So you're  
23 suggesting that Mr. Charlebois isn't charging a  
24 reasonable fee compared to his efforts to control costs  
25 and provide a service in that northern community?

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: It might be unfair.  
4 Mr. Charlebois hasn't had his evidence tested under cross  
5 examination. I'm not sure Dr. Buckland or Dr. Robinson  
6 or anyone's really studied his evidence.

7 I know Dr. Buckland and Robinson have  
8 looked at Advance America; they looked at Money Mart, and  
9 -- and that, certainly, they've got recommendations. So  
10 I leave it up to the witnesses. If they feel that they  
11 can fairly address it and if they've got enough  
12 information, they can. I suspect they haven't looked at  
13 the issue very hard.

14

15 (BRIEF PAUSE)

16

17 DR. CHRIS ROBINSON: Good morning. Nice  
18 to be back in Winnipeg. I'm the one who did the  
19 determinations of costs and relative to who -- who might  
20 or might not suffer under these alternatives.

21 Now, it's -- we're -- we're of course very  
22 appreciate of Mr. Hacault's concern for firms other than  
23 his own client.

24 The -- yes, it is quite possible that Mr.  
25 Charlebois or other small operations will not continue.

1 The reason for that, however, doesn't lie in the rate  
2 cap; it lies in the volumes -- that they're simply too  
3 small to operate efficiently. It's not that they're not  
4 working harder, trying to work hard.

5 In addition, with all respect, Mr.  
6 Chairman, I think that Mr. Hacault is making an  
7 assumption in all of his questions. The statement that  
8 he is making, as if it were evidence, is that the --  
9 anything that the Coalition is recommending would, in  
10 fact, prevent the provision of payday lending services.

11 But that is, in fact, not true, at least  
12 according to our evidence. That is, the payday lending  
13 service will continue to be provided; they just may not  
14 be provided by Mr. Charlebois specifically. The Board  
15 has already heard from Mr. Slee, and, in fact, there are  
16 many Internet payday lenders.

17 There are many lenders operating over the  
18 telephone, and I have given examples of how payday lending  
19 can be combined with other businesses so that while, like  
20 Mr. Buckland, I would -- you know, you always don't want  
21 to see any small businessman fail or have to exit a  
22 business.

23 That's not the point of the Coalition's  
24 evidence and the Coalition's assumptions. It is that  
25 we're providing a service. And Mr. Charlebois is merely

1 one of many people who might provide that service.

2

3 CONTINUED BY MR. ANTOINE HACAULT:

4 MR. ANTOINE HACAULT: Thank you for you  
5 answer. It was a question arising out of a statement by  
6 Dr. Buckland on reasonableness, but I can -- I'll save my  
7 cross-examination questions for Dr. Robinson to another  
8 time.

9 But people in Thompson don't necessarily  
10 all have computers. Does he know that everybody has  
11 computers out there? Does he know -- has he talked to all  
12 the consumers of this particular company to see whether or  
13 not they're going to be able to access the service. Does  
14 he know that --

15 MS. ANITA SOUTHALL: Sorry, Mr. Hacault,  
16 are you asking a question?

17

18 CONTINUED BY MR. ANTOINE HACAULT:

19 MR. ANTOINE HACAULT: So getting back to  
20 the Mayer report or article; Mayer's view is that not all  
21 payday loan consumers are addicts.

22 Do you agree with that?

23 DR. JERRY BUCKLAND: I am not aware of  
24 surveys that have asked payday loan clients if -- IF they  
25 are addicted. And, actually, I -- I'm not sure about if

1 we're referring to addiction to -- to the -- I think we're  
2 referring to addiction to the payday loan, and I haven't  
3 seen a definition of "addiction."

4                   Now, we do have that piece of data from the  
5 FCAC study that found that 26 percent of those who use  
6 payday loan or cheque cashing services use them at least  
7 once a month.

8                   And, of course, we know that the one-eight  
9 -- sorry, one-eighth (1/8th) of those --

10                   MR. ANTOINE HACAULT:    Can I just interrupt  
11 you there because one (1) thing -- and I think I'll be  
12 getting to it -- that's causing a lot of confusion in  
13 their Hearing, is the FCAC report talks about two (2)  
14 different products:  cheque cashing and payday loans.  And  
15 it's pretty explicit that there are different consumer  
16 profiles for each category of consumers.

17                   So I think using statistics, would you  
18 agree, that lump them both together isn't necessarily an  
19 accurate statistic?  And we can get into more detail on  
20 specific questions later on that.

21                   DR. JERRY BUCKLAND:    Well, what Dr.  
22 Simpson identified was that only one-eighth (1/8th) of the  
23 clients who are using payday loan or cheque cashing  
24 services; only one-eighth (1/8th) of them said that they  
25 use cheque cashing.  And -- frequently -- yeah -- and so

1 seven-eighths (7/8th) of those who are using payday loan or  
2 cheque cashing services frequently are using payday loan  
3 services.

4                   And -- and that's once a month or more.  
5 And so, you know, if by "addiction" we mean twelve (12)  
6 times a year, then that data source suggests that up to 26  
7 percent minus one-eighth (1/8th) are addicted, but I have  
8 not -- I would not use the term "addict." I don't think  
9 that's a helpful term myself.

10                   MR. ANTOINE HACAULT: Do you agree that  
11 some of the consumers avoid becoming captive buyers?

12                   DR. JERRY BUCKLAND: Yes.

13                   MR. ANTOINE HACAULT: Do you agree for  
14 that group that low rate caps cut off a source of short-  
15 term help for which there may no -- be no satisfactory  
16 alternative?

17                   DR. JERRY BUCKLAND: Not if the scenario  
18 that has been presented by Dr. Robinson where the low-cost  
19 providers essentially take over the markets that have  
20 previously been provided by the high-fee providers.

21                   MR. ANTOINE HACAULT: So that assumption  
22 and speculation has to be true if you're going to reject  
23 this statement?

24                   DR. JERRY BUCKLAND: The -- the scenario  
25 that Dr. Robinson's described is -- is flowing from

1 analysis based on cost data from the -- two (2) of the  
2 bigger firms -- Money Mart and Advance America -- and then  
3 the opening up of Advance America in Manitoba.

4 MR. ANTOINE HACAULT: Okay. Well, I'll  
5 have to deal with that with Dr. Robinson separately given  
6 that's his -- it's his evidence.

7 Do you agree with his statement further  
8 down on page 22 that it seems better to keep the business  
9 legal; let the market determine the fee structure, but  
10 curb rollovers to prevent extended exploitation of cash-  
11 strapped people?

12 DR. JERRY BUCKLAND: I think -- okay, the  
13 second point, rollovers, yes, absolutely, but I think it's  
14 more complicated than just rollovers. Because I think  
15 what we've tried to point out is that there's also repeat  
16 borrowing, and that's -- I mean, that's been defined  
17 differently. So it's not just rollovers we need to be  
18 carefully looking at. We need to be looking at repeat  
19 borrowing.

20 On the question of rate caps -- no, I don't  
21 agree with Dr. Mayer. I -- I think that the  
22 recommendation we're making is -- is a reasonable  
23 recommendation. There are benefits in costs, but I think  
24 the benefits outweigh the costs.

25 MR. ANTOINE HACAULT: So although you

1 follow his analysis throughout with respect to the  
2 relative exploitation and sufficiency exploitation, you  
3 depart at the end with respect to his conclusions, which  
4 I'm quoting at page 23, and it's underlined:

5                   "But not every unsavoury business should  
6                   be illegal. Exploitive transactions can  
7                   enhance the well-being of the  
8                   disadvantaged. That is the case with  
9                   payday loans as long as they remain  
10                  short term. Rollovers should,  
11                  therefore, be curbed to prevent  
12                  borrowers from becoming captive buyers  
13                  but fees should not be capped. Low cap  
14                  fees merely close off a source of short-  
15                  term help for the working poor without  
16                  providing a satisfactory substitute."

17                  You disagree with that conclusion?

18                  DR. JERRY BUCKLAND: Yes, and I that what  
19 Mayer has really done is helped us with defining some --  
20 some problematic practices.

21                  MR. ANTOINE HACAULT: Flipping on in that  
22 document, there's a second paper that was prepared by Mr.  
23 Mayer in 2004.

24                  In the introduction, on page 76, he  
25 indicates -- and this is an American paper -- that fees

1 typically range from fifteen (15) to thirty dollars (\$30)  
2 per every hundred dollars (\$100) lent.

3 Do you have any information to say that  
4 that would be an inaccurate statement?

5 DR. JERRY BUCKLAND: No, I don't.

6 MR. ANTOINE HACAULT: Flipping on to the  
7 next page photocopied, page 81. This particular paper was  
8 analyses to whether payday loan debtors were affected by  
9 payday loans. And the conclusion, as I understand it, was  
10 that they would go bankrupt sooner with less debt.

11 Do you see that? It's the second line --

12 DR. JERRY BUCKLAND: Yes.

13 MR. ANTOINE HACAULT: -- in the first  
14 portion that's --

15 DR. JERRY BUCKLAND: Yeah, I do.

16 MR. ANTOINE HACAULT: -- outlined in -- so  
17 he's concluding after all their misery must be reduced and  
18 less debt will -- I guess it should say, "will be written  
19 off," which is good for business and consumers.

20 Do you agree with this conclusion?

21 DR. JERRY BUCKLAND: I believe that his  
22 conclusion is flowing from a -- a particular study, and if  
23 you could give me a few minutes to read at least the  
24 introduction, then I could comment more, I think, usefully  
25 about how that study may or may not be generalizable.

1                   But could -- could you give me like two (2)  
2 minutes to read the intro?

3                   MR. ANTOINE HACAULT:    Absolutely.

4                   MR. BYRON WILLIAMS:    And if I could, just  
5 -- and this is not any fault of Mr. Hacault -- my  
6 understanding is this is something that's on -- on the  
7 record from -- but we're missing at -- there's only pages  
8 76 and 81, and the data and methods flow in pages 77, et  
9 cetera.

10                   So if Mr. Hacault has a more complete copy  
11 nearby, that would allow Dr. Buckland to look at the data  
12 methods.  That might be helpful too.

13                   MR. ANTOINE HACAULT:    I'm not looking for  
14 general data methods --

15                   MR. BYRON WILLIAMS:    Except for in  
16 fairness to the witness, if he's going to give you a -- a  
17 response which we would like to be helpful, he may want to  
18 look at -- to understand the methodology a little bit,  
19 because as I understand his answer to date, it's  
20 conclusions drawn from one particular study.  So I think  
21 in -- in fairness, he might want to look at the  
22 methodology.

23                   MR. ANTOINE HACAULT:    Well, if he can't  
24 comment, I'll move on.  It -- they were copies from papers  
25 that he quoted and that were provided by -- kindly by you,

1 Mr. Williams.

2 And then next on page 81, I -- if I could  
3 follow up with my questions.

4 MR. BYRON WILLIAMS: Mr. -- yeah, and Mr.  
5 Hacaault, just -- if Dr. Buckland feels that after  
6 reviewing the introduction, he can give an answer -- maybe  
7 I jumped in too soon, for which I apologize -- you can --  
8 if you'd like to look at the data and methods and then  
9 comment later, that certainly -- I think I would recommend  
10 that if you feel that.

11 DR. JERRY BUCKLAND: Yeah, I'd like to  
12 comment later, if -- if possible.

13

14 CONTINUED BY MR. ANTOINE HACAULT:

15 MR. ANTOINE HACAULT: In the second  
16 paragraph on which there's a line on the left hand side,  
17 Mr. Mayer -- and I'm reading in the second sentence right  
18 after it says, "Mayer, 2003", he indicates:

19 "People in need of emergency cash will  
20 try and get it somewhere, and it is  
21 better for them if that source is legal  
22 and regulated."

23 Do you agree with that?

24 DR. JERRY BUCKLAND: Yes.

25 MR. ANTOINE HACAULT: And then he gives an

1 example.

2 "If he borrow two hundred and fifty  
3 dollars (\$250) for two (2) weeks and  
4 pays fifty dollars (\$50) for the  
5 service, he's paid a hefty price. That  
6 cost by itself will not drive me or  
7 anyone into bankruptcy."

8 Do you agree with that statement?

9 DR. JERRY BUCKLAND: Yes, yes.

10 MR. ANTOINE HACAULT: And then he seems to  
11 conclude that it's the rollover of the loan on a repeated  
12 basis that may be a contributing factor that may have some  
13 causation to threat of bankruptcy.

14 DR. JERRY BUCKLAND: Well the -- yeah, the  
15 repeat loan, the rollover loan and then the large size of  
16 the fee to -- to begin with can cause a household to -- to  
17 move into a kind of financial crisis.

18 MR. ANTOINE HACAULT: Now, in your work  
19 you also quote the author Stegman quite extensively.  
20 There's also extracts of what you've quoted that I've  
21 provided to the Board Secretary which he will distribute  
22 now I believe.

23

24 (BRIEF PAUSE)

25

1 MR. ANTOINE HACAULT: Is this an  
2 appropriate time for a break?

3 THE CHAIRPERSON: Sure. We'll take a  
4 mid-morning break now.

5  
6 --- Upon recessing at 10:25 a.m.  
7 --- Upon resuming at 10:44 a.m.

8  
9 THE CHAIRPERSON: Okay. Welcome back  
10 everyone. Mr. Hacault, the Panel is ready for you.

11  
12 CONTINUED BY MR. ANTOINE HACAULT

13 MR. ANTOINE HACAULT: Thank you very much.  
14 The next article that should have been  
15 distributed is an article that you, Dr. Buckland, referred  
16 to in your paper. It's entitled "Payday Lending." It was  
17 published in the Journal of Economic Perspectives in the  
18 winter of 2007.

19 And I direct your attention to the first  
20 page where, in the introduction once again, this American  
21 author indicates that fees charged on payday loans  
22 generally range from fifteen (15) to thirty dollars (\$30)  
23 on each hundred dollars (\$100) advanced.

24 You see that?

25 DR. JERRY BUCKLAND: Yes, I do.

1 MR. ANTOINE HACAULT: You don't have any  
2 information to contradict that?

3 DR. JERRY BUCKLAND: I don't.

4 MR. ANTOINE HACAULT: And flipping onto  
5 the next page, what was of interest to me in this article  
6 at page 185, which has been photocopied, is the loss rates  
7 that are reported by this author.

8 You see that midway through the full first  
9 paragraph there are loss rates for publicly traded loan  
10 companies?

11 DR. JERRY BUCKLAND: Yes, yes, I do.

12 MR. ANTOINE HACAULT: Okay. So that Ace  
13 Cash Express is at 4.5 percent.

14 Do you see that?

15 DR. JERRY BUCKLAND: Yeah. Yes, I do.

16 MR. ANTOINE HACAULT: And Advance America  
17 -- that's the company that's plunging into the Manitoba  
18 market -- is shown at 4 percent, which is pretty  
19 consistent with what Robinson -- Dr. Robinson had  
20 reported. Correct?

21 DR. JERRY BUCKLAND: Yes, that's right.

22 MR. ANTOINE HACAULT: And Cash America's  
23 at 4.6 percent?

24 DR. JERRY BUCKLAND: Yes, that's what he's  
25 reporting.

1 MR. ANTOINE HACAULT: And Easy Pawn is  
2 higher. It's seen some of the numbers that Rentcash has  
3 seen; 6.2 percent.

4 Do you see that?

5 DR. JERRY BUCKLAND: I see that.

6 MR. ANTOINE HACAULT: And then he reports  
7 on two (2) other companies, First Cash Financial Services  
8 with a loss rate of 3.6 percent.

9 Is that correct?

10 DR. JERRY BUCKLAND: That's what he's  
11 reported.

12 MR. ANTOINE HACAULT: And, finally, QC  
13 Financial at 4.2 percent.

14 Is that correct?

15 DR. JERRY BUCKLAND: Yes. That's what he  
16 says.

17 MR. ANTOINE HACAULT: Okay. And then this  
18 particular author who you've quoted has a title, "What  
19 Should Policymakers Do?" There's a discussion of  
20 recommendations in there.

21 Had you had the opportunity to re-read  
22 that? Do you disagree with any of the recommendations?

23 DR. JERRY BUCKLAND: I -- I agree with the  
24 recommendations we've made, and that includes the rate cap  
25 of seventeen dollars (\$17) for payday loan fees based on

1 the context in the analysis that we've done for Manitoba  
2 and Canada.

3

4

(BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: At the very bottom  
7 of page 185, the last sentence reads:

8 "In setting these rules, policymakers  
9 and regulators must be mindful that  
10 setting caps on fees or setting implied  
11 interest rates arbitrarily low could  
12 easily curtail or eliminate the flow of  
13 credit to high risk borrowers who need  
14 it most."

15 So we have two (2) authors are of that  
16 view. You're of a different view?

17 DR. JERRY BUCKLAND: One (1) of the things  
18 that Michael Stegman I think use -- usefully points out --  
19 I mean, again the contexts are different.

20 But one (1) of the things that he points  
21 out in this article is that the -- the structure of the  
22 market is different in the US for payday loans than it is  
23 in Canada.

24 And I think we've made the case that it's  
25 more -- that the structure of payday loan market is quite

1 concentrated. Now, Dr. Robinson's analysis of loan  
2 volumes for the bigger companies suggests that, I think,  
3 at least 70 percent of the market in Manitoba is  
4 controlled by two (2) of the biggest firms.

5                   Now, I'm not saying that that's necessarily  
6 the case for Canada, but we do know that -- from some  
7 other data sources that over half of the outlets are  
8 certainly controlled by the -- the two (2) big firms  
9 nationally.

10                   So the market structure question is -- is  
11 an important one. Stegman does refer to that and points  
12 out that the market structure is less concentrated in the  
13 US.

14                   So if I could just point you to the  
15 previously -- on page 172 of this article, Stegman says  
16 that nationally, by the late 1990's, ten (10) chains  
17 controlled more than one-third (1/3) of all payday loan  
18 outlets.

19                   So that -- that's ten (10) chains, ten (10)  
20 companies controlling one-third (1/3) of the market. In  
21 Canada it seems that the structure is quite a bit more  
22 concentrated; possibly two (2) chains controlling two-  
23 thirds (2/3) or more in Manitoba.

24                   So the market structure's important; so I  
25 think the recommendations that he's making flow from both

1 the impact on the consumer and the market structure that's  
2 in place there.

3 MR. ANTOINE HACAULT: So you're telling me  
4 your recommendations assume that companies like Advance  
5 America and these other publicly traded companies aren't  
6 interested and won't come into this market?

7 DR. JERRY BUCKLAND: No, I -- I don't  
8 think I'm saying that, because the fact is that Advance  
9 America has come into this market, and there's some  
10 evidence that the market is going to become more  
11 concentrated in the post-regulation environment because of  
12 that entrance.

13 MR. ANTOINE HACAULT: More concentrated in  
14 the sense that you'll have more big players competing for  
15 the same pie.

16 Is that it?

17

18 (BRIEF PAUSE)

19

20 DR. JERRY BUCKLAND: One (1) more big  
21 player.

22 MR. ANTOINE HACAULT: That we know of  
23 right now; is that correct? You haven't spoken to any of  
24 these other major players to see whether they're going to  
25 stay out of the Canadian market?

1 DR. JERRY BUCKLAND: That's correct. We  
2 don't know that.

3 MR. ANTOINE HACAULT: So, in any event,  
4 Stegman is of the view that setting low cap rates would  
5 eliminate the flow of credit to high-risk borrowers who  
6 need it the most.

7 And his second recommendation,  
8 coincidentally, is similar to Mayer's recommendation on  
9 the top of page 186 as to focus the attention on limiting  
10 rollovers.

11 Do you see that?

12 DR. JERRY BUCKLAND: Sorry, could you tell  
13 me what page that's on?

14 MR. ANTOINE HACAULT: The last page of his  
15 article, the first full paragraph. I'll quote the  
16 sentence:

17 "The second recommendation is that  
18 policy makers and regulators should  
19 focus more of their attention on ways to  
20 limit rollovers and back-to-back  
21 renewals of payday loans rather than  
22 focussing on the price of a single  
23 short-term advance."

24 Do you see that?

25 DR. JERRY BUCKLAND: Yeah, I see that, and

1 I'm speculating at this point, but I'm -- my -- or the  
2 possibility is that that's because the American Government  
3 response has been focussed more exclusively on the rate  
4 caps and they haven't looked at the other issues like  
5 repeat borrowing and the impact on the consumer in the  
6 longer term.

7                   So perhaps Stegman's arguing let's re-  
8 balance this. Yeah, we need to balance both rate caps  
9 and the other aspects of payday loans. That's speculation  
10 on my part, but I -- I agree with you that Stegman's not  
11 pushing for the -- the rate cap issue in this article.  
12 He's pushing for looking at other issues.

13                   However, the context that he has analysed  
14 is -- is different, and I think one (1) of the ways in  
15 which it's different is because of the market  
16 concentration.

17                   MR. ANTOINE HACAULT: In fact I'll suggest  
18 to you that his third recommendation is quite similar to  
19 what Minister Salinger seems to be saying the purpose of  
20 this legislation is at the very bottom of the paragraph,  
21 the last sentence, and I'm quoting:

22                   "Other things equal, I prefer to keep  
23 the provision of credit to all consumers  
24 in the mainstream of economy where  
25 competition is open and where market

1                   exchanges can be observed and, if  
2                   necessary regulated."

3                   So he's of the same view of Minister  
4 Salinger that there should be minimal intervention in the  
5 market.

6                   Is that correct?

7                   DR. JERRY BUCKLAND: I can't comment on  
8 whether Mr. Salinger supports this conclusion. I agree  
9 that Stegman is saying, Look, there's more competition in  
10 the payday loan industry -- or I shouldn't say there's  
11 more, because he's not comparing it to Canada. But he's  
12 saying, The market structure is such and the rollover  
13 issue is such, my recommendations are this.

14                   So his recommendations are flowing from his  
15 analysis, but I -- I really don't know if Minister  
16 Salinger would agree with him.

17                   MR. ANTOINE HACAULT: Thank you. And then  
18 he makes one (1) final recommendation in the last  
19 paragraph:

20                   "One cannot study payday lending and  
21                   fee-based banking without confronting  
22                   America's addiction to credit."

23                   And, in fact, in the news report that has  
24 been marked as an exhibit, that's one (1) thing that the  
25 Manitoba Government, at the bottom of the page, had

1 indicated, and I'm quoting from Rentcash-25:

2 "The Provincial Government is also  
3 investing in a project to assist low-  
4 income people in managing their money so  
5 they won't be put in a position where  
6 they require the services of payday loan  
7 companies."

8 So it appears that the Province of Manitoba  
9 is on side with this final recommendation.

10 Do you agree?

11 DR. JERRY BUCKLAND: Yeah.

12 MR. ANTOINE HACAULT: This author  
13 concludes at the very end of his paper, and I'm quoting:

14 "As long as the demand for short-term  
15 credit remains high among high-risk/low-  
16 income borrowers, it is unlikely that  
17 the payday lending problem will be  
18 entirely solved by measures focussed on  
19 the firms supplying such loans."

20 Do you agree with that?

21 DR. JERRY BUCKLAND: I -- I do, because --  
22 and I think that came out in our serving, our exploiting  
23 report, that there's a whole number of issues that need to  
24 be addressed in addition to the supply side.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Another paper that  
4 you've referenced in your material is written by John  
5 Caskey, C-A-S-K-E-Y, The Economics of Payday Lending, and  
6 this, as I understand it, was a paper prepared to give  
7 advice in Wisconsin to Credit Unions; it was prepared in  
8 2002.

9

10 (BRIEF PAUSE)

11

12 MR. ANTOINE HACAULT: Do we have an  
13 exhibit number for that paper?

14 MS. ANITA SOUTHALL: Yes. The Caskey  
15 paper would be RC-28.

16

17 --- EXHIBIT NO. RENTCASH-28: The Economics of Payday  
18 Lending, by John Caskey

19

20 MS. ANITA SOUTHALL: And just for the  
21 record, the payday lending excerpt of my Michael Stegman  
22 that you were just dealing with, Mr. Hacault, was RC-29.

23 MR. ANTOINE HACAULT: Thank you.

24

25 --- EXHIBIT NO. RENTCASH-29: Payday lending excerpt of

1 Mr. Michael Stegman

2

3 CONTINUED BY MR. ANTOINE HACAULT

4 MR. ANTOINE HACAULT: The matter that  
5 sparked my interests on this article which had been quoted  
6 by you, Dr. Buckland, was the discussion at pages 42 and  
7 43 of that particular paper. And on the right-hand side -  
8 - at least, I don't know if our Canadian banks can be  
9 categorized as having the same attitude, but this author  
10 concludes that banks encourage customers to use overdraft  
11 services rather than viewing it as bad behaviour.

12 And then there's a line on the left-hand  
13 side where the author provides an example, and I'm  
14 quoting:

15 "A customer might, for example, write an  
16 NSF cheque for a hundred dollars (\$100)  
17 that the bank honours, charging a twenty  
18 dollar (\$20) overdraft fee. If the  
19 customer has two weeks to return the  
20 account to a positive balance, this is  
21 similar to charging a 520 percent  
22 annualized interest rate."

23 To your knowledge, is there anything  
24 preventing the banks from doing the same thing in Canada?

25 DR. JERRY BUCKLAND: To my knowledge, this

1 isn't a practise of Canadian banks to encourage clients to  
2 use overdraft services, but I haven't studied that.

3 MR. ANTOINE HACAULT: So you have no  
4 knowledge as to whether it's done. Do you have any  
5 knowledge as to whether it's prohibited?

6 DR. JERRY BUCKLAND: No, I don't.

7 MR. ANTOINE HACAULT: And this author  
8 continues with that type of example, and on page 43 at the  
9 top the author is explaining in theory -- I'm quoting:

10 "In theory, someone with a three hundred  
11 dollar (\$300) limit on his overdraft  
12 privilege could write one (1) overdraft  
13 cheque for two hundred and eighty  
14 dollars (\$280) and incur only a twenty  
15 dollar (\$20) fee. Most payday lenders  
16 would charge somewhat over forty-five  
17 dollars (\$45) for a two hundred and  
18 eighty dollar (\$280) cash advance in  
19 practise. However, many customers may  
20 overdraw their accounts by writing  
21 several smaller cheques, such as three  
22 (3) cheques for sixty-five dollars (\$65)  
23 each.

24 In this case the fee for the overdraft  
25 privilege would aggregate to sixty

1                   dollars (\$60) for a hundred and ninety-  
2                   five dollars (\$195) advance well over  
3                   what payday lenders charge.

4                   This type of information is information  
5                   we could gather if we were speaking to  
6                   consumers and find out whether or not  
7                   they were being put in the same  
8                   situation and making the same rational  
9                   decisions."

10                   Is that correct?

11                   DR. JERRY BUCKLAND:    What -- what's not  
12 clear to me is whether this kind of practice is occurring  
13 in Canada.  And, again, when I wrote my parts of the  
14 survey or exploiting report, I surveyed the literature.  
15 And I think I -- I say in the introduction, and I also  
16 said in the direct evidence, I believe, that unfortunately  
17 we get swamped by the American literature.

18                   And so, we -- we just get so much material  
19 from the US, and -- and so sometimes what might happen is  
20 we can kind of get confused signals; recommendations from  
21 analysis in the US we might think, well that will apply to  
22 Canada.

23                   But it's -- it's not necessarily the case  
24 because of the fact that we have a different system.  I --  
25 I haven't studied the banking system in Canada very --

1 very much. Very little. I mean, I look more at how  
2 consumers relate to different financial service providers.

3           However, I do think that the -- the banking  
4 system in Canada is -- certainly got greater coverage of  
5 Canadians than the banking system in the US.

6           So, I think the un-banked ratio in the US  
7 is somewhere between 12 and 13 ½ percent of the total  
8 population. In Canada, you know, at least the McKay  
9 Commission report argues it's more like 3 percent for  
10 Canadians. I think that's an underestimate and wonder if  
11 it's closer to four (4).

12           But -- so that's one (1) structural  
13 difference. The other structural difference is that banks  
14 in Canada are much bigger than banks in the US. I think  
15 there's more -- no, let me be careful with that.

16           We have a smaller number of large banks in  
17 Canada in terms of the total size of the banking  
18 marketing. And in the US there's a lot more banks. I  
19 mean, some of them are huge, of course; they're some of  
20 the world's biggest banks.

21           So it could be that there's some of the  
22 smaller players or less regulated banks in the US who are  
23 pursuing very, you know, inappropriate kinds of behaviours  
24 and leading to this kind of situation.

25           But I simply can't, you know, comment on

1 whether this situation happens in Canada.

2 MR. ANTOINE HACAULT: My question wasn't  
3 with respect to the behaviour of the banks. It was with  
4 respect to the behaviour of the consumers, and if the  
5 consumers are faced with a choice of dealing with banks  
6 with those types of charges and make a rational decision  
7 to take a payday loan instead of dealing with the bank.

8 We don't have that information. You and  
9 your group haven't studied the consumers to see whether  
10 they're making those rational decisions and avoiding  
11 higher bank charges in favour of lower payday loan  
12 charges, have you?

13 DR. JERRY BUCKLAND: I -- I think that --  
14 I mean I think we've made the claim, or I should say, I've  
15 made the claim that I think it's -- it's generally safe to  
16 assume people behave in a rational way.

17 Although behavioural economics has, you  
18 know, made us kind of look at -- open up that question.  
19 Open up what we mean by "rationality" more.

20 I think it -- it's a safe assumption to say  
21 that people are rational. Do some people rationally  
22 choose to use payday loans instead of bank services? I  
23 agree. In some cases they do.

24 MR. ANTOINE HACAULT: The next article  
25 you've referred to, which is also part of PUB Exhibit 4,

1 which had been distributed is an article by Elliehausen.  
2 That's E-L-L-I-E-H-A-U-S-E-N and Lawrence.

3 It should be in your package of -- that was  
4 distributed at the beginning of the Hearing. I believe  
5 it's the second last article. Sorry, the last article.

6 These were the authors that you had quoted  
7 in coming up with that example on the benefits and choices  
8 of consumers.

9 Do you recall that?

10 DR. JERRY BUCKLAND: Yes, I do.

11 MR. ANTOINE HACAULT: Now, I'd like to  
12 direct your attention to page 10 of that article. The  
13 first full paragraph, last two (2) sentences. I'm  
14 quoting:

15 "Most economists would recommend  
16 allowing market competition to determine  
17 the price of payday advance credit.  
18 Economic theory demonstrates that  
19 competitive markets tend to produce the  
20 lowest price consistent with the cost of  
21 production."

22 Do you see that?

23 DR. JERRY BUCKLAND: Yes, I do.

24 MR. ANTOINE HACAULT: So you have quoted  
25 this author, not for that statement, I gather, but for his

1 analysis of consumer benefit?

2 DR. JERRY BUCKLAND: I agree that drawing  
3 on the assumption of perfect competition that most  
4 economists would advocate the limited government  
5 intervention, so when -- when the market's perfectly  
6 competitive, certainly I -- I understand that argument.

7 MR. ANTOINE HACAULT: I've never seen an  
8 economist say that any competition in this market is  
9 perfect. Have you heard an economist say that there's  
10 perfect competition in any sector of our market?

11 DR. JERRY BUCKLAND: I've heard many  
12 economists use the perfectly competitive market model and  
13 then applied it to markets that are imperfectly  
14 competitive. And I often wonder why they do that.

15 So, I'm an economist with, maybe, a little  
16 bit different perspective that we need to be clear on what  
17 the nature of the competition is in the market before we  
18 apply that perfectly competitive model.

19 MR. ANTOINE HACAULT: It's a reference  
20 point, but I don't think -- certainly, I can't achieve  
21 perfection. I don't think any business can. You've got  
22 humans that are part of the business, et cetera.

23 Next, I direct your attention in this  
24 article to page 15, which is the example you had taken of  
25 the two hundred dollar (\$200) automobile repair. But what

1 drew my interest was the footnote 17 and the comment that  
2 leads to that note. And I'm quoting:

3 "Nevertheless, concluding that there are  
4 cases in which consumer savings could  
5 exceed the cost of payday advance seems  
6 entirely reasonable."

7 Do you agree with that conclusion, firstly?

8 DR. JERRY BUCKLAND: Yeah, based on the  
9 scenario that he's outlined, yes.

10 MR. ANTOINE HACAULT: And there could be  
11 other scenarios as well, is that correct?

12 DR. JERRY BUCKLAND: Yeah, and I think  
13 that's part of the dialogue that we've had in the hearing  
14 process.

15 MR. ANTOINE HACAULT: And footnote 17, the  
16 one (1) thing your model didn't include, but that Dr.  
17 Clinton's did, is referenced in this footnote, And I'm  
18 quoting:

19 "These examples do not include non-  
20 pecuniary benefits, such as avoiding the  
21 risk of writing a bad cheque,  
22 maintaining a record of timely payments  
23 or enjoying the comfort of commuting in  
24 one's own automobile. Non-pecuniary  
25 benefits may have value to the consumer

1                   in principle; this value could be  
2                   included in a net present value  
3                   calculation."

4                   Do you agree with that?

5                   DR. JERRY BUCKLAND:    Yeah, I -- I agree  
6 with the point, and there are other non-pecuniary benefits  
7 and costs that perhaps Elliehausen and Lawrence haven't  
8 identified.  For instance, what about the cost of going to  
9 the payday lender, the time involved, the risk of -- if  
10 it's -- okay, let's just be clear.  There's some payday  
11 lenders that operate more carefully and more concerned  
12 about the consumer than others.

13                   What if -- what about the risk that this  
14 payday loan client goes to one (1) of the latter; the ones  
15 that aren't operating so carefully, and -- and maybe are  
16 encouraging their payday loan client to get into a kind of  
17 debt cycle.

18                   So, yeah, I agree there are other both  
19 benefits and costs that Elliehausen and Lawrence haven't  
20 included.

21                   MR. ANTOINE HACAULT:    Okay.  Now, again,  
22 this is an American study.  I direct your attention to  
23 page 28 of that study, which you've quoted.  And you'll  
24 see at the right-hand side on that page, there's a line,  
25 and I'll just read his conclusion.

1 "Payday advance customers are less  
2 likely than the general population to  
3 have either lower or higher incomes.  
4 The requirement that payday advance  
5 customers have a chequing account likely  
6 reduces the number of low income  
7 consumers who are potential payday  
8 advance customers."

9 Do you believe that applies in Manitoba?

10 DR. JERRY BUCKLAND: Yes, I agree.

11 MR. ANTOINE HACAULT: Turning to page 29.

12 Again, there's a line on the right-hand side at the bottom  
13 of the page, and I'm quoting:

14 "Consumers in early life-cycle stages  
15 tend to have high demand for credit.  
16 That payday advance customers are  
17 younger than bank card revolvers suggest  
18 that payday advances may not be  
19 substitutes for many customers."

20 Do you agree with that as regards to  
21 Manitoba?

22 DR. JERRY BUCKLAND: I agree with for  
23 Canada that it is a -- a younger group than the average  
24 who are using payday loans.

25 If I could just comment on that point a



1 people. Potentially they're adding debt that's hard to  
2 pay off. They get into a more difficult debt cycle; they  
3 can't get out of it. We don't know because we don't  
4 longitudinal data.

5 MR. ANTOINE HACAULT: That gets back to  
6 the initial point that I started with this morning on the  
7 lack of data. So we're basically asking the Board to say  
8 well do this, but we don't know what the effect is going  
9 to be on consumers; whether it's going to help them or  
10 hurt them.

11 DR. JERRY BUCKLAND: Well, I think what  
12 we're saying is that not all developments, not all change  
13 is necessarily good. And if one takes a precautionary  
14 approach and says that okay, we've got this change  
15 happening, you know, we don't know what the costs and  
16 benefits are and there's risks that we can't calculate.

17 So do we just let it kind of go its own way  
18 and -- and expand, or do we say, Okay, let's -- let's slow  
19 this whole process down and let's take a look at it and  
20 see what the consequences are.

21 I think that's maybe -- there's different  
22 approaches there.

23 MR. ANTOINE HACAULT: Okay. And within  
24 those approaches, there's two (2) being advocated. One  
25 (1) by Dr. Clinton and one (1) by the Coalition.

1                   Is that correct?

2                   One (1) is a more precautionary one and one  
3 (1) is a very aggressive one I would suggest.

4                   DR. JERRY BUCKLAND:   Well, I've heard at  
5 least three (3) different specific recommendations in  
6 terms of a particular rate cap question.  And -- no, I  
7 think I've heard four (4), because there's the CPLA  
8 recommendation and then there's the Dr. Gould  
9 recommendation.

10                   So it seems to me there's at least four (4)  
11 or five (5) different recommendations and, okay, to  
12 describe them as cautious or aggressive, I -- I guess I  
13 wish -- can we talk about that more; what we mean by  
14 "cautious" and "aggressive" and -- I mean, that would -- I  
15 think that would be a useful conversation.

16                   I -- I just don't know if I'm able to now  
17 say, okay, one (1) is cautious and one (1) is aggressive  
18 until we define what we mean by the two (2).

19                   MR. ANTOINE HACAULT:   Well perhaps let me  
20 put it in different words.  Dr. Clinton's approach is a  
21 minimal interference, because it only takes out the  
22 extreme outliers Do you agree with that?

23                   DR. JERRY BUCKLAND:   Well, I'm not sure if  
24 the Clinton recommendation will take out, really, anybody  
25 in -in terms of the market as it exists today.  So it

1 would have the least impact on the market, I guess.

2 MR. ANTOINE HACAULT: And then there's a  
3 sliding scale where the CPLA is closer to the rates being  
4 charged by Money Mart, and then there's actually the  
5 seventeen dollar (\$17) number which is below what Money  
6 Mart is charging.

7 Do we need to go through the actual loan  
8 example again to show that they're actually charging more  
9 than seventeen dollars (\$17) per hundred?

10 DR. JERRY BUCKLAND: I -- I'm not sure  
11 what -- how Money Mart's fee is charged, because I think  
12 it depends on the size of the loan, right? Because  
13 there's this two dollar and forty-nine (\$2.49) cent  
14 cheque-cashing fee. For a hundred dollar (\$100) loan,  
15 that's a bigger chunk of -- it -- it's going to add more  
16 to the proportion, right?

17 So when we talk twenty (20) per hundred  
18 (100), then that two forty-nine (2.49) cheque-cashing fee  
19 is going to be more significant when we're talking -- for  
20 a one hundred dollar (\$100) loan. When we're talking  
21 about a two hundred and fifty (250) or a five hundred  
22 dollar (\$500) loan, that two forty-nine (2.49) cheque-  
23 cashing fee diminishes as it's -- as a contribution to  
24 that twenty (20) per hundred (100).

25 So, I would -- I would like to see -- like,

1 if I was to comment on the Money Mart fee that they're  
2 charging right now, I would like to see it broken down  
3 for, say, ten (10) different loan sizes. What Ms. Friesen  
4 has done is to calculate it for, I believe, one (1) loan  
5 size, based on, you know, just the publicly-available data  
6 that we've got from the hearing on Money Mart's charges.

7                   So we -- we've just done it for one (1); we  
8 haven't done it for all of them.

9                   MR. BYRON WILLIAMS:    And just, Dr.  
10 Buckland, that's one (1) thing that just -- that hasn't  
11 been provided to the Board yet, so we -- we could  
12 certainly do it at the break.

13                   MR. ANTOINE HACAULT:    I'll be taking one  
14 (1) of you through the actual loan agreement at a later  
15 time, so perhaps deal with that and it's a three hundred  
16 dollar (\$300) we had talked about and introduced earlier  
17 when there was cross examination of CPLA.

18                   We haven't had any answers to the  
19 Undertakings yet, but on -- on the loan structure.

20                   Continuing on, in the same article, page  
21 33. This author concludes -- you'll see a line on the  
22 right hand side based on the stats:

23                   "Payday advance companies do not have  
24                   very many customers with low levels of  
25                   education."

1                   I'm not too sure how he defined "low levels  
2 of education," but do you agree that it doesn't take a  
3 very high level of -- of education to know the difference  
4 between three hundred and a sixty dollar (\$360) charge and  
5 a three hundred and eighty dollar (\$380) charge, if that's  
6 on a poster, as will be the case with the regulations?

7                   DR. JERRY BUCKLAND:    I -- I agree.

8                   MR. ANTOINE HACAULT:    So that if we're  
9 talking about education and the level of education  
10 required for a consumer to make a rational decision, if he  
11 goes in one (1) store on one (1) side of the street and  
12 the other side of the street and there's posters in both  
13 of them and one (1) shows three hundred and sixty dollars  
14 (\$360) and the other one shows three hundred and eighty  
15 dollars (\$380), do you have any view as to what level of  
16 education somebody might need to know that one is more  
17 than the other?

18                  DR. JERRY BUCKLAND:    Well, if -- if the  
19 individual is always taking the -- the same loan, like the  
20 same size of loan, and if everything else is equal, then I  
21 don't think a high level of education is required.

22                  But the reality is loans come in a variety  
23 of sizes, and the way in which loans are provided -- I  
24 mean, kind of the rule -- I talked about as loan rules,  
25 you know, repayment deadlines and minimum amounts of loans

1 available and those types of things. Those tend to  
2 complicate things, and so I think a higher level of  
3 education would be useful for -- for the client.

4 MR. ANTOINE HACAULT: And that's what the  
5 FCAC's role is, is that right? And they've done a  
6 pamphlet that you've referenced in your material that you  
7 provided this morning?

8 DR. JERRY BUCKLAND: Well, going back to  
9 my comment earlier about the -- this committee on  
10 financial capability, which I believe is a -- is a  
11 committee made up of bank people and government people. I  
12 mean, it's been set up because the Government, the Federal  
13 government, at least in the past -- I'm not sure how  
14 concerned the current government is -- but in the past the  
15 government was very concerned about the financial  
16 capability; their literacy, their ability, their  
17 capability to use finances to their benefit, because  
18 increasingly we're offloading financial issues to  
19 individuals.

20 We're taking them from social programs,  
21 from health care programs, from pension plans that had  
22 been administered more centrally, either government or  
23 business, and we're -- we're downloading them onto  
24 consumers.

25 And so this financial capability committee

1 is concerned that Canadians need to become more  
2 financially literate and -- and the capability point is  
3 that, not just literacy, but able to use that literacy to  
4 their own advantage. Because they're going to be -- they  
5 -- they will have to determine decisions today about  
6 their, you know, their pension funds in the future. So  
7 it's -- it's a very important issue.

8                   And I think that's right across the board  
9 in terms of income; low income, middle income, upper  
10 income people. They're -- we need higher levels of  
11 financial capability in the face of this kind of  
12 offloading of financial planning that's happening.

13                   MR. ANTOINE HACAULT: I'll be coming to  
14 this and other articles and other views of authors, but  
15 some authors hold the view that we're complicating things  
16 unnecessarily by requiring APR calculations.

17                   Everybody understands the difference  
18 between three hundred and sixty dollars (\$360) and three  
19 hundred and eighty dollars (\$380) for a two-week loan or a  
20 ten-day loan.

21                   But when you start to do APRs, people start  
22 to have difficulty in making a meaningful comparison  
23 between the loan that's an 800 percent APR and a  
24 1,200 percent APR, and that might only mean a dollar  
25 difference.

1 Do you agree?

2 DR. JERRY BUCKLAND: Well, I think the --  
3 the advantage of the APR is it allows the consumer to  
4 compare the payday loan with other credit products. So  
5 the credit card companies are required to provide their  
6 consumer with an APR and banks are required to provide  
7 consumers with an APR for their various products. So I  
8 think it's useful for that comparison.

9 MR. ANTOINE HACAULT: And I think there's  
10 been some agreement on that position that it, at least Dr.  
11 Clinton, I think, conceded -- or didn't concede, he agreed  
12 that it's useful, because it tells you it's a high cost  
13 form of credit. But it's not necessarily easy to -- for  
14 people to start doing the calculation just on the  
15 understanding. Not everybody knows how to do algebra.

16 Is that correct?

17 DR. JERRY BUCKLAND: Yeah, that's correct.  
18 And that's why it's nice for -- for that calculation to be  
19 made for them.

20 Yeah, I think it's -- it's difficult for  
21 someone to take the twenty (20) per hundred (100) and  
22 twelve (12) days or thirteen (13) days and go away and  
23 figure out an APR. But if -- if that number is available  
24 to them, I think many consumers are familiar with, if not  
25 the concept of APR, with the concept of an annual interest

1 rate, because it's on credit card and other type of loan  
2 services. So I think the APR has some more universal  
3 relevance.

4 MR. ANTOINE HACAULT: Next I direct your  
5 attention to page 34 of this article, at the very top. In  
6 this survey the author concludes:

7 "Most payday advance customers do not  
8 believe that credit causes over  
9 spending. 79 percent of payday advance  
10 customers strongly agreed or somewhat  
11 agreed with the statement, 'Overspending  
12 is the fault of consumers not lenders'."  
13 Close quotation marks.

14 Do you believe that's applicable to  
15 Manitoba?

16 DR. JERRY BUCKLAND: Well, I -- see, I  
17 think that's -- I think that's overly simplifying a  
18 complex relationship. Like, I think -- I think that the -  
19 - the credit relationship and the general consumer  
20 relationship is one that's happening between -- yeah, the  
21 consumer or the borrower and the retailer and the lender.

22 Like, I -- I think it's a relationship  
23 that's taking place and I think to just focus on the  
24 borrower is -- is maybe overly simplifying it.

25 For instance, you know, if we are

1 continuously, you know, see advertisements to -- to borrow  
2 or to buy, it's ultimately going to affect us as consumers  
3 to -- to borrow more and buy more.

4                   Otherwise why do companies advertise? I  
5 mean they don't do it for an altruistic, you know, social  
6 -- contribution to society. They know that advertising's  
7 going to improve their revenues.

8                   And, to a certain extent, that's -- it's  
9 useful if it provides information. But if it's doing  
10 something more than providing information, and on -- in  
11 the extreme, if it's misleading people, then that's --  
12 that's a problem.

13                   MR. ANTOINE HACAULT: But again, that's  
14 something we haven't done to date. We haven't asked  
15 consumers in this Province are they blaming the payday  
16 lenders? Is that the source of the problem, and is  
17 changing the fee by five (5) or six dollars (\$6) per  
18 hundred (100) going to solve their problem? We don't know  
19 what their answer is.

20                   DR. JERRY BUCKLAND: My research has  
21 tended to focus more on low income people and inner-city  
22 neighbourhoods. So it's -- that would encompass some of  
23 kind of the typical payday loan client but not all.  
24 Because I think we're all in agreement, the client that  
25 uses the payday loan is not the same kind of general

1 category as the cheque cashing or pawnshop client, okay.

2                   But if I can just, you know, comment a  
3 little bit on what I've seen in terms of the use of payday  
4 -- or pawnshops and -- and cheque cashing and in other  
5 types of fringe banks.

6                   I think the --you know, the evidence is  
7 that people do, to a certain extent, find the financial  
8 service providers are at fault. And so I've done some  
9 studies in Winnipeg in the north end and I'm currently  
10 doing some studies in Vancouver and Toronto in inner  
11 cities.

12                   And -- and I find that there is a concern  
13 that financial service providers aren't doing their part.  
14 One (1) common criticism of banks is that, you know,  
15 they're shutting down their branches or their staff aren't  
16 really very respectful of -- of them. So that's a common  
17 thing I've heard.

18                   On the other hand, I commonly hear that  
19 fringe banks' staff are more polite and responsive. Not  
20 universally; I mean I'm not trying to say that universally  
21 I've heard that comment, but often I -- I hear that  
22 comment.

23                   However, I've heard a complaint that the  
24 fees are high, you know. So I -- I -- I mean in terms of  
25 the research I've done, I have heard people, consumers

1 express concerns about the financial service providers.

2 MR. ANTOINE HACAULT: I haven't seen  
3 somebody in Winnipeg not look for a sale yet.

4 With respect to branches, when you talk  
5 about branch closures -- and we'll get into the report the  
6 Canadian Bankers Association, and that's only a small part  
7 of the picture, because the -- the Bankers Association  
8 provides statistics that demonstrate that accessibility  
9 has increased because they're got more point-of-sale and  
10 more ATMs available so that the customers, maybe they  
11 might not have an in-person branch, but do have more  
12 points of contact and getting -- including through  
13 Internet.

14 Do you agree with that?

15 DR. JERRY BUCKLAND: It's a -- it's an  
16 interesting point and I've certainly heard that argument  
17 made. In research I've seen, I have noted that surveys  
18 like national surveys have found -- and -- and this is  
19 once again drawing on some of the FCAC sponsored research  
20 -- that low income people are more sensitive to the in-  
21 person transaction. They're more interested than higher  
22 income people to do their financial transactions in  
23 person.

24 Moreover, they're more likely to not have a  
25 car, to not have a computer, to not have Internet, to not

1 have telephone; all the link -- sort of mediums that they  
2 would need to -- to access those greater points of  
3 service.

4                   So I think that, you know, sort of national  
5 survey-wise, there is some evidence that bank branch --  
6 sorry, bank strategies have been detrimental.

7                   And -- and, you know, just a survey I did a  
8 couple of years back in the north end, we titled the  
9 report "There Are No Banks Here" because of the almost  
10 universal -- almost exasperation that folks in the north  
11 end were -- were sharing about the fact that, you know,  
12 there were virtually no banks as compared to the past and,  
13 you know, there were twenty (20) in 1980 and there was  
14 five (5) in 2003. So, you know, the data actually does  
15 hold that out.

16                   MR. ANTOINE HACAULT:   And one (1) of the  
17 points you were trying to make in your report was that  
18 payday lenders are filling spots where banks had left.

19                   Is that right?

20                   DR. JERRY BUCKLAND:   What we found was  
21 that as bank branch and Credit Union outlets have declined  
22 in the north end, the number of fringe banks, including  
23 the pawn shops, cheque cashers, payday lenders; those  
24 numbers have grown.

25                   MR. ANTOINE HACAULT:   And here -- so

1 there's two (2) things happening. You're telling us for  
2 financial institutions it's important to keep them there,  
3 but for payday lenders if the rate closes the small guys  
4 in those areas, it doesn't matter. Consumers don't care.

5                   Why is it different for payday lenders and  
6 financial institutions?

7                   DR. JERRY BUCKLAND: Well, again, my  
8 research is focussed more on the low income consumer less  
9 likely -- more likely to use the cheque cashing and the  
10 pawn shop and the rent-to-own option; less likely to use  
11 the payday loan option, especially folks on social  
12 assistance. They're not generally eligible although I  
13 remember the CPLA sponsored survey back, I think, in '04  
14 found that something like 7 percent of payday loan clients  
15 they interviewed were -- were not employed. So I -- I  
16 thought that was interesting.

17                   So there's some not employed people who are  
18 apparently, at least at that time, using payday loans.

19                   So, the -- the question though is, you  
20 know, the relative costs and benefits. The -- the fees  
21 for a payday loan, like, if it's -- if it's a low-fee  
22 payday loan provider -- sorry, yeah, a low-fee payday loan  
23 provider in the north end, that's one (1) scenario. If  
24 it's a high-fee payday loan provider in the north end,  
25 that's another scenario.

1                   Ideally, there would be banks offering  
2 appropriate services for people and -- and by the way, I  
3 mean for the particular geographic phenomenon of the -- or  
4 place of the north end, there is a -- a very interesting  
5 project called the "Community Financial Service project."  
6 And they do help consumers open up bank or I think  
7 primarily Credit Union accounts, and they have a micro  
8 loan program.

9                   So, for that particular geographic area,  
10 there is an interesting project that I think has about a  
11 hundred (100) or -- or more clients at present, but it is  
12 growing quite rapidly.

13                   Did I answer your question, Mr. Hacault?

14                   MR. ANTOINE HACAULT:   I believe you did to  
15 a certain extent, but I thought I had heard you this  
16 morning say also -- and I'm being a little bit blunt on  
17 the way I'm paraphrasing it, but so what if we close some  
18 of the small guys if they're charging a bit more?  People  
19 have access to computers.  They can -- they have different  
20 ways they can access the service.

21                   That same argument isn't being used with  
22 respect to the banks that are being closed.

23                   DR. JERRY BUCKLAND:   Okay.  I think the  
24 question earlier was framed around kind of the northern  
25 communities, and so I think -- or maybe rural more remote



1 if we -- if we could -- you know, like, maybe it's useful  
2 to talk about the north end. I mean, maybe -- I mean to -  
3 - to talk practically about a particular neighbourhood  
4 would help me to think about this question, because I  
5 think it's a very good question.

6           Now, in the north end, the last time I was  
7 there, there were two (2) payday lenders on Selkirk Avenue  
8 which is sort of the heart of the lower income part of the  
9 north end. Like, if you look at the north end, which is  
10 bounded by the -- the CPR tracks in the south and then in  
11 the nor -- north by Carruthers Avenue, and then McPhillips  
12 and Red River on east and west.

13           So if you look at that geographic area,  
14 you'll find that it's the southern portion of the north  
15 end that's -- you find the lowest-income folks. The  
16 northern portion is -- is better off. I mean, you -- just  
17 do a drive-through and you'll see the quality of the  
18 houses are, you know, better kept, better yards, et  
19 cetera. It's the southern part.

20           Now, on Selkirk Avenue, there is Money Mart  
21 at Selkirk and Salter, and -- and I'd -- I'd have to  
22 confirm this, but last I looked, there was a Sorensen's  
23 Payday Loan just down -- okay. My -- my colleague has  
24 just pointed me to his map, and -- and, so he's confirming  
25 that there is a Sorensen's Payday Loan about, I think,



1 under this fee scenario. So, presumably, it continues to  
2 operate; in fact, if Sorensen's gets out of the -- the  
3 area, then potentially Money Mart's volume will go up.  
4 And so their costs may go down.

5                   Now, if somehow those declining costs were  
6 reflected in fees, there's a possibility that the fees  
7 could go down. I'm not -- I'm not going to make that  
8 argument. But -- but I guess my point is in the  
9 particular geographic scenario I've just described, it  
10 would mean three (3) blocks -- worst case, three (3)  
11 blocks further walk for people to get to Money Mart as  
12 compared to Sorensen's. So I guess -- okay, we're talking  
13 benefits costs here. People now have to walk a little bit  
14 further. They're going to get charged less for their  
15 payday loan if Sorensen shuts down.

16                   If Sorensen's keeps going, then they don't  
17 have to walk further and they -- they still have to -- and  
18 they still get the advantage of the lower fee.

19                   Is that helpful at all?

20                   MR. ANTOINE HACAULT: I guess it's helpful  
21 in that it's got a lot of ifs and we really don't know  
22 what -- what's going to happen and how -- because I go  
23 back to you've given some pretty interesting examples; you  
24 know, the university student, single mom with a child and,  
25 you know, if -- if that's a true example, then we have

1 that kind of mother who has to go and walk three blocks to  
2 get the same service.

3                   So the bottom line is, we really don't know  
4 what the impact is of the proposal.

5                   Is that right?

6                   DR. JERRY BUCKLAND: Well, yeah, I agree.  
7 We don't know. But the -- the single mom is a less likely  
8 client for the payday lender because, oftentimes, you  
9 know, maybe -- maybe not working, because she's a single  
10 mom. Not always, but -- if -- if you're in the north end  
11 and you're a single mom, you're probably there because  
12 you're looking for a very low rent. And -- and at least  
13 in a good portion, and if you press me on this, I could  
14 not provide you the statistic, at least today.

15                   But I -- I would have to say that I think  
16 probably a large portion of single moms who are living in  
17 the southern portion of the north end are not working full  
18 time and, therefore, they're not taking payday loans.

19                   In fact, my research actually has found,  
20 you know, interviewing folks in the north end, it's more  
21 likely pawn shops.

22                   They tend to be the source of credit for  
23 the very low income.

24                   MR. ANTOINE HACAULT: Okay. Thank you.  
25 Moving on in the paper, page 48 was the point we had

1 discussed some moments ago with respect to information to  
2 consumers, and there's a line on the right-hand side on  
3 that page and -- and I'm quoting:

4 "Two (2) measures of class are disclosed  
5 in consumer credit transactions; the  
6 finance charge and the annual percentage  
7 rate. Payday advance customers were  
8 generally able to recall the finance  
9 charge, and 96 percent of payday advance  
10 borrowers reported a finance charge for  
11 their most recent payday advance. Only  
12 4.3 percent of the customers were able  
13 to recall the finance charge."

14 Does that help us understand what's  
15 important to the customer when we're going to be drafting  
16 an order?

17 DR. JERRY BUCKLAND: Well, I mean, again,  
18 I think it's an American study, and it can -- can help us  
19 but it's looking at the American context. So it would be  
20 useful to have comparative statistics for Canada.

21 MR. ANTOINE HACAULT: And, unfortunately,  
22 we haven't asked consumers the same question here, but  
23 would it surprise you to have the same general answer that  
24 people remember, I paid twenty dollars (\$20) per hundred,  
25 but they might not remember because it would change if it

1 was a ten (10) day or a twelve (12) day loan, whether it  
2 was seven hundred (700) APR or eight hundred (800) APR for  
3 that same twenty dollars (\$20).

4 DR. JERRY BUCKLAND: Yeah, so there's kind  
5 of two purposes: The one purpose is to allow the consumer  
6 to compared the payday loan to other kind of credit --  
7 other kinds of credit, and that's where the APR comes in  
8 handy.

9 The other purpose is, your -- your point,  
10 if I understand you correctly, is the kind of simplicity  
11 that the twenty (20) per hundred is -- is a simpler kind  
12 of number to remember.

13 So there's -- there's two (2) purposes and,  
14 frankly, in my mind, this -- this reminds me that payday  
15 loans are a complicated service and, therefore, puts more  
16 weight and responsibility, I think, on the Government to  
17 ensure that consumers are well informed.

18 And -- and it's tough, because too much  
19 information provided to the consumer may lead to kind of  
20 information overload, and they'll just choose not to -- to  
21 use that information that's available. But too little  
22 information, then I think, as a society, we become, you  
23 know, responsible for supporting services that are  
24 misinforming people.

25 So I -- I think that your -- your point

1 about simplicity, I -- I like that point, but I also think  
2 it's important to -- to inform consumers to help them  
3 compare different types of credit products.

4 MR. ANTOINE HACAULT: And that discussion  
5 continues on page 50. I won't repeat it, but it also  
6 suggests that annual percentage rate may be very useful  
7 for payday advance customers, and I accept your point.

8 And Dr. Clinton also made the point that it  
9 does, at a minimum, tell people that it's a high cost  
10 loan.

11 But at least this study indicates that the  
12 annual percentage rate, in and of itself, might not be  
13 very helpful for consumers if you don't have a simple way  
14 to tell them what the cost is.

15 Do you agree with that kind of approach  
16 generally?

17 DR. JERRY BUCKLAND: Well, again, it's a  
18 kind of a weighing of benefits and costs, and I -- I do  
19 think the APR is important. I mean, that's my kind of  
20 bottom line recommendation that providing a consumer with  
21 the APR is -- is important.

22 MR. ANTOINE HACAULT: And we'll work with  
23 the Coalition to try and see the best way to try and  
24 communicate that to consumers so that they don't have too  
25 much information, but that they have enough so hopefully

1 we can come up with a recommendation that the Board then  
2 can send off to the Province to perhaps improve the  
3 regulations.

4 Is that agreed?

5 DR. JERRY BUCKLAND: Yeah. That's --  
6 that's agreed.

7 MR. BYRON WILLIAMS: I will agree to that  
8 as well.

9

10 CONTINUED BY MR. ANTOINE HACAULT

11 MR. ANTOINE HACAULT: The last point in  
12 this article was on page 50, and it was -- is pretty  
13 consistent with the survey done by the CPLA on the  
14 rational process that customers go through and why they  
15 choose the product.

16 This survey shows that about half the  
17 people consider banks and then 15.5 percent Credit Unions,  
18 and 29.8 percent finance companies before they decide to  
19 go to a payday loan company.

20 Do we know whether that type of analysis is  
21 also applicable in Manitoba from consumers? Do we know  
22 that consumers go through that -- that process?

23 DR. JERRY BUCKLAND: So you're -- the --  
24 the question of how the consumer comes to the decision,  
25 I'm going to go to a payday lender, does that data exist -

1 - just to clarify the question.

2 MR. ANTOINE HACAULT: In -- in Manitoba,  
3 it seems to exist in the States. It says consideration of  
4 other credit sources before obtaining the most recent new  
5 advance.

6

7 (BRIEF PAUSE)

8

9 DR. JERRY BUCKLAND: No, there's no data  
10 that we're aware of.

11 MR. ANTOINE HACAULT: Okay. Is there any  
12 reason to believe that consumers or human beings, I guess,  
13 would act differently in the states than in Manitoba?

14 DR. JERRY BUCKLAND: Well, again, I think  
15 the context is different. The banking situation; we have  
16 maybe more coverage, we have a smaller number of larger  
17 banks than the US. They have a higher proportion of  
18 unbanked. So I -- I really wouldn't want to speculate on  
19 that question because of that contextual difference.

20 MR. ANTOINE HACAULT: Sure. And the next  
21 thing that this author based on the survey -- and this is  
22 pretty consistent with the CPLA survey also -- is the most  
23 important reason for choosing a payday advance over  
24 another source.

25 And the first reason is quick, easy

1 process, fast approval, less paperwork at 59 percent.

2 Do you see that?

3

4 (BRIEF PAUSE)

5

6 MS. ANITA SOUTHALL: Could you give us a  
7 reference point, please, Mr. Hacault?

8 MR. ANTOINE HACAULT: That's page 51,  
9 right in the middle of the page, I quoted.

10

11 (BRIEF PAUSE)

12

13 DR. JERRY BUCKLAND: Yes, thank you. I  
14 see that now, and 59 percent is the percentage that  
15 they're quoting in that table.

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: And that's pretty  
19 consistent with the main reason that was surveyed through  
20 the CPLA survey that was conducted and put into evidence?

21 DR. JERRY BUCKLAND: I believe so, yes.

22 MR. ANTOINE HACAULT: And the second most  
23 important reason was the most convenient location.

24 Is that correct?

25 DR. JERRY BUCKLAND: In their survey, yes.

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Now, if you have the  
4 general package PUB Exhibit 4, the extracts from that,  
5 I'll take you through a couple of those and then shall we  
6 break at noon, members of the Board? Okay.

7 The first document that I've taken from PUB  
8 Exhibit 4, Tab 2, is a letter dated October 12, 2005,  
9 written by the bankers -- Canadian Bankers Association to  
10 the Senate Standing Committee Chair. The committee was on  
11 banking, trade and commerce.

12 Now, you had in your testimony this  
13 morning, and it's not a huge point, there's different  
14 statistics on how many Canadians have bank accounts. Is  
15 that correct? This -- the Banking Association on the  
16 third page of this letter indicates -- and there should be  
17 a line on the right- hand side -- independent research  
18 from the Public Interest Advocacy Centre showed that 99  
19 percent of Canadians had a bank account.

20 Of that, 1 percent did not have an account.  
21 None indicated that they were refused an account, but  
22 research indicated that 80 percent of those without an  
23 account said it was because they did not need or want one.

24 Do you see that?

25 DR. JERRY BUCKLAND: I do, and -- and I --

1 I -- I'd have to say that I think the -- the percentage of  
2 un-banked is not quite as definitive as what this is  
3 saying. The more commonly used figure is from the McKay  
4 report which was reconfirmed when FCAC did their 2005  
5 survey of 3 percent.

6 Visa International has reported un-banked  
7 at 15 percent. Now, I -- I tried to figure out how Visa  
8 International got that statistic --

9 MR. ANTOINE HACAULT: Yeah.

10 DR. JERRY BUCKLAND: -- and -- and they  
11 have not been able to provide me with the -- the -- the  
12 methodology, so I'm not going to propose that's a useful  
13 number.

14 But the 3 percent is more commonly used,  
15 and -- and my concern about 3 percent is that it's based  
16 on telephone surveys. And those will tend to under  
17 represent low income Canadians.

18 And we already know from various studies  
19 that low income Canadians are disproportionately un-  
20 banked. So that's where I said previously, I think it  
21 might be, you know, closer to 4 percent when you adjust  
22 for the, I think, higher un-banked level for low income  
23 Canadians.

24 So -- so I -- I -- I'm surprised that this  
25 1 percent -- I mean I'd be happy to, you know, look at it

1 but more typically, 3 percent is the number that's used in  
2 Canada.

3 MR. ANTOINE HACAULT: I don't think much  
4 turns on it, because payday loan customers all need bank  
5 accounts to be able to get a payday loan.

6 Next document is an April 20, 2005 letter  
7 from the Financial Consumer Agency of Canada which we've  
8 been referring to in this proceeding from time to time as  
9 FCAC.

10 Is that correct?

11 DR. JERRY BUCKLAND: That's correct.

12 MR. ANTOINE HACAULT: And on page 2 of  
13 that photocopied extract, there was some inquiries by that  
14 Agency as to the relative questions and concerns between  
15 different financial products, and at the top of the page  
16 there's a conclusion, and I'm quoting:

17 "For example, Canadians have more  
18 questions and are more concerned about  
19 credit cards than any other financial  
20 product."

21 Do you understand that to be correct?

22 DR. JERRY BUCKLAND: I -- I understand  
23 that that conclusion is coming from the kind of number of  
24 complaints FCAC gets. And -- and that's an important  
25 result.

1                   My concern is that who are the people most  
2 likely to complain to FCAC? They're folks who are  
3 probably better educated, have an awareness of FCAC, you  
4 know, know their web site, know the 1-800 number.

5                   It's actually a criticism I've made of the  
6 FCAC that, especially on the fringe banking phenomenon and  
7 their second kind of mandate to educate financial  
8 consumers, like how are you getting the word out, and how  
9 are you making people aware that you're there and you can  
10 receive complaints?

11                   So my concern is, you know, do payday loan  
12 clients know about the existence of FCAC? If they don't,  
13 they're not going to turn up any statistics.

14                   MR. ANTOINE HACAULT: But, in any event, I  
15 guess we could ask the same question of credit card  
16 customers to how do they know of FCAC to be able to make  
17 complaints. They don't get different information than  
18 payday loan customers who are banked customers.

19                   Isn't that correct?

20                   DR. JERRY BUCKLAND: Well, I think with  
21 the credit card customers -- I mean, credit cards have  
22 become so ubiquitous. I mean they're -- they're  
23 everywhere.

24                   They're so available that -- and -- and  
25 they're something that all income bracket -- I shouldn't

1 say that -- middle and upper income bracket folks have in  
2 -- in a very high proportion.

3           They -- they tend to be better informed  
4 about how to complain, where to complain. I mean, that's  
5 the other thing, that in my research I found it  
6 interesting that lower income people, at least in some  
7 cases, feel like they don't have power. They feel dis-  
8 empowered.

9           And they don't necessarily feel that, you  
10 know, calling the 1-800 number is going to effect change  
11 on their lives. Whereas maybe the person with more  
12 education has that greater sense of power and greater  
13 sense of control and is more likely to pick up the phone.

14           MR. ANTOINE HACAULT: But again, we don't  
15 know because we haven't asked consumers what they think  
16 about this product. We haven't surveyed them.

17           DR. JERRY BUCKLAND: Yeah, the surveys  
18 that we have of payday loan clients are -- are the ones  
19 that I think we -- I'll be talking --

20           MR. ANTOINE HACAULT: CPLA has done -- the  
21 CPLA has done and --

22           DR. JERRY BUCKLAND: The CPLA and the  
23 Financial Consumer Agency of Canada's one (1) survey talks  
24 -- asks people about payday loans and the survey on  
25 financial security asks them payday loan -- asks one (1)

1 payday loan question from which we can learn some things.

2 But, yeah, we need more information.

3 MR. ANTOINE HACAULT: But this is  
4 consistent with the CPLA Pollera survey again that payday  
5 loan customers are generally satisfied. You don't see a  
6 whole bunch of them complaining to FCAC and, certainly,  
7 the direct inquiries of the consumers indicate a high  
8 level of satisfaction.

9 Isn't that correct?

10 DR. JERRY BUCKLAND: Well, the -- it -- it  
11 raises the question in my mind about the -- the question  
12 of how valid a survey is as compared to its reliability.  
13 And so thinking about a survey that is done of a  
14 particular group of consumers who -- who are maybe not  
15 very well informed about their rights, who are maybe less  
16 educated, who maybe have fewer options; your survey may be  
17 pretty reliable.

18 In other words, you do it again and again  
19 and you get the same results. Most people are happy with  
20 it.

21 So -- so we could say that survey  
22 methodology is quite reliable. Every time we do the  
23 survey, you know, 59 percent or 76 percent of the  
24 customers say they're satisfied. It doesn't mean it's  
25 valid. The validity of a survey has to do with whether or

1 not the actual results are true.

2                   And if we're surveying a disempowered group  
3 who don't have any options, who don't feel like they can  
4 change their environment or change the situation they  
5 face, they might say, Yeah, I'm satisfied. But, in fact,  
6 they're not. In fact, they're not satisfied with the  
7 whole situation they're facing and the fact that they have  
8 to go and pay so much for a loan.

9                   So the reliability may be there, but it  
10 might not be valid.

11                   MR. ANTOINE HACAULT: And that's more so  
12 with respect to the pawn brokers, We've seen the  
13 statistics, and that's in the FCAC results that,  
14 generally, people who go to the pawn brokers have lower  
15 family incomes than the people who use payday loans.

16                   That was one of the conclusions of that  
17 FCAC study, was it not?

18                   DR. JERRY BUCKLAND: I -- I would agree  
19 that pawn -- pawn shop users are -- are lower income, but  
20 my comment was more on the -- the payday loan surveys; the  
21 survey of the payday loan clients. And -- and I'm -- I  
22 can't -- I can't say whether the payday loan surveys are -  
23 - are not valid, but I am saying that they might not be.  
24 They might be reliable, but they might not be valid.

25                   And that's the same with any kind of

1 survey. Yeah.

2 MR. ANTOINE HACAULT: Another point made  
3 in this letter, which is part of Exhibit 4, Tab 2 -- the  
4 April 20, 2005 letter -- is the FCAC at page 3 talks about  
5 a \$30 million investment of the Canadian government to  
6 develop a comprehensive strategy in support of literacy  
7 and essential skills development.

8 Do you see that?

9 DR. JERRY BUCKLAND: Yes.

10 MR. ANTOINE HACAULT: So, this is  
11 attacking the root of the problem that you're describing.  
12 There's two (2) ways to look at the problem. Either you  
13 impose -- maybe I'm being a little bit too rough on my  
14 language here, but a paternalistic approach where you tell  
15 people, You don't understand enough, you can't make proper  
16 decisions as to whether or not you should be paying twenty  
17 (20) or twenty-seven dollars (\$27).

18 That's one (1) way of approaching it, which  
19 is after the fact and assumes people don't make rationale  
20 decisions. Or you help them make rationale decisions and  
21 you invest in that and we should be investing more in  
22 that.

23 Do you agree -- in literacy and encouraging  
24 and educating people?

25 DR. JERRY BUCKLAND: Yeah, I -- I think

1 so. And I don't think it's a paternalistic thing. I  
2 think it's -- it's the phenomena of our -- our society and  
3 economy rapidly changing. And I don't think we're all  
4 aware of how rapidly it's changing and what the  
5 consequences are for us.

6                   So, for instance, the question of savings  
7 for retirement. How many people, like, in their thirties  
8 have really thought it carefully through? They don't have  
9 a pension at work, they are required to do it  
10 independently. So we -- we definitely need to develop  
11 those skills.

12                   I think this is only one (1) side of the  
13 question. This is kind of the demand side. This is how  
14 do we inform consumers to make better decisions about, you  
15 know, financial planning, and then, as a result financial  
16 services. But we also need to get supplies out of the  
17 question.

18                   What are banks and fringe banks doing, and  
19 how can we ensure as a society that those banks are  
20 offering services that help consumers, and don't --  
21 minimize the possibilities of harm?

22                   MR. ANTOINE HACAULT: But there's no  
23 evidence in this proceeding that I've seen, in any event,  
24 that there are payday lenders making, on a consistent  
25 basis, profits that are higher than banks.

1                   Isn't that correct?

2                   DR. JERRY BUCKLAND:   Well, the Ernst &  
3 Young report, as I understand it, found that on average  
4 payday lenders, in that -- in their sample, were earning  
5 returns close -- around what the -- the banks were  
6 earning; around 20 percent.

7                   Now, my understanding of that is that  
8 there's going to be some divergence in there.  Some payday  
9 lenders at that time would have been earning in excess of  
10 that,, and some would have been earning less than that.

11                  My personal opinion is that a 20 percent  
12 return is already very high.  It seems, you know, it seems  
13 to me Canadian banks are -- are doing very well.  They're  
14 very profitable.  I think 20 percent is very high to start  
15 with and then to find that some payday lenders are earning  
16 in excess of 20 percent seems to point to the result that,  
17 yeah, there's some pretty high profits being made here.

18                  MR. ANTOINE HACAULT:   Some are actually  
19 incurring losses and have had to close stores.  Rentcash  
20 has closed stores.  You heard also Mr. Sardo explain that  
21 he's closed stores, so there's two (2) sides to that coin,  
22 is there not?

23                  Some people may be doing not too bad, but  
24 some people have to close their stores and they can't even  
25 compete with the current prices.

1                   Is that correct?

2                   DR. JERRY BUCKLAND:    Yeah.  I guess why  
3 those particular outlets or firms are shutting down isn't  
4 clear to me, particularly given that we found there's not  
5 a lot of price competition right now.  So it seems like a  
6 payday loan outlet can -- or payday loan firm can enter  
7 into the market and not be too worried about its price.

8                   So I'd need to know more clearly why those  
9 companies are -- like, what's caused them to exit the  
10 market.  But certainly that's the -- that's the way  
11 markets work.  I mean, entrants come in and some firms  
12 exit.  I mean, that's a -- as far as I know, a very likely  
13 way in which markets work.

14                  MR. ANTOINE HACAULT:   But Rentcash, for  
15 example, has one (1) model, and it's got a policy, it's  
16 got an approach and it is shutting some stores.  It isn't  
17 only opening stores.

18                  DR. JERRY BUCKLAND:   Okay.  I'm -- I'm  
19 just struggling to know what the question that I'm wanting  
20 -- I'm needing to answer --

21                  MR. ANTOINE HACAULT:   Well, I think you  
22 said that it depends on the way they operate their  
23 business.  We know that Rentcash operates in a particular  
24 way, and they operate all their stores in that particular  
25 way, and yet they have to close some stores.

1 MS. ANITA SOUTHALL: Mr. Hacault, I'm  
2 sorry to interrupt, but I don't recall there being any  
3 evidence introduced by Rentcash on the reasons for closure  
4 of any of its stores and disclosure of information related  
5 to that.

6 So I'm very concerned, because there's been  
7 an opportunity to enter that evidence to this point in  
8 time and -- and I don't believe it's on the record. But  
9 I'm just mindful of that because we -- I just want to  
10 bring that to your attention.

11 I'm sorry, but I -- I'm concerned about the  
12 nature of the questioning because that evidence is already  
13 in. And if -- and if I've missed that evidence and you  
14 want to direct the witness to that evidence, you may do  
15 so.

16 MR. ANTOINE HACAULT: I'm pretty sure  
17 Rentcash, when it was explaining its total number of  
18 stores, explained that it had opened certain amounts and  
19 closed certain amounts of stores.

20 MR. BYRON WILLIAMS: If I could --

21 MR. ANTOINE HACAULT: And I'm not asking  
22 the witness to get into why they opened or closed stores,  
23 but he made a point that people were -- he doesn't know  
24 why Sardo closed stores and it might be a different --  
25 they might have different business practices.

1                   And my only point in my question to him was  
2 to say, well, that may apply to small operators, but  
3 you've got big operators like Rentcash that have explained  
4 that they were opening and closing stores, depending on  
5 the circumstances.

6                   It doesn't -- I'm not asking him to explain  
7 why they're doing it. I'm just bringing out the fact that  
8 it doesn't only apply to small stores. You've got the  
9 bigger players that are also having some turnover in what  
10 they're opening and what they're closing. That was the  
11 only point, and I was referring him to that evidence that  
12 is on the record.

13                   MS. ANITA SOUTHALL:    So are you asking  
14 that specific question? Is that what you're putting to  
15 him? I'm just trying to be -- to be honest, I'm trying to  
16 understand where the question is going and, so, if there's  
17 a particular question you're putting to the witness --

18                   MR. ANTOINE HACAULT:    As I indicated --

19                   MS. ANITA SOUTHALL:    -- and he could  
20 answer just that specific question.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23                   MR. ANTOINE HACAULT:    Well he can -- do  
24 you acknowledge, sir, that quite apart from the single  
25 operators, that some -- some of them are closing. That's

1 the first thing, "yes" or "no"?

2 DR. JERRY BUCKLAND: Yes. I -- I think  
3 that that's very common that some outlets would be --  
4 would be shutting and -- and firms would be repositioning.

5 For instance -- maybe, you know, an --

6 MR. ANTOINE HACAULT: Okay.

7 DR. JERRY BUCKLAND: -- outlet shuts down  
8 in a neighbourhood from another firm, you know -- you  
9 know, just to use some names.

10 Money Mart shuts down an outlet on Selkirk  
11 and Salter, Rentcash sees that as an opportunity to, you  
12 know, get into that area. But Rentcash has another outlet  
13 in Parkdale Toronto, it's kind of a lower volume, it's not  
14 doing as well as they thought, so they want to shut it  
15 down.

16 So in terms of shutting outlets and opening  
17 outlets for a big firm, it seems like a common, you know,  
18 they're -- they're repositioning, looking for new  
19 locations with higher volume.

20 And I guess the -- the big question is  
21 what's the -- the net change. That would be ,maybe  
22 interesting. Is Rentcash's total number of outlets  
23 declining or -- or rising.

24 And -- and I thought that, in general,  
25 there was -- it was a pretty rapid growth of outlets for

1 the Cash Store and Instal loans.

2 MR. ANTOINE HACAULT: This might be an  
3 appropriate time to break, Members of the Board.

4 THE CHAIRPERSON: Sounds good, Mr.  
5 Hacault. So we'll be back at 1:15, thank you.

6

7 --- Upon recessing at 12:05 p.m.

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

9

10 THE CHAIRPERSON: Okay, we're all back  
11 together again. Mr. Hacault, do you want to take up where  
12 you left off?

13 MR. ANTOINE HACAULT: I think there might  
14 be some clarifications with respect to what I was  
15 referring to as PUB Exhibit 4. When I had got the  
16 binders, that's what it showed to be as an exhibit number,  
17 but apparently I need better reading glasses.

18 MS. ANITA SOUTHALL: No, I think Mr.  
19 Hacault's reading glasses are the right strength. But,  
20 for the record, the book of documents that the Public  
21 Utilities Board assembled had on its cover sheet Exhibit  
22 number 4.

23 It was Exhibit number 4 in the Thompson  
24 Hearing, I'm advised. But for the Winnipeg Hearing  
25 exhibit list, it is Exhibit number 6.

1                   So please make a note of that, and for the  
2 record, to the extent it has been referred to as Exhibit 4  
3 in these proceedings, it's properly Exhibit 6.

4                   Thank you very much.

5                   THE CHAIRPERSON:     Mr. Williams...?

6                   MR. BYRON WILLIAMS:     Mr. Chairman, I'm  
7 sorry to interrupt Mr. Hacault. Just two (2) things. One  
8 (1) is Ms. Friesen is still ill, so it's unlikely she'll  
9 be here today, and I apologize for any inconvenience to  
10 the parties.

11                   The second thing is one (1) of the -- the  
12 things that we had promised counsel for Rentcash was the  
13 redacted notes and, certainly, we're in a position to --  
14 to share that with parties now.

15                   I believe it's Coalition number 34.

16

17 --- EXHIBIT NO. COALITION-34:     Redacted notes

18

19                   THE CHAIRPERSON:     Very good, Mr.  
20 Williams. Mr. Gaudreau is bounding about passing it out.

21

22                   (BRIEF PAUSE)

23

24                   MR. BYRON WILLIAMS:     Mr. Chairman, I had  
25 provided one (1) of these to Mr. Hacault late yesterday.

1 We hadn't -- we -- when I looked at them this morning -- I  
2 should have looked at them sooner -- we hadn't numbered  
3 them.

4                   So just -- it'll be one (1) exhibit,, I  
5 would propose but just for con -- convenience, we've  
6 numbered documents -- the separate interviews separately  
7 in the top right-hand corner. Just -- it may assist  
8 parties in looking -- in looking through them.

9                   THE CHAIRPERSON:       So Coalition 34 has  
10 eleven (11) -- twelve (12) parts.

11                   MR. BYRON WILLIAMS:     Yes.

12                   THE CHAIRPERSON:     Thank you. Okay, Mr.  
13 Hacaault.

14

15 CONTINUED BY MR. ANTOINE HACAULT:

16                   MR. ANTOINE HACAULT:     Thank you. With  
17 respect to this information, I thank Mr. Williams for  
18 having provided that to me later yesterday afternoon.

19                   Now, unfortunately, some of those  
20 questions, because a lot of the information was prepared  
21 by Anita Friesen, would have been directed to her. So I'm  
22 -- I guess we'll do the best we can.

23                   I may have some questions that I can ask of  
24 Mr. Osborne, because he did the telephone enquiries. In  
25 any event, we'll proceed as best as we can.

1                   Now, referring to the next extract that I  
2 took out of what's now being referred to as Exhibit 4, Tab  
3 2, was a January 26, 2006 document from the Library of  
4 Parliament.

5                   And there's a line on page 10 of the  
6 extract of that document and the second full paragraph  
7 refers to consultations on the alternative consumer credit  
8 market in Canada, and that the CMC working group heard  
9 from the industry and consumer advocacy and academic  
10 participants.       Had your group participated in that  
11 survey, Dr. Buckland?

12                   DR. JERRY BUCKLAND:    I personally  
13 participated in a couple of projects or questionnaires  
14 that the working group had undertaken, and -- and did  
15 participate in one (1) workshop.  Whether I participated  
16 specifically in what they're referring to here, I'm not  
17 certain.

18                   MR. ANTOINE HACAULT:    Okay.  My reason for  
19 drawing your attention to that document and asking you  
20 that question was that that sentence continues and says:

21                               "Some of whom are concerned that if  
22                               payday lenders close..."

23                   And you have to -- it's like legal reading.  
24 You have to jump, like two (2) lines before you see what  
25 the rest of the sentence is.

1                    "...some payday loan customers may turn  
2                    to less desirable underground credit  
3                    options including organized crime and  
4                    loan sharking."

5                    Are you aware of who might have had those  
6 concerns, Dr. Buckland?

7                    DR. JERRY BUCKLAND:    Well, who had the  
8 concerns that led Andrew Kitching (phonetic) to put this  
9 in his report? No, I'm not sure, but I've certainly heard  
10 that concern expressed. And I think I said previously  
11 that the research I've done in Winnipeg, Vancouver, and  
12 Toronto in inner cities among low income people; it's not  
13 a universal set of surveys. But I've only heard one (1)  
14 specific reference to an actual kind of loan shark  
15 situation, like a, you know, very clearly sort of illegal  
16 situation.

17                    But I've certainly heard this argument  
18 made.

19                    MR. ANTOINE HACAULT:    Now, you've been  
20 referring to the inner city and low income people inner  
21 city quite a few times when we've been talking. Is -- is  
22 that simply because that's been the focus of your previous  
23 work, or was it also a primary focus of this work?

24                    DR. JERRY BUCKLAND:    The -- the main focus  
25 of my research project,, not to do with this work here is

1 on inner city and low income experiences with financial  
2 services. So, I'm -- I'm bringing that information and  
3 realizing that it's not exactly related to this topic, but  
4 it's the only research that I know of, off -- off-hand,  
5 that relates to these questions.

6                   So I -- I mean if you're asking -- I mean  
7 maybe, you know, is -- are there money lenders in St.  
8 James and St. Vital? I suspect it's less likely there  
9 than in the north end or Spence neighbourhood, but I don't  
10 know that.

11                   MR. ANTOINE HACAULT: Okay. The next  
12 document I've extracted from Exhibit 6, Tab 2, of the  
13 Public Utilities Board binders is an extract from a report  
14 that was written by the City of Vancouver Police,  
15 apparently. And the report shows to be dated August 8,  
16 2005.

17                   Do you have that before you?

18                   DR. JERRY BUCKLAND: I do, yes.

19                   MR. ANTOINE HACAULT: Okay. Now, what I  
20 found of interest in that particular document was on page  
21 3 at the bottom. There should be a line and it's a  
22 conclusion of the authors of this report that in  
23 discussions with payday lending representatives, that the  
24 optimal locations for businesses are in downtown areas or  
25 commercial nodes in proximity to other higher traffic

1 uses, such as Starbucks, Blockbuster, 9-Eleven (sic)  
2 stores, and large pizza chains.

3 I think that same observation was made with  
4 respect to Winnipeg. You've got nodal areas at Polo Park  
5 and other kind of commercial areas.

6 Is that correct?

7 DR. JERRY BUCKLAND: What we found in our  
8 mapping was that there seemed to be a denser number of  
9 payday lending outlets in lower-income neighbourhoods as  
10 compared to non low-income neighbourhoods, as well as  
11 these interesting other areas of concentration, which I  
12 think we -- we had a conversation about, in the suburbs  
13 that in many cases are -- are still lower than, kind of,  
14 the -- the median or middle income. They tend to be a  
15 little bit lower income than the median.

16 So it seems like there's two (2) types of  
17 concentrations in Winnipeg.

18 MR. ANTOINE HACAULT: And although we had  
19 the discussion with respect to your retainer and you've  
20 refused to give me a number on low income -- what that  
21 number meant -- for purposes of that segregating and that  
22 mapping, it's twenty-eight thousand dollars (\$28,000) and  
23 lower.

24 Is -- I'm just -- is that it when you're  
25 talking about there's different sectors? I think Mr.

1 Osborne did a cutoff around twenty-eight thousand dollars  
2 (\$28,000)?

3 MR. BYRON WILLIAMS: Mr. -- Mr. Carter or  
4 Mr. Osborne might be able to help you on that one.

5 MR. ANTOINE HACAULT: Yeah.

6 DR. TOM CARTER: The cutoff for low income  
7 actually depends on the household size. There are  
8 different cutoffs for different sizes of households. So  
9 if you have a one (1) person household, the cutoff below  
10 which a person is considered low income is considerably  
11 different than the cutoff for a three (3) person  
12 household.

13

14 CONTINUED BY MR. ANTOINE HACAULT

15 MR. ANTOINE HACAULT: But for purposes of  
16 the mapping, you used twenty-eight thousand (28,000)  
17 something?

18 MR. JOHN OSBORNE: Yeah, that's why I'm --  
19 sorry if I've bored everyone here, but it was important I  
20 talked about the Jenks' natural breaks. Because that  
21 wasn't the subjective thing that I chose twenty-eight  
22 thousand (28,000); this was a statistical comparison of  
23 means. I don't have the definition in front of me, but  
24 it's -- it's a default mechanism within the GIS mapping  
25 software.

1 I didn't choose that twenty-eight thousand  
2 (28,000) as the lowest. This is just -- it's -- it's  
3 breaking into different groups. It's -- it's finding gaps  
4 in the -- in the data via statistical methods, and it --  
5 it's chosen these as natural breaks within the data --  
6 logical breaks within the data, to separate into different  
7 classes.

8 I knew that the issue of values would be an  
9 issue; I wanted to keep it as impartial as I possibly  
10 could. One (1) thing that came to my mind was a twenty-  
11 five thousand (25,000) to fifty thousand (50,000) gap in  
12 another map that's emerged, and we spoke about this the  
13 other day and it's something I wouldn't even consider --  
14 consider it as a gap to show as a map of this nature.

15 MR. ANTOINE HACAULT: So this software  
16 doesn't use any recognized definitions of "low income"?

17 MR. JOHN OSBORNE: Excuse me, it's another  
18 part of it. Dr. Carter was referring to the -- the low  
19 incidents of low income map --

20 DR. TOM CARTER: Yeah.

21 MR. JOHN OSBORNE: -- and -- and the --  
22 which we think is probably a more important -- I don't  
23 know if important, but it -- it's an important indicator  
24 to consider. That's what Dr. Carter was referring to.

25 There's a difference between median

1 household income map and the incidents of low income map.  
2 The incidents of low income map actually has set  
3 categories determinant by household size and income of the  
4 household, whereas, median household income just shows the  
5 -- the household income, not taking into account household  
6 size or anything of that nature.

7                   So that's -- I like the LICO indicator.

8                   MR. ANTOINE HACAULT:    So does this help us  
9 at all understand what the retainer was; what the focus of  
10 the low income analysis was?

11                  MR. JOHN OSBORNE:    Yeah.

12                  DR. TOM CARTER:    Well, the -- the  
13 incidents of low income is actually a measure of how many  
14 people are below the LICO -- the low income cutoff --  
15 which we use as a measure of poverty.  So the map on the  
16 incidents of low income is a very good measure of -- of  
17 poverty within various neighbourhoods within the city.

18                  I think what the confusion is here is that  
19 the median household income was also mapped, but the lower  
20 category, as I understand, was below twenty-eight thousand  
21 dollars (\$28,000), but one is "median household income"  
22 but the other is "incidents of low income".  I like the  
23 incidents because it's a better measure of poverty, and it  
24 includes all households who fall below that poverty level.

25                  MR. ANTOINE HACAULT:    And is that what you

1 used as the focus of your retainer then?

2 DR. JERRY BUCKLAND: Okay. Yeah, I --

3 DR. TOM CARTER: I'm not clear on what you  
4 mean by "retainer," I'm sorry.

5 MR. ANTOINE HACAULT: There was a retain  
6 letter where --

7 DR. JERRY BUCKLAND: Yeah, right. Okay.

8 MR. ANTOINE HACAULT: -- there was a --

9 DR. JERRY BUCKLAND: If I could -- if I  
10 could respond to that, because we've had previous  
11 conversation about this. The -- the retainer letter  
12 refers to, I think, something like the experience of low  
13 income people using payday loans.

14 When I read that, I understood it to be,  
15 look at how payday loan consumers are experiencing payday  
16 loans, but pay -- pay particular attention to low income  
17 consumers and identify particular concerns there. That's  
18 how I interpreted my -- my work.

19 MR. ANTOINE HACAULT: So particular  
20 attention was paid to -- do we know yet? Was it -- what  
21 group of people? Was it people under twenty-eight  
22 thousand dollars (\$28,000)? Is that fair?

23 DR. JERRY BUCKLAND: The -- I think the --  
24 the point that's coming from both Dr. Carter and Mr.  
25 Osborne is that there's different ways to -- to measure

1 low income as there are different ways to measure middle  
2 income.

3 I looked at a study recently that claimed  
4 that middle -- the middle class was that quintile of  
5 people -- that 20 percent of people that's wedged in  
6 between the -- the top forty (40) and the bottom forty  
7 (40).

8 And I thought, wow, that's an interesting  
9 definition of middle class. I've never seen that. I  
10 personally don't think it's a particularly useful  
11 definition of middle class, but that's what they did.

12 So there's different definitions out there.  
13 LICO -- low income cutoff -- is the most --

14 MR. ANTOINE HACAULT: Sorry -- sorry to  
15 interrupt. I haven't done very much of that at all. But  
16 I'm -- I'm just trying to understand what your particular  
17 focus was and if you can't answer my question, that's  
18 okay.

19 But I'm trying to see whether, you know,  
20 you've indicated there was a particular focus on low  
21 income. I'm just trying to understand what sector of the  
22 population we're talking about when you're talking about a  
23 particular focus on a particular group of people.

24 And if we can't identify them, and that's a  
25 very vague -- you know, it could be as high as forty

1 thousand dollars (\$40,000) is considered low income, so be  
2 it.

3 But I'm just trying to understand what the  
4 focus of your study was.

5 MR. BYRON WILLIAMS: If I could interrupt  
6 just for a second. Perhaps part of the confusion is it's  
7 unclear if My Learned Friend is referring to two (2)  
8 specific maps or if you're trying to get at -- because the  
9 answer to that might be a little bit different from if  
10 you're trying to get at what was the objective of the  
11 research that Dr. Buckland et al undertook as a whole.

12 So just to -- to help the conversation get  
13 on track and assist counsel for Rentcash, if you could  
14 focus I'd say on which your in particularly looking at.  
15 They may be different answers.

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: My question was with  
19 respect to the retainer and did any of the discussion that  
20 was happening with Mr. Osborne and Dr. Carter help you  
21 provide me a better answer to the question I had asked you  
22 before, given your instructions to focus. And you said, I  
23 think today, that you paid particular attention to low  
24 income category.

25 I'm just trying to get some sense, well,

1 what group were you focussing on?

2 DR. JERRY BUCKLAND: Well, there's  
3 different ways to measure low income. One (1) way is to  
4 look at median income. One (1) way is to look at  
5 percentage under LICO, and there are other ways as well.

6 We would like to use all the means at our  
7 disposal to try and understand that particular group as  
8 well as looking at the general phenomenon of consumers  
9 experience with payday loans.

10 That's how I understood my -- my research  
11 goal.

12 MR. ANTOINE HACAULT: So it could mean any  
13 one (1) of those particular definitions is englobed in the  
14 low income focus.

15 Is that it?

16 DR. JERRY BUCKLAND: I think it's  
17 important to use a variety of different indicators to  
18 understand that particular group.

19 MR. ANTOINE HACAULT: So apart from the  
20 low incidence and the household income point, is there any  
21 other thing -- any other evidence that helps us understand  
22 what your focus was? Any other groups or categories of  
23 low income people?

24 DR. TOM CARTER: I think maybe we're  
25 confusing a couple of things here. One (1) of the

1 indicators that we mapped was the median household income.  
2 And that just shows the distribution of income in the  
3 city. It's not specifically a measure of poverty.

4           And when we illustrated that on the map,  
5 the bottom category that we had on that map were  
6 households who had a medium household income of less than  
7 twenty-eight thousand one hundred and seventy dollars  
8 (\$28,170). That's one (1) map. And what that map did was  
9 that it illustrated areas in the city that had lower  
10 median incomes.

11           The other map, which I think we're  
12 confusing with that first one, is the incidents of low  
13 income. And this was a map of households that fall below  
14 the poverty line -- below the low income cut off -- and  
15 what percentage of the households in each neighbourhood  
16 fell below that line.

17           But in the definition of poverty, the low  
18 income cut off varies depending on the size of the  
19 household. So the twenty-eight thousand (28,000) is not  
20 applicable to incidents of low income at all. That's  
21 where the confusion is coming in.

22           I -- I could give you the low income  
23 cutoffs for each household size, but I know that for a  
24 four (4) person household, it's probably higher than  
25 twenty-eight thousand dollars (\$28,000).

1 Does that help clarify it?

2 MR. ANTOINE HACAULT: Well, I'm -- I'm  
3 maybe it does. So that your focus was on this low income  
4 incidents?

5 DR. TOM CARTER: Yeah.

6 MR. ANTOINE HACAULT: That was the focus  
7 of the study? Is that right?

8 DR. JERRY BUCKLAND: If I can --

9 DR. TOM CARTER: Yeah.

10 DR. JERRY BUCKLAND: -- just respond to  
11 that.

12 MR. ANTOINE HACAULT: Yeah, can he answer.  
13 I think he has to answer yes or no so we can understand it  
14 on the transcript.

15 DR. TOM CARTER: I wouldn't say that was  
16 the entire focus. I mean we did map the incidents within  
17 low income within the city, but I mean there's many other  
18 aspects that were taken into consideration.

19 One (1) of the things that we wanted to  
20 look at was the -- the spatial pattern of low income in  
21 the city and to see if there was any relationship between  
22 that spatial pattern and the spatial pattern of business  
23 payday -- payday lender outlets. But Mr. Buckland can  
24 probably expand on other aspects.

25 MR. ANTOINE HACAULT: I think we've --

1 DR. TOM CARTER: Yeah.

2 MR. ANTOINE HACAULT: -- gone through it a  
3 couple times.

4 DR. TOM CARTER: Okay.

5 MR. ANTOINE HACAULT: Going on to the  
6 August 8, 2005 police report; I also extracted page 7, and  
7 there should be lines adjacent to a couple of paragraphs.

8 The first paragraph actually confirms one  
9 (1) of your statements prior to lunch in the middle:

10 "The study also found that specific  
11 vulnerable groups, single mothers for  
12 example, were not heavily represented."

13 That's with respect to the profile of  
14 payday loan borrowers. Would you agree that that also  
15 applies in Manitoba?

16 DR. JERRY BUCKLAND: I -- I think that to  
17 the extent that they -- their sample had a representative  
18 sample then, yeah, I think that's a fair conclusion for  
19 the survey in 2002.

20 MR. ANTOINE HACAULT: And the next line  
21 also would agree that the employment rate of customers was  
22 found to be slightly higher than the Canadian average?  
23 Would that also be applicable to Manitoba?

24 DR. JERRY BUCKLAND: Well, I think that  
25 that's the result that Dr. Simpson had come to with the --

1 some of the other data sets that he looked at, yeah.

2 MR. ANTOINE HACAULT: The other conclusion  
3 of the study by the Public Interest Advocacy Centre in  
4 Ottawa was that the pawn shop sub-sector more correctly  
5 fits the -- and it -- it's in quotation marks -- "preying  
6 on the poor" close quotation marks, character --  
7 characterization when compared to payday loans.

8 Is that also a proper statement from  
9 Manitoba?

10 DR. JERRY BUCKLAND: Well, I -- I mean,  
11 that's where we get into these ethical issues of  
12 exploitation. And maybe if they mean a wealthy provider -  
13 - a wealthy pawn broker providing a service to low income  
14 people at a price well in excess of what the wealthy pawn  
15 broker is -- is getting for the same kind of service, then  
16 that would be an example of sufficiency exploitation.

17 We didn't look specifically at pawn  
18 broking, so I can't really -- I can't really report on --  
19 on that. I mean, frankly, you know, the research I have  
20 done on -- on pawn broking is that in 2002 their fees were  
21 actually lower than payday loan fees in terms of APRs, and  
22 they had one (1) standard price. There was no range of  
23 prices.

24 And my sense was, whenever I talked to  
25 people about pawn shop loans, they knew what the -- the

1 price was. So the consumers I spoke to were -- were well  
2 aware of the price. So some of the concerns that we've  
3 raised about payday loans at least based on my research in  
4 '02 don't apply to pawn brokers in Winnipeg.

5 MR. ANTOINE HACAULT: But you see they're  
6 contrasting here the groups of people, the payday loan  
7 people, so that here the people who use pawn shops, their  
8 average household income was twenty thousand dollars  
9 (\$20,000) less than the Canadian average and their  
10 employment rate was about 20 percent less than the average  
11 and that was specific to the pawn shop subsector.

12 And the clients of payday loan companies  
13 are different than that sector of the market, would you  
14 agree?

15 DR. JERRY BUCKLAND: Yeah, I agree that  
16 they're different clients.

17 MR. ANTOINE HACAULT: In fact then the  
18 next paragraph indicates that the average borrower has a  
19 post-secondary education, a full-time job, an average  
20 income of about forty-one thousand five hundred (41,500),  
21 and is more likely to be between eighteen (18) and twenty-  
22 nine (29) years of age than over fifty (50).

23 Would that also be a fair description of  
24 the customers of payday loans, sir?

25 DR. JERRY BUCKLAND: Yes, and I think the

1 -- what they're referring to is the CACFS; is what we've  
2 talked about as the CPLA Environics survey, because that's  
3 the old name for the Canadian Association of Community  
4 Financial Service Providers, the old CPLA name. So, yeah,  
5 we've -- we've actually used that data in Dr. Simpson's  
6 work.

7 MR. ANTOINE HACAULT: Thank you. The next  
8 document that I've extracted from Public Utility Board  
9 Exhibit number 6 at Tab 2 is part of a pamphlet that was  
10 produced by Financial Consumer Agency of Canada. And  
11 that's referred to in your paper provided this morning on  
12 recommendations on what can be done to properly inform  
13 consumers. This is a new pamphlet that's been produced.  
14 The first page has the index.

15 Have you reviewed that pamphlet at all,  
16 sir?

17 DR. JERRY BUCKLAND: Yeah, I've read it.  
18 It might have been a little while ago but I -- I have read  
19 it.

20 MR. ANTOINE HACAULT: Do you think the  
21 authors of that particular document did a pretty good job?  
22 In other words is this a useful document that could be  
23 distributed at payday loan centres?

24 DR. JERRY BUCKLAND: Yeah, I do.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: If this was  
4 distributed at payday loan centres by the Government would  
5 it help alleviate some of your concerns that consumers  
6 aren't properly informed?

7 DR. JERRY BUCKLAND: Yeah, if generally  
8 this along with other changes were made, as we've  
9 discussed, in terms of disclosure, I think that would be  
10 an important part of a response.

11 MR. ANTOINE HACAULT: Now, if I'm correct  
12 none of these pamphlets were distributed by the Government  
13 in the payday loan offices which were mystery shopped.

14 Is that correct?

15 DR. JERRY BUCKLAND: I seem to recall in  
16 our mystery shopping report, reference to finding in one  
17 (1) outlet this particular publication but I -- I could be  
18 wrong. I mean, I -- I'd like to double check that but it  
19 seems to me that one (1) of our mystery shoppers found  
20 either this one or something close to it in one (1) of the  
21 outlets.

22 MR. ANTOINE HACAULT: But that -- would  
23 you agree with me that having this would represent a  
24 change in the way the payday loan information is provided  
25 to customers? If this is distributed in each of the payday

1 loan centres it would represent a change on how consumers  
2 are informed?

3 DR. JERRY BUCKLAND: Yeah, I think if  
4 staff are more clear and upfront at the beginning and if  
5 pamphlets and posters are available then, yes, I think  
6 that's a good -- good step.

7 MR. BYRON WILLIAMS: And, Mr. Hacault,  
8 just to assist. Hopefully this helps you. Dr. Buckland,  
9 just, if you're looking, because Ms. Friesen's not here,  
10 at page 50 of the Buckland et al report there's a  
11 reference to a pamphlet but it is not an FCAC pamphlet.

12 So that may be the reference that Dr.  
13 Buckland was looking for. I'll just ask you to give him a  
14 second to look for it, if that helps you.

15

16 CONTINUED BY MR. ANTOINE HACAULT:

17 MR. ANTOINE HACAULT: Thank you, Mr.  
18 Williams. The only point I was trying to make, sir, is  
19 that much has been said about the need for information to  
20 consumers and once they have the information then they can  
21 properly price shop and properly make decisions.

22 And if this represents a change that's  
23 going to be occurring in the next months because it's a  
24 new pamphlet, we have a different set of circumstances  
25 which occurred and existed during your mystery shopping

1 than will occur and exist in the future provided this  
2 agency does its work properly.

3 Is that correct?

4 DR. JERRY BUCKLAND: Yeah, that's correct.  
5 And I was wrong and I thank Mr. Williams to clarify, it  
6 wasn't this document that one of our mystery shoppers  
7 found.

8 MR. ANTOINE HACAULT: The next document I  
9 have is a -- from the PUB Exhibit 6 is a June 2006  
10 document entitled 'The Unfinished Agenda' and I've  
11 extracted pages 76, 77, 78. It looks like I missed a  
12 page, anyways, and 80.

13 And on page 77, again with respect to  
14 payday loans, there's a separate centre apart from the  
15 FCAC that keeps track of complaints and it's the centre  
16 for Financial Services Ombuds Network.

17 And its evidence is outlined on page 77  
18 with a little line and it indicates it's had one (1) or  
19 two (2) complaints perhaps at the most with respect to  
20 payday loans. People have not complained about their  
21 relationship with payday loan groups.

22 That appears to be consistent with the CPLA  
23 survey. Would you agree, sir?

24 DR. JERRY BUCKLAND: Yeah, yeah.

25 MR. ANTOINE HACAULT: Certainly not coming

1 out from reports of a lot of consumer watch groups and  
2 people who might take complaints that this is an area of  
3 concern for very many people, is that correct?

4 DR. JERRY BUCKLAND: Whether it's a  
5 concern to people would depend on whether they know about  
6 the ombudsman and know how to contact the office.

7 So again, I mean -- I think we've talked  
8 about that before about FCAC complaints and, you know, do  
9 people know about the ombuds person and do they know how  
10 to get a hold of him, do they feel that they've got the  
11 power to, you know, affect change in the financial  
12 services.

13 MR. ANTOINE HACAULT: Now on page 78  
14 there's reference to a study done by Ryerson University  
15 Centre of Commercial studies and I think it's actually  
16 also part of the material the Board put together for us.

17 Their research concluded ostensibly  
18 something different than yours. I don't know whether  
19 that's the case or not. You could perhaps comment on  
20 that.

21 Their research indicates that the payday  
22 lending industry is not locating in areas that are under  
23 served by traditional financial institutions, quite the  
24 opposite. They're locating in close proximity to the  
25 existing network of financial institutions. About 50

1 percent of payday lenders were located within two hundred  
2 and fifty (250) metres of a bank, Credit Union or some  
3 kind of financial traditional lending outfit. And 90  
4 percent were within a thousand (1000) metres.

5 Do you believe that their study was  
6 properly conducted?

7 DR. JERRY BUCKLAND: I don't know about  
8 the methods. I -- I think that the -- the results are --  
9 are important and I think it certainly challenges what I'd  
10 call kind of the location theory that -- that simply as  
11 banks pull out of neighbourhoods and other fringe banks  
12 set up in neighbourhoods that that's the complete  
13 explanation as to people's financial service choice.

14 I don't think it's as simple as that and I  
15 -- I agree that payday lenders in many cases will set up  
16 right next to banks or Credit Unions. However, there's  
17 still a whole number of costs and benefits that financial  
18 consumers have to weigh in terms of their determination of  
19 where to go.

20 So it could be on Portage and Arlington.  
21 There's a Money Mart on one side and an RBC on the other.  
22 And being in the inner city, it's close to go to either of  
23 those for the neighbourhood residents.

24 But they're gonna -- they're gonna not just  
25 look at location. They're gonna look at hours of

1 operation. They're gonna look at responsiveness of staff.  
2 They're gonna look at the appropriateness of the services.  
3 So they're gonna look at a number of factors, I think. So  
4 while, I think, the Ryerson results are useful, I don't  
5 agree with their conclusions that location doesn't matter  
6 at all. I think it does matter, but it's just one factor  
7 of many.

8 MR. JOHN OSBORNE: I -- I also had a  
9 chance to read that briefly just -- it was a mapping issue  
10 and doing the spatial analysis. They didn't look at bank  
11 closures at all either. They didn't take that into their  
12 analysis from what I -- from what I remember.

13 If I'm mistaken, correct me, but they did  
14 not include that as part of their research, and I think we  
15 found some interesting spatial patterns of our own  
16 regarding the bank closures with payday loan outlets  
17 locating.

18 MR. ANTOINE HACAULT: But remind me again;  
19 you didn't do any analysis to see whether Credit Unions  
20 were slipping into those bank locations, for example. I  
21 do work for Credit Unions, and I know through Colliers  
22 Prap McGarry (phonetic) that one of the hottest rental  
23 areas for new space was credit unions.

24 You didn't conduct that kind of survey to  
25 see where -- where these Credit Unions were opening. And

1 for example, out in Southdale, there was a bank, TD Bank,  
2 and I did a lease for a Credit Union and they took the --  
3 took up that TD Bank space. Did you conduct that kind of  
4 search, Mr. Osborne, to see where the Credit Unions were  
5 filling the space?

6 MR. JOHN OSBORNE: No, I didn't. I -- I'm  
7 not sure where Southdale is though. Is that in -- out in  
8 the suburb -- suburban areas?

9 MR. ANTOINE HACAULT: Well, that  
10 particular example is in the suburbs, because it's one I'm  
11 familiar with. But I'm asking whether or not you  
12 conducted that kind of study to see whether or not Credit  
13 Unions were actually opening in some of those areas,  
14 because I did present earlier some evidence on -- and I  
15 think Dr. Buckland agreed -- that Credit Unions were  
16 actually opening up branches.

17 DR. JERRY BUCKLAND: Well, I -- I think  
18 that I've certainly heard stories, and I'd like to study  
19 this that in rural locations where mainstream banks are  
20 shut down, Credit Unions have pulled -- pulled in, have  
21 picked up the slack. In inner city neighbourhoods, I'm --  
22 I'm not certain about that.

23 I know in the north end of Winnipeg -- this  
24 area I've described -- has seen a drop -- precipitous drop  
25 from, you know, twenty (20) bank and Credit Union branches

1 down to five (5) in -- from 1980 to 2003.

2                   And one Credit Union, who I won't name, one  
3 Credit Union was approached, you know, Will you come and -  
4 - and set up a -- an outlet in this -- in this area  
5 especially the southern area, Selkirk/Salter area and they  
6 -- they said no, they couldn't. The -- the kind of volume  
7 of business they'd be getting there was just not  
8 sufficient for them to -- to operate an outlet.

9

10   (BRIEF PAUSE)

11

12                   MR. JOHN OSBORNE:    If I --

13                   MR. ANTOINE HACAULT:    We --

14                   MR. JOHN OSBORNE:    -- we're still on the -  
15 - the Ryerson map -- mapping and spatial analysis thing,  
16 when I was -- I brought up before that we've seen no  
17 evidence of where payday customers come from in relation  
18 to the actual outlet location.

19                   I think a similar exercise of mapping could  
20 be done that was done in the Ryerson to see where they're  
21 coming from with the concentric -- concentric rings they  
22 drew around the outlets to see where they're coming from  
23 to see if indeed there are -- it is rel -- more reliant on  
24 local populations and -- and so forth, but we haven't been  
25 able to do that. That would be a similar under -- that

1 would be a similar way to do that that I think would be  
2 very important.

3 MR. ANTOINE HACAULT: The next document I  
4 have extracted is a -- a February 11, 2005, document. It  
5 was a submission of the Public Interest Advocacy Centre to  
6 the Standing Senate Committee on Banking on these payday  
7 loans.

8 Of interest on page 6, this Public Interest  
9 Advocacy Centre was entitled a paragraph "Questionable  
10 para -- Practices". It talks about the banks practices  
11 not the practices of the payday loan companies.

12 Is that correct?

13 DR. JERRY BUCKLAND: Yeah, that's right.

14 MR. ANTOINE HACAULT: And it's generally  
15 consistent with what we've seen so far is that banks are  
16 flooding the market with credit cards, consumer debt is  
17 growing and as you've indicated, it think it's 116 percent  
18 now according to one of the last stats of the income.

19 Is that correct?

20 DR. JERRY BUCKLAND: It is 116 percent of  
21 household income, yeah.

22

23 (BRIEF PAUSE)

24

25 MR. ANTOINE HACAULT: Yeah. The next

1 document is an April 21, 2005 document from the Bankers  
2 Association, also presented to the Standing Committee. It  
3 was at Tab 3 of Exhibit 6 of the Public Utilities Board  
4 binders.

5                   The first page, page 4, confirms your  
6 previous testimony. You have an amazing memory, Dr.  
7 Buckland. You'll see that these authors confirm that in  
8 US there's about 13 percent of customers that don't have  
9 bank accounts as compared to Canadians which have to the  
10 tune of about 99 percent as confirmed on the next page.

11                   Do you see that?

12                   DR. JERRY BUCKLAND: Yes, I do.

13                   MR. ANTOINE HACAULT: The next point  
14 that's made at page 7 is that consumers can access their  
15 money at branches, bank machines and points of sales, and,  
16 in fact, there are a lot more access points for customers  
17 even though there's actual branch closures.

18                   Do you see that?

19                   DR. JERRY BUCKLAND: Yeah, I see the  
20 statement there, yes.

21                   MR. ANTOINE HACAULT: The next page I draw  
22 your attention to is on page 13, and what I found  
23 interesting about this particular graph is we've been  
24 talking about household expenses and what median household  
25 expenses and -- and this statistical study was intended to

1 compare what people spend on discretionary items and other  
2 items as compared to service charges from banks.

3                   So one item, tobacco products and alcoholic  
4 beverages, an average monthly expense of a hundred forty-  
5 seven dollars (\$147) per month.

6                   Do you see that?

7                   DR. JERRY BUCKLAND:    Yes, I do.

8                   MR. ANTOINE HACAULT:    So that ostensibly  
9 these consumers could save themselves that much money  
10 every month and not have to resort to using other forms of  
11 credit, is that correct?

12                   DR. JERRY BUCKLAND:    Yeah.  It, yeah, I  
13 guess on the aver -- I mean, I'm surprised that there's  
14 that high a spending on tobacco and alcohol.  Well, that's  
15 a hundred and forty seven (147) bucks, I guess that's not  
16 bad.

17                   MR. ANTOINE HACAULT:    A month.

18                   DR. JERRY BUCKLAND:    Oh, it's monthly.  
19 Well it -- it does sound like a lot.  But I'm not an  
20 expert on cigarettes and alcohol.

21                   MR. ANTOINE HACAULT:    I will have to buy  
22 you a bottle of wine every --

23                   DR. JERRY BUCKLAND:    Okay.

24                   MR. ANTOINE HACAULT:    -- month to bring  
25 your average up.

1                   The other thing that I noted on this graph  
2 was that people are spending twenty-two dollars (\$22) a  
3 month on average on government-run lotteries, again  
4 discretionary. So I guess this is part of the problem  
5 we've been talking about, consumerism and people not  
6 making wise choices about how they spend their money?

7                   And if we want to correct these problems  
8 maybe the way isn't to cut five dollars (\$5) on a payday  
9 loan but to teach people not to drink so much, smoke so  
10 much and spend so much on lotteries. Would you agree?

11                   DR. JERRY BUCKLAND: No, I wouldn't agree.  
12 I think people should drink more and smoke more. No, no.  
13 No, that's being flippant, right.

14                   No, but, I mean, the -- the thing here is  
15 that, you know, alcohol and tobacco and -- and lotteries,  
16 yeah, those are other kind of consumer products and we may  
17 like or dislike them, you know. I don't know, we didn't  
18 really study them, you know, we didn't study alcohol and -  
19 - and tobacco.

20                   What we were looking at payday loans. So  
21 that's, so we're saying, okay, considering how much people  
22 pay for payday loans, you know, is there some way to -- to  
23 think about this in a different way? But we didn't really  
24 look at tobacco and alcohol, et cetera.

25                   MR. ANTOINE HACAULT: But you see, sir,

1 this does deal with a very -- from my perspective -- a  
2 very real issue. You've talked about the ethics. You've  
3 talked about preying on -- on the poor and on the low  
4 income people and people with, you know, these median  
5 incomes, and these households are, according to this  
6 study, making some very poor decisions.

7                   And are we trying to fix the tail of a dog  
8 by taking five bucks (\$5) off a payday loan or are we  
9 going to fix the dog?

10                   DR. JERRY BUCKLAND: Well, I -- I don't  
11 think that -- you know, it's a mistake to spend a hundred  
12 and forty-seven dollars (\$147) on tobacco and alcohol  
13 necessarily, like, I -- I mean I hear your point, but it  
14 seems to me that we're -- we're really not talking about  
15 that so I'm -- I'm struggling with this, Mr. Hacault. I -  
16 - I apologize.

17                   I -- I think that -- yeah, I -- if you're  
18 trying to get at the point are some of these issues that I  
19 have raised or that the team have raised kind of  
20 paternalistic? Like if you're trying to get that point, I  
21 think it's a good point and I think it's something we need  
22 to carefully look at.

23                   I mean paternalism is not a useful  
24 approach, and I don't think that the recommendations I've  
25 put forward are paternalistic. Like, for instance, in our

1 serving or exploiting report we didn't say, you know,  
2 maximum five (5) payday loans per year. We didn't say  
3 that. We simply said it's something to consider, you  
4 know, and -- and I remember Professional Barry in her  
5 presentation, she said, Okay, let's keep it to one (1)  
6 payday loan at a time.

7                   Well, that's a good -- that's a good way to  
8 look at it. So I agree with you that we need to be  
9 careful to avoid paternalism but on the other hand, I  
10 don't think that we necessarily have an even playing field  
11 where consumers are all out there equally able to  
12 negotiate the complexities of financial services.

13                   MR. ANTOINE HACAULT: And the other point  
14 on this particular page we're going to be talking about  
15 maybe ten dollars (\$10) per hundred (100) on a -- on a  
16 loan, payday loan and at best, there's a fraction of  
17 payday loan people that use the service, people that are  
18 spending according to this an average of fifteen dollars  
19 (\$15) per month on banks -- service charges.

20                   And we know that every payday loan consumer  
21 needs to have a bank account. They're spending fifteen  
22 dollars (\$15) each and every month, on average, according  
23 to this, for service charges from banks.

24                   DR. JERRY BUCKLAND: Well, I don't pay  
25 fifteen dollars (\$15) a month. I have a low-fee account

1 at the bank so fifteen (15) is the average. There's a  
2 range. We don't know what the average payday loan  
3 consumer pays for their -- their bank account. That would  
4 be -- that would be interesting to know. I don't know  
5 that.

6 MR. ANTOINE HACAULT: For all other  
7 purposes we're using average statistics; is that right,  
8 sir? Isn't that what we used for your mapping?

9 DR. JERRY BUCKLAND: We've used different  
10 types of statistics and for -- when we're talking about  
11 payday loans, it seems to me it's most important to try  
12 and talk about who the average payday loan client is.

13 MR. ANTOINE HACAULT: And I guess that I'm  
14 being repetitious, but that is something we have not done  
15 here. We haven't asked the consumer, Was this a rational  
16 choice? Did you decide to spend sixty dollars (\$60) on a  
17 payday loan knowing that you would save yourself some  
18 money, and are we going to be taking this product away  
19 from you? We've seen RentCash having long-term product  
20 which is not going to be offered anymore at the rates that  
21 you're recommending; isn't that correct?

22 MR. BYRON WILLIAMS: I'm -- I'm not sure  
23 what the question was there. It seemed a little compound  
24 than, perhaps, argumentative so if -- if you could just  
25 focus in the witness, Mr. Hacault, and in terms of the

1 question you'd like to ask?

2

3 CONTINUED BY MR. ANTOINE HACAULT:

4 MR. ANTOINE HACAULT: Your proposal is  
5 going to be knocking out some loans which would otherwise  
6 be provided by some service providers to riskier clients  
7 and to longer term loans; isn't that correct?

8 DR. JERRY BUCKLAND: Okay. My  
9 understanding is that, okay, the proposal from -- from Dr.  
10 Robinson at seventeen dollars (\$17) on average or a tiered  
11 rate with the incoming of Advance America would mean that  
12 we know that at least two (2) of the big companies will be  
13 competing and where other companies close down, those  
14 remaining companies could expand.

15 MR. ANTOINE HACAULT: Okay. Do you have  
16 any evidence and has any evidence been provided in this  
17 hearing that either of these two (2) companies offer the  
18 longer term loan?

19 DR. JERRY BUCKLAND: I am not actually  
20 aware of the longer term loan that you're referring to.  
21 So that's my mistake --

22 MR. ANTOINE HACAULT: The signature loan  
23 was explained. It was a twenty-eight (28) day loan and  
24 the CEO, Mr. Rick Dale, explained that it was a higher  
25 cost.

1                   There was more risk to that loan and that's  
2 why he was pricing it higher because he needed to, to be  
3 able to offer that loan.

4                   Is there any evidence that anybody will  
5 offer that if this rate that you're advocating is going to  
6 be implemented?

7                   DR. JERRY BUCKLAND:    I don't know that.

8                   MR. ANTOINE HACAULT:    Thank you.  Also on  
9 this page 13, it indicates that the annual average cost  
10 for core banking service is a hundred and eighty-five  
11 dollars (\$185) per person.

12                   Do you see that?

13                   DR. JERRY BUCKLAND:    Yes, I do.

14                   MR. ANTOINE HACAULT:    So these payday loan  
15 consumers on average -- we don't know -- we've been using  
16 this statistic for everything else are spending a hundred  
17 and eight-five dollars (\$185).

18                   And if we're going to be proposing a  
19 different rate structure between five (5) and ten dollars  
20 (\$10) reduction on average, how many loans a year do we  
21 even know what the average cost is per consumer, sir?

22                   DR. JERRY BUCKLAND:    Well, the one (1)  
23 slide that I showed in my presentation was if a consumer  
24 took out twelve (12) payday loans in a year of two hundred  
25 and fifty dollars (\$250) for twelve (12) days, I think it

1 was close to seven hundred and fifty (750) to eight  
2 hundred dollars (\$800) that they were spending.

3 Now that's a particular kind of client.  
4 That's the repeat, once a month client which is not the  
5 norm. I think we've got some dialogue going about how  
6 many payday loan clients fit that category.

7 Our data seems to suggest 26 percent minus  
8 an eighth (1/8) what would probably be around 23 percent  
9 or 24 percent. So again this hundred and eighty-five  
10 dollars (\$185) is the average.

11 We don't know what payday loan clients do  
12 but I -- I'll give it to you. Okay, let's say that, you  
13 know, it's close to what payday loan clients spend on  
14 their -- their bank accounts. I imagine that, on average,  
15 they spend less because they are as we've talked about;  
16 lower income on average than the average Canadian.

17 And so, sort of, by extension, I imagine  
18 it's -- it's going to be less. Yeah, it seems like we --  
19 we can run with this number or something a little bit  
20 lower than this number.

21 MR. ANTOINE HACAULT: So we're talking  
22 about very small numbers compared to -- because you've  
23 used low income at twenty-eight thousand dollars (\$28,000)  
24 at least for one (1) category.

25 You've compared the mapping as to where

1 they're located; the payday loan companies. Even though  
2 we go to twenty thousand dollars (\$20,000), we're still  
3 talking about the range of less than two hundred dollars  
4 (\$200) in the twenty thousand dollar (\$20,000) budget.

5 Is that right, sir?

6 DR. JERRY BUCKLAND: Well, I think if you  
7 want to zero in on low income consumers, I would be very  
8 surprised that low income consumers would spend a hundred  
9 and eighty-five dollars (\$185) a year on their bank  
10 accounts.

11 I think they're extremely conscious of  
12 their -- their spending. I mean the research I've done  
13 doing surveying in various inner-cities, there's a lot of  
14 consciousness about cost.

15 And I -- I think a hundred and eighty  
16 (180)-- I mean a low fee account is four (4) to six  
17 dollars (\$6) a month and that will cover ten (10) to  
18 fifteen (15) transactions.

19 So if you're careful you can -- you can get  
20 by with let's say five dollars (\$5) a month by twelve  
21 (12), that's sixty dollars (\$60) a year and I would be  
22 surprised if, you know, there's many low income consumers  
23 that wouldn't, you know, get closer to the sixty dollars  
24 (\$60) a year as opposed to the one eighty-five (185).

25 MR. ANTOINE HACAULT: Okay. We can move

1 on to page 22. The reason this struck my interest is  
2 we're talking about payday loan customers being -- having  
3 bank accounts. So presumably we're talking about the same  
4 type of people. And the banks are concluding in this top  
5 paragraph, and I'm quoting:

6 "Consumers seeking information on  
7 financial products have an increasing  
8 array of sources on which to draw for  
9 the different types of information they  
10 need as they shop for and use financial  
11 products and services."

12 And then this next observation of these  
13 people is interesting:

14 "They are also increasingly savvy, more  
15 willing to bargain and negotiate and to  
16 exercise their consumer power in the  
17 competitive marketplace."

18 Do you have any studies, sir, to show that  
19 somehow the bank payday loan customers are different than  
20 the ones being described here?

21 DR. JERRY BUCKLAND: Well, I mean, the one  
22 point is that this is a Canadian Bankers Association  
23 document. They haven't identified the source of the  
24 conclusion, like, how did they come to that conclusion?

25 I imagine they're trying to portray their

1 members in -- in the best light possible which is the role  
2 of an association and so I, you know, I can accept that,  
3 you know, certainly banks try to do this for, especially  
4 the middle and -- and upper-middle consumers. I am -- I  
5 am very concerned that banks are not very interested with  
6 low income consumers.

7 MR. ANTOINE HACAULT: Do you have any  
8 studies to show, I'm just repeating my question, that the  
9 banked payday loan customers are different than the ones  
10 described in this paragraph?

11 DR. JERRY BUCKLAND: No, I don't.

12 MR. ANTOINE HACAULT: Thank you.

13 The next pages actually just provide  
14 details with respect to different sources of information,  
15 page is 25 -- or 24, and then the last pages just attach  
16 the Ryerson University analysis with respect to location  
17 of banks and payday loan companies.

18 Now, the next document I've extracted from  
19 the PUB Exhibit 6 is in the ACORN Canada report that was  
20 also provided to the Senate. Have you located that?

21 DR. JERRY BUCKLAND: Yes, I have.

22 MR. ANTOINE HACAULT: It's dated March 27,  
23 2007. Now, when -- first, do you know who ACORN is?

24 DR. JERRY BUCKLAND: Yes, I do.

25 MR. ANTOINE HACAULT: And what's its

1 formal name? Oh, sorry, I shouldn't have asked that.

2 It's not probably that important.

3 DR. CHRIS ROBINSON: Association of  
4 Committee Organizations for Reform Now.

5 MR. ANTOINE HACAULT: Okay. So that, and  
6 I'll say this, I guess, for Dr. Robinson, for example, and  
7 they're the groups that suggest that everybody should get  
8 a haircut for twelve (12) or fifteen dollars (\$15) and  
9 that haircut people are preying on people if they're  
10 charging more than that? Is that correct?

11 MR. BYRON WILLIAMS: Dr. Buckland, if you  
12 can't answer that, that's okay.

13 DR. JERRY BUCKLAND: I -- I don't know. I  
14 think that they're actually a very large advocacy  
15 organization in the US, and I think their principal focus  
16 has been housing, but they have gotten into payday lending  
17 in the US. And then when they set up in Canada which was,  
18 I think, just maybe three (3) or four (4) years ago, with  
19 an office in Toronto and Vancouver, I think payday lending  
20 was growing and quite significant already in terms of the  
21 -- the numbers of outlets, so I think they picked up on  
22 that right away.

23 I don't know if they do the housing thing  
24 here in Canada as well.

25

1 CONTINUED BY MR. ANTOINE HACAULT

2 MR. ANTOINE HACAULT: In any event in this  
3 report, they're critical of predatory mortgage lending.  
4 You've given us some information with respect to mortgages  
5 and non-mortgage debt.

6 Do you view the increasing mortgage debt as  
7 an issue for consumers?

8 DR. JERRY BUCKLAND: Well, I think the  
9 statistics I've seen find that between '99 and 2005 that  
10 the mortgage debt is -- is declining. I mean, well, it's  
11 just a tiny reduction. It's more the non-mortgage debt  
12 that's increased between '99 and 2005.

13 MR. ANTOINE HACAULT: But that's assuming  
14 that the assets are increasing. The actual debt amount is  
15 increasing; isn't that correct?

16 DR. JERRY BUCKLAND: I'd have to check the  
17 numbers, but I -- I accept your point that the absolute  
18 numbers -- the absolute dollar figure could be rising.

19 MR. ANTOINE HACAULT: Okay. The next  
20 document that was included is a November 2002 study done  
21 by the Ottawa Public Interest Advocacy Centre, and I've  
22 extracted some pages from that report.

23 That Public Interest Advocacy Group at page  
24 32 of its report concludes that users of cheque cashing  
25 and payday lending do not necessarily follow a path of

1 higher levels of debt leading to worsening credit ratings  
2 ending in the sub-prime lending market.

3 Do you have any information to dispute that  
4 finding?

5 DR. JERRY BUCKLAND: I think that Dr.  
6 Simpson had identified in one (1) of the studies that  
7 payday loan clients did have a more significant likelihood  
8 of having experienced a credit difficulty.

9 DR. WAYNE SIMPSON: Yeah, those -- those  
10 figures are -- are on the record. I mean, my comment on  
11 this statement would be if someone says it does not  
12 necessarily, it means in every case then, of course,  
13 that's almost certainly true.

14 MR. ANTOINE HACAULT: So that there is no  
15 causation effect that we can determine here; is that  
16 correct?

17 DR. WAYNE SIMPSON: Causation in the sense  
18 of implying that in every case, no. Causation in the  
19 sense of implying that there might be a link between the  
20 two (2) we don't know.

21 MR. ANTOINE HACAULT: We don't know that?  
22 Okay.

23 DR. WAYNE SIMPSON: We don't know from  
24 the sentence.

25 MR. ANTOINE HACAULT: Now, this group, and

1 this is the next paragraph that has a line on it,  
2 "spoke to payday loan consumers and  
3 their conclusion was that many people  
4 are attracted to cheque cashing and  
5 payday lending institutions because they  
6 are nonjudgmental. They are there for  
7 equally disdainful policy interventions  
8 that seek to judge their financial  
9 habits."

10 Have you interviewed customers to determine  
11 whether or not they would be disdainful of policy  
12 interventions that would judge their habits as to which  
13 payday loan company they would choose?

14 DR. JERRY BUCKLAND: Once again, I've done  
15 separate research not related to this work, and I'm sorry  
16 if I'm muddling things here because my research has  
17 focussed on low income and low income neighbourhoods, and  
18 I have asked that question and in -- in that research. We  
19 didn't ask it in this research. Can I answer this  
20 question --

21 MR. ANTOINE HACAULT: Well, if it relates  
22 to payday lending I guess it's useful information.

23 DR. JERRY BUCKLAND: No, it doesn't relate  
24 specifically to payday lending. It relates more broadly  
25 to the use of fringe banks.

1                   MR. ANTOINE HACAULT:   Which includes a lot  
2 of different other institutions; is that correct?

3                   DR. JERRY BUCKLAND:   That's correct and --  
4 and cheque cashing and payday lending would be two (2) of  
5 them.

6                   MR. ANTOINE HACAULT:   The other statement  
7 that they made which is consistent with the CPLA survey is  
8 that -- this is the last sentence of that paragraph on  
9 page 32:

10                                 "The customers were, on the whole, very  
11                                 satisfied with the service they received  
12                                 from payday lending and cheque cashing  
13                                 institutions."

14                                 That's correct?

15                   DR. JERRY BUCKLAND:   Well, that was the  
16 result of their survey.  I -- I agree, yeah.

17

18                                 (BRIEF PAUSE)

19

20                   MR. ANTOINE HACAULT:   The other thing they  
21 were looking at on page 38 was the group of people and --  
22 that are affected, and in the first paragraph, they  
23 conclude that the age and gender distributions are  
24 virtually the same as for Canada adult populations at  
25 large.

1 Do you see that?

2 DR. JERRY BUCKLAND: Yes, I do.

3

4 (BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: Then they go on in  
7 the next paragraph and say one of the key hypotheses going  
8 into the household survey was that the alternative  
9 financial services was preying on the poor. So that they  
10 had gone into this study with that hypothesis that we  
11 needed to protect the poor. Payday lenders were preying  
12 on the poor, and their study didn't bear that out.

13 Is that correct?

14 DR. JERRY BUCKLAND: That's correct based  
15 on the survey that they conducted, yes. Although later on  
16 they do report, I think, that the pawn shop client, in  
17 particular, is more similar in characteristic to that low  
18 income group.

19 MR. ANTOINE HACAULT: That's correct and  
20 that reference that you make is at page 40 if we flip  
21 through the pages that in the last paragraph that the  
22 authors indicate; that the results were fairly consistent  
23 through the sub-sectors of the alternative financial  
24 services with the exception, once again, of pawn shop  
25 users, who were significantly more likely to have higher



1                   - percent estimate into annual  
2                   percentage rates".

3                   Would you agree that this again is  
4 consistent with consumers understanding better the flat  
5 dollar amount as opposed to the APR?

6                   DR. JERRY BUCKLAND:   Actually, I think  
7 this would reflect how the consumer's being informed about  
8 the payday loan.  And so if the payday loan is being  
9 explained to them in a flat fee, or a proportion, or a per  
10 one hundred dollar (\$100), then that's the way they're  
11 likely to explain it.  If on the other hand, they were  
12 explained it within an APR, then that I imagine would be  
13 more commonly how they describe it.

14

15   (BRIEF PAUSE)

16

17                   MR. ANTOINE HACAULT:   And then pages 59  
18 and 60, there are recommendations on consumer education  
19 most of which are being implemented by the province.  
20 First on page 59, "Provincial Disclosure of Cost".  On  
21 page 60, "Credit Counselling"; part of the poster will  
22 refer to credit counselling according to the regulation  
23 and consumer education and information about the  
24 alternative financial services.

25                   So they talk about the recently formed

1 Federal agency, and we've seen the product of that being  
2 the pamphlet.

3 Is that correct?

4 DR. JERRY BUCKLAND: Yeah, that's correct.  
5 They don't address the -- the supply side question in --  
6 in their research. Their conclusions really flow from  
7 their various methods that they use to interview the AFS  
8 consumers. They don't really look at the -- well, they  
9 don't look at the supply side of the -- the question.

10 MR. ANTOINE HACAULT: Mr. Chairman, I  
11 don't have very much more with respect to the last two (2)  
12 documents. Might I finish those then we could take a  
13 break? Might that be appropriate?

14 THE CHAIRPERSON: Sure.

15 MR. ANTOINE HACAULT: So we've already  
16 covered the next document which was part of Exhibit 6  
17 which is the Lawrence Report. The next document that was  
18 provided by the Board and it's Exhibit 6 was a Federal  
19 Reserve Bank of New York Staff Report by Mr. Morgan in  
20 January of 2007.

21 And this paper talks about a study relating  
22 to whether or not there's predatory lending and whether or  
23 not we should be looking at the household welfare.

24 Page 4, I direct your attention to the last  
25 paragraph. Have you found that, sir?

1 DR. JERRY BUCKLAND: Yes.

2 MR. ANTOINE HACAULT: Okay.

3 "More importantly -- [I'm quoting] more  
4 importantly we hope our findings inform  
5 the current very real world debate  
6 around predatory lending the stakes and  
7 debate are high. Millions of lower  
8 income households borrow regularly from  
9 thousands of payday loan offices across  
10 the country.

11 If payday lenders raise household  
12 welfare by relaxing credit constraints,  
13 anti-predatory legislation may lower  
14 it."

15 Am I right in understanding that they're  
16 talking about this consumer welfare again issue, the  
17 customer deciding whether or not he takes a ten -- a  
18 payday loan or waits two (2) weeks to fix his car?

19 And if he doesn't have the credit, it may  
20 lower his household welfare; is that what we're talking  
21 about?

22 DR. JERRY BUCKLAND: Yeah. And it's  
23 interesting how they use the term "lower income household"  
24 and -- and I don't know if we've really talked about it  
25 here, but it seems to me there are stats that point to the

1 average income of the American payday loan client being  
2 further off of the American average income than the -- the  
3 average Canadian income.

4                   Sorry, the average Canadian payday loan  
5 client. So I think the -- the point here about  
6 vulnerability of low income people by shutting down payday  
7 lenders is maybe more relevant in the US because of that  
8 lower average income of the payday loan client in the US.

9                   I don't think -- and I think -- I think  
10 that we've heard that point from -- from various sources  
11 that the payday loan consumer is not, you know,  
12 necessarily, the low income consumer.

13                   So I -- I think the -- the vulnerability  
14 isn't as great for the low income consumer in Canada as it  
15 is in the US.

16                   MR. ANTOINE HACAULT: But would you agree  
17 with the authors that we've got to be very careful  
18 especially if we don't know, if you're lowering what  
19 people are actually charging, you may actually be hurting  
20 your consumers more than you're helping them. We don't  
21 know that right now. Isn't that right?

22                   DR. JERRY BUCKLAND: Well, I think the  
23 -- there's definitely benefits and costs of any action,  
24 but there's also benefits and costs of any inaction.

25                   So if the -- the Board were to decide to do

1 nothing which, you know, they can't really do, but if they  
2 were to decide to say set the cap so high that it didn't  
3 affect any payday lender, that, in a sense, would be an  
4 inaction and there's, you know, there's going to be  
5 consequent benefits and costs there and risks.

6                   At the same time, there's benefits and  
7 costs and risks for -- for taking an action. The  
8 particular concern about low income customers in the US, I  
9 think, is more serious than in Canada.

10                   MR. ANTOINE HACAULT:    Okay.  Thank you.  
11 Last document which is part of Public Utility Board  
12 Exhibit 6 at Tab 5 is a report prepared by the Credit  
13 Research Centre.

14                   And it goes through initially all the  
15 arguments that are being raised by consumer groups and at  
16 page 35, sets out its conclusion.  Talks firstly about new  
17 competitors across a spectrum of consumer lending.

18                   Would you agree that that's applicable to  
19 Manitoba?  We are having new competitors coming in?

20                   DR. JERRY BUCKLAND:    Yes.  I agree.

21                   MR. ANTOINE HACAULT:    Next thing it talks  
22 about is consumer rate awareness after twenty-five (25)  
23 years of truth and lending disclosures.  Would you agree  
24 that with the regulations and this new pamphlet by the  
25 FCAC and with all your recommendations that there is going

1 to be increased consumer awareness?

2 DR. JERRY BUCKLAND: Yes. But we haven't  
3 had twenty-five (25) years of it.

4 MR. ANTOINE HACAULT: So are you saying  
5 that we should guess how consumers are not going to  
6 understand or are going to understand all this new  
7 information and based our decision on how we think they're  
8 going to understand the information?

9 Or would it not be more prudent to wait to  
10 see how they actually react to this new regulation and the  
11 posters and all your recommendations?

12 DR. JERRY BUCKLAND: Well, I understand  
13 that the Board is required to set the cap for the payday  
14 loan, and that this is coming from a concern that there's  
15 something going on in the -- the payday loan industry  
16 right now that -- that isn't -- isn't precisely what needs  
17 to happen for the benefit of consumers and Manitobans, in  
18 general.

19 And so they're -- they're going to be  
20 setting a cap that they decide is in the best interests of  
21 Manitoba.

22 MR. ANTOINE HACAULT: And this is where  
23 we're going to get into the basic policy decisions as to  
24 whether you cap off the excessive rates and give the  
25 margin for competition or whether you set it at a rate

1 which likely will only keep the two (2) or three (3)  
2 biggest players into the market. Isn't that the real  
3 debate in this hearing?

4 DR. JERRY BUCKLAND: I think that's a very  
5 important part of the debate, yes.

6 MR. ANTOINE HACAULT: This particular  
7 author or study concludes, and this is the next full  
8 sentence midway through the paragraph on page 35:

9 "Competition controls prices more effec  
10 - effectively than rate ceilings."

11 Now, I gather you disagree with that?

12 DR. JERRY BUCKLAND: I think that, what do  
13 we mean by competition, is a -- is a good question. If,  
14 again in the US if there are a larger number of payday  
15 lenders, referring back to Michael Stegman's point that  
16 the top ten (10) payday lenders control about one-third  
17 (1/3) of the industry whereas in Manitoba, we're seeing  
18 two (2) controlling maybe 70 percent of the industry.

19 So the -- the market in the US seems to be,  
20 at least, in general, in the US, seems to be quite a bit  
21 more competitive than the market in Manitoba.

22 MR. ANTOINE HACAULT: And I'm not going to  
23 rehash everything but there have been impediments. We  
24 know that until this Board issues an order, some people  
25 were concerned about class actions about the criminal

1 code, isn't that correct?

2 DR. JERRY BUCKLAND: Yeah, that's correct.

3 And I had --

4 MR. ANTOINE HACAULT: So that may open the  
5 -- the door to a lot more competition in Manitoba, isn't  
6 that correct?

7 DR. JERRY BUCKLAND: If that was an  
8 obstacle previously and firms are able to efficiently  
9 offer that service within the rate cap, then, yeah, that  
10 could be a possibility.

11 MR. ANTOINE HACAULT: And then continuing  
12 on in that particular paragraph:

13 "So long as consumers are willing to  
14 shop for credit."

15 And we have here, according to the mapping,  
16 clusters of payday loan centres, isn't that correct? So  
17 it's easy for them to shop?

18 DR. JERRY BUCKLAND: Well, right now, it's  
19 -- it's difficult because the information isn't  
20 accessible.

21 MR. ANTOINE HACAULT: But that's going to  
22 change.

23 DR. JERRY BUCKLAND: It -- now this is a  
24 good point. This is a really interesting question. Will  
25 the implementation of the regulation that payday lenders

1 post their rate in a large font APR; will that on its own  
2 make the information more accessible?

3 I'm not sure, because what we're -- what  
4 we're saying then, I mean, based on our mystery shopping  
5 results, it seems to me that we're a long way from that  
6 kind of perfect information sharing scenario that -- that  
7 you've described or that we're hoping for.

8 So -- so does that one (1) regulation of  
9 posting the rate, will that take the full number of payday  
10 loan outlets from where they are now to -- to sort of  
11 perfect information sharing? I'm not sure.

12 Like, it seems like there's -- there's kind  
13 of -- there's more to it than a poster. There's, in a  
14 sense, best practices. So which are the payday loan firms  
15 right now that have the best practices?

16 Let's identify those and say, okay, if you  
17 want to, you know, do this really well, you can look at  
18 this company because they -- they post it. They pamphlet  
19 it. They train their staff. They've got simple fees.  
20 They've got simple rules.

21 So, I mean, it -- it's almost like a  
22 cultural shift that the organization's gonna have to go  
23 through from where they -- for some I think for -- from  
24 where they are now to this more clear-cut disclosure. So,  
25 I -- I think it's gonna take more than -- than simply a,

1 you know, a poster.

2 MR. ANTOINE HACAULT: And -- and that's  
3 why you've kindly agreed to cooperate and provide  
4 recommendations and the Consumers Bureau is at -- hiring  
5 two (2) additional people. They could, depending on what  
6 the -- this Board orders, they could ask those new  
7 officers to standardize the training so that every payday  
8 loan company gets standard training and its employees gets  
9 standard training so everybody adheres to the same  
10 standard.

11 That's a possibility, isn't it?

12 DR. JERRY BUCKLAND: Yeah, I guess it's a  
13 possibility, yeah.

14 MR. ANTOINE HACAULT: Thank you, very  
15 much. We'll take our break now?

16 THE CHAIRPERSON: Very good. We'll see  
17 you back in fifteen (15) minutes.

18

19 --- Upon recessing at 2:40 p.m.

20 --- Upon resuming at 3:05 p.m.

21

22 THE CHAIRPERSON: Okay, away we go. Mr.  
23 Hacault...?

24

25 CONTINUED BY MR. ANTOINE HACAULT:

1 MR. ANTOINE HACAULT: Yes, members of the  
2 Board, there's some areas which I'll defer to tomorrow  
3 because I'm awaiting some information from Dr. Simpson.  
4 So hopefully he can provide that tonight.

5 And there's some parts of the mystery  
6 shopping I think are best done when both Mr. Osborne and  
7 Ms. Friesen are here because one of them may be able to  
8 answer the question better than the other. So I'll do my  
9 best to deal with the -- some other matters and then  
10 perhaps it'll lead to other people asking questions.

11 With respect to the mapping, could I ask  
12 the Board Secretary to distribute -- there were some maps  
13 that I had provided.

14

15 (BRIEF PAUSE)

16

17 MR. ANTOINE HACAULT: I had showed these  
18 to Mr. Osborne this morning. They're Internet printouts  
19 from the Winnipeg 2001 census some extracts and, Mr.  
20 Osborne, can you confirm that the data - once you get a  
21 copy, of course - on these sheets is the same data that  
22 you used, but you had a different format.

23 Is -- is that correct?

24 MR. JOHN OSBORNE: Yeah. Yeah, that's  
25 correct. There's clusters in the first two pages, but

1 then we get into specific neighbourhoods I think here.

2 Yes.

3 MR. ANTOINE HACAULT: Now to understand  
4 these neighbourhood profiles, it would be useful if we  
5 could also have in front of us the actual Figure 5, I  
6 believe.

7 It's to your -- to the report that was  
8 filed on September 27.

9 MR. JOHN OSBORNE: Yeah. Can you just  
10 give me the title of the map?

11 MR. ANTOINE HACAULT: It's at the end.  
12 It's Figure 5. It's the one with the household income  
13 median, household income.

14 MR. JOHN OSBORNE: Yeah, got it. Has the  
15 median household income is the 0 to twenty-eight thousand,  
16 one hundred seventy (28,170) in the -- one of the legends?

17 MR. ANTOINE HACAULT: Sorry, it's Figure  
18 4. It's on page 101. At page 51 of the report, you in --  
19 or it's indicated the main purpose of the mapping exercise  
20 is to illustrate the positioning of payday lenders  
21 relative to certain vulnerable populations.

22 Was that the purpose of the mapping  
23 exercise?

24 MR. JOHN OSBORNE: Could you -- that's  
25 correct. I'm just not sure where we are on the page.

1 That's correct.

2 MR. ANTOINE HACAULT: Now turning to  
3 figure 4, you explained that the computer chose the cutoff  
4 of twenty-eight thousand one hundred and seventy dollars  
5 (\$28,170) per median household income.

6 Now in the data sets, there were other  
7 options that you could have chosen apart from median  
8 household income, is that correct? It could be median for  
9 example, family income?

10 MR. JOHN OSBORNE: Yes.

11 MR. ANTOINE HACAULT: And am I correct in  
12 saying that if you had chosen that as a sub group, that as  
13 a general rule the median family income in the City of  
14 Winnipeg is a higher number than the median household  
15 income?

16 Dr. Carter can answer that too.

17 DR. TOM CARTER: That's correct.

18 MR. ANTOINE HACAULT: Okay. So that  
19 there's a number of different ways to present data, and we  
20 chose a way that shows the lowest number.

21 DR. TOM CARTER: We chose the way that  
22 includes all households. I think if you took the median  
23 household -- or the median income of single individual  
24 households, you would have had an even lower distribution  
25 than what you have now.

1                   But we wanted to choose an indicator that  
2 included all households, both family and non-family.

3                   MR. ANTOINE HACAULT:    Okay.  Thank you.  
4 And once again, there's average and median and median is a  
5 lower number than the average as a general rule in this --

6                   DR. TOM CARTER:    As a general rule that is  
7 -- is correct.  The median, of course, is the mid point;  
8 whereas the mean is the average.  But quite often the  
9 median is the lower income point, yes.

10                  MR. ANTOINE HACAULT:   Now on Table 4 and  
11 Mr. Foran had pointed this out, there's a cluster right  
12 around Polo Park.

13                  MR. JOHN OSBORNE:    Table 4 or Figure 4?

14                  MR. ANTOINE HACAULT:   Figure 4, sorry.  
15                                        Is that correct?

16                  DR. TOM CARTER:    That's correct.

17                  MR. ANTOINE HACAULT:   Now I pulled out --  
18 and this is about four (4) pages into the document --  
19 you'll see a table and in the middle it indicates  
20 population by age and then Polo Park.  Have you found  
21 that?

22                  MR. BYRON WILLIAMS:   Which document are  
23 you referring to, Mr. Hacault?

24                  MR. ANTOINE HACAULT:   What's the exhibit  
25 number?

1 MS. ANITA SOUTHALL: It's RC-31, and this  
2 is the document Mr. Hacaault has been referring to as  
3 "Excerpts from a Winnipeg 2001 Census: City of Winnipeg  
4 Neighbourhood Profiles."

5 DR. TOM CARTER: We -- we have it.

6

7 CONTINUED BY MR. ANTOINE HACAULT

8 MR. ANTOINE HACAULT: You have it? Now,  
9 there's two (2) things with respect to when there's  
10 statements being made that you're locating in certain or  
11 adjacent to certain areas.

12 In fact, this Polo Park area has very  
13 little statistical population as compared to a lot of  
14 other sectors. Is that correct?

15 DR. TOM CARTER: That's correct.

16 MR. ANTOINE HACAULT: And on this  
17 particular page it gives us information with respect to  
18 the age group in that particular area.

19 And I would suggest to you there's a  
20 disproportionate amount compared to the city average of  
21 retired people. Is that correct?

22 DR. TOM CARTER: That would appear to be  
23 the case. I think if that's your calculation of  
24 27 percent, I think that's a higher proportion than the  
25 city as a whole.

1 MR. ANTOINE HACAULT: And how do we read  
2 that table? Am I reading it correctly? When I look at  
3 the bottom of the table on the left-hand side I see  
4 numbers 65-74. And then I go right across and I see Polo  
5 Park percentage, 11.3 percent.

6 So that would be the age group percentage  
7 in that Polo Park area. Is that correct?

8 DR. TOM CARTER: That's correct.

9 MR. ANTOINE HACAULT: And then if I  
10 continue right, I see 7 percent. That's the City of  
11 Winnipeg average for that age group?

12 DR. TOM CARTER: That's correct.

13 MR. ANTOINE HACAULT: Okay. And then the  
14 same is true with respect to people over 75 got --

15 DR. TOM CARTER: That's correct.

16 MR. ANTOINE HACAULT: -- that's good  
17 health.

18 DR. TOM CARTER: Yeah. That's correct.

19 MR. ANTOINE HACAULT: So we actually have  
20 a little bit over -- we have 16.1 percent in that area  
21 that is over 75 years of age?

22 DR. TOM CARTER: Correct.

23 MR. ANTOINE HACAULT: Now, these wouldn't  
24 be the type of clients that use payday loans?

25 DR. TOM CARTER: I couldn't say. Perhaps

1 Professor Buckland could address that.

2 DR. JERRY BUCKLAND: Could you repeat the  
3 question, please?

4 MR. ANTOINE HACAULT: No. The people in  
5 the age group 65 to 75 are not the type of people that  
6 usually use the payday loan product.

7 Is that correct?

8 DR. JERRY BUCKLAND: Yeah, I think that's  
9 correct. It's -- it's disproportionately younger than the  
10 average Canadian who are using payday loans.

11 MR. ANTOINE HACAULT: And these people are  
12 likely on pensioned income, which would also skew the  
13 results. Is that right?

14 DR. TOM CARTER: I would have to look in  
15 more -- at more details in this data set to see whether  
16 they were receiving pensions and what the incomes of that  
17 particular age groups were. But that is a possibility,  
18 yes.

19 MR. ANTOINE HACAULT: So if you flip to  
20 the next page, which is page 12 --

21 DR. TOM CARTER: Mm-hm.

22 MR. ANTOINE HACAULT: -- the data set  
23 gives us information for Polo Park at the top of the page  
24 of employment income of 66.3 percent of the people have  
25 it, and 25.5 percent have government transfer payments.

1 DR. TOM CARTER: That is correct.

2 MR. ANTOINE HACAULT: And that is  
3 remarkably close to the other 27 percent data point that  
4 we have on the previous page.

5 DR. TOM CARTER: Yeah. Yeah, there's  
6 certainly more -- a higher proportionate people of in Polo  
7 Park on government transfer payments, which includes  
8 pension, social assistance, unemployment insurance,  
9 disability payments. But it's a -- it's a proportionate  
10 higher than the city as a whole.

11 MR. ANTOINE HACAULT: And then if we flip  
12 on to the next page, at the bottom it indicates page 14  
13 of 17, again for Polo Park.

14 Am I right in understanding at the bottom  
15 of that page there's three (3) graphs. And the -- the  
16 bottom number indicates "Median Household Income: 21,556.  
17 That's the number you would have used for your mapping?

18 Is that correct?

19 DR. TOM CARTER: That would -- that should  
20 be correct, yes.

21 MR. ANTOINE HACAULT: Okay. So that --  
22 and there is a total of two hundred and five (205)  
23 households in this particular sector. Is that correct?

24 DR. TOM CARTER: That's correct, yes.

25 MR. ANTOINE HACAULT: And where do we find

1 that? We find that in that same table on page 14 of 17?

2 DR. TOM CARTER: That's correct, yes.

3 MR. ANTOINE HACAULT: And that's the last  
4 table, and it's in the line that says, total, and we run  
5 across that line and we see the number two (2) -- two  
6 hundred and five (205), is that correct?

7 DR. TOM CARTER: That's correct.

8 MR. ANTOINE HACAULT: Okay. Now, most  
9 other areas would have at least over a thousand (1,000) in  
10 -- in their sector, is that --

11 DR. TOM CARTER: I would say that most of  
12 the neighbourhood would have more than a thousand (1,000)  
13 people, yes.

14 MR. ANTOINE HACAULT: Yeah. Is -- would  
15 there be an average of the sectors, would you know that?

16 DR. TOM CARTER: There would be an  
17 average, but I can -- couldn't say what it was.

18 MR. ANTOINE HACAULT: You don't know if  
19 it's around two (2) or three thousand (3,000) or...?

20 DR. TOM CARTER: I would think that it's  
21 probably between three (3) and four thousand (4,000), but  
22 I wouldn't bet the farm on that.

23 MR. ANTOINE HACAULT: No. Well, it's to  
24 have a general idea.

25 DR. TOM CARTER: Yeah.

1                   MR. ANTOINE HACAULT:    So compared to a lot  
2 of other sectors, we may be looking at a fairly small  
3 number here?

4                   DR. TOM CARTER:     That's correct.

5                   MR. ANTOINE HACAULT:    And a payday loan  
6 company certainly wouldn't locate in this particular  
7 sector because there's two hundred and five (205)  
8 households?

9                   DR. TOM CARTER:     Well, I wouldn't if I was  
10 a payday loan, no.

11                  MR. ANTOINE HACAULT:    The more logical  
12 conclusion is that it's at the Polo Park Centre, and  
13 there's a high traffic area.  And as we've seen a number  
14 of times this afternoon, there's a locational item here  
15 where people drop by and do shopping and --

16                  DR. TOM CARTER:     Yeah.

17                  MR. ANTOINE HACAULT:    -- other activities,  
18 is that correct?

19                  DR. TOM CARTER:     I would say that's  
20 correct.  I think in most businesses there's two (2) very  
21 important factors in the location decision.  One (1) is  
22 proximity to consumers, the other is accessibility to a --  
23 a much broader area.

24                  And I would suggest that Polo Park fits  
25 into the accessibility charac -- characteristic more than

1 proximity to consumers.

2 MR. ANTOINE HACAULT: And I would suggest  
3 to you that if we did the same exercise that this would  
4 hold true of all the other clusters at the major shopping  
5 areas?

6 DR. TOM CARTER: We didn't analyse this in  
7 detail, of course, but I would think that would be a fair  
8 statement, yes.

9 MR. ANTOINE HACAULT: Okay. Now, the  
10 other thing that I had looked at very briefly were some of  
11 the -- how this cutoff that was chosen by the computer  
12 kind of includes some -- I'm going to say -- marginal  
13 areas, which could be in either kind of a median level or  
14 a low income level.

15 And, for example, if you flip the next  
16 page, this deals with the inner core and at the bottom --  
17 at the top it says households, St. Matthews, do you see  
18 that?

19 DR. TOM CARTER: Yes, we do.

20 MR. ANTOINE HACAULT: Okay. And if we go  
21 to the bottom of the page again there's a line at the very  
22 -- the last line it says:

23 "Median household income, twenty-seven  
24 thousand, one hundred and eighty-four  
25 (27,184)."

1 Do you see that?

2 DR. TOM CARTER: I do.

3 MR. ANTOINE HACAULT: So this particular  
4 sector is just under the twenty-eight thousand (28,000).  
5 Under some measures it would go into the next sector, is  
6 that correct?

7 DR. TOM CARTER: That would depends if we  
8 were using another indicator, the commuter -- the computer  
9 might chose a different cutoff, so I couldn't say. But  
10 it's very close to the threshold that has been used here  
11 for the bottom -- the bottom range.

12 MR. ANTOINE HACAULT: And the average  
13 household income is thirty-three thousand, one hundred and  
14 sixty-seven (33,167), is that correct?

15 DR. TOM CARTER: That's correct.

16 MR. ANTOINE HACAULT: Now, when we go to  
17 the family income, and that's on page 15 of 17. The  
18 second last box entitled, "Family income in 2000."

19 Am I correct in reading this table that the  
20 median family income is thirty-five thousand, five hundred  
21 and twelve dollars (\$35,512)?

22 DR. TOM CARTER: That's correct.

23 MR. ANTOINE HACAULT: And that concurs  
24 with your previous answer that in all likelihood the  
25 median family income would be higher than the median

1 household income?

2 DR. TOM CARTER: That's correct.

3 MR. ANTOINE HACAULT: And again, if we  
4 look at the family income and the average family income,  
5 it's actually thirty-eight thousand, eight hundred and  
6 sixty-three dollars (\$38,863)?

7 DR. TOM CARTER: That's correct.

8 Maybe I could just add a point here.

9 MR. ANTOINE HACAULT: Sure.

10 DR. TOM CARTER: What we were trying to  
11 portray in this map is the -- the relative position of  
12 various neighbourhoods with respect to income in the City  
13 of Winnipeg. This was not necessarily a measure of  
14 poverty in this particular map. It was just where are the  
15 lower income neighbourhoods based on median household  
16 income --

17 MR. ANTOINE HACAULT: And.

18 DR. TOM CARTER: -- because if we had of -  
19 - if we had of chosen family; if go back to the page 15 of  
20 17,t you'll notice that the family income is higher in St.  
21 Mathews than the -- than the household income. So it's --  
22 it's a relative measure.

23 MR. ANTOINE HACAULT: Yes. And, in fact,  
24 when I looked at the mapping and the particular breakdown  
25 of it, if you looked at the very low median household

1 incomes in that general sector, as a general rule, you  
2 didn't find any payday lenders close to the really low  
3 sectors.

4 Did you do that analysis? Let's take a  
5 practical example.

6 DR. TOM CARTER: Yeah.

7 MR. ANTOINE HACAULT: The -- the next  
8 page, Central Park.

9 DR. TOM CARTER: Okay.

10 MR. ANTOINE HACAULT: If you look at your  
11 mapping on figure 4 and part of this exhibit, it's  
12 actually the sec -- second page in, there's a more  
13 detailed mapping.

14 DR. TOM CARTER: Mm-hm.

15 MR. ANTOINE HACAULT: There's some of the  
16 really low income sectors, and there isn't clusters of  
17 payday loans beside those really low sectors.

18 Isn't that correct?

19 DR. TOM CARTER: That's correct, yes.

20 MR. ANTOINE HACAULT: So, although this  
21 map is useful in a very general way, if we use the higher  
22 numbers chosen by the computer, if we're looking at the  
23 really low sectors -- low income sectors -- and the last  
24 page of this set shows, for example, Central Power --  
25 Park.

1                   Am I right in understanding that in Central  
2 Park the median household income is fourteen thousand  
3 eight hundred and ninety dollars (\$14,890)?

4                   DR. TOM CARTER:    That's correct, yes.

5                   MR. ANTOINE HACAULT:    Okay.  So this would  
6 have a pretty high incidence of low income in this  
7 particular sector.  Isn't that correct?

8                   DR. TOM CARTER:    That's, yeah, Central  
9 Park has very high incidence of low income, mm-hm.

10                  MR. ANTOINE HACAULT:    So that the mapping  
11 that you've done doesn't focus on the very low sectors  
12 around the fifteen thousand dollar (\$15,000) range; it  
13 focuses on the amount chosen by the computer at --

14                  DR. TOM CARTER:    No.

15                  MR. ANTOINE HACAULT:    -- twenty-eight  
16 thousand (28,000).

17                  DR. TOM CARTER:    No the -- all of those  
18 neighbourhoods would fall below twenty-eight thousand  
19 (28,000) in that area.  But to illustrate how far below  
20 the twenty-eight thousand (28,000) mark, we would have to  
21 split that twenty-eight thousand group into -- into other  
22 sectors to illustrate how much below.  Because, as -- as  
23 you say, Central Park, the average household income there  
24 is only about fourteen thousand dollars (\$14,000).  It's  
25 only about half the average -- or half the twenty-eight

1 thousand (28,000) point, yeah.

2 MR. ANTOINE HACAULT: But it seems to me  
3 if I wanted to make the point that payday loan comp --  
4 companies cluster along the really poor sectors, I would  
5 have had to map and show that they're clustering around  
6 these fifteen thousand dollar (\$15,000) median income  
7 sectors, wouldn't I?

8 DR. TOM CARTER: We -- we could have gone  
9 into more detail to illustrate that. We were looking for  
10 general patterns, and I think, as a -- as a general  
11 statement, there is a relationship between the spatial  
12 distribution of payday lenders and the spatial  
13 distribution of low income.

14 But you have to bear in mind that it's not  
15 the only factor. For example, you have to take into  
16 consideration zoning. I haven't looked at the Central  
17 Park area specifically, but there may be no facilities  
18 there for a payday lender to locate, particularly in some  
19 of the very low income residential areas. They're zoned  
20 residential, so it's not all commercial -- there's no  
21 commercial or areas where they could locate a -- a  
22 business.

23 Dr. Buckland, you want to --

24 MR. ANTOINE HACAULT: But you haven't done  
25 that study, have you?

1 DR. TOM CARTER: We haven't done that sort  
2 of detail work, no.

3 DR. JERRY BUCKLAND: If I could just add  
4 one (1) point. I mean very low income people would be not  
5 employed. Typically, they'd be on social assistance and,  
6 therefore, would not be getting a pay cheque; would  
7 generally not be eligible for a payday loan.

8 MR. ANTOINE HACAULT: We don't have the  
9 sub data, but that would explain how many people are  
10 employed in this particular area and may be earning  
11 minimum wage within it, sir.

12 DR. TOM CARTER: Yeah. We could have --  
13 we could have mapped other indicators like the percentage  
14 on social assistance or the percentage that were  
15 unemployed. And that -- it -- it would probably have  
16 illustrated exactly what Professor Buckland has indicated.

17 MR. ANTOINE HACAULT: But we don't know  
18 that for sure.

19 DR. TOM CARTER: We haven't mapped it.

20 MR. ANTOINE HACAULT: Yeah. Now, that  
21 actually brings me to another point that had been made in  
22 the submission with respect to bankruptcy, and I believe  
23 there's a sheet that could be distributed on that. I  
24 believe it's entered as Rentcash 26.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Now, there was some  
4 suggestion --

5 MR. BYRON WILLIAMS: Mr. -- Mr. Hacault,  
6 just -- which witness are you planning to direct this to?  
7 Do you -- because I'm not sure -- is this document on the  
8 record. If not, I just wanting to make sure the witnesses  
9 have a chance to --

10 MR. ANTOINE HACAULT: Okay.

11 MR. BYRON WILLIAMS: -- look at it for a  
12 second. I -- I --

13 MR. ANTOINE HACAULT: What I'll be  
14 referring them to is the trend at the very bottom of the  
15 page, the years 2003 to 2006 for consumer bankruptcy.

16 MR. BYRON WILLIAMS: If you'll just give  
17 them a moment, if you would.

18

19 (BRIEF PAUSE)

20

21 DR. JERRY BUCKLAND: Okay. I think we've  
22 -- we've read it.

23

24 CONTINUED BY MR. ANTOINE HACAULT:

25 MR. ANTOINE HACAULT: Okay. I think --

1 would you agree with me that you suggested that there's  
2 been a sharp increase in payday loan providers and payday  
3 loans over the years 2003 to 2006?

4 DR. JERRY BUCKLAND: Yeah, I think it goes  
5 back a little bit earlier but, yes, that period has, I  
6 think, seen a sharp increase.

7 MR. ANTOINE HACAULT: Okay. There was a  
8 suggestion in the submissions made by the Coalition that  
9 payday loans would contribute to increased bankruptcies.  
10 I would suggest, based on these figures, especially the  
11 reduction in 2006, that that assertion, if it was  
12 suggested, as can't be supported.

13 MR. BYRON WILLIAMS: Do you have a  
14 reference, Mr. Hacault, to the Coalition evidence?

15 MR. ANTOINE HACAULT: I -- I think it was  
16 also in Dr. Simpson's presentation initially when he was  
17 referring to causation 7 percent.

18 DR. WAYNE SIMPSON: It was a -- it wasn't  
19 a causation. It was a link identified in the -- in one  
20 (1) of the surveys which, in fact, was quoted in their --  
21 in their study. I can't remember if it was FCAC or CPLA,  
22 but I could check on that.

23

24 CONTINUED BY MR. ANTOINE HACAULT:

25 MR. ANTOINE HACAULT: SO you would agree

1 with me that we can't conclude that the increase in payday  
2 loans would say that this causes an increase in  
3 bankruptcy?

4 DR. WAYNE SIMPSON: I think -- these  
5 statements are often made with the understanding that  
6 hypothetically you're holding other things constant and I  
7 think a lot of things have changed over the four (4) years  
8 you're mentioning in the Canadian economy and we don't  
9 know what's causing these bankruptcies to go up or down.

10 MR. ANTOINE HACAULT: Okay. My only point  
11 was that we can't make a statement on causation that  
12 payday loans necessarily mean that you're going to have  
13 more bankruptcies.

14 Next I distributed, and it doesn't need to  
15 be marked, but it's an extract of RC-22. I don't know if  
16 it's found its way in circulation.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: This is written by  
21 one (1) of the same authors that had written material that  
22 was part of Public Utility Board Exhibit 6. It's also  
23 written by a Mr. Morgan, but it's a more recent report in  
24 November of 2007.

25

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: Mr. Hacault, again,  
4 if you'll just provide the panel a bit of time to look at  
5 it. Was this on the record previously?

6 MR. ANTOINE HACAULT: It -- it was  
7 distributed with Dr. Clinton's material, I believe.

8 MR. BYRON WILLIAMS: My memory is failing  
9 me.

10

11 CONTINUED BY MR. ANTOINE HACAULT:

12 MR. ANTOINE HACAULT: Yeah, there's two  
13 (2) points that I wish you to consider, this report by the  
14 Federal Reserve Bank of New York dated November 2007 on  
15 page 4, according to the first sentence:

16 "Our findings will come as no surprise  
17 to observers who have noticed that  
18 payday credit, as expensive as it is, is  
19 still cheaper than a close substitute  
20 pro -- [colon]: bounced cheque  
21 protection sold by credit unions and  
22 banks. Balance protections spares  
23 cheque writers the embarrassment of  
24 having a cheque returned from a merchant  
25 and any associated merchant fees, but

1                   the protection can be quite expensive."

2                   And then they go on to say that bounce  
3 protection -- cheque protection averaged 2,400 percent  
4 APR.

5                   That brings me to your previous comment in  
6 -- in suggesting that perhaps bank fees for payday loan  
7 customers were probably low.

8                   When you were saying that, you excluded NSF  
9 fees, I assume?

10                  DR. JERRY BUCKLAND:   That's correct.

11                  MR. ANTOINE HACAULT:   And there's, at the  
12 end of the paragraph, the head of the Federal Deposit  
13 Insurance Corporation in the States, the last sentence she  
14 warns,

15                                 "That customers were catching on and  
16                                 turning to payday credit for their open  
17                                 quotation marks 'cheaper product' closed  
18                                 quotation marks."

19                   Do you see that?

20                  DR. JERRY BUCKLAND:   Yes, I do, and -- and  
21 I'm -- I'm also seeing that's it's from the US and I -- I  
22 don't know if it applies to the Canadian context.

23                  MR. ANTOINE HACAULT:   But if this study,  
24 if we go further into the conclusion, was looking at  
25 whether or not people seem to be better off in states that

1 had outlawed payday credit and the conclusion of this  
2 particular report was that the customers were worse off.  
3 Do you see that?

4 I'm reading the conclusion, the second full  
5 sentence:

6 "The increase in bounced cheques  
7 represents a potentially huge transfer  
8 from depositors to banks and credit  
9 unions. Banning payday loans did not  
10 save Georgian households 154 million per  
11 year, as CRL, that was the consumer's  
12 group, projected. It cost them millions  
13 per year in returned cheque fees."

14 Do you see that?

15 DR. JERRY BUCKLAND: Yes, I do.

16 MR. ANTOINE HACAULT: Now, I'd have to  
17 check the transcripts, but I'm pretty sure that there was  
18 evidence that there was evidence that a number of people  
19 when they're applying for payday loans, one of the things  
20 they check is how many NSF fees.

21 So we have the NSF fee reality in Manitoba,  
22 do we not?

23 DR. JERRY BUCKLAND: I believe that  
24 consumers are required to pay NSF fees in some cases but I  
25 don't know the evidence you're talking about that that has

1 been an inducement to move to payday loans, if I  
2 understand you correctly.

3 MR. ANTOINE HACAULT: Okay. So we don't  
4 have evidence of the consumer benefit. That's what we had  
5 talked about a lot today, is that we don't know to the  
6 extent that consumers benefit from having a wide range of  
7 products, we don't have that evidence in front of us.

8 But at least in the States when they did  
9 the analysis and compared it, you had quite basically  
10 said:

11 "Well, I don't know how -- exactly how  
12 we would do it, you know, we don't have  
13 very many non-payday-loan jurisdictions.  
14 I guess the only one is Quebec."

15 But when that study was done in the States  
16 their conclusion was that payday credit was cheaper than  
17 banning it and leaving people to resort to bounced cheque  
18 protection.

19 MR. BYRON WILLIAMS: Mr. Hacault, just, if  
20 there's a question, I missed it, so I -- I apologize,  
21 so...

22

23 CONTINUED BY MR. ANTOINE HACAULT

24 MR. ANTOINE HACAULT: Do you agree that  
25 that's the conclusion in this report?

1 DR. CHRIS ROBINSON: I'm reading the  
2 report. We don't, of course, have the -- the original,  
3 but it's simply saying they would have saved or projected  
4 to save \$154 million in the cost of the payday loans and  
5 instead it costs them millions per year in return cheque  
6 fees.

7 Now millions per year is substantially less  
8 than 154 million per year. So it would seem that the  
9 conclusion is the, in fact, reverse of what you're saying.  
10 The conclusion is that in fact the Georgians did save a  
11 great deal of money. In any case, nobody in the Coalition  
12 is recommending ending payday lending.

13 MR. ANTOINE HACAULT: If we continue on to  
14 page 26, at the top, and do you agree that this is the  
15 conclusion and I'm quoting,

16 "Forcing households to replace costly  
17 credit with even costlier credit is  
18 bound to make them more soft."

19 Do you see that conclusion?

20 DR. JERRY BUCKLAND: Yes, I see it, yeah.

21 MR. ANTOINE HACAULT: Now, the thing we  
22 don't know about here is with the Coalition proposal being  
23 as low as it is how many people will have to be put into  
24 situations where they will have NSF charges and have to  
25 make costlier decisions. We don't know that, do we?

1 DR. JERRY BUCKLAND: Well, again, we know  
2 -- we know a little about the current situation and we  
3 know that the current situation is going to change and so  
4 it's -- it's a question of, you know, trying to understand  
5 the current situation and come up with a regime, a set of  
6 policies that fit together that create a better situation  
7 in the future.

8 MR. ANTOINE HACAULT: I have some  
9 questions, I think now, of Mr. Osborne, and the reason I'm  
10 going to ask a couple questions, it may be that you have  
11 to check for some information, I'm not too sure. What I'm  
12 looking at is page 8 of the documents that were produced  
13 this morning on mystery shopping, or set of documents 8.

14 MR. BYRON WILLIAMS: In the top right-hand  
15 corner, number 8, is that...?

16 MR. ANTOINE HACAULT: In the top right-  
17 hand corner, that's, I've been told, --

18 MR. BYRON WILLIAMS: Yeah.

19 MR. ANTOINE HACAULT: -- the packages have  
20 been numbered?

21 MR. BYRON WILLIAMS: Yeah.

22

23 (BRIEF PAUSE)

24

25 CONTINUED BY MR. ANTOINE HACAULT

1                   MR. ANTOINE HACAULT:   Now, the one general  
2 thing, is there some way to correlate these pages to what  
3 you had put in the report as the summary of charges? You  
4 know, you've got a table that says it costs so much for  
5 the two hundred and fifty dollar (\$250) loan, et cetera?

6                   MR. JOHN OSBORNE:   You mean Table 3?

7                   MR. ANTOINE HACAULT:   Yes, that's at  
8 page 44 of your report, Table 3.

9

10   (BRIEF PAUSE)

11

12                   MR. ANTOINE HACAULT:   I just wanted to  
13 know if there is some kind of a summary or -- that we  
14 could --

15                   MR. JOHN OSBORNE:   You -- you mean  
16 relating the -- the handwritten notes to the Table 3,  
17 which is --

18                   MR. ANTOINE HACAULT:   For example, are the  
19 first two (2) pages the Example A on Table 3?

20                   MR. JOHN OSBORNE:   I -- I think that for  
21 the most part it follows that order. I didn't arrange the  
22 order of everything in here. I -- I think it's close  
23 though.

24                   MR. ANTOINE HACAULT:   Okay. The first  
25 thing I wanted to go through very quickly, but you may be

1 able to summarize it pretty quickly, with respect to the  
2 initial amount of the loan was there a difference between  
3 the companies?

4 MR. JOHN OSBORNE: Oh the --

5 MR. ANTOINE HACAULT: The initial maximum  
6 amount of loan that you could take, was there a difference  
7 in the company?

8 MR. JOHN OSBORNE: Yes.

9 MR. ANTOINE HACAULT: So that if I wanted  
10 three hundred dollars (\$300) as an initial loan would I be  
11 able to get that loan at every payday loan outlet or would  
12 there be some outlets that would refuse to give me that as  
13 a first time loan?

14 MR. JOHN OSBORNE: Yes, there'd be some  
15 that -- that would be above their maximum, whether it's  
16 their percentage or set absolute number.

17 MR. ANTOINE HACAULT: Now did you conduct  
18 any analysis as to whether or not the Coalition proposal  
19 will eliminate those companies which are taking the higher  
20 risk first time loan at higher amounts?

21 MR. JOHN OSBORNE: Me, personally, no.  
22 I'm not sure what the sort of quantitative analysis Dr.  
23 Buckland and Dr. Robinson did.

24

25 (BRIEF PAUSE)

1 DR. JERRY BUCKLAND: Okay, sorry, for the  
2 delayed response. I was just talking with Dr. Robinson  
3 and actually we haven't done it formally. We haven't  
4 formally looked at each particular company and how they  
5 would be affected.

6 We have looked at the bigger companies and  
7 looked at how they might be affected, but we haven't  
8 looked at each separate company.

9 MR. ANTOINE HACAULT: Okay. So we don't  
10 have any information as to the types of services from --  
11 that will now be eliminated from the market.

12 DR. CHRIS ROBINSON: Perhaps I can clarify  
13 that a little more. First of all the biggest four (4)  
14 lenders account for roughly 90 percent of the payday  
15 loans. So that we -- we have already provided the  
16 analysis on virtually the entire market.

17 Secondly, you are adopting a premise that  
18 is not in -- for which there's no evidence, and that is  
19 that the services will then be denied to large numbers of  
20 people, but in fact they -- what you would be saying is  
21 that somebody goes to one payday lender will never go to  
22 another and -- just because that one closed. And of  
23 course there's no evidence for that basis so we cannot  
24 analyse it more deeply than that.

25 However, only a very small number would be

1 affected and only in very limited places since virtually  
2 all the payday lenders are in fact in Winnipeg.

3 MR. ANTOINE HACAULT: Do you know that --  
4 do you know how many customers are served by these stores  
5 that give the higher amounts?

6 You're making a lot of statements, Dr.  
7 Robinson, but do you know that when you're saying this?

8 DR. JERRY BUCKLAND: What we have are  
9 estimates for the larger firms based on publicly --  
10 they're publicly-traded available information. We don't  
11 know the volumes of lending on the smaller firms.

12 MR. ANTOINE HACAULT: So that some  
13 companies -- now, there's some things here I didn't  
14 understand on your notes, Mr. Osborne.

15 MR. JOHN OSBORNE: The handwritten notes?

16 MR. ANTOINE HACAULT: Well, it's -- it's  
17 not necessarily just handwritten notes. In this document  
18 -- in -- in my copy at least on the bottom right-hand  
19 corner there are page numbers.

20 DR. JERRY BUCKLAND: I inserted those,  
21 yes, a couple of day ago as we were preparing this  
22 material just to keep track of the various pages. I was  
23 concerned --

24 MR. ANTOINE HACAULT: Yeah, well that's  
25 good.

1 DR. JERRY BUCKLAND: -- a couple might  
2 fall out and --

3 MR. ANTOINE HACAULT: That's great, it  
4 helps us find things. For example on page 6, could you  
5 locate that page?

6 DR. JERRY BUCKLAND: Yes, I have it.

7 MR. ANTOINE HACAULT: In the middle of the  
8 page, there's an entry across the heading "Debit card fee  
9 may include startup per debit," and then across from that  
10 there is the notation "Forgot to ask."

11 My first question is: Is this debit card  
12 fee item usually included as your -- part of your loan  
13 cost in your table number 3?

14 MR. JOHN OSBORNE: Let me just examine  
15 this -- I just wanted to see what it -- what it is.

16

17 (BRIEF PAUSE)

18

19 MR. JOHN OSBORNE: I'm sorry, I think it  
20 would be easier for me if I looked at the non-redacted to  
21 -- to see the name. It'll help me recall things better.

22 MR. BYRON WILLIAMS: And let -- let's just  
23 if you would, I think he has his notes nearby if that  
24 would help.

25 MR. ANTOINE HACAULT: Yeah. You could

1 look to your notes. My first question I think was quite  
2 independent of that is: Would this fee normally be  
3 included and added to the fees that you were reporting in  
4 Table 3?

5 MR. JOHN OSBORNE: That's -- I -- I -- I  
6 don't have my notes right in front of me. I know that in  
7 some cases the debit card fee was -- was given to me not  
8 so much as an option but as a mandatory fee.

9 And in other cases it was given to me as an  
10 option that was almost -- I was cautioned not to use it  
11 because it would add so much more to the overall cost of  
12 the loan. So it depends on how it was told to me by the  
13 customer service representative.

14 MR. ANTOINE HACAULT: Okay. And for this  
15 particular one, can you tell from your notes how it was  
16 told to you? Would it be something that had to be added  
17 or not?

18 MR. JOHN OSBORNE: Again, if I had the  
19 non-redacted here.

20 MR. BYRON WILLIAMS: We -- we could  
21 undertake to review the non-redacted for page 6 of Tab 8  
22 for that. It's --

23

24 CONTINUED BY MR. ANTOINE HACAULT:

25 MR. ANTOINE HACAULT: I might go quickly

1 through a couple of them because there's a couple of them  
2 that I'm not too sure how they were reported. I can't  
3 tell at all whether you chose a smaller number, a medium  
4 number or a higher number and how you came to create your  
5 table.

6 MR. JOHN OSBORNE: In -- in many cases it  
7 wasn't my choice, it was whatever the teller told me the  
8 fees would be. I would ask how much is a two hundred and  
9 fifty dollar (\$250) loan going to cost me and then you'll  
10 see the amount they tell me it was going to cost me.

11 MR. ANTOINE HACAULT: Okay. For example  
12 if you flip to page 10 under "Brokerage Fee" it's typed:

13 "Yes, dependent on the loan size [dash]  
14 - some percentage. Did not come right  
15 out and tell me how much it was when I  
16 asked him.

17 He said between thirty-three (33) and  
18 forty dollars (\$40) on my two hundred  
19 and fifty dollar (\$250) loan."

20 MR. JOHN OSBORNE: Yes, that's what it  
21 says.

22 MR. ANTOINE HACAULT: So what's the cost  
23 we're to take from that? Just like what did you put in  
24 your table? And how do we know that it shouldn't be  
25 higher or lower or whether it's accurate?

1                   MR. JOHN OSBORNE:   For that particular one  
2 -- yeah, that in that case there was -- within two (2)  
3 days there was a much different charge.  Yeah, okay.

4                   DR. JERRY BUCKLAND:   If I can just  
5 interject the point that one of the rea -- one of the  
6 things we're struggling with here is maintaining the  
7 anonymity of the mystery shopping firm.

8                   We, as researchers, know which firm is  
9 which and -- and that's how we have sort of talked about  
10 them, but we're required to make that anonymous.

11                   So when you're asking sort of specifics  
12 about specific questions, we're trying to figure out which  
13 company that applies to.  So we -- we're thinking of a  
14 name and then we're able to work things through.  So I --  
15 I wanted to just explain that.

16                   MR. ANTOINE HACAULT:   You see I'm just  
17 trying to get some ideas to how accurate the table is and  
18 how subjective the table was, Table 3.  Because if we have  
19 a range indicated on the phone of between thirty-three  
20 (33) and forty dollars (\$40), how subjective is the  
21 information that's in Table 3.

22                   How -- how do you make a decision without  
23 having documents or further information as to what you put  
24 in Table 3?

25                   MR. JOHN OSBORNE:   I guess what -- what it

1 came down to was -- that's sort of he quoted me between  
2 thirty three (33) and forty (40) on a two hundred and  
3 fifty dollar (\$250) loan for the particular brokerage fee,  
4 but then it appears down you'll see in number 9, the  
5 amount to be paid on my two hundred and fifty dollar  
6 (\$250) payday loan, there was a number given.

7                   So he -- there was -- the information about  
8 the brokerage fee was not really explained fully to me,  
9 but the overall cost was, which -- that's the number that  
10 appears in Table 3, not the brokerage fee. Because the  
11 brokerage fee in this case or the brokerage fee plus  
12 there's -- there's also a -- a fee -- some sort of fee  
13 formula in the interest section.

14                   So it'll be the -- whatever the interest  
15 plus the brokerage will give you the number in -- in  
16 number 9 and that number was explained to me and that's  
17 what appears in Table 3. However they came about their  
18 brokerage fee they -- however that comes about, I was left  
19 unclear as to how that number was actually achieved.

20                   MR. ANTOINE HACAULT:   So do you know if it  
21 was achieved based on the thirty three dollars (\$33) or  
22 the forty dollars (\$40) plus the interest?

23                   MR. JOHN OSBORNE:   No, I don't, just  
24 whatever they told me and that -- whatever they told me my  
25 loan would cost. And -- and the number they -- they told

1 me a number and that's what appears in Table 3, whatever  
2 they told me.

3 I did no calculations. I was not adding  
4 interest fees to brokerage fees. I took what the number  
5 they told me as what it will cost me to repay a loan. And  
6 that number there's no doubt, no question about that.  
7 There was a question about what -- what composed the --  
8 the fee I guess, which left me wondering and some -- led  
9 to some of my other qualitative comments that I was left  
10 unsure of what was really going on, but I was able to get  
11 a total fee number from this particular firm.

12 MR. ANTOINE HACAULT: Okay. If we flip to  
13 page 12 for example under number 5, "Fee Combinations."  
14 It says, "Not sure how fee structure works. No more  
15 details were given."

16 And at the very bottom in nine (9), is that  
17 where you have the answer? Do we know what it costs for a  
18 hundred dollar (\$100) loan?

19 MR. JOHN OSBORNE: Yes. Yes, I was only  
20 given a hundred dollar (\$100) -- you have to realize when  
21 I'm doing this process it's a conversation and, you know,  
22 it -- I -- I tried to push the hypotheticals as far as I  
23 could, but when they tell me you can't get any more than a  
24 hundred dollars (\$100), it's hard for me to come up with a  
25 plausible -- well the first time I need two fifty (250)

1 because I'm filling out this survey. It doesn't work that  
2 way.

3 MR. ANTOINE HACAULT: Yeah, yeah, I under  
4 -- I fully understand that. I'm just not too sure when  
5 you call and -- and they say, Not sure how fee structure  
6 works, how you're able to then give us a fee.

7 MR. JOHN OSBORNE: I -- I gave you a fee  
8 for a hundred dollars (\$100) because they wouldn't tell me  
9 about the fee structure and they wouldn't tell me any more  
10 than an initial hundred dollars (\$100) --

11 MR. ANTOINE HACAULT: Okay.

12 MR. JOHN OSBORNE: -- that was their  
13 limit.

14 MR. ANTOINE HACAULT: And this is an  
15 example of a firm that starts with a maximum of a hundred  
16 dollars (\$100) then? That's why you only put the hundred  
17 dollars (\$100)?

18 MR. JOHN OSBORNE: Yes, yes. I'm sure I  
19 would have tried to get more but they wouldn't let me.

20 MR. ANTOINE HACAULT: And on page 16 in  
21 number 2 there is reference to discounts.

22 Do you report the discounted amount or do  
23 you report the initial amount?

24 MR. JOHN OSBORNE: I'm sorry, what was the  
25 question? I'm just trying to understand which --

1 MR. ANTOINE HACAULT: Page 16, --

2 MR. JOHN OSBORNE: Yeah.

3 MR. ANTOINE HACAULT: -- row number 2, I'm  
4 reading:

5 "Yes, a hundred dollar (\$100) flat rate.  
6 If I borrow two hundred (200) then  
7 normally I would pay back [blank] but  
8 [blank] discounts eventually [blank] per  
9 hundred, not what you borrowed."

10 MR. JOHN OSBORNE: Yeah.

11 MR. ANTOINE HACAULT: What do you report  
12 in your table?

13 MR. JOHN OSBORNE: This one (1). Oh, what  
14 do I report in the table? Forty (40) per two-fifty (250).  
15 I not sure. Oh, forty (40) -- forty (40) per two hundred  
16 (200), sorry.

17 Yeah, this one, I believe there was a --  
18 the initial was actually a discount from their regular fee  
19 and then the regular fee was twenty (20) per hundred  
20 (100). So that's why we used the regular fee instead of  
21 the first-time discount of a few dollars, I believe it  
22 was.

23 MR. ANTOINE HACAULT: Okay.

24 MR. JOHN OSBORNE: If I'm incorrect I'll  
25 check and get back to you about that. That's -- I think

1 that's what firm it is here.

2 MR. ANTOINE HACAULT: If you flip to  
3 page 19, I think I'll be able to get through this in three  
4 (3) or four (4) minutes.

5 At the bottom there's reference, I'm not  
6 too sure, it's on -- actually it -- it seems to say, "Can  
7 go up to 60 percent overdraft protection"?

8 MR. JOHN OSBORNE: That -- that will --  
9 that would be -- no, that it can go up to 60 percent.  
10 This is my rough notes, I believe that was the -- the  
11 maximum amount you could borrow.

12 MR. ANTOINE HACAULT: And what's the  
13 reference to overdraft protection?

14 MR. JOHN OSBORNE: I think you had to have  
15 overdraft protection on your chequing account to be able  
16 to -- that was one of the prerequisites to opening up a --  
17 an account with them; that was a stipulation, overdraft  
18 protection.

19 MR. ANTOINE HACAULT: Okay. So that this  
20 is a difference in the way the product is being provided;  
21 some people actually require an overdraft protection in  
22 the chequing account before they give you a loan?

23 MR. JOHN OSBORNE: This one I believe they  
24 -- let me just check my ethics 101.

25

1 (BRIEF PAUSE)

2

3 MR. JOHN OSBORNE: This particular firm...

4 Yeah, this particular firm also did a --  
5 they had -- they have storefront activity but also they  
6 have a significant amount of -- of not-in-person, whether  
7 it be online or telephone call activity as well, so I  
8 think this is particular to their case because their  
9 business model also has online and/or phone-calling  
10 involved. So that would -- that's why they're sort of  
11 unique for the situation here.

12 MR. ANTOINE HACAULT: And it was a pretty  
13 unique place. In fact, if you flip to the next page,  
14 page 20. I don't see very many businesses shoot  
15 themselves in the foot.

16 "The manager encouraged me not to live  
17 on payday loans, use it for a one-time  
18 thing with a good reason and do not keep  
19 reusing."

20 So this was one solicited comment?

21 MR. JOHN OSBORNE: The -- the -- it was an  
22 unsol -- because I was asking him and I was prodding for  
23 their re-loan and their rollover and re-borrowing rates  
24 because that was part of it. And this was the only case  
25 where I was cautioned before taking a first loan, that,

1 Hey, you -- like, he was trying to slow me down.

2 He would -- he actually did a very good job  
3 of giving me some basic counselling that, Hey, slow down,  
4 don't -- you don't want to get sucked into a -- into a  
5 cycle here.

6 And I -- I asked -- I asked the same  
7 questions of everybody and this was the only case where I  
8 actually received some counselling to not get involved.  
9 Every other place seemed pretty happy to re-loan me before  
10 I took one (1) loan.

11 MR. ANTOINE HACAULT: If you flip to  
12 page 22, in number 9, your note says for the cost, "About  
13 three hundred dollars (\$300)".

14 MR. JOHN OSBORNE: Okay. Yes. Sorry, I  
15 was checking the -- what firm it was.

16 MR. ANTOINE HACAULT: Page 22 --

17 MR. JOHN OSBORNE: Yeah.

18 MR. ANTOINE HACAULT: Number 9. It says  
19 about three hundred dollars (\$300) for the cost.

20 MR. JOHN OSBORNE: Yes, let's see.

21 MR. ANTOINE HACAULT: So was this always  
22 an approximation? Did --

23 MR. JOHN OSBORNE: No.

24 MR. ANTOINE HACAULT: Did you give them a  
25 particular time frame, for example, it's going to be a

1 twelve (12) day loan, a five (5) day loan?

2 MR. JOHN OSBORNE: It was always going to  
3 be my next payday which was -- I did all these calls  
4 either on the Monday or the Tuesday of -- most of them  
5 were on the Monday, and then my next payday was always not  
6 this Friday but the Friday after.

7 MR. ANTOINE HACAULT: Okay. So when they  
8 said "approximately," you would use that then?

9 MR. JOHN OSBORNE: I -- I made sure to  
10 include it but you'll also see that there's very specific  
11 down to the penny in a lot of the answers that I was  
12 given.

13 In this case it was about three hundred  
14 (300). Again, I might be able to provide more insight --

15 MR. ANTOINE HACAULT: That's okay. I was  
16 just trying to get some sense as to how good these numbers  
17 are.

18 MR. JOHN OSBORNE: This -- this was one of  
19 the instances where there was not very much assistance  
20 about the breakdown of fees. I was left not really  
21 knowing what was going on with this particular firm.

22 It might have -- in this case it might even  
23 have been me that said is it going to about three hundred  
24 (300) because they were stonewall. So that -- that could  
25 be that case.

1 MR. ANTOINE HACAULT: Okay. If we flip to  
2 page 28, I just have one (1) more after that.

3 Number 1, there's reference:

4 "First time offer of blank per hundred  
5 (100). After first successfully -- loan  
6 successfully paid, the rate is blank per  
7 hundred (100) for all loans.

8 Do you know what number you used? Was it  
9 the -- was the introductory offer lower or higher?

10 MR. JOHN OSBORNE: Let -- let me -- I'm  
11 just confused about this one a little, which firm it is.  
12 Just a second. Or which number it is.

13

14 (BRIEF PAUSE)

15

16 MR. JOHN OSBORNE: Yeah, I can't figure  
17 out. If there's a question mark in there it would likely  
18 be one of the firms that's -- that's listed as "No data  
19 available" because we had a few firms with -- that didn't  
20 provide us with any information. That's what the -- a  
21 question mark.

22 MR. ANTOINE HACAULT: Could you perhaps  
23 check and you could let -- just let me know tomorrow  
24 morning what number you used and if it was the lower  
25 number or the higher number?

1 MR. JOHN OSBORNE: Of -- of what...?

2 MR. ANTOINE HACAULT: For this particular  
3 -- what did you use for the table?

4 MR. JOHN OSBORNE: Yeah. I'm sure I'll be  
5 able to explain it when I see the un-redacted version,  
6 yeah.

7 MR. ANTOINE HACAULT: Okay.

8 MR. BYRON WILLIAMS: And just so I'm  
9 clear, that's the page 28, Mr. Hacault?

10

11 CONTINUED BY MR. ANTOINE HACAULT:

12 MR. ANTOINE HACAULT: Page 28 at the top.  
13 I just want to know what he used in the table.

14 And perhaps you can do the same thing on  
15 page 32? Page 32 gives a range of forty dollars (\$40) at  
16 the very top. Forty dollars (\$40) to sixty dollars (\$60).

17 MR. JOHN OSBORNE: Can I just find out  
18 which firm this is and I might be able to provide that  
19 data now -- information now.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Since you're bringing  
24 something back to Mr. Hacault tomorrow, why don't you bring  
25 that too?

1 Mr. Hacault...?

2 MR. ANTOINE HACAULT: Thank you very much.

3

4 --- UNDERTAKING NO. 89: For Mr. Osborne to advise which  
5 number he used on page 28 and 32.

6

7 THE CHAIRPERSON: Okay, we'll adjourn for  
8 the day. We'll see you back tomorrow morning at nine  
9 o'clock.

10

11 --- Upon adjourning at 4:10 p.m.

12

13

14

15 Certified Correct,

16

17

18

19

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21 \_\_\_\_\_  
Wendy Warnock, Ms.

22

23

24

25