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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 15th, 2008
Pages 3981 to 4243

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1 --- Upon commencing at 10:02 a.m.

2

3 COALITION PANEL:

4 WAYNE SIMPSON, Resumed

5 CHRIS ROBINSON, Resumed

6 JOHN OSBORNE, Resumed

7 JERRY BUCKLAND, Resumed

8 ANITA FRIESEN, Resumed

9

10 THE CHAIRPERSON: Okay. Good morning,
11 everyone. And where we left off, we were about to hear
12 from Mr. Dawson. So, Mr. Dawson, you can begin at any
13 point.

14 MR. ROBERT DAWSON: First on a matter of
15 housekeeping, Mr. Chairman -- oh, I think My Learned
16 Friend actually has his own housekeeping. So I'll let
17 him, since his house seems to be dirtier.

18 THE CHAIRPERSON: I don't know if I'd
19 take that crack or not, Mr. Williams.

20 MR. BYRON WILLIAMS: My candour obliges
21 me to accept that. Actually if -- if Mr. Dawson's
22 housekeeping is smaller than mine -- I have a few things.
23 So maybe -- I just wanted to note that I had a few things
24 for housekeeping so -- as well, so...

25 First of all I understand we have a -- a -

1 - we're welcoming a new court reporter today for Ms.
2 Warnock, so I thought to assist the court reporter, it
3 might be helpful just to -- to remind everyone, the panel
4 that's here today, and to note that Dr. Carter is not
5 able to be here today.

6 So but for the court reporter's benefit,
7 just going from -- from the panel's right to the panel's
8 left, at the far end is Mr. John Osborne. To -- beside
9 Mr. Osborne is Ms. Anita Friesen. Beside her is Mr.
10 Jerry Buckland. Beside Mr. Buckland is Mr. Robinson.
11 And beside Mr. Robinson is Mr. Simpson.

12 So hopefully -- I don't think they need
13 any introductions to the panel, but hopefully that will
14 help. We also, by my count, have four (4) undertakings
15 outstanding. Two (2) of those we'd like to provide to
16 the panel on Friday, just because they take a little bit
17 more write-up.

18 But we're prepared to provide two (2) of
19 them today if that's satisfactory, Mr. Chairman.

20 THE CHAIRPERSON: Please proceed.

21 MR. BYRON WILLIAMS: One (1) of the
22 questions from Mr. Hacault and -- Mr. Gaudreau, I believe
23 you have a table -- Revised Table 3 on your -- on your --
24 on the -- on your desk.

25 But Mr. Hacault had asked the -- the panel

1 to look at the mystery shopping results and then compare
2 the results with Table 3, recognizing of course that we
3 were looking at, from mystery shopping, a hundred (100)
4 or a hundred and twenty dollar (\$120) loan, and for Table
5 3, at two hundred and fifty dollar (\$250) loan and -- and
6 identify whether there were any changes. So I'll ask Mr.
7 Gaudreau to hand that out. Yes, that's right, Mr.
8 Gaudreau, thank you.

9 And also I'll ask Dr. Buckland to speak to
10 that.

11

12 (BRIEF PAUSE)

13

14 MS. ANITA SOUTHALL: This will be
15 Coalition Exhibit 35. Thank you.

16

17 --- EXHIBIT NO. COALITION-35: Revised Table 3

18

19 THE CHAIRPERSON: Okay, Mr. Williams, you
20 want Dr. Buckland to speak?

21 MR. BYRON WILLIAMS: Yes, please, Dr.
22 Buckland, if you have any comment.

23 DR. JERRY BUCKLAND: Thank you, and good
24 morning. We were asked to look at any -- any possible
25 changes we'd make to the four (4) firms that we engaged

1 in a loan mystery shop on Table 3. So we have done so.

2 And to -- to be clear, we're able to do
3 this because in the process of doing the loan mystery
4 shop, we also got access to the -- the formula that the
5 firm uses to calculate the fees. Because we are aware
6 that in the case where there's a lump sum or an absolute
7 dollar figure, we can't just simply divide by two point
8 five (2.5) or multiply by two point five (2.5).

9 In the case of Firm A, we found that the
10 actual lump sum fee for a two hundred and fifty dollar
11 (\$250) loan after the loan mystery shop would be forty-
12 seven dollars and ninety-nine cents (\$47.99). So this is
13 revised from the telephone mystery shop figure of forty-
14 five dollars (\$45).

15 Now just to be clear, Firm A in this table
16 is firm Number 5 in Table 7. So that would help you
17 identify the firm in -- in Table 7.

18 And then Firm C, we calculated that the
19 after the loan taking and the calculations the fee for a
20 two hundred fifty dollar (\$250) loan would be ninety-six
21 dollars and twelve cents (\$96.12) as opposed to ninety-
22 eight dollars (\$98) which we had found from the telephone
23 call. And so those two (2) numbers need to change.

24 The other two (2) firms we -- we did not
25 find a difference as compared with the telephone call.

1 And so just to, you know, clarify what
2 that does is it changes the Winnipeg average for the two
3 hundred and fifty dollar (\$250) loan from sixty-three
4 dollars and thirty-three cents (\$63.33) to sixty-three
5 dollars and forty-seven cents (\$63.47) as the lump sum
6 fee for all the two hundred and fifty dollar loans in
7 Winnipeg. Thank you.

8 MR. BYRON WILLIAMS: Thank you, Dr.
9 Buckland.

10 Mr. Osborne, you had had some
11 conversation, I believe, last Thursday, with Mr. Hacault
12 about your -- the notes you had made in terms of your
13 telephone survey. And I believe he had some questions
14 with regard to pages 6, 16, 28, and 32.

15 And I wonder if you could help Mr. Hacault
16 and the panel with your comments?

17 MR. JOHN OSBORNE: Yes, that's right. On
18 page 6 there was a question about what was included in --
19 in fee payments for that particular phone call.

20 I can tell you that the -- I -- I guess I
21 should briefly explain this table. I think we got to it
22 a little bit, but line 9 is the important line number.
23 That shows the -- the amount that they actually told me,
24 although you'll have the redacted version in black. But
25 in this particular case the exact figure was given down

1 to the penny. I think it -- it ended in seventeen (17)
2 cents. So they were very specific about how much I was
3 actually to repay.

4 So, what this is -- what is actually
5 included in this -- they gave me a few different interest
6 and brokerage fee and so on charges. I guess what it --
7 what they decided was the must-have fee. I -- I can tell
8 you that in -- in this case the -- the debit card wasn't
9 given to me as an option. It was a -- it was an absolute
10 that I had to have. So it would be included in this one.

11 Now page -- page 16, there was a question
12 -- if you see in line 2 on page 16, there was a -- a
13 bunch of different typing there with a bunch in black as
14 well as in line 9. So the question was: What was the
15 actual fee charged?

16 Now, the reason why there's all this extra
17 writing -- typing in here is because this particular firm
18 had an incentive for number of times using a loan. The
19 first time there was a -- there was a -- a very large
20 incentive, so that was not included in Table 3. It was a
21 -- it was a very low amount. So we used the regular
22 amounts after the first loan was taken out.

23 And then additional incentive levels are
24 hit for taking out additional payday loans with the firm.
25 Again, those were not used. They were kind of alluded

1 to, but we used the -- the regular fee after the initial
2 incentive fee was -- initial loan incentive fee was taken
3 out.

4 On page 28, this firm, again, this is a --
5 a situation where an incentive existed. I'll just find
6 it in my spreadsheets, yeah. Again, there was -- there
7 was a -- a very low, first-time offer for the first-time
8 loan. And that was not included in -- in Table 3. It
9 was an amount very small.

10 So then we just used the regular fee
11 amounts after the first incentive fee to open an account
12 with them. And there was a number given in -- in line 9
13 as to the amount, after the first-time loan, what it
14 would cost.

15 And finally, page 32. Oh, yeah, there was
16 some confusion about -- about this one. Again, there was
17 more -- more writing, more redacted numbers, a range of
18 40 to 60 at the top. This -- this is one where I called
19 multiple firms and took multiple notes, because it was
20 unclear at the first firm I spoke to -- or the first
21 outlet I spoke to.

22 In the end -- and there was also some
23 confusion I had between a couple firms maybe being the
24 same, and I -- I believe they've turned out to be the
25 same firm.

1 So what we have in the end is -- is a -- I
2 did receive a -- a number for -- from them in -- in line
3 9, not on page 32 but on page 33. It was about three
4 hundred dollars (\$300) was the closest I could get to
5 with this firm, calling multiple outlets.

6 So I think those were the four (4) key
7 question areas. I hope that helps. I would have been
8 able to do that on Thursday, but it's a lot easier with
9 my actual unredacted notes in front of me to do that.

10 MR. BYRON WILLIAMS: Thank you, Mr.
11 Osborne.

12 And I will turn it over to my friend, Mr.
13 Dawson, for his housekeeping matters and then his cross-
14 examination.

15 MR. ROBERT DAWSON: Good morning, Mr.
16 Chairman. On the housekeeping issue, in the early eons
17 before the crusades took us away, my client had given an
18 undertaking in the course of his cross-examination. And
19 I've served an electronic copy of that undertaking to all
20 of the parties. In fact, I did that roughly at that same
21 time.

22 And I now understand that a paper copy has
23 been provided to the Board, and Mr. Gaudreau is about to
24 distribute that for your reference. There are copies
25 just, I think, for the Board, and will ask that this be

1 admitted as Exhibit number 10 for Assistive Financial,
2 please.

3

4 --- EXHIBIT NO. AF-10: Copy of undertaking given by
5 client

6

7 THE CHAIRPERSON: Very good, sir.

8

9 (BRIEF PAUSE)

10

11 MR. ROBERT DAWSON: That concludes my
12 housekeeping, and I will turn now to my, what I expect to
13 be, brief cross-examination.

14

15 CROSS-EXAMINATION BY MR. ROBERT DAWSON:

16 MR. ROBERT DAWSON: Dr. Robinson, you've
17 told the Board that you are an expert in personal
18 finance. Am I correct?

19 DR. CHRIS ROBINSON: Yes.

20 MR. ROBERT DAWSON: I'd like you to
21 consider that the Mont Blanc pen company makes a limited
22 edition pen, which sells for roughly eight thousand
23 dollars (\$8,000) Canadian.

24 I take it you're not the owner of such a
25 pen?

1 DR. CHRIS ROBINSON: That's right, I
2 would lose it.

3 MR. ROBERT DAWSON: I'll describe it to
4 you. At one point, when I had hoped my cross-examination
5 would precede Christmas, I might have expected that you
6 might think of this as a gift for me. Now I'll just
7 remind you that my birthday is forthcoming.

8 It's a lovely pen. It's a solid gold nib.
9 It has precious jewels assorted throughout. It's limited
10 to a -- an edition of approximately eight hundred and
11 eighty-eight (888). Now for this reason they nonetheless
12 sell it at approximately eight thousand dollars (\$8,000).

13 And I think you'd agree with me that
14 that's a lot of money for a pen, wouldn't you?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ROBERT DAWSON: And you'd also agree
17 with me, as an expert in personal finance, that most
18 people would not be willing to pay eight thousand dollars
19 (\$8,000) for a pen.

20 Am I correct?

21 DR. CHRIS ROBINSON: Yes.

22 MR. ROBERT DAWSON: In fact -- and this
23 is something with which I think you will have direct
24 knowledge -- a simple, disposable pen sells certainly for
25 a few dollars? Let's say certainly less than ten dollars

1 (\$10).

2 Wouldn't that be right?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ROBERT DAWSON: And that disposable
5 pen will write on paper just as well as the Mont Blanc
6 pen?

7 DR. CHRIS ROBINSON: I don't have any
8 direct knowledge of that.

9 MR. ROBERT DAWSON: Would you agree with
10 me that if we took a pen from Mont Blanc for eight
11 thousand dollars (\$8,000) and stroked its nib across a
12 sheet of paper and did the same with a two dollar (\$2)
13 Bic, the result would probably be the same, namely, a
14 marked piece of paper?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ROBERT DAWSON: Now we've said that
17 nevertheless there would be some people who would be
18 willing to pay eight thousand dollars (\$8,000) for this
19 pen, even though it certainly won't be you.

20 Perhaps you would agree with me that they
21 do so because they admire the workmanship of that
22 particular pen?

23 DR. CHRIS ROBINSON: I would actually
24 expect they're doing it to show off.

25 MR. ROBERT DAWSON: Okay. That certainly

1 is one of the reasons, indeed. Possession of such a pen
2 would impress others. That's what you're trying to say?

3 DR. CHRIS ROBINSON: It would impress
4 some others, yes.

5 MR. ROBERT DAWSON: Yes. So basically
6 what you're saying is for subjective reasons -- as
7 opposed to pure, shall we say, financial or economic
8 reasons -- some individuals might be moved to want to
9 spend eight thousand dollars (\$8,000) for a pen?

10 DR. CHRIS ROBINSON: Provided they had
11 the means to spend eight thousand dollars (\$8,000) on a
12 pen.

13 MR. ROBERT DAWSON: You wouldn't advocate
14 that the state should prohibit individuals from paying
15 eight thousand dollars (\$8,000) for a pen, would you?

16 DR. CHRIS ROBINSON: No.

17 MR. ROBERT DAWSON: What if an individual
18 didn't have the actual funds on hand but had a credit
19 card with a credit card limit that would allow the
20 individual to pay for the pen?

21 Would you think in those circumstances
22 that the state should prohibit the individual from buying
23 the pen?

24 DR. CHRIS ROBINSON: No.

25 MR. ROBERT DAWSON: Professor Buckland,

1 you made reference to the Elliehausen study, did you not?

2 DR. JERRY BUCKLAND: Yes, I have.

3 MR. ROBERT DAWSON: And in that study you
4 made reference to a household that was in need of a car
5 repair. Am I correct?

6 DR. JERRY BUCKLAND: Yes.

7 MR. ROBERT DAWSON: And by the fact
8 scenario as you set it up, the individuals needed the
9 money before their next payday in order to repair the
10 car.

11 Do I remember correctly?

12 DR. JERRY BUCKLAND: That's correct.

13 MR. ROBERT DAWSON: And just for the sake
14 of reference of those who might be reading the transcript
15 at a later time, I can indicate that at Coalition Exhibit
16 17, slide 17, you had calculated the relative advantage
17 or disadvantage to the household of taking out a payday
18 loan to effect those repairs.

19 Do you remember that?

20 DR. JERRY BUCKLAND: I do and I was
21 reporting on Elliehausen & Lawrence's conclusion, yes.

22 MR. ROBERT DAWSON: And the conclusion
23 that you reported there was that there was a positive
24 benefit to the household if they repaired the car using a
25 payday loan?

1 DR. JERRY BUCKLAND: That's correct.

2 MR. ROBERT DAWSON: And the only
3 detriment that you reported was in the event that might
4 have to roll over the loan. Am I correct?

5 DR. JERRY BUCKLAND: The detriment was
6 either the rollover or a higher fee cap -- or sorry, a
7 higher fee for the loan.

8

9 (BRIEF PAUSE)

10

11 MR. ROBERT DAWSON: And when you've
12 measured that detriment, you were looking at it strictly
13 in terms of the dollars? And by that let me
14 particularize.

15 You included, for example, the
16 transportation costs that the individuals would incur
17 without a car. Is that right?

18 DR. JERRY BUCKLAND: That's correct.

19 MR. ROBERT DAWSON: And you also made
20 reference to opportunity costs that they would lose.

21 Am I right?

22 DR. JERRY BUCKLAND: Yes.

23 MR. ROBERT DAWSON: And by opportunity
24 costs, I assume that you -- or rather, I'm going to ask
25 if you were making an assumption that the individuals

1 were making profitable use of their time as opposed to
2 using that time riding the bus, for example?

3 DR. JERRY BUCKLAND: The opportunity cost
4 was based on the time that would need to be spent on the
5 bus as compared to driving the car, and then that was
6 calculated using a wage rate.

7 So it just referred to the time that was
8 saved because they -- the person had the car.

9 MR. ROBERT DAWSON: The essence of an
10 opportunity cost, wouldn't you agree, is based upon the
11 assumption that the individual will make profitable use
12 of the individual's time instead of wasting it?

13 DR. JERRY BUCKLAND: The calculation of
14 opportunity cost, I think, would depend on the
15 assumptions of what we think the individual would be
16 doing. If the individual was wait -- well, let me just
17 flip it around.

18 If the individual was doing work while on
19 the bus -- because in the bus the individual is able to
20 read, catch up on email, various types of things like
21 that -- then we wouldn't include that opportunity cost,
22 because, in a sense, that wouldn't have been foregone.

23 MR. ROBERT DAWSON: So you've -- you've
24 indicated -- and I'll just extract it -- there's an
25 assumption that the individual would be -- as to what

1 that individual would be doing when you speak of
2 opportunity costs?

3 DR. JERRY BUCKLAND: Yes.

4 MR. ROBERT DAWSON: So on the one hand
5 then we have transit costs, we had opportunity costs.
6 And these were, shall we say, the one side of the
7 equation. And on the other side, and correct me if I'm
8 wrong, there was the actual cost of the loan.

9 Is that right?

10 DR. JERRY BUCKLAND: That's correct.

11 MR. ROBERT DAWSON: Now you've measured
12 these purely in terms of objective dollars. Is that
13 right?

14 DR. JERRY BUCKLAND: The -- the use of
15 opportunity cost requires that we apply an assumption
16 about a -- a wage rate. So that's the one sort of
17 assumption that's introduced. But, yes, it's all put
18 into dollar terms.

19 MR. ROBERT DAWSON: Your analysis,
20 however, doesn't take into consideration subjective
21 values, for example, how the family might feel if they
22 have a vehicle at their disposal because it's been
23 repaired.

24 Am I correct?

25 DR. JERRY BUCKLAND: That's correct.

1 MR. ROBERT DAWSON: At the end of the
2 slide show -- and I'm moving on to a different point --
3 you made a series of six (6) recommendations.

4 Do you remember that?

5 DR. JERRY BUCKLAND: At the end of the
6 direct evidence that I gave --

7 MR. ROBERT DAWSON: Correct.

8 DR. JERRY BUCKLAND: -- yes, I -- I do.

9 MR. ROBERT DAWSON: And you'll remember
10 that your second recommendation was to limit the
11 collection of -- of consumer personal information.

12 Is that right, paraphrasing?

13 DR. JERRY BUCKLAND: Yes, I believe so.

14 MR. ROBERT DAWSON: And that, in part,
15 arose from Ms. Friesen's report on the nature of the
16 information that was collected at some of the payday loan
17 outlets that she visited.

18 Am I right?

19 DR. JERRY BUCKLAND: The nature and the
20 escalating nature of learning about what was required,
21 yes.

22 MR. ROBERT DAWSON: And when you say
23 "escalating nature of what was required," at the risk of
24 inviting a long sentence, what -- what do you mean?

25 DR. JERRY BUCKLAND: In some cases the

1 mystery shopper wasn't told at the beginning of the
2 relationship in the inquiry loan all of the personal
3 information the would be required. That was only made
4 completely clear when the actual loan was taken out.

5 MR. ROBERT DAWSON: So your
6 recommendation Number 2 on that concluding slide was in
7 fact based on two (2) things: one (1), what you've just
8 described being the -- the, shall we say, the surprise
9 factor of information that was required; and secondly, a
10 catalogue of actually what was requested?

11 DR. JERRY BUCKLAND: Yes.

12 MR. ROBERT DAWSON: Ms. Friesen, am I
13 right that you're here as an expert among other things in
14 ethnography?

15 MS. ANITA FRIESEN: Yes, I would say so.

16 MR. ROBERT DAWSON: And by that, of
17 course, we're not talking about an exact science. You've
18 been very careful about explaining that, haven't you?

19 MS. ANITA FRIESEN: Yes.

20 MR. ROBERT DAWSON: And, nonetheless,
21 though, I don't want to belittle this. Ethnography is
22 part of the social sciences.

23 Am I right?

24 MS. ANITA FRIESEN: That's correct, yes.

25 MR. ROBERT DAWSON: And by that we mean

1 that there's a specific method or approach that one would
2 use regardless of the individual?

3 MS. ANITA FRIESEN: That's right, yes.

4 MR. ROBERT DAWSON: But, because it is a
5 social science, applying that method by individual, A)
6 may result in different outcomes simply because that
7 individual brings some subjective consideration to the
8 process.

9 Am I right?

10 MS. ANITA FRIESEN: That's correct. And
11 within the training process for the people undertaking
12 the mystery shopping, there was an attempt to minimize
13 the -- that factor.

14 MR. ROBERT DAWSON: You -- you did
15 undertake to minimize, but you'd agree that you, of
16 course, could not possibly eliminate that possibility?

17 MS. ANITA FRIESEN: That's correct.

18 MR. ROBERT DAWSON: You've testified that
19 some of the information that you were expected to give in
20 terms of the collection of personal consumer information
21 was what you've described -- and for those again who are
22 reading the transcript at a later date, this is page 2788
23 line 12 -- your name, your address, contact information
24 and a -- a presentation of your identification.

25 Is that right?

1 MS. ANITA FRIESEN: That's right, yes.

2 MR. ROBERT DAWSON: And when you
3 expressed concern about the nature of the personal
4 information that was collected, you weren't referring to
5 that kind of basic information. It was other kinds of
6 information that you were asked for.

7 Am I correct?

8 MS. ANITA FRIESEN: That's right, yes.

9 MR. ROBERT DAWSON: And the other kinds
10 of information, if I have your testimony correct,
11 included -- and you can -- we can go through this -- two
12 (2) pay stubs?

13 MS. ANITA FRIESEN: Yes.

14 MR. ROBERT DAWSON: Bank statements?

15 MS. ANITA FRIESEN: Yes.

16 MS. MYFANWY BOWMAN: Supervisor's name
17 and phone number?

18 MS. ANITA FRIESEN: Yes.

19 MR. ROBERT DAWSON: Photo?

20 MS. ANITA FRIESEN: Yes.

21 MR. ROBERT DAWSON: Five (5) references?

22 MS. ANITA FRIESEN: Yes.

23 MR. ROBERT DAWSON: Date of birth?

24 MS. ANITA FRIESEN: Yes.

25 MR. ROBERT DAWSON: By the way, I note

1 that occasionally you look up in the air as if this were
2 a test. All of what I'm saying is subject to check, of
3 course. I believe I'm not misleading you.

4 But if at some later point you discover
5 that I've misstated the transcript and you've been fooled
6 into agreeing with me, of course we'll correct it. We'll
7 continue the list.

8 Spouse's name?

9 MS. ANITA FRIESEN: Yes.

10 MR. ROBERT DAWSON: Name of a previous
11 employer?

12 MS. ANITA FRIESEN: Yes.

13 MR. ROBERT DAWSON: Detailed information
14 about the vehicle owned?

15 MS. ANITA FRIESEN: Yes.

16 MR. ROBERT DAWSON: Residence, whether it
17 was owned or rented?

18 MS. ANITA FRIESEN: Yes.

19 MR. ROBERT DAWSON: And whether your
20 monthly -- monthly payments on residence was a rent or
21 whether it was a mortgage payment?

22 MS. ANITA FRIESEN: That's right.

23 MR. ROBERT DAWSON: Okay. Now of course,
24 as part of your expertise in ethnography, it does not
25 extend to debt collection?

1 MS. ANITA FRIESEN: No, it doesn't.

2 MR. ROBERT DAWSON: And you have no
3 expertise as to the legal aspects of what would be
4 required in order to collect a debt?

5 MS. ANITA FRIESEN: No legal expertise,
6 but I do have from personal experience --

7 MR. ROBERT DAWSON: Well, let's go
8 through this and you can explain to me, then. Why would
9 I want a pay stub, if you have in your experience in
10 collecting debts?

11 MS. ANITA FRIESEN: I -- I would say that
12 a pay stub would be a reasonable piece of information.

13 MR. ROBERT DAWSON: Okay. So that one's
14 reasonable. Let's move along then.

15 MS. ANITA FRIESEN: That's fine, yes.

16 MR. ROBERT DAWSON: In your experience in
17 collecting debts then, even though you're not a lawyer,
18 why would I want, for example, vehicle information?

19

20 (BRIEF PAUSE)

21

22 MS. ANITA FRIESEN: On a -- I could
23 understand it in terms of a much larger amount borrowed.
24 But for a smaller loan of a hundred dollars (\$100), I
25 don't see that it would be -- that's what I didn't

1 understand, was why --

2 MR. ROBERT DAWSON: So this is your
3 opinion, that it's not worth collecting vehicle
4 information because the loan is so small?

5 MS. ANITA FRIESEN: That is my opinion,
6 yeah, absolutely. I --

7 MR. ROBERT DAWSON: You have no knowledge
8 of using a vehicle information for the purposes of
9 effecting seizure of that vehicle to enforce a debt?

10 MS. ANITA FRIESEN: I -- I --

11 MR. ROBERT DAWSON: You've told me,
12 madam, that earlier, you weren't a lawyer, you had no
13 legal experience, but you did have knowledges about
14 enforcing a debt.

15 I'm asking you within the scope of that
16 knowledge, do you have knowledge about using a vehicle's
17 information for the purposes of seizing it?

18 MS. ANITA FRIESEN: I understand the
19 question. I was just taking some time to answer it.

20 MR. ROBERT DAWSON: Can we have your
21 answer, please?

22 MS. ANITA FRIESEN: Sure.

23 MR. ROBERT DAWSON: Thank you.

24 MS. ANITA FRIESEN: For much larger debts
25 I'm aware of the -- that.

1 MR. ROBERT DAWSON: But you have no
2 knowledge of whether or not one would want car
3 information for the purposes of seizing that particular
4 vehicle?

5 MS. ANITA FRIESEN: If a lender would
6 want the car information for the purposes --

7 MR. ROBERT DAWSON: Yes.

8 MS. ANITA FRIESEN: I -- I -- my own
9 personal understanding is that for larger debts that
10 would be reasonable. But in my personal opinion it feels
11 as though for a hundred dollar (\$100) debt that providing
12 that information for the purposes of seizure of a vehicle
13 would be extreme, I would say.

14 MR. ROBERT DAWSON: And again, this is
15 your own personal opinion?

16 MS. ANITA FRIESEN: That's right.

17 MR. ROBERT DAWSON: The same personal
18 opinion that led you to say at page 2788, line 12, of the
19 transcript that the informations collected from you were
20 unnecessary amounts of personal information?

21 MS. ANITA FRIESEN: This is a --

22 MR. ROBERT DAWSON: Is it the same
23 personal experience that gives rise to that statement?

24 MS. ANITA FRIESEN: It is indeed.

25 MR. ROBERT DAWSON: Thank you very much.

1 MS. ANITA FRIESEN: And that is the
2 personal experience of a --

3 MR. ROBERT DAWSON: Dr. Buckland, I'll
4 move now --

5 MS. ANITA FRIESEN: If I could just
6 finish answering the question.

7 MR. ROBERT DAWSON: Madam, madam, we
8 don't have all day. Part of the problem in this
9 particular process has been that some questions and some
10 information coming from witnesses might perhaps have been
11 asked on rebuttal. The lawyer who has summoned you here
12 to appear and give testimony on behalf of his client will
13 have the opportunity to ask you reexamination questions.
14 And I'm trying to move this along as quickly as possible.

15 You've given me the information that I
16 need; I'm prepared to move to Dr. Buckland.

17 MS. ANITA FRIESEN: I was just going to
18 answer regarding the methodology that is used. And in a
19 -- a participant observation methodology and ethnography
20 the role of the mystery shopper was also the experience
21 of a regular customer. And so it's not only my own
22 personal experience, but my experience as a regular
23 customer would possibly feel.

24 MR. ROBERT DAWSON: Okay, we have your
25 answer, thank you.

1 MS. ANITA FRIESEN: Okay.

2 MR. ROBERT DAWSON: Professor Buckland,
3 your sixth recommendation from that slide show related to
4 improving access to Main Street finan -- mainstream
5 financial institutions.

6 Do you remember that?

7 MR. JERRY BUCKLAND: Yes.

8 MR. ROBERT DAWSON: And by mainstream
9 financial institutions, you certainly include Schedule A
10 banks?

11 MR. JERRY BUCKLAND: Yes.

12 MR. ROBERT DAWSON: And you understand
13 that the regulation of Schedule A banks falls under
14 federal legislation, not provincial legislation?

15 DR. JERRY BUCKLAND: Yes.

16 MR. ROBERT DAWSON: And you understand
17 that this particular Board is not part of the federal
18 legislative scheme?

19 DR. JERRY BUCKLAND: Yes.

20 MR. ROBERT DAWSON: Professor Robinson,
21 if we can turn to a question relating to the PUB.

22

23 (BRIEF PAUSE)

24

25 MR. ROBERT DAWSON: You'd agree with me

1 that one way in which to deal with payday loans is to
2 pass protective or consumer protection legislation and
3 fix maximum rates, right?

4 DR. CHRIS ROBINSON: That's an incomplete
5 representation of what the Manitoba legislation does. It
6 does a number of things other than fixing rates.

7 MR. ROBERT DAWSON: Forgive me. Let me
8 phrase it in a broader context. I'm not suggesting the
9 current legislation.

10 I'm saying that if the government wanted,
11 or if any government wanted, it could pass consumer
12 protection legislation and fix maximum rates.

13 Am I right?

14 DR. CHRIS ROBINSON: Yes.

15 MR. ROBERT DAWSON: And that would be
16 comparable to the way in which employees derive
17 protection under legislation and, for example, have fixed
18 minimum wages?

19

20 (BRIEF PAUSE)

21

22 DR. CHRIS ROBINSON: That's too
23 complicated and different a situation for me to compare
24 it on -- on the fly like that. I wouldn't be prepared to
25 make that statement --

1 MR. ROBERT DAWSON: That's fine --

2 DR. CHRIS ROBINSON: -- with a yes or no.

3 MR. ROBERT DAWSON: -- that's fine. I --

4 I -- all I'm trying to say here is that one approach
5 could have been for the government itself to have
6 unilaterally passed in Manitoba legislation that it
7 labelled "consumer protection" that fixed the maximum
8 rates that payday loan companies could charge?

9 DR. CHRIS ROBINSON: Yes.

10 MR. ROBERT DAWSON: And you'd agree that
11 that, in comparison to this process, would have been much
12 simpler?

13

14 (BRIEF PAUSE)

15

16 DR. CHRIS ROBINSON: Would you like to
17 define "simpler"?

18 MR. ROBERT DAWSON: Being simple -- I'll
19 ask you what you think may be simple would help. I'm
20 suggesting to you that it could have been done faster?

21 DR. CHRIS ROBINSON: The difficulty with
22 your question is that somebody had to determine how to
23 fix those rates. Unless you're suggesting that the
24 government of Manitoba has within itself the expertise to
25 do the sort of things we've discussed in this Hearing, I

1 don't think it would have been simpler.

2 MR. ROBERT DAWSON: Okay.

3 DR. CHRIS ROBINSON: They would have done
4 -- gone through the same thing and, being a government,
5 would have taken many years to do it.

6 MR. ROBERT DAWSON: Okay, what I'm
7 suggesting though is it's possible for this government to
8 have proceeded, shall we say, unilaterally. Am I right?

9 DR. CHRIS ROBINSON: Yes. It was also
10 possible for the federal government to do so, and I
11 advised them to.

12 MR. ROBERT DAWSON: Okay. But
13 nonetheless, despite your advice, at least the Manitoba
14 government has chosen to delegate this task, obviously,
15 to the Public Utilities Board. Am I correct?

16 DR. CHRIS ROBINSON: You're -- you're
17 conflating two (2) -- I -- I only advised the federal
18 government. I had -- I did -- gave no advice to the
19 Manitoba government. Although they were, of course,
20 aware of what I said to the federal government.

21 MR. ROBERT DAWSON: You'd agree with me
22 nonetheless, though, that the Manitoba government has
23 obviously delegated the task to the Public Utilities
24 Board?

25 DR. CHRIS ROBINSON: Only in one (1)

1 respect. Only in respect of a rate cap --

2 MR. ROBERT DAWSON: That's fine.

3 DR. CHRIS ROBINSON: -- the legislation
4 is quite detailed. And without that legislation it would
5 not, in fact -- it would be quite tricky to set rate caps
6 without a great deal also of what has been -- gone into
7 the legislation.

8 MR. ROBERT DAWSON: Sure. I don't know
9 if you have any personal knowledge of the days in which
10 the Manitoba Public Insurance Company -- Manitoba's
11 automobile monopoly that provides insurance to vehicles -
12 - had its rates set unilaterally by the Manitoba
13 government.

14 Do you have any knowledge of that?

15 DR. CHRIS ROBINSON: No.

16 MR. ROBERT DAWSON: So you wouldn't be
17 aware that at some point the responsibility for setting
18 those rates shifted to this Board?

19 DR. CHRIS ROBINSON: Well, I am aware
20 that it has shifted to this Board, since I have learned
21 that. But I did not know that at one time the government
22 had done it directly.

23 MR. ROBERT DAWSON: You wouldn't have any
24 knowledge then that the timing of that shift occurred at
25 a time when premiums necessarily had to go up

1 substantially, resulting in increased insurance rates for
2 Manitoba?

3 DR. CHRIS ROBINSON: I don't even know
4 whether the statement you've made is true.

5 MR. ROBERT DAWSON: I'll ask you to
6 accept it on a hypothetical basis as being true. I'm
7 just asking you, you have no knowledge of that?

8 DR. CHRIS ROBINSON: No.

9 MR. ROBERT DAWSON: All right. Given the
10 set of facts that I've purported to outline for you, can
11 you speculate as to why the government would have passed
12 the obligation of setting rates to the Public Utilities
13 Board at that particular time?

14 DR. CHRIS ROBINSON: The temptation to
15 make such speculations is too enjoyable, but I'll pass it
16 up anyway.

17 MR. ROBERT DAWSON: One of the
18 considerations might have been that the increase in
19 vehicle insurance rates of a significant amount would
20 have been politically unpalatable.

21 Would you agree with that?

22 DR. CHRIS ROBINSON: Yes.

23 MR. ROBERT DAWSON: And you'd agree that,
24 in contrast, the Public Utilities Board has certain
25 attributes that the public would accept, for example, to

1 the Board is impartial?

2 DR. CHRIS ROBINSON: I have no knowledge
3 of how the Public Utilities Board in Manitoba is
4 regarded. As from my own extensive work in various areas
5 of business, government, et cetera, I am routinely
6 suspicious of all bodies that are place in positions of
7 power, so that I couldn't, myself, say that I would
8 necessarily view them.

9 But I don't know how the -- as being
10 impartial or as being somehow different from the
11 government. I, however, have no idea how Manitobans view
12 them.

13 MR. ROBERT DAWSON: So your -- your own
14 view is that you're not -- you're not -- you have no
15 evidence to suggest -- oh, we won't go in that
16 direction.

17 You'd agree with me that if the Public
18 Utilities Board sets a rate that attracts public
19 criticism, the Government can distance itself from that
20 rate?

21 DR. CHRIS ROBINSON: Again, I don't know
22 Manitoba well enough. I'm trying to think of parallels
23 in my own province whether it would work that way, and I
24 -- I'm not sure that, in fact, somebody could do that,
25 because the Board, itself, is seen as part of the

1 Government. Or board -- similar boards in Ontario would
2 be seen as part of the government.

3 And, in recent years, at least in Ontario,
4 such boards, which may have been totally impartial, have
5 in fact been treated as being part of government, or it's
6 very unclear what they are.

7 We can see that currently with the
8 Canadian Nuclear Safety Commission, AECL, and the
9 regrettable government in -- in Ottawa. So that it's not
10 clear -- I mean I can't even figure out who's -- who I
11 would blame for this.

12 And so I think the same problem could --
13 could occur here. So I'm not sure -- maybe that's why it
14 was done -- I'm not sure that it's actually true.

15 MR. ROBERT DAWSON: Okay. Let's move to
16 something that you certainly do know more about, and
17 that's a paper that you wrote, entitled "Payday Loans: An
18 Ethical and Socially Responsible Industry," which, for
19 the purposes of the record, I can indicate is an
20 attachment to the second round Information Requests by
21 Rentcash of the Coalition, bearing number 2-35.

22 And it's the first attachment to that.

23

24

(BRIEF PAUSE)

25

1 MR. ROBERT DAWSON: I'll wait if you'd
2 like to dig out a copy.

3 DR. CHRIS ROBINSON: Well, no, we'll --
4 if I have to, we'll go back to it. But since you had
5 informed you would be asking, I did go back and -- and
6 read it again.

7 MR. ROBERT DAWSON: All right. So just
8 for the record then, you're the co-author of that 2006
9 paper.

10 Am I right?

11 DR. CHRIS ROBINSON: Yes.

12 MR. ROBERT DAWSON: And you wrote that
13 with another fellow by the name -- not another fellow,
14 your colleague, Mark Schwartz (phonetic).

15 Am I correct?

16 DR. CHRIS ROBINSON: Yes.

17 MR. ROBERT DAWSON: And that paper, if I
18 understood it correctly, applies a framework for
19 corporate social responsibility that Professor Schwartz
20 had, himself, devised three (3) years earlier.

21 Am I right?

22 DR. CHRIS ROBINSON: Had devised as a co-
23 author with Dr. Carol (phonetic).

24 MR. ROBERT DAWSON: All right. And, by
25 that framework, I'm suggesting that Professor Schwartz

1 and his colleague in 2003 had proposed to set up
2 standards by which to measure business activities and --
3 that reflect what the general population would consider
4 to be a business playing a socially responsible role.

5 Am I roughly right?

6 MR. CHRIS ROBINSON: I would not have
7 said it that way. They are ethicists, and they are
8 proceeding from a very deep literature that goes back
9 thousands of years in -- in doing that work, just as I do
10 in my own ethics work.

11 So that it's not an attempt -- I mean, an
12 attempt to determine what the public thinks might more
13 likely be done by reading popular literature and taking
14 surveys.

15 But they are, in fact, presenting a
16 framework that is based on -- on ethical principles that
17 have been determined. Now, of course, ethical principles
18 flow from people as well, but the general population --
19 first of all, the general population, given the general
20 level of understanding of such things, would have
21 difficulty reading that paper.

22 Okay, it is part of academic literature
23 that we write papers so that nobody could understand
24 them.

25 MR. ROBERT DAWSON: Can I -- can I make

1 it simpler then and put a full stop on the sentence and
2 say that the framework simply means standards by which to
3 measure or test business activities in an ethical sense?

4 MR. CHRIS ROBINSON: Yes, it would be a
5 very broad sort of thing. It -- it's more like a
6 framework for a discussion of the ethics, because it is
7 very difficult to measure such things. We can -- say, in
8 ethics some things are just clearly wrong and we've
9 settled that very -- you know, very substantially. And
10 others we say, That's good.

11 The interesting questions are the ones in
12 the middle. If the payday lending industry were so
13 irretrievably evil, there would have been no point in
14 writing such a paper. So we can't measure it; we can
15 discuss it.

16 MR. ROBERT DAWSON: Let's -- let's very
17 briefly go through the standards that are proposed as
18 possible measures. I believe the first measure that the
19 paper that you co-authored describes -- is labelled
20 "Economic."

21 And is that -- is that the first one that
22 you remember?

23 MR. CHRIS ROBINSON: Yes.

24 MR. ROBERT DAWSON: And, paraphrasing, it
25 essentially asks whether or not a business is working to

1 maximize profits or maximize its share values.

2 Is that the way in which we could very
3 generally describe the economic standard?

4 MR. CHRIS ROBINSON: Yes.

5 MR. ROBERT DAWSON: And using that one
6 (1) standard -- and I wish to emphasize that there are
7 other standards that this paper applies -- but using that
8 economic standard, the conclusion of that paper is that
9 the payday loan industry indeed measures up to that
10 standard.

11 Is that right?

12 MR. CHRIS ROBINSON: Yes.

13 MR. ROBERT DAWSON: So we can move then
14 to the second standard which you have described, which
15 was the legal standard. So we had economic standard;
16 we're moving toward an ethical standard.

17 We're now at the legal standard, and that
18 simply asks the question of did the activities of the
19 business comply with applicable laws?

20 Have I vaguely or generally comply --
21 generally described that standard?

22 MR. CHRIS ROBINSON: Yes. I would remind
23 you there is a difficulty with when you say "comply with
24 laws" in that there is a difference between what may sit
25 on the -- first of all we have the issue of common law

1 versus statute law.

2 There's a difference also between what
3 resides in statutes and how it actually enforced. In my
4 experience this comes up most dramatically in the Income
5 Tax Act, which you couldn't possible figure out how they
6 actually enforce it just from reading the Act and the
7 regulation.

8 The same thing, to some extent, is
9 applying here in that it's -- there are always indecisive
10 areas. I mean, that's why we get a discussion.

11 MR. ROBERT DAWSON: Indeed, Professor
12 Robinson, if they're weren't indecisive areas in the law,
13 most of my colleagues at this table would be out of work.

14 One (1) of the specific laws that you
15 pointed to was the Criminal Code provision, Section 347.
16 Do you remember that on the paper?

17 MR. CHRIS ROBINSON: Yes.

18 MR. ROBERT DAWSON: And Section 347
19 prescribes a maximum lending rate -- interest rate. Is
20 that correct?

21 MR. CHRIS ROBINSON: Yes, it does.

22 MR. ROBERT DAWSON: And when you looked
23 at Section 347 in the context of payday lending and
24 applied the legal standard -- that is, does the payday
25 loan industry comply with applicable laws -- it was the

1 conclusion of the paper that you co-authored that the
2 payday loan industry did not comply with Section 347 of
3 the Criminal Code.

4 Am I right?

5 MR. CHRIS ROBINSON: Yes.

6 MR. ROBERT DAWSON: When making reference
7 to this section, would I be right to assume that you
8 would have considered the legislative history of Section
9 347 before coming to that conclusion?

10 MR. CHRIS ROBINSON: No. I was
11 considering my own work in interest rates, particularly
12 in a case that went to the Supreme Court.

13 MR. ROBERT DAWSON: You wouldn't have any
14 knowledge then of the circumstances in which Section 347
15 -- as it now is, but would have been a different number
16 at the time -- was initially introduced into Canadian law?

17 DR. CHRIS ROBINSON: Well, it's anti-
18 usury provision, but I don't know anything further than
19 that.

20 MR. ROBERT DAWSON: Okay. You wouldn't
21 know, for example, that it was introduced at a time when
22 organized crime syndicates were largely engaged in loan
23 sharking, including violence and threats on the
24 collection of debt?

25 DR. CHRIS ROBINSON: I have heard various

1 claims presented to this Board that this was, in fact, a
2 common occurrence. I've not actually seen any evidence
3 that I would have accepted about this at any point in
4 time. So, if you wish to make that statement, you would
5 actually have to provide me with evidence that organized
6 crime was very active in lending --

7 MR. ROBERT DAWSON: I'm -- I'm simply
8 ask -- I'm simply asking, Professor Robinson, if you have
9 that knowledge. And it would seem that, at the very
10 least, you would say either I'm wrong or you don't know.

11 DR. CHRIS ROBINSON: Yes.

12 MR. ROBERT DAWSON: Did you happen to
13 notice that Section 347 immediately follows the Criminal
14 Code provision on extortion?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ROBERT DAWSON: And did it occur to
17 you that the purpose of 3 -- Section 347, in fact, is to
18 facilitate the proof of extorted loans?

19 DR. CHRIS ROBINSON: You're requiring me
20 to draw a conclusion at law. I was making a conclusion
21 on the plain wording of Section 347. What you're asking
22 me to do now is make a conclusion as to what the original
23 drafters of the legislation intended, but, in fact, the
24 Statute does not say that that is the sole purpose of 34
25 -- Section 347.

1 MR. ROBERT DAWSON: Very well. So you're
2 limiting your knowledge to what you've read, as you said,
3 a plain reading of the legislation.

4 Am I right?

5 DR. CHRIS ROBINSON: Yes.

6 MR. ROBERT DAWSON: And you're not
7 incorporating into your writings a study of the
8 legislative history or public policy considerations that
9 would have initially given rise to Section 347?

10 DR. CHRIS ROBINSON: No.

11 MR. ROBERT DAWSON: Let's move to the
12 third standard that you set out in your paper which,
13 generally speaking, is described as the ethical standard.

14 Am I correct?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ROBERT DAWSON: And in your paper you
17 described three (3) kinds of approaches to the ethical
18 standard.

19 Am I also right?

20 DR. CHRIS ROBINSON: Right. I'll need to
21 refer to this if we're going to get into this deeply at
22 this point.

23 MR. ROBERT DAWSON: You certainly may. I
24 -- I was just going to summarize what each of these three
25 (3) standards was and then --

1 DR. CHRIS ROBINSON: Oh.

2 MR. ROBERT DAWSON: -- we would leave the
3 topic.

4

5 (BRIEF PAUSE)

6

7 DR. CHRIS ROBINSON: Okay, go ahead.

8 I mean, there may be no need for me to read anything.

9 MR. ROBERT DAWSON: If -- if --

10 DR. CHRIS ROBINSON: So let's go ahead.

11 MR. ROBERT DAWSON: -- at any point you'd
12 like to refresh your memory --

13 DR. CHRIS ROBINSON: Yeah.

14 MR. ROBERT DAWSON: -- we can easily
15 pause. The first ethical -- or kind of ethical standard
16 that the paper includes is described as "consequential."

17 Do you remember that label?

18 DR. CHRIS ROBINSON: Yes.

19 MR. ROBERT DAWSON: And I'm going to try
20 and suggest to you the meaning of a consequential ethical
21 standard as being one that would look at the outcome of
22 activities simply asking whether or not they promote the
23 greatest net benefit.

24 Would be roughly right?

25 DR. CHRIS ROBINSON: You'd need a more

1 nuanced reading of that because, of course, the greatest
2 net benefit might still disadvantage some group, and you
3 might argue.

4 But it's looking at, I think I would say,
5 more simply, it simp -- it looks at what are the effects
6 of this behaviour, who's hurt, who's benefited. That is
7 the reas -- you know, that is one (1) way of considering
8 whether something is ethical, is to what -- what it does
9 to people.

10 MR. ROBERT DAWSON: Okay.

11 DR. CHRIS ROBINSON: Summing it up is a -
12 - is a different problem.

13 MR. ROBERT DAWSON: The second kind of
14 ethical standard that the paper purposes is a
15 deontological standard which, of course, as the name
16 implies, simply means it's looking for compliance with a
17 binding duty or obligation.

18 Would that be a -- a rough estimate of how
19 we could describe that label?

20 DR. CHRIS ROBINSON: Yes, and, of course,
21 that can be socially conditioned and changes over time.

22 MR. ROBERT DAWSON: And the most obvious,
23 if I can say as a lay person reading this paper, the most
24 obvious form of ethical standard was simply labelled "the
25 conventional standard."

1 Do you remember that?

2 DR. CHRIS ROBINSON: Yes.

3 MR. ROBERT DAWSON: And if I may
4 generally describe it as being simply what is the conduct
5 that society accepts, would that be right?

6 DR. CHRIS ROBINSON: Yes, and that, of
7 course, is also socially and time dependent.

8 MR. ROBERT DAWSON: For your convenience,
9 I've highlighted a section of your paper which your
10 counsel is now providing to you.

11 First of all, on the assumption that what
12 I provided to you is in fact your paper, do you see on
13 the page that I've provided to you, a heading under the
14 label "Conventional Standard as Assessment"?

15

16 (BRIEF PAUSE)

17

18 DR. CHRIS ROBINSON: Yes.

19 MR. ROBERT DAWSON: And within the
20 paragraph -- and the reason why I'm describing it this
21 way is that the document that I've provided to you
22 actually derives from Professor Buckland's website, which
23 I thought was more authoritative than the one that was
24 produced as an attachment to your -- or rather to the
25 Coalition's answers, because the Coalition's answers in

1 the course of producing your paper somehow reformatted
2 some of the diagrams.

3 In any event --

4 DR. CHRIS ROBINSON: That -- that's the
5 result of the Linux Operating System, but --

6 MR. ROBERT DAWSON: In any event, in the
7 doc -- in the paper that I provided to you, the copy that
8 I provided to you, you have a conclusion that I've
9 highlighted in yellow respecting your conclusion on the
10 conventional standard.

11 Have I correctly described that yellow
12 highlight as the conclusion of your conclusion under the
13 conventional standard of ethics replying to the payday
14 loan industry?

15 DR. CHRIS ROBINSON: Yeah, well it's very
16 interesting, because I now look at that and I don't -- I
17 don't think I agree with that statement anymore.

18 MR. ROBERT DAWSON: Well, let's -- let's
19 -- before we get to what you agree with and don't, could
20 I trouble you to read into the record, the highlighted
21 portion from your paper?

22 DR. CHRIS ROBINSON:

23 "Society does not appear at this point
24 to have raised any major objection to
25 the practices taking place, and the

1 significant number of users of payday
2 loan services suggests that the service
3 is considered to be not only morally
4 acceptable, but highly desirable if not
5 necessary."

6 MR. ROBERT DAWSON: That's what was
7 written in 2006 by you and your colleague, Professor
8 Schwartz.

9 Am I right?

10 DR. CHRIS ROBINSON: Yes.

11 MR. ROBERT DAWSON: And, putting aside
12 the comment that you just made about whether you still
13 agree with that, it was your view in 2006 that that was
14 your conclusion applying the, as you've described it,
15 "conventional ethical standards" to the payday loan
16 industry.

17 Am I right?

18

19 (BRIEF PAUSE)

20

21 DR. CHRIS ROBINSON: Actually, no. I
22 don't think, and I don't think we should have said that
23 at that time.

24 MR. ROBERT DAWSON: Well, let me ask you
25 a simpler question. Does the line that you just read

1 appear in a paper that you and Professor Schwartz wrote
2 in 2006?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ROBERT DAWSON: Let me move, if I
5 may, to a document that -- let me move, if I may, to a
6 document that you introduced in the course of your direct
7 examination and that later was given Coalition Exhibit
8 25.

9 It was a document entitled "Spreadsheet of
10 Final Recommendations."

11 Do you remember introducing that?

12 DR. CHRIS ROBINSON: Yes.

13 MR. ROBERT DAWSON: And it won't be
14 necessary -- we're going to speak at a very high level
15 very briefly. Certainly, if at any point, Professor
16 Robinson, you'd like to review that document, you may, of
17 course, but I don't think it will be necessary.

18 Am I correct in describing Exhibit 25,
19 your spreadsheet of final recommendations, as essentially
20 a table that included lines for the revenues and expenses
21 that a payday loan company might incur as a result of its
22 financial operations?

23 DR. CHRIS ROBINSON: Yes.

24 MR. ROBERT DAWSON: And, as a result of
25 adding the revenues and subtracting the expenses, it was

1 your aim in producing that spreadsheet to estimate what a
2 fair and reasonable profit for a payday loan industry
3 company might be.

4 Am I right?

5 DR. CHRIS ROBINSON: No. This may sound
6 like splitting hairs, but the aim of the spreadsheet is
7 to provide a model of the company so that a user -- any
8 user -- can experiment with different fees to arrive at
9 approximately zero excess profit.

10 MR. ROBERT DAWSON: Okay. And, indeed,
11 that anticipates my next question because I was going to
12 say, And one of the purposes of that spreadsheet was
13 exactly that. You were able to fiddle with the numbers,
14 and it would affect whether there was a profit and how
15 much that profit would be.

16 Is that right?

17 DR. CHRIS ROBINSON: Yes.

18 MR. ROBERT DAWSON: And when you fiddled
19 with the numbers, as I've called them -- or when you
20 presented the numbers which would be a more objective and
21 fair way to describe it --

22 DR. CHRIS ROBINSON: Fiddle, no fiddled
23 is -- is a perfectly legitimate way of expressing it,
24 because that's what you do.

25 MR. ROBERT DAWSON: Okay. Well then,

1 when you fiddled with the numbers, you began with numbers
2 that you derived using the best information that was
3 available to you. Am I right?

4 DR. CHRIS ROBINSON: All right. Now I'm
5 not quite sure what -- to what you're referring.

6 MR. ROBERT DAWSON: Well, let's start
7 very simply. You estimated in -- in some cases you --
8 you know specific expenses because some payday loan
9 companies had made public those expenses.

10 DR. CHRIS ROBINSON: Okay. Let me backup
11 a bit. The -- the experimentation and the fiddling takes
12 place only with fees. Everything else is an attempt to
13 get an estimate so that, of course, over a period of
14 time, going back to my work for the Federal Government
15 then to ACORN, which you -- which you have seen, and
16 then work for the Board, I have been trying to determine
17 what seemed to me to be the most reasonable expense and
18 revenue model.

19 MR. ROBERT DAWSON: Sure.

20 DR. CHRIS ROBINSON: So I keep fiddling
21 with the fees. The other things -- so I do not look and
22 say, Well that profit looks too high or too low. Let me
23 change the expenses somehow.

24 MR. ROBERT DAWSON: Let's -- let's be
25 clear then, because I think we're both on the same page.

1 "Fiddling" is probably the wrong term then, as I --

2 DR. CHRIS ROBINSON: Okay.

3 MR. ROBERT DAWSON: -- was trying to pull
4 back. When you've tried to identify expenses, you've
5 used, as far as you know, the best available information
6 to you in order to come up with the number that you've
7 listed there.

8 In short, we'll start simply, it's not a
9 number that you fabricated.

10 DR. CHRIS ROBINSON: Yes, that's right.

11 MR. ROBERT DAWSON: And, in fact, it's a
12 number that you would like us to accept because you think
13 it reflects the best available information that was
14 prevented to you?

15 DR. CHRIS ROBINSON: Well, my -- I
16 actually had a first purpose. The first purpose was to
17 design a model which anyone could use, as Mr. Slee did,
18 to --

19 MR. ROBERT DAWSON: To fiddle.

20 DR. CHRIS ROBINSON: Yes. To -- to --
21 debate this issue, which is what we're here in front of
22 the Board, so that the Board could use it, so that Mr.
23 Slee could use it, so that, heaven forbid, you could use
24 it and experiment to find out how the industry behaves.

25 Then I start putting the numbers in. So

1 the work has always been to try to determine the model
2 first and make sure I'm covering the things that should
3 be in -- that the relationships are correct.

4 The data is the next step, and then the
5 final step -- the data that represents the cost and the
6 revenue model. And then the third stop is, do I put in a
7 fee of seventeen (17) on two fifty (250), et cetera.

8 MR. ROBERT DAWSON: So, again
9 generalizing, the fiddling is based upon what you've
10 hoped are useful and best estimate or best estimate costs
11 and expenses and -- and revenues.

12 Am I right?

13 DR. CHRIS ROBINSON: Yes.

14 MR. ROBERT DAWSON: Okay. And I wish to
15 emphasize, of course, that you've been forced to use your
16 estimates and best guesses because you just don't have
17 the actual information.

18 Am I correct?

19 DR. CHRIS ROBINSON: Well, we can be more
20 general on that. We know that there is no such thing as
21 -- first of all, you're -- you're believing that
22 accounting actually somehow tells the truth and
23 accountants tell the truth, and that's not actually the
24 case. It's always ambiguous.

25 MR. ROBERT DAWSON: I'll just point out

1 to you that the Chairman always tells the truth.

2 DR. CHRIS ROBINSON: Yes, well, I'm also
3 a chartered accountant. The -- that accounting is
4 necessarily subject to extensive interpretation.

5 And specifically, in this situation here,
6 we do not have a homogeneous set of companies so that it
7 is very specific that I have used certain data and not
8 other data.

9 But even if I had it, we couldn't say it
10 was unavailable or the right data. If -- I would be
11 happier if I had all the payday lenders' data, if I had
12 access to all their books and somebody was willing to pay
13 me enough to spend the time doing it.

14 But even at the end of it, we would still
15 be -- have very difficult and un -- you know, issues that
16 would not be resolved by saying, Well there's the data,
17 so that's the right answer.

18 MR. ROBERT DAWSON: So even if you had
19 been given all of the data, if I just understood what you
20 said correctly, it's possible that you would not have
21 been able to come up with, shall we say, a definitive
22 answer to which everyone would agree simply because of
23 the nature of accounting?

24 DR. CHRIS ROBINSON: Nature of accounting
25 and the nature of the reality of this business. We have

1 very different cost figures and, of course, the Board has
2 seen ample evidence of that.

3 MR. ROBERT DAWSON: I'm trying to
4 emphasize here that you've done the best that you can
5 given what you had. So forgive me for putting the
6 following question to you.

7 If you, for some reason, haven't been
8 given all of the information or if, perhaps, a mistake
9 has been made, you'd agree with me that the fiddling
10 might be suspect?

11 DR. CHRIS ROBINSON: It depends on how
12 material whatever is missing is. But -- but, yes. We
13 don't -- we don't and couldn't have perfect information.

14 MR. ROBERT DAWSON: There was a point in
15 Dr. Buckland's evidence in which he described the
16 Sorensen operation, you'll remember. And, for the
17 record, this is at page 3551 of the transcript.

18 And in the course of that, he used the
19 catchy phrase, "get out or change would be the reality
20 for Sorensen's."

21 Do you remember him saying that?

22 DR. CHRIS ROBINSON: I vague -- well, I'd
23 like to see it on the transcript. I cer -- I remember,
24 I'm not sure it was Professor Buckland who said that, but
25 it sounds more like the kind of thing I'd say, but -- so,

1 3551. What date?

2 MR. ROBERT DAWSON: The last time we were
3 here.

4 DR. CHRIS ROBINSON: Oh, okay.

5

6 (BRIEF PAUSE)

7

8 MR. BYRON WILLIAMS: And, Dr. Robinson,
9 you can certainly look for it. If you want to accept it,
10 subject to check. Certainly, if you want to check the
11 context, you can as well.

12 DR. CHRIS ROBINSON: It is the context I
13 want to look at, and so I don't want to respond to it
14 without say any -- without seeing it.

15

16 (BRIEF PAUSE)

17

18 DR. CHRIS ROBINSON: Well, we don't have
19 a choice. I don't have the transcripts. We don't have
20 those transcripts yet. So it would be adjust or get out.

21 MR. BYRON WILLIAMS: We'll just need a
22 second, Mr. Chairman.

23

24 (BRIEF PAUSE)

25

1 DR. CHRIS ROBINSON: Yes, okay, I now see
2 the -- the context and it was asking about what would
3 happen to -- to Sorensen's if -- and this of course is a
4 big if -- if, in fact, Sorensen's were in the situation
5 that, at the rate cap, it could not compete.

6 Since we do not have a financial evidence
7 about Sorensen's, we do not in fact know that, so that I
8 guess in -- in that sense Dr. Buckland's comment may or
9 may not be right. Sorensen's might not have to do
10 anything at all and still continue in business. We don't
11 know whether it's got excessive profit margins.

12

13 CONTINUED BY MR. ROBERT DAWSON:

14 MR. ROBERT DAWSON: Let's look at
15 something we do know then. You know from the evidence
16 that Rentcash operates as a broker for my client,
17 Assistive Financial Corporation.

18 Am I right?

19 DR. CHRIS ROBINSON: Yes.

20 MR. ROBERT DAWSON: And you know from the
21 evidence that the president of Assistive Financial gave
22 here that it operates at arms length from Rentcash?

23 DR. CHRIS ROBINSON: I don't know that.
24 If you wish to make that statement or somebody else does,
25 they can. I do not know that for my own. I have other

1 ways that I would either know or not know such a thing,
2 and I can't in this situation.

3 MR. ROBERT DAWSON: Well, apart from the
4 easiest which would have been to read the transcript, I'm
5 going to just say at this point, can you agree that you
6 don't have any evidence that I'm wrong?

7 DR. CHRIS ROBINSON: No.

8 MR. ROBERT DAWSON: Would you also --

9 DR. CHRIS ROBINSON: I'm sorry, I do
10 agree that I don't have any evidence that you're wrong.

11 MR. ROBERT DAWSON: The danger of the
12 double negative, yes.

13 Do you also have no recollection or no
14 information because you haven't reviewed that part of the
15 transcript that Assistive Financial sets the criteria by
16 which Rentcash borrowers are judged and that this
17 criteria must be met by them in order to get a loan?

18 MR. CHRIS ROBINSON: I have read that
19 part of the transcript, but there's some thousands of
20 pages of transcripts, so I don't remember the details. I
21 do, however, remember what you're saying now.

22 MR. ROBERT DAWSON: Okay. Perhaps you
23 also recall that it's Assistive Financial that sets the
24 interest rate that Rentcash must collect on its loans?

25 Do you remember that?

1 MR. CHRIS ROBINSON: Yes.

2 MR. ROBERT DAWSON: And do you also
3 remember that Assistive Financial Corporation expects
4 retention payments from Rentcash in order to preserve
5 Assistive Financial's pool of capital?

6 MR. CHRIS ROBINSON: Yes.

7 MR. ROBERT DAWSON: In your general work
8 on finance and certainly as a chartered accountant, you
9 would understand, I think, that there are various kinds
10 of expenses that a company such as Rentcash incurs.
11 There are some that I'm going to call adjustable or
12 discretionary expenses, and I'll give you an example, and
13 you can tell me if you agree.

14 Whether or not to give increases in wages
15 to employees?

16

17 (BRIEF PAUSE)

18

19 MR. CHRIS ROBINSON: I don't want to seem
20 to be splitting hairs, but I'd like to hear the question
21 again.

22 MR. ROBERT DAWSON: Sure. I'll simplify
23 it. Do you agree that it's up to any company, and in
24 this case I'm suggesting Rentcash, whether or not its
25 employees are going to make more money in wages?

1 MR. CHRIS ROBINSON: Well, the expen --
2 well, that's not entirely the case, because there's a
3 competitive market. It's also the case that the expense
4 -- you're talking about the increases, but it's the
5 expense itself that is the issue, rather than changes in
6 it.

7 MR. ROBERT DAWSON: I'm asking you
8 whether or not this is an expense that's within the
9 control of Rentcash. And let me contrast it, if this
10 would help.

11 There are certain expenses, statutory
12 expenses, for example, that a company cannot trim -- for
13 example, its licensing fees.

14 MR. CHRIS ROBINSON: Okay, now --
15 unfortunately now we come to sort of a significant point
16 of disagreement, in as much as all of the Intervenors
17 from the industry have claimed that this is a competitive
18 market. And if they are to so claim, then they do not in
19 fact have control over the wages they pay, because those
20 are determined in a competitive market. You can't sort
21 of have it both ways.

22 So it's not some sort of thing that
23 Rentcash just kind of decides on its own. In fact you
24 referred to minimum wage earlier.

25 MR. ROBERT DAWSON: If you don't want to

1 would be the various forms of taxes that a company has to
2 pay or collect.

3

4

(BRIEF PAUSE)

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MR. ROBERT DAWSON: You pause in
wonderment as if a company might have an option as to
whether or not it would pay all of the payroll taxes that
it owes.

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MR. CHRIS ROBINSON: Ah, but that's --
oh, you're referring to payroll taxes, not to income
taxes. I mean, you have to, in fact -- well, yes of
course, if you're collecting taxes -- GST, PST taxes --
on behalf of any other government, there's no discretion.

MR. ROBERT DAWSON: All right.

(BRIEF PAUSE)

MR. ROBERT DAWSON: I'm going to suggest
to you that as far as Rentcash is concerned, the interest
rate that it can charge is not a discretionary expense if
it intends to use Assistive Financial Corporation.

Would you agree with that statement?

MR. CHRIS ROBINSON: I don't accept the
premise. I don't know what the relationship between the

1 two (2) of you is, between the two (2) -- sorry, between
2 the two (2) parties.

3 But in any case, the premise you are
4 drawing is that in fact it's necessary to operate by
5 having a broker who was separate from the provider of
6 funds, which is not in fact the norm in the industry.
7 And that's what Advance America has stopped doing.

8 MR. ROBERT DAWSON: So you would in many
9 ways be echoing Professor Buckland's comments at page 355
10 -- or 3-5-5-1 of the transcript, where he said. and I'll
11 quote:

12 "In context of Sorensen, now there's
13 two (2) possibilities -- [this is line
14 16] two (2) possibilities: Sorensen's
15 exits the market or, you know, shuts
16 down the location or Sorensen, you
17 know, retools or does something
18 different in their operations to lower
19 their costs or maybe accepts a lower
20 profit margin."

21 You're essentially saying that the model
22 that Rentcash employs in using Assistive Financial is one
23 that would require retooling?

24 DR. CHRIS ROBINSON: I have been unable
25 to conclusively determine what is going on with

1 Rentcash's expenses relative to other firms.

2 But yes, it is my expert opinion that this
3 -- this model of doing business is less efficient and
4 leads to higher costs when the two (2) are taken
5 together.

6 MR. ROBERT DAWSON: In the spreadsheet of
7 final recommendations that we've discussed, which bears
8 Coalition Exhibit 25, you haven't segregated specifically
9 interest rates from the fees that are charged in your
10 recommendation of sliding scale -- or in your
11 recommendation of the sliding scale of the costs of
12 borrowing.

13 Am I right?

14 DR. CHRIS ROBINSON: By that do you mean
15 I have no longer used what Money Mart and Rentcash have
16 been doing, which is that they have various fees
17 including an interest rate?

18 MR. ROBERT DAWSON: Let me make it
19 simpler. You're not saying that your rate -- you're --
20 you're not saying that your recommendation should
21 segregate for the consumer in an express way what the
22 interest rate is as well as what the fees are.

23 You're simply saying that at the lowest
24 rate, 17 percent is what should be charged. Am I right?
25 Do I have that right?

1 DR. CHRIS ROBINSON: Yes. Now we are of
2 course -- there's -- there's these requirements for
3 disclosing APRs. But we went through a considerable and
4 acrimonious debate over EARs, APRs, et cetera, during
5 which I discovered how few people understand what an EAR
6 is.

7 But what we are here to reco -- regulate
8 is a fair and just rate. And whether you call it because
9 the -- the revisions to Section 347 do not say you are
10 regulating by interest rate, but rather you are simply,
11 once you determine the schedule of fees, you're no longer
12 regulated in this way.

13 I then realized -- and this is why I in
14 fact changed my recommendations. You may recall that
15 initially with ACORN and my first representa --
16 representation to the Board I had these quite complicated
17 fee schedules, where you have a fixed fee, you have a
18 percentage of the principal, and then you have an
19 interest rate on the principal.

20 And I was in fact thinking back to the
21 Board's questions to me. Almost their first questions
22 were, Which is, you know, Who's this best for, in terms
23 of easiest to understand, easiest to implement?

24 So I am no longer recommending that there
25 be this 60 percent or 59 percent interest rate plus other

1 fees on the simple grounds that it's no longer necessary,
2 and it -- it will serve no purpose once any regulation's
3 passed.

4 MR. ROBERT DAWSON: Sure. I -- I think I
5 was just trying to confirm that I understood you
6 correctly.

7 DR. CHRIS ROBINSON: Yeah.

8 MR. ROBERT DAWSON: You're -- you're
9 simply not segregating interest rates from the fifteen
10 (15) -- or from the -- the fees that you're purporting?

11 DR. CHRIS ROBINSON: No. And I don't --
12 and I --

13 MR. ROBERT DAWSON: And for the reasons
14 that's you've just described.

15 DR. CHRIS ROBINSON: Yes, yes.

16 MR. ROBERT DAWSON: Yes, all right.
17 You're aware from the evidence that the investors who
18 give money to assist the financial corporation expect an
19 annual rate of return of approximately 18 to 19 percent?

20

21 (BRIEF PAUSE)

22 DR. CHRIS ROBINSON: Well I have heard a
23 statement to that effect -- I mean, I've read a statement
24 to that effect.

25 MR. ROBERT DAWSON: All right. And you

1 will also have read, then, a statement to the effect that
2 the net profit for Assistive Financial, after it collects
3 on its current APR of 59 percent, is only two (2) or 3
4 percent.

5 DR. CHRIS ROBINSON: I didn't recall the
6 specific number, but I recall a statement that -- that
7 they were receiving -- that they believed they were
8 receiving a low rate of return.

9 MR. ROBERT DAWSON: And again, in part
10 for the reasons that we began, the spreadsheet at Exhibit
11 25 that you presented as part of your final
12 recommendations or your -- as your final recommendations,
13 doesn't expressly take into account the model that exists
14 between Assistive Financial and Rentcash, does it?

15 DR. CHRIS ROBINSON: No, it does not.

16 MR. ROBERT DAWSON: And your comment in
17 the evidence today was that it seems to be an -- if I got
18 it correctly -- inefficient way to structure a
19 relationship.

20 Is that right?

21 DR. CHRIS ROBINSON: The inefficiency is
22 in having the relationship at all.

23 MR. ROBERT DAWSON: So this would be an
24 example in which you think that Rentcash and Assistive
25 Financial should "re-tool," to use Dr. Buckland's words?

1 DR. CHRIS ROBINSON: No, this is a
2 situation in which I think Assistive Financial should not
3 exist.

4 MR. ROBERT DAWSON: So it should get out,
5 not change?

6 DR. CHRIS ROBINSON: That it -- that, in
7 fact, that Rentcash should be financing directly its --
8 its lending rather than using an arm's length and going
9 through this double process.

10 MR. ROBERT DAWSON: And that follows --
11 that approach and that conclusion follows from
12 spreadsheet -- the spreadsheet -- and your
13 recommendations that you presented?

14 DR. CHRIS ROBINSON: No, it follows from
15 the fact that as far as I can determine -- remember, with
16 two (2) companies, one (1) of which is private, I can't
17 determine everything.

18 But the reality is, first, Rentcash's
19 fees, which the claim is are leading to Assistive to make
20 no money, are virtually the highest in the industry by
21 quite a wide margin. And yet you have just told me that
22 Assistive is -- is making no money. The money's got to
23 go somewhere. I mean, Mr. Reykdal's salary is not taking
24 all of it.

25 The second thing is that when I'm looking

1 at the operating cost itself -- and, again, difficult to
2 determine because some of those operating costs are
3 sitting in Assistive, right -- I mean some of the
4 decisions.

5 But the operating costs for Rentcash,
6 which is a large company and presumably is doing
7 everything it can to minimize its expenses, are also
8 higher -- considerably higher -- than either Money Mart
9 or Advance America and, indeed, seem to be -- and I
10 can't, of course, verify this directly; they're not
11 directly comparable -- it would seem to be very high even
12 by the terms of both the Deloitte & Touche and Ernst &
13 Young studies, both of which I've already indicated, for
14 very good reasons, are biasing the costs high.

15 MR. ROBERT DAWSON: I think we can leave
16 the costs and the expenses for Rentcash's cross-
17 examination, if I may suggest. I just want to extract
18 here, just by way of conclusion.

19 What you're saying then is that, in your
20 expert opinion, Assistive Financial should get out of the
21 market. Is that right?

22 DR. CHRIS ROBINSON: Well, first of all,
23 if Assistive Financial really is making 2 percent on its
24 money and expects to continue making that, yes, my expert
25 advice would be that there are better places to invest

1 your money or for your client to invest the money.

2 But, of course, these are very short-term
3 things. I mean we're seeing something right now. We
4 don't know what it will be in the long run.

5 And, so, it may well be that -- that I --
6 that I'm incorrect in that, that over time that
7 relationship can be profitable. I do, however, have this
8 strong indication with Advance America, the largest firm
9 in the US, abandoning that model. Okay, it was partially
10 own finance, partially not, and it's abandoning it.

11 MR. ROBERT DAWSON: And part --

12 DR. CHRIS ROBINSON: In fact it has,
13 completely.

14 MR. ROBERT DAWSON: Part of what's moving
15 you or animating your comments, if I may suggest, is what
16 you've complained about being the lack of information
17 that's on the record as to this relationship.

18 Is that right? Let me rephrase it for you
19 and --

20 DR. CHRIS ROBINSON: Well, no --

21 MR. ROBERT DAWSON: -- simply ask, would
22 it be more helpful if you had had more information?

23 DR. CHRIS ROBINSON: Well, no. The money
24 has to go somewhere. I mean, I might know more, and it
25 might be more interesting, and I'd get to fool around

1 with more numbers. But the reality is you've just told
2 me they're only making 2 percent.

3 Rent -- I know Rentcash is charging, you
4 know, virtually the highest fees in the industry. And
5 Assistive's not making any money, and Rentcash says it's
6 not making huge amounts of money either. There's nowhere
7 left for the money to go.

8 So, consequently, it's a pretty easy
9 conclusion that this is not an efficient model, that this
10 is not a successful model for payday lending.

11 MR. ROBERT DAWSON: The conclusion to
12 which you refer is drawn by inference I assume, though,
13 because you -- you've told me that you don't have all of
14 the information. Is that correct?

15 DR. CHRIS ROBINSON: Well, no, but you've
16 just provided all of the information that's necessary to
17 draw that conclusion. Nobody's making any money, and
18 they're charging the highest rates going. So the money
19 has to be going to expenses.

20 There's nowhere else for it go unless you
21 wish to suggest that, in fact, there's a great pile of
22 money hidden away someplace. I don't think that's what
23 you're suggesting. Money does have to be somewhere.

24 MR. ROBERT DAWSON: So in the context of
25 a party which appears here and complains about your

1 recommended 17 percent sliding scale and says that they
2 can't make that because their expenses are too high, your
3 answer essentially then is, Get out of the business.

4 DR. CHRIS ROBINSON: I've given a
5 considerably more detailed answer to that already in the
6 proceedings. I have suggested, first, that -- I'm
7 suggesting, of course, in the particular case of Rentcash
8 that extending your own capital -- and I see that we have
9 a speech here by Mr. Reykdal:

10 "Will enable us to reduce the cost of
11 our loans capital, either through more
12 favourable terms of our existing
13 lenders or with new ones or by the
14 company extending its own capital."

15 And I, of course, pointed out the example
16 of Money Mart refinancing all of its debt at far more
17 favourable terms so it looks like normal commercial debt.

18 MR. ROBERT DAWSON: I'm -- I'm just
19 asking you -- I'm just asking you, what is any party
20 supposed to do where they point to your recommendations
21 of the 17 percent sliding scale, and they say, We can't
22 do that?

23 DR. CHRIS ROBINSON: Okay, so you're
24 saying, in other words, that they have no way of
25 achieving that.

1 MR. ROBERT DAWSON: Think of it in terms
2 -- if we can go back to the groundwork that I was trying
3 to lay when I distinguish discretionary and compulsory
4 expenses.

5 If any party -- any participant in the
6 payday loan marketplace -- comes to you and says, We
7 simply cannot make it using your recommendations, what is
8 your reply to that party?

9 DR. CHRIS ROBINSON: I was continuing
10 with that. One of them is to sell that operation --

11 MR. ROBERT DAWSON: Get out of the
12 business.

13 DR. CHRIS ROBINSON: -- go to the
14 existing players. Yes, do it as --

15 MR. ROBERT DAWSON: Get out of the
16 business.

17 DR. CHRIS ROBINSON: -- yes, there --
18 there are different forms of exit.

19 MR. ROBERT DAWSON: Yeah.

20 DR. CHRIS ROBINSON: You're suggesting
21 just abandon the business --

22 MR. ROBERT DAWSON: No, I'm saying get
23 out of the business --

24 DR. CHRIS ROBINSON: -- I'm suggesting
25 not.

1 MR. ROBERT DAWSON: -- one way or the
2 other. So that's fine.

3 DR. CHRIS ROBINSON: Yeah, yes.

4 MR. ROBERT DAWSON: Okay. Thank you, Mr.
5 Chairman, that concludes my questions.

6 THE CHAIRPERSON: Thank you, Mr. Dawson.
7 I think we are going back now to Mr. Hacault, and before
8 we do that, maybe we will just take a five (5) minute
9 break. Thank you.

10 MR. BYRON WILLIAMS: Mr. Chairman, could
11 I just get some advice from the Board as to timing? I
12 may have missed this on -- on Friday. I do have a
13 witness who very generously got -- made the 6:30 flight
14 from Toronto. So I want to make sure, at some point in
15 time, I feed him. So, less -- less to get cantankerous.

16 So, just if you could remind parties of
17 the schedule, and you -- I'm sure Board counsel already
18 has, but it would just be helpful to get a reminder of
19 the -- the schedule.

20 THE CHAIRPERSON: The way we sit right
21 now we probably take the lunch break at 12:15 to 1:15,
22 and the intention was to make up the hour that we lost
23 between 9:00 and 10:00.

24 MR. BYRON WILLIAMS: Thank you, Mr.
25 Chairman.

1

2 --- Upon recessing at 11:24 a.m.

3 --- Upon resuming at 11:33 a.m.

4

5 THE CHAIRPERSON: Okay, welcome back.
6 Let's see if we can get underway again. Mr. Hacault, we
7 are back to you, sir.

8

9 CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

10 MR. ANTOINE HACAULT: Thank you very
11 much, Mr. Chairman, Members of the Board.

12 I'll wait until Dr. Simpson is seated
13 again. But this question is going to be asked
14 individually of each of them.

15 Could each of you confirm that none of you
16 have ever operated a payday loan business? We'll start
17 with Dr. Simpson.

18 DR. WAYNE SIMPSON: I haven't, no.

19 DR. CHRIS ROBINSON: No.

20 DR. JERRY BUCKLAND: No.

21 MS. ANITA FRIESEN: No.

22 MR. JOHN OSBORNE: No.

23 MR. ANTOINE HACAULT: Now, is anybody
24 able to advise me which payday loan store in Manitoba
25 operates the least amount of hours?

1 DR. JERRY BUCKLAND: No, we -- we don't
2 have that information.

3 DR. CHRIS ROBINSON: That information is
4 in the possession of the stores themselves.

5 MR. ANTOINE HACAULT: So, is that answer
6 true with respect to hours of operation generally? Would
7 you know which payday loan store operates the most amount
8 of hours?

9 DR. JERRY BUCKLAND: No, we didn't
10 collect data on hours of operation in the mystery
11 shopping.

12 MR. ANTOINE HACAULT: Okay. So that if
13 there's a variation in those hours and the amount of
14 service, your group collectively didn't attempt to
15 determine how much difference there was in how the
16 product was provided to the consumers.

17 Is that correct?

18 DR. JERRY BUCKLAND: The goals of the
19 mystery shopper -- shopping were to look at service,
20 accessibility, and understand ability of the -- the
21 information about the -- the loans and the fees and then
22 the politeness of the staff.

23 So, no, we did not collect information on
24 the hours of operation.

25 MR. ANTOINE HACAULT: Okay. Do any of

1 you know, from a business perspective, how the payday
2 loan companies use the personal information to minimize
3 loan losses?

4 DR. CHRIS ROBINSON: I mean, that is
5 information that's inside the scope of the companies.
6 They would have to disclose that themselves. There are
7 many such methods, including credit -- credit scoring and
8 specific item identification, that are used in lending
9 business.

10 But, since the firms themselves have not
11 chosen to disclose that, there's no way we could know it.

12 MS. ANITA FRIESEN: Except in -- there
13 was one (1) example in the mystery shopping that I did
14 personally in which the lender that gave so much
15 information, did explain why each individual piece of
16 information was required.

17 And, from my perspective, I -- I thought
18 that was a very good strategy. It -- from my ex --
19 perspective as a -- a customer, it kind of set my mind at
20 ease as to why I was giving so much of this personal
21 information.

22 MR. ANTOINE HACAULT: Again, that would
23 go to the difference between the quality of service
24 provided by different companies, is that correct? Not
25 all companies did this?

1 MS. ANITA FRIESEN: Yes.

2 MR. ANTOINE HACAULT: And there's a cost
3 to doing what you've just said, isn't that correct? If
4 the employee's going to spend extra time to explain that,
5 and all the other companies aren't spending that time,
6 there's a cost to providing that service?

7 MS. ANITA FRIESEN: There would also be a
8 great benefit to it as well, I would think, in terms of
9 the general perception, I -- I believe, is well
10 understood in the community that payday lenders are --
11 are new, and most people are a bit wary perhaps because
12 of this newness.

13 And I would think that anything a payday
14 lender could do to put a customer's mind at ease -- that
15 this is a legitimate operation and that they are
16 forthcoming with their information and that they collect
17 information for a reason and how that information is used
18 -- that that would be to a benefit to the payday lender
19 itself.

20 As well, as perhaps a cost, it would take
21 a little bit of extra time, perhaps, at the outset.

22 MR. ANTOINE HACAULT: Ms. Friesen, do you
23 have enough familiarity with the operation of that
24 particular company that you're talking about to know
25 whether or not, if the Board accepts the seventeen dollar

1 (\$17) recommendation of Dr. Robinson, whether that store
2 will still be able to provide this service which you say
3 is beneficial to customers?

4 Have you spoken to management to see where
5 they would have to cut?

6 MS. ANITA FRIESEN: I -- I can't answer
7 that question without breaching confidentiality.

8 MR. ANTOINE HACAULT: Did you actually
9 ask the question of management as to whether or not
10 that's the type of service they would have to cut if the
11 rates were put at seventeen dollars (\$17) per hundred?

12 MS. ANITA FRIESEN: Management made that
13 known to me, yes, in a side conversation at one (1)
14 point; that's -- that's about all I can say.

15 MR. ANTOINE HACAULT: So this beneficial
16 service would not be available anymore. Is that -- am I
17 understanding you correctly? That was the view of
18 management?

19 Is that correct?

20 MS. ANITA FRIESEN: I -- I can't say
21 that, no. I'm sorry. This -- this was a conversation I
22 had on -- on the side that was not part of the research,
23 so I don't think that I should go further and -- and
24 mention what that conversation was. I'm sorry I brought
25 it up.

1 MR. ANTOINE HACAULT: So, now we've
2 retracted that statement and we're left in an uncertain
3 state as to whether or not companies are going to have to
4 withdraw beneficial services.

5 Is that the state of our evidence?

6 DR. JERRY BUCKLAND: You know, once
7 again, we have this dilemma from the mystery shopping
8 team perspective of maintaining anonymity of the firms,
9 because only one (1) of the firms allowed us to disclose
10 who they were.

11 The -- just an additional point to what
12 Ms. Friesen had said, that we -- we can't necessarily say
13 that the information that was provided to her led to the
14 cost structure that firm faced. In fact, her point was
15 well, in fact, it maybe lowered their costs because it
16 allowed them to increase their volume and have more
17 customers.

18 We didn't do that kind of analysis in the
19 mystery shopping. We simply went in to various outlets
20 to collect information on accessibility and
21 understandability.

22 MR. ANTOINE HACAULT: Thank you. Of the
23 higher rates which are going to be eliminated by the
24 seventeen dollar (\$17) proposal, because we had Mr. Sardo
25 and Nathan Slee go through the items, do we know which of

1 those stores lend to the riskier clients and, as a
2 result, have loan loss ratios of 4 percent or more?

3

4 (BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: I mean, we do have
7 the Deloitte & Touche report, but do we have any other
8 information as to what other companies will no longer be
9 able to operate, because as soon as you move up to the 4
10 percent --

11 DR. CHRIS ROBINSON: Well -- well --

12 MR. ANTOINE HACAULT: -- we're
13 eliminating a lot of companies. Do we know which
14 companies are going to be eliminated?

15 DR. CHRIS ROBINSON: No, we don't know
16 which companies are elimin -- would be eliminated. That
17 is information which the industry has chosen not to make
18 public.

19 However, a substantial number of firms
20 are, in fact, experiencing loan losses, including Money
21 Mart, that are far below the levels that were utilized in
22 my recommendations.

23 MR. ANTOINE HACAULT: Okay. I'll just
24 ask one question that's out of sync, because I don't
25 intend to cross-examine Dr. Robinson.

1 But if it's that confidential, would it
2 surprise you that Money Mart would want to keep
3 confidential from all other players in the industry what
4 it does to have that number and -- and the amount of
5 clients that it refuses to give loans to, that it
6 considers too -- and the categories -- that it considers
7 too risky. They would keep that pretty close to their
8 chest?

9 Would that surprise you?

10

11 (BRIEF PAUSE)

12

13 DR. CHRIS ROBINSON: Is that a question?
14 Is that a question that you think I can answer?

15 MR. ANTOINE HACAULT: Well, do you have
16 any information that Money Mart all of a sudden would
17 change its position and start disclosing all of its
18 business success secrets to all its competitors?

19 DR. CHRIS ROBINSON: I have used the data
20 that's available to me. That's all I can say.

21 MR. ANTOINE HACAULT: Now this question
22 is to Dr. Buckland. The model and the spreadsheet as
23 based on the model, you've indicated, sir, I believe that
24 you're in agreement with the seventeen dollar (\$17) rate
25 proposal.

1 Can you tell me the number of hours that -
2 - that this utility-based model assumes?

3 We've said we don't know what the low
4 numbers are in the industry and what the high numbers
5 are, but what powers that this -- does this model assume?
6 Your seventeen dollar (\$17) model.

7 DR. JERRY BUCKLAND: I -- I can't answer
8 that without talking with or -- or looking at the -- the
9 spreadsheet.

10

11 (BRIEF PAUSE)

12

13 MR. ANTOINE HACAULT: We don't know
14 whether it's a forty-two (42) hour per week model, a
15 sixty-four (64) hour a week model. I mean there's a
16 range in the industry of the stores and -- and how much
17 more they're going to spend to be open extra hours.

18 You don't know what your model assumes?

19 DR. JERRY BUCKLAND: My understanding is
20 that the operating costs are aggregated and that we --
21 yeah, we don't know the number of hours that the stores
22 are being open because of that level of aggregation.

23 MR. ANTOINE HACAULT: So can I extend
24 that further, and you don't know whether or not it's
25 based on, again, forty-two (42) hours opening, sixty (60)

1 hours, or seventy (70) odd hours. We have a range in
2 Manitoba. Some stores have greater costs. They have
3 more hours of operation.

4 Which one are you assuming?

5

6 (BRIEF PAUSE)

7

8 DR. JERRY BUCKLAND: The -- the data for
9 operating costs is coming from Money Mart. And we don't
10 think there's a correlation between operating hours and
11 higher costs, that in fact the -- the bigger -- or Money
12 Mart at least, which has outlets that are open longer,
13 their costs are lower.

14 So we -- we have not seen the data that
15 says kind of a positive correlation between number of
16 hours open and costs. The reverse in fact seems to be
17 the case with Money Mart.

18 MR. ANTOINE HACAULT: Are you able to say
19 that with any certainty without having had all the other
20 financials?

21

22 (BRIEF PAUSE)

23

24 MR. ANTOINE HACAULT: I'll give you your
25 chance, Dr. Robinson. And if you can't answer that, Dr.

1 Buckland, just let me know, and then I'll be dealing with
2 it for sure again --

3 DR. JERRY BUCKLAND: Okay, I -- thank
4 you.

5 MR. ANTOINE HACAULT: -- with Dr.
6 Robinson.

7 DR. JERRY BUCKLAND: Thank you. I -- I
8 think it's reasonable, but it's not my expertise. So I
9 would prefer if you ask Dr. Robinson.

10 MR. ANTOINE HACAULT: Okay. Do we know
11 how much time the model assumes for a first-time loan?

12 DR. JERRY BUCKLAND: I don't know the --
13 the answer to that question.

14 MR. ANTOINE HACAULT: Do we know how much
15 time the model assumes the company is going to have its
16 employees spend with somebody who does a repeat loan?

17 DR. JERRY BUCKLAND: Again, I don't know.

18 MR. BYRON WILLIAMS: Mr. Hacault, and --
19 and I don't wish to interrupt your -- your cross, and
20 you're certainly free to do as you wish. We're -- we're
21 happy to -- and we don't want to interrupt your order.

22 I think many of those questions probably
23 are best answered by Dr. Robinson. But if -- again,
24 proceed as you wish.

25

1 CONTINUED BY MR. ANTOINE HACAULT:

2 MR. ANTOINE HACAULT: Well that's why I
3 invited Dr. Buckland, if he thought any of these
4 questions were not things that he should properly answer,
5 that he could refer it to Dr. Robinson.

6

7 (BRIEF PAUSE)

8

9 MR. ANTOINE HACAULT: Next I'm moving to
10 the mystery shopping notes. I have a couple more
11 questions on those. They are probably better addressed,
12 at least in part, firstly by Mr. Osborne and then a
13 couple by Ms. Friesen.

14

15 (BRIEF PAUSE)

16

17 MR. ANTOINE HACAULT: Ms. Friesen, I
18 think it's your document. It's document Number 1 that
19 was produced in the mystery shopping notes. If you could
20 retrieve that document please?

21

22 (BRIEF PAUSE)

23

24 MR. ANTOINE HACAULT: I have it as being
25 the third page in from that first document.

1 DR. JERRY BUCKLAND: Could you please
2 confirm the title on the first page for that document?

3 MR. ANTOINE HACAULT: The title says
4 "Mystery Shopper [comma], Anita Trial Runs, August 9
5 [comma], 2007." And then it's got a heading, "Mystery
6 Shopper Profile."

7 MS. ANITA FRIESEN: Yes, that was mine.

8 MR. ANTOINE HACAULT: Okay. And the
9 third page in transcribes some notes. And it starts,
10 "Me, that's what I was going to ask you."

11 Have you found that part in your notes?

12 MS. ANITA FRIESEN: Yes.

13 MR. ANTOINE HACAULT: Okay. And it
14 records a response. Could you read your question and
15 then the response into the record please?

16 MS. ANITA FRIESEN: So it starts off with
17 me saying:

18 "That's what I was going to ask you,
19 whether all these places have the same
20 rates."

21 And the response was:

22 "No, they're all different, different
23 fees, policies like "blank." You have
24 to borrow a minimum. I think it's
25 three hundred dollars (\$300). Then you

1 have to pay back about five hundred
2 dollars (\$500)."

3 So that "blank" was referring to another
4 payday lender.

5 MR. ANTOINE HACAULT: Okay, so am I right
6 in understanding that one (1) of the lenders is
7 communicating to you that there are different policies
8 between the different stores on minimum amounts that you
9 can borrow the first time and maximum amounts?

10 Is that correct?

11 MS. ANITA FRIESEN: That's correct, yes.

12 MR. ANTOINE HACAULT: Okay. And here,
13 perhaps you can clarify later on, the very last bullet,
14 it's the last couple of sentences.

15 It appears that the owner is also
16 indicating that there's a difference between the same
17 stores owned by one (1) owner? The last sentence says:

18 "But if you went to our "blank" store,
19 they're always busy there and that they
20 would probably lend to you, but "blank"
21 tougher than me."

22 It -- it seems that there's even a
23 difference between the stores as to whether or not you
24 might be eligible for that loan.

25 Is that correct?

1 MS. ANITA FRIESEN: Yes, in that case.

2

3 (BRIEF PAUSE)

4

5 MR. ANTOINE HACAULT: Next, I'm going to
6 document Number 4. I believe it's a document that Mr.
7 Osborne prepared.

8

9 (BRIEF PAUSE)

10

11 MR. ANTOINE HACAULT: First, am I correct
12 in understanding that it's a document you prepared, Mr.
13 Osborne?

14 MR. JOHN OSBORNE: Yes, that's -- that's
15 my document.

16 MR. ANTOINE HACAULT: Okay. Could you
17 advise me the amount of time that you spent? It's
18 unclear from this document. I see two (2) indications of
19 time. One (1) says one and half (1 1/2) hours. What's
20 that with respect to?

21 MR. JOHN OSBORNE: That's recording my
22 hours to charge Dr. Carter.

23 MR. ANTOINE HACAULT: So -- but in
24 fairness I'd just like -- so do we -- just like -- is
25 that just like when you leave one (1) store, and that

1 particular day you were leaving from one (1) store, you'd
2 go to the next. And if it took you an hour and a half,
3 that's what you --

4 MR. JOHN OSBORNE: What -- what I was
5 doing is, as you can say, out of there in about twenty-
6 five (25) minutes, and then I have -- have -- I have the
7 actual time unredacted. So it was just a question to
8 myself that was that the time, and then I wrote the
9 actual specific times down of when I entered the store
10 and when I left the store. So I was in there for twenty-
11 five (25) minutes.

12 What I would do in this case was go back -
13 - go to the nearest place and write out my notes then,
14 and by time I'd do the mystery shopping, walk there, walk
15 -- walk around -- walk to the place to where I can do the
16 -- write the things out, it's about an hour and a half
17 process, I guess this -- in this particular case.

18 There was -- there was quite a lot to
19 write down, as you can see. So -- but, yeah -- yeah, the
20 specific time would have been about twenty (20) --
21 twenty-five (25) minutes of actual in-store time.

22 MR. ANTOINE HACAULT: If I go to the
23 third page in that document, it appears to indicate that
24 you could not get a loan at this particular location?
25 It's in a box. I'm not too sure. The words in the box

1 on the third page start:

2 "I could not get a loan to be repaid
3 for next pay period until the 22nd."

4 MR. JOHN OSBORNE: Oh, it was just
5 dealing with my next payday, what my mystery shopper was.
6 They -- they could give me a loan for the upcoming pay
7 period, but I think it was going to be only a few days
8 away.

9 So to get for the next furthest away pay
10 period -- at this time, I was still considering actually
11 doing a loan, so I wanted to find out when I would have
12 to -- and I didn't want one, you know, that would be due
13 in three (3) days. I wanted to know when the next pay
14 period it would be due so I could see how the -- the full
15 thing would -- how the full loan period would run.

16 So I'd have to -- I guess I would have had
17 to have waited until the 22nd --

18 MR. ANTOINE HACAULT: Okay. That's all I
19 wanted to know --

20 MR. JOHN OSBORNE: Yeah.

21 MR. ANTOINE HACAULT: -- whether or not--

22 MR. JOHN OSBORNE: Yeah.

23 MR. ANTOINE HACAULT: -- you could get a
24 loan.

25 MR. JOHN OSBORNE: They -- they were

1 going to -- they -- they would -- would have loaned me,
2 but I was just finding out when I could take the loan
3 until.

4 MR. ANTOINE HACAULT: When you say
5 "twenty-five (25) minutes" -- could you help me
6 understand -- is that twenty-five (25) minutes of time
7 spent with staff, or is that the time you enter the store
8 and the time you leave the store?

9 MR. JOHN OSBORNE: That's spent with
10 staff. This particular case was -- was some -- the
11 twenty-five (25) minutes is spent in-store with staff. I
12 -- I never went into any store where I had to wait for
13 another customer. I always dealt with a teller
14 immediately, so some of our -- what we were looking for
15 was, like, documents and literature and so on. That's --
16 that was done pretty quickly and then just pretty much
17 straight to the teller.

18 MR. ANTOINE HACAULT: Let's move on to
19 document Number 5. I believe that the time that you were
20 able to spend with staff at that second location is
21 twenty (20) minutes.

22 Am I reading that document right? It's in
23 the second page of document Number 5?

24 MR. JOHN OSBORNE: Yes, twenty (20)
25 minutes it looks like. There was another hour and a half

1 charge to Dr. Carter as well.

2 I -- I should say, in that -- that first
3 one, it was -- I don't know if you've read through here,
4 but it was -- it was a unique sort of situation. There
5 was a lot of uncertainty. They weren't used to handling
6 people walking in off the street.

7 MR. ANTOINE HACAULT: Okay. So, for
8 document Number 5 we're correct that you had about twenty
9 (20) minutes with staff.

10 What about document Number 6, which is the
11 next location? Do you know how much time you spent with
12 staff at that location?

13 MR. JOHN OSBORNE: This could be the one
14 -- I didn't write down the exact time. It wasn't part of
15 our -- our system. I think I'm the only one who was
16 writing times down, and this one, I -- I may not have.
17 The other one's just part of, I don't know,
18 obsessiveness, sort of, whatever you want to call it.

19 MR. ANTOINE HACAULT: Well, it's very
20 useful, because it shows us the difference between some
21 of the companies and --

22 MR. JOHN OSBORNE: Well, I don't -- I
23 don't think there was much difference. I believe it
24 would -- it would have been about twenty (20) minutes
25 again. I'm not sure what's redacted here, but there --

1 there was no significant difference. It was all twenty
2 (20) to twenty-five (25) minutes, all my mystery shops.

3 MR. ANTOINE HACAULT: That's the best of
4 your recollection?

5 MR. JOHN OSBORNE: Yes.

6 MR. ANTOINE HACAULT: I'm just saying
7 that because if you flip onto the second page of document
8 Number 6, in the middle it talked about a ten (10) -- or
9 five (5) to ten (10) minute wait for it to go through the
10 system.

11 I don't know where you're at.

12 MR. JOHN OSBORNE: What -- what -- where
13 is -- sorry, where is that?

14 MR. ANTOINE HACAULT: Document Number 6.

15 MR. JOHN OSBORNE: Oh, yeah, yeah, yeah.

16 MR. ANTOINE HACAULT: Right under note
17 Number 4, it says, "takes five (5) to ten (10) minutes to
18 go through the system."

19 MR. JOHN OSBORNE: Yeah, that's how long
20 it would take when I came back to take out a loan. It
21 would take about five (5) to ten (10) minutes. If I
22 would of -- I -- I considered being one of the loan
23 takers such as Anita, but, in the end, I didn't.

24 It would take five (5) to ten (10) minutes
25 for me to be approved, however they typed things into

1 their computer and tell me, Yes you can take loan, or
2 however it works.

3 This -- this firm was also one that
4 actually -- one of the options they gave me was to -- was
5 to -- they wouldn't just accept an online printout. They
6 -- one (1) of the options they gave me was to give them
7 my debit card, and they would log into my bank account
8 with my PIN number, if I gave them my password.

9 MR. ANTOINE HACAULT: You're welcome to
10 answer this, but I'm just focussing on time. So I'm
11 just, in the interests of going a bit quicker, I just
12 wanted to see if there was a difference in times.

13 Do you -- did you actually keep a note of
14 when you entered the store and left the store then? Or
15 when you started talking with staff or left?

16 MR. JOHN OSBORNE: At this particular
17 firm or all firms?

18 MR. ANTOINE HACAULT: Or at all -- at --
19 at the other ones?

20 MR. JOHN OSBORNE: Yes.

21 MR. ANTOINE HACAULT: Okay. So with
22 respect to document Number 7, there's handwriting on the
23 second page that indicates twenty (20) minutes.

24 Was that your best estimate again of the
25 time spent with staff?

1 MR. JOHN OSBORNE: No, I have specific
2 times. You see there's a time, and then a colon there on
3 the -- in the second line, and then that would of been my
4 exact time frame I was in there. But that had to be
5 redacted to -- as part of ethics things.

6 So then, I guess, Anita when she redacted,
7 she just put twenty (20) minutes in for the length of
8 time instead of the actual time entered and left.

9 MR. ANTOINE HACAULT: They seem to be
10 pretty efficient on hitting exact numbers. You know, I'm
11 -- I'm not saying that facetiously.

12 MR. JOHN OSBORNE: It may have been
13 nineteen (19) minutes, it may have been twenty-one (21)
14 minutes --

15 MR. ANTOINE HACAULT: Yeah.

16 MR. JOHN OSBORNE: -- but...

17 MR. ANTOINE HACAULT: Document Number 8.

18 MR. JOHN OSBORNE: I don't have a
19 document Number 8.

20 MR. ANTOINE HACAULT: Those are the typed
21 phone interview --

22 MR. JOHN OSBORNE: Oh, okay, I do. Yes,
23 I do.

24 MR. ANTOINE HACAULT: I just have one
25 further question arising out of the responses this

1 morning. At page 32, there was the range of forty (40)
2 to sixty dollars (\$60). And you -- as I understood your
3 response this morning -- is you were getting different
4 answers from the same chain of stores.

5 Is that correct?

6 MR. JOHN OSBORNE: The -- this chain
7 didn't offer me the -- this was a -- a particular outlet
8 in a chain. And the first place I called, that was
9 pretty broad, and that's something I wouldn't accept for
10 -- for the Table 3. So I called more firms -- or more
11 outlets of the same firm.

12 I accepted them telling me that, but then
13 I said, Well I gotta -- I have to phone and dig into this
14 more with a different outlet, because that's
15 unacceptable.

16 MR. ANTOINE HACAULT: Okay. With respect
17 to all of the information -- this is to Ms. Friesen and
18 to you, Mr. Osborne -- except for the actual in-store
19 shopping, did you or were you able to get copies of the
20 agreements to see what the fee was applied to?

21 In other words, was it applied only to,
22 I'll call, money in the pocket? Was it applied to the
23 interest? Was it applied to the cheque cashing fee?
24 We've seen different formulas here.

25 Are you able to say, when somebody says it

1 was this cost, what it was applied to?

2 MR. BYRON WILLIAMS: Mr. Hacault, just
3 for clarification, and I'm -- I have no problem with the
4 witnesses answering -- are you talking about the specific
5 loan-taking events which Ms. -- Ms. Friesen did or the --
6 or the -- the whole kind of spectrum of research? Just
7 to help focus the witnesses.

8 MR. ANTOINE HACAULT: Well, the spectrum
9 of research except for the actual in-store, because that
10 you have the agreements. But I'm just trying to
11 determine, when we're talking -- because we've seen a lot
12 of different formulas here -- do we know what the formula
13 applies to for sure?

14 Have you -- did you actually get loan
15 documents, with respect to all other mystery shops except
16 for the in-store ones?

17 MS. ANITA FRIESEN: The only time we got
18 actual loan documents was during the loan taking visits,
19 not during the inquiry visits. There was -- there was no
20 written information provided with the breakdown of fees
21 except in one (1) situation during the inquiry visits,
22 from what I recall.

23 MR. ANTOINE HACAULT: Okay, thank you.
24 Could you move to document Number 10? I believe this is
25 a document that was prepared by you, Ms. Friesen.

1 Could you confirm that firstly?

2 MS. ANITA FRIESEN: Yes, that's mine.

3

4 (BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: Could you point me
7 to which document is the typed version of these notes?

8

9 (BRIEF PAUSE)

10

11 MR. ANTOINE HACAULT: I think it's
12 Attachment 6 to Coalition 1-95 but --

13 MS. ANITA FRIESEN: Yes, that's it.

14 MR. ANTOINE HACAULT: And does Document
15 10 start with -- if I'm looking at Attachment 6 -- the
16 Phase 1 of the loan? Is that the first part of your
17 visit?

18 MS. ANITA FRIESEN: Yes.

19 MR. ANTOINE HACAULT: Yes?

20

21 (BRIEF PAUSE)

22

23 MR. ANTOINE HACAULT: Now could you read
24 for the record what you wrote or typed for the Phase 1,
25 and then we'll get into your handwritten notes?

1 MS. ANITA FRIESEN:

2 "She gave me a ton of information very
3 quickly, with examples of a loan and
4 the amount to pay back. Too much
5 information, too quickly.
6 She apologized for going through it so
7 fast. She told me to take an
8 information sheet, which was right next
9 to the desk.
10 She went through this information with
11 me step by step, told me that they call
12 the payroll department of my employer,
13 then told me that they charge "blank,"
14 then gave an example.
15 Said I could take a loan for as little
16 as "blank" of my pay."

17 MR. ANTOINE HACAULT: Okay. Now the
18 handwritten notes, could you read what -- I'm not so sure
19 I could read your handwriting.

20 But could you read what it said in the
21 handwritten notes for the record?

22 MS. ANITA FRIESEN: And my apologies for
23 my bad handwriting. I didn't expect that anybody else
24 would have to read this. What I wrote as a note to
25 myself was:

1 "Right off the bat, told me everything,
2 gave pamphlet. Minimum com -- of such
3 and such an amount. Maximum of such
4 and such an amount of the paycheque."

5 And then:

6 "Except I had to ask whether they do a
7 credit check or whether it affects
8 credit rating. Only if it goes to
9 credit bureau."

10 Oh that -- that's part of the second part,
11 step -- Phase 2. I didn't make an indication on my notes
12 of where Phase 1 ended and Phase 2 began. Sorry.

13 MR. ANTOINE HACAULT: Okay. Is there
14 anything else that was with respect to Phase 1 in your
15 notes then?

16

17 (BRIEF PAUSE)

18

19 MS. ANITA FRIESEN: I -- the -- Step 1 of
20 this I would have remembered when I was rewriting it in
21 terms of typing it up. Step 1, I believe though, was
22 right in between -- it was just that first amount, that -
23 - just the first part that I read already --

24 MR. ANTOINE HACAULT: Okay.

25 MS. ANITA FRIESEN: -- other than the,

1 "Except had to ask whether..."

2 MR. ANTOINE HACAULT: Okay. At the
3 bottom of the page, something's -- it appears to be
4 talking about re-borrowing.

5 Could you read that into the record?

6 MS. ANITA FRIESEN: Sorry, which --

7 MR. ANTOINE HACAULT: The handwritten
8 notes.

9 MS. ANITA FRIESEN: -- the handwritten
10 notes?

11 MR. ANTOINE HACAULT: Document 10.

12 MS. ANITA FRIESEN: It begins,
13 essentially -- these are very brief notes so it's --
14 they're not full sentences, and I apologize for that
15 again.

16 "Re: Loan. Pay interest in fee. It's
17 technically supposed to be paid off in
18 full so that it's like you're paying it
19 and then re-borrowing the money again.
20 This can go on indefinitely. We
21 encourage people to pay an amount to
22 principal each time though."

23 MR. ANTOINE HACAULT: Okay.

24 MS. ANITA FRIESEN: And that was
25 something that the teller had said to me.

1 MR. ANTOINE HACAULT: Could you indicate
2 whether or not this indication of encouraging people to
3 pay off their loans, as opposed to doing repeat loans, is
4 retaken again in your typed notes?

5

6 (BRIEF PAUSE)

7

8 MS. ANITA FRIESEN: Yes, it's written up
9 in Phase 2, second -- second bullet point in Phase 2.

10 MR. ANTOINE HACAULT: Okay. Thank you.

11

12 (BRIEF PAUSE)

13 MR. ANTOINE HACAULT: Could you go to
14 Document 12, please?

15

16 (BRIEF PAUSE)

17

18 DR. JERRY BUCKLAND: Do you mean the
19 handwritten notes?

20 MR. ANTOINE HACAULT: Handwritten notes,
21 Document 12. It has a number "8" at the top.

22 And then would that be Attachment 8 to
23 COALITION-1-95 is the typed version?

24

25 (BRIEF PAUSE)

1 MR. ANTOINE HACAULT: Have you found the
2 documents?

3 DR. JERRY BUCKLAND: We're still looking.
4 One second, please.

5
6 (BRIEF PAUSE)

7
8 DR. JERRY BUCKLAND: I think we've got
9 them now.

10 MR. ANTOINE HACAULT: The part that I
11 wanted to focus on is at the very bottom of the
12 handwritten portion of Number 8. It seems to be the last
13 paragraph.

14 Could you read that into the record? It
15 appears to start with, "She suggested options."

16 MS. ANITA FRIESEN: Okay.

17 "She suggested options: loan against my
18 car or mortgage or if I could wait
19 until Friday I could borrow then and
20 would have two (2) weeks to pay it
21 back."

22 MR. ANTOINE HACAULT: Okay. Could you
23 indicate where in your typed notes that were provided to
24 the Board you repeated the suggestions that they made to
25 you?

1 (BRIEF PAUSE)

2

3 MS. ANITA FRIESEN: I didn't include it
4 there, no.

5 MR. ANTOINE HACAULT: I see it's been
6 marked out in black on the typed version. Why would you
7 mark that out in black on the typed version?

8 What's confidential about positive
9 comments by payday loan lenders as to other options that
10 you should be exploring instead of a payday loan?

11 MS. ANITA FRIESEN: In my -- in my typed
12 notes -- sorry, yeah, I have the unredacted version here.
13 And in my typed notes I actually stated what the name of
14 the actual type of option would be, and that would
15 identify the lender then.

16

17 (BRIEF PAUSE)

18

19 MR. ANTOINE HACAULT: Oh, so I see. What
20 you're saying is that this particular loan -- lender
21 offered mortgages and offered car loans. So if -- you
22 thought that if you identify those options, that somebody
23 might be able to link them to a particular payday lender.

24 Is that it?

25 MS. ANITA FRIESEN: That's correct, yes.

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: But there's really
4 not -- nothing confidential about a payday lender
5 offering or suggesting that you take different forms of
6 credit that are less expensive?

7 MS. ANITA FRIESEN: No, nothing, no.

8

9 (BRIEF PAUSE)

10

11 MR. ANTOINE HACAULT: It's about quarter
12 after 12:00 right now.

13 THE CHAIRPERSON: Okay, we will take the
14 lunch break and come back at --

15 MR. ANTOINE HACAULT: I finished these
16 documents, so it's...

17 THE CHAIRPERSON: Okay, it is a good time
18 to break then. So we will be back at 1:15, thank you.

19

20 --- Upon recessing at 12:15 p.m.

21 --- Upon resuming at 1:19 p.m.

22

23 MR. BYRON WILLIAMS: Mr. Chairman, we'll
24 just be a minute or two (2). Sorry for the delay.

25

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: I can just -- while
4 we're waiting, Mr. Chairman, I can just advise you we're
5 doing our best to juggle our witnesses in terms of
6 attendance. I know that Dr. Buckland has a meeting at
7 3:30 that he -- that he has to attend, with the
8 permission of the -- the Board.

9 I'm sorry for the inconvenience, but
10 that's just -- so I've let Mr. Hacault know, but I don't
11 think he has -- I'm not speaking for him, but I don't
12 think he has a lot of questions left for Dr. Buckland. I
13 could be wrong on that, but if we're inconveniencing
14 Board counsel, I -- I apologize. It's just trying to mix
15 many different schedules.

16 THE CHAIRPERSON: Okay. I think enough
17 of us are here now to begin. Mr. Hacault...?

18

19 CONTINUED BY MR. ANTOINE HACAULT:

20 MR. ANTOINE HACAULT: Thank you, Mr.
21 Chairman, Members of the Board.

22 Could I ask Dr. Buckland to go to -- I
23 think it's been marked as COALITION-15. There's a Table
24 2 in there. It was the slide presentation and it's page
25 11 of that slide presentation.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Pardon me, Mr.
4 Hacault, could you give us the reference again, please?

5 MR. ANTOINE HACAULT: It was the December
6 12th presentation. It's been marked as COALITION-15, I
7 believe, and there's a table in that presentation. It
8 was marked -- at page 11. It was entitled "Table 2:
9 Fringe Bank Outlets and Mainstream Bank Branch Closures
10 in Winnipeg by Neighbourhood Cluster."

11 MS. ANITA SOUTHALL: Thank you.

12 DR. JERRY BUCKLAND: Yes, I have that.

13

14 CONTINUED BY MR. ANTOINE HACAULT:

15 MR. ANTOINE HACAULT: Okay. Now, in your
16 presentation, I believe you had focussed both on payday
17 lenders and pawn shops and, in fact, the table shows
18 those two (2) types of entities.

19 Is that correct?

20

21 (BRIEF PAUSE)

22

23 DR. JERRY BUCKLAND: Yeah, the table
24 shows payday lenders, cheque cashers, and pawn shops and
25 then the total number of fringe banks per each

1 neighbourhood.

2 MR. ANTOINE HACAULT: Now, if we
3 segregate the other institutions that you put under
4 fringe bank and focus on payday lenders, which is the
5 focus of this Hearing, could you tell me how many payday
6 lenders are located in the average household income which
7 is in the low income threshold?

8

9 (BRIEF PAUSE)

10

11 MR. ANTOINE HACAULT: Remember, we had
12 this mapping? I'd -- do I read the table right in
13 indicating that we should include Point Douglas South
14 with two (2) payday lenders?

15 Is that correct?

16 DR. JERRY BUCKLAND: If I understand your
17 question correctly, the -- yeah, for neighbourhoods with
18 household income below -- is it the twenty-eight thousand
19 dollar (\$28,000) figure that you're referring to, which
20 was the -- the, I believe median income for the -- the
21 lowest income neighbourhood? Is -- is that what you're
22 wondering?

23 MR. ANTOINE HACAULT: Well, I was trying
24 to see what -- what you considered to be in the lower
25 income. And I thought, looking at this table, that the

1 first two (2) neighbourhood clusters -- being Point
2 Douglas South and Downtown East -- would figure in that
3 low income category.

4 DR. JERRY BUCKLAND: Yeah, depending on
5 how we defined low income, but certainly they're less
6 than twenty-eight thousand (28,000). So, yes, they're
7 low -- they're lower income and they're lower than the
8 average income, which is fifty-three thousand, one
9 hundred and seventy-six (53,176) according to this data
10 set.

11 MR. ANTOINE HACAULT: Okay.

12 DR. JERRY BUCKLAND: Which is a 2001
13 census data.

14 MR. ANTOINE HACAULT: And then basically
15 we jump up to -- the next entry is thirty-eight thousand
16 (38,000); the next is thirty-seven (37); thirty-nine
17 thousand (39,000); thirty-six thousand (36,000). And
18 then there's amounts higher than that.

19 So if we focussed on the low income, which
20 is those two (2) entries, we've got nine (9) payday
21 lenders out of forty-one (41) that are in the low-income
22 areas.

23 DR. JERRY BUCKLAND: If we define low
24 income as neighbourhoods where -- where average income is
25 less than twenty-eight thousand (28,000), then, yes, that

1 would be correct on -- on -- if we define it that way.

2 If, on the other hand, we say low income
3 has to do with being lower than the average, then we'd
4 need to look at the seven -- seven (7) neighbourhoods,
5 from Point Douglas, Downtown East, River East South,
6 Point Douglas North, Downtown West, Inkster East, and St.
7 James Assiniboia East.

8 MR. ANTOINE HACAULT: But you had --
9 okay, well, if we want to create different categories. I
10 was trying to use the same categories.

11 And using the same categories you had used
12 before, the substantial majority of the payday lenders --
13 being thirty-two (32) out of forty-one (41) -- are
14 located not adjacent to these neighbourhood clusters
15 which are the middle to higher income.

16 Is that correct?

17 DR. JERRY BUCKLAND: The majority of
18 payday loan outlets are not located in the two (2)
19 lowest-income neighbourhoods, which is consistent with
20 what I understand the survey data is saying, for
21 instance, the survey on financial security that's finding
22 it's not the lowest income and it includes a lower
23 middle-income group.

24 So I -- I think that this data is
25 consistent with -- with what the -- the surveys are

1 saying as well.

2 MR. ANTOINE HACAULT: And the same hold -
3 - holds true if you go across to "Bank branch closures,"
4 which is the second to last column to the right.

5 We have twenty-three (23) out of twenty-
6 nine (29) bank branch closures that are in the non-low-
7 income areas. Is that correct?

8 DR. JERRY BUCKLAND: Well again, it would
9 depend how we define low income. But I agree that only
10 six of the twenty-nine (29) branch closures are located
11 in those two (2) poorest neighbourhoods.

12 MR. ANTOINE HACAULT: So again, the
13 majority of what's happening is in non-low-income areas.
14 Is that correct?

15 DR. JERRY BUCKLAND: No.

16 MR. ANTOINE HACAULT: As defined in -- in
17 your previous mapping at twenty-eight thousand dollars
18 (\$28,000)?

19 DR. JERRY BUCKLAND: No, I wouldn't say
20 that, because what we've done in different exercises in
21 our research is we've -- we've used different indicators,
22 different ways of indicating and -- and understanding low
23 income or poverty.

24 And so I would say that the majority of
25 bank branch closures are happening -- I mean, from this

1 data the majority are happening in neighbourhoods where
2 the average income is lower than the Winnipeg average.

3 And -- and I -- I accept your point that
4 six (6) of twenty-nine (29) are occurring in the -- the
5 two (2) very lowest neighbourhoods. But the majority are
6 happening in neighbourhoods where income is lower than
7 the average.

8 So I -- I would want to say both of those
9 things.

10 MR. ANTOINE HACAULT: And we had gone
11 through that exercise last time, but you've chosen
12 clusters which aren't necessarily the poorest areas. And
13 I had brought that up with Mr. Osborne.

14 If we actually segregate these clusters
15 into smaller clusters, we actually have very poor
16 neighbourhoods around the thirteen (13), fourteen
17 thousand dollar (\$14,000) average, so that if we were
18 really looking at those small clusters, this table really
19 doesn't tell us anything about those poor people, does
20 it?

21 DR. JERRY BUCKLAND: I guess I can't
22 really answer that question, because we haven't looked at
23 the spatial dis -- distribution of poverty at that kind
24 of micro level.

25 Neighbourhood cluster data is available.

1 It's accessible in terms of census data. And so that's
2 how we -- we went at it. But I certainly agree that
3 within neighbourhoods there are going to be some spaces
4 within neighbourhoods that are lower income.

5 And I think I referred to the North End,
6 which is actually a cluster of a number of these
7 neighbourhoods, where you find poverty more pronounced
8 and a much lower average income than other parts of the -
9 - the North End.

10 So no, we haven't looked below the -- the
11 neighbourhood level in terms of income distribution.

12 MR. ANTOINE HACAULT: I guess put simply,
13 do you agree that the analysis really isn't focussed on
14 the impact on the poor? We've got to up all the levels
15 in our analysis to start talking about low income.

16 We aren't really talking about the really
17 poor when we're talking about these tables.

18

19 (BRIEF PAUSE)

20

21 DR. JERRY BUCKLAND: Yeah, I -- I think
22 what all that -- the purpose of this particular method
23 was, was to simply look at neighbourhoods and -- and map
24 out fringe bank and mainstream bank closures and -- and
25 to get a sense at the neighbourhood level if there's some

1 kind of correlation with what we would consider low
2 income or the correlates of low income.

3 And, I mean, we do know that payday loan
4 clients are not the lowest income, because the lowest
5 income folks in Manitoba, I believe, are more likely
6 dependent on social assistance. And generally, they
7 can't access payday loans.

8 MR. ANTOINE HACAULT: Moving on to page
9 16 of that same presentation, this was the household
10 benefit from repairing car with payday loan.

11 There could be a great deal higher
12 household benefit if we counted the daily savings from
13 car repair as eliminating taxi fares. Is that correct?
14 As opposed to bus fares?

15 DR. JERRY BUCKLAND: Yeah. Once again,
16 it's a -- it's a kind of story, a plausible story, that
17 we're trying to portray. And the Elliehausen & Lawrence
18 model used the assumption that the person took the bus.
19 And -- and I think that's a plausible story.

20 If the person was to take a taxi, that
21 certainly would change the -- the outcome of the net
22 present value calculation. Whether it's plausible or
23 not, I'm not sure.

24 MR. ANTOINE HACAULT: Would it be
25 possible for you to redo that table assuming a taxi fare

1 of twenty dollars (\$20) per day? That would be two (2)
2 trips at ten dollars (\$10) and car fuel, depreciation at
3 thirty-one cents (\$.31) a mile? Could you do that for
4 me?

5 DR. JERRY BUCKLAND: It -- it certainly
6 could be done, yes.

7 MR. BYRON WILLIAMS: Mr. Hacault, you've
8 got a preliminary undertaking. I'll just sit down with
9 the witness over the break and just see how much time
10 would be involved. If it's a -- an hour or two (2),
11 certainly the witness would be more than happy. If it's
12 much longer, then -- then we'll get back to you. But we
13 would undertake to discuss it. And my expectation is
14 that we can do that for you.

15 MR. ANTOINE HACAULT: Yeah, thank you.

16 CONTINUED BY MR. ANTOINE HACAULT:

17 MR. ANTOINE HACAULT: I'm moving on to
18 Dr. Simpson's presentation. And some questions I won't
19 be able to ask right now or I'm not sure, because we've
20 been trying to get the data. Mr. -- Dr. Simpson has some
21 subdata. And unfortunately, we haven't been able to meet
22 on that. We're supposed to try and do that tomorrow.

23 Is that correct, Dr. Simpson?

24 DR. WAYNE SIMPSON: That's correct, yeah.

25 MR. ANTOINE HACAULT: I'm looking at --

1 and, unfortunately, they don't seem to be numbered. I
2 think it was the second-last page of your presentation.

3 MR. BYRON WILLIAMS: Which one, Mr. --
4 Mr. Hacault?

5 MR. ANTOINE HACAULT: I think it was
6 marked as Coalition 18. It's entitled, "Who Are the
7 Consumers of Payday Loans?"

8 DR. WAYNE SIMPSON: Okay.

9 MR. ANTOINE HACAULT: And the first --
10 that particular slide that I'm -- sorry, it's the third-
11 last page, and it's headed, "And Are Sometimes Confused
12 About Rates [question mark]?"

13 DR. WAYNE SIMPSON: That's the slide,
14 yeah.

15 MR. ANTOINE HACAULT: Okay. In that
16 slide you use the language:

17 "36 percent of payday loan customers
18 thought that rates were lower than
19 those charged by credit card
20 companies."

21 And you were suggesting in your
22 presentation that consumers were mistaken. Do you know
23 what assumption was made by the surveyors when they were
24 collecting these responses?

25 For example, did they know that 310-Loans

1 charges 18 percent interest and how many of the clients
2 took loans at 18 percent?

3 DR. WAYNE SIMPSON: I don't know whether
4 they knew.

5 MR. ANTOINE HACAULT: You see the reason
6 I'm asking the question? Do you know what the assumption
7 was? Were they assuming that all payday loan companies
8 were charging six (6) -- 60 percent. And then if people
9 gave -- said, Well, credit card companies charge less,
10 they must be wrong. Do you know what assumptions they
11 were making?

12 In other words, the customers might have
13 known. They might have known that they paid 18 percent,
14 which is lower than some credit card companies.

15 But what assumption was made by FCAC in
16 its survey as to what the interest rate would be?

17 DR. WAYNE SIMPSON: Well, you cited one
18 (1) case of -- was it 310-Loan, internet loan? I would
19 not think that that would be 36 percent of the -- of the
20 payday loan customers, but there may be other examples
21 like that.

22 You're quoting simply the quoted interest
23 rate. Is that correct?

24 MR. ANTOINE HACAULT: Well, the question
25 in the survey was, and there was a conclusion that you

1 brought, that 36 percent of payday loan customers thought
2 that the rates were lower than those charged by credit
3 card companies. And I'm saying, why did you change the
4 language to that they "thought" that they were lower?
5 They could have very well known that they were lower.

6 If that was their answer, it may have been
7 a correct answer. Could it not?

8

9 (BRIEF PAUSE)

10

11 DR. WAYNE SIMPSON: Yeah, I guess the
12 trouble we're having is -- is this question of -- of this
13 18 percent that you've -- this number that you brought
14 out. Our -- our -- we don't think that any payday lender
15 is quoting an 18 percent APR, which, of course, would be
16 the basis for comparison with a credit card interest
17 rate, which would always be an APR.

18 I mean, one of the points of the -- the
19 recommendations was to enable consumers to make some
20 comparisons with mainstream financial instruments. And
21 that would include a credit card, which would be based on
22 an APR.

23 MR. ANTOINE HACAULT: But where in the
24 question does it ask the client what APR they're paying
25 as opposed to what interest rate they're paying? The

1 question that was asked by the survey.

2 DR. WAYNE SIMPSON: If you're asking
3 whether the -- the question might confuse further payday
4 loan customers, I would take your point.

5 If they simply look at an interest rate
6 which is not an APR and compare it to an interest rate
7 that is an APR, which is what a credit card company would
8 quote, then -- then that would be a possible element of
9 confusion.

10 And -- and I can see that in that
11 circumstance the answer would be less informative than it
12 might be if you had a direct comparison between two (2)
13 instruments both of which quoted an APR.

14 MR. ANTOINE HACAULT: So do I gather you
15 acknowledge that your conclusion that -- or your
16 interpretation of the data that payday the loan customers
17 thought that rates were lower is a matter of how the --
18 the interviewees were interpreting the question asked by
19 FCAC?

20

21 (BRIEF PAUSE)

22

23 DR. WAYNE SIMPSON: Could you repeat your
24 question please?

25 MR. ANTOINE HACAULT: Let's -- do you

1 acknowledge that your subjective interpretation --
2 because that's what it is, what you've put in this
3 particular slide -- may be erroneous because of the way
4 the question was asked?

5 DR. WAYNE SIMPSON: It -- the subjective
6 interpretation being they thought that interest rates
7 were -- were lower? Is that -- is that the word you
8 object to, "thought"?

9 MR. ANTOINE HACAULT: Well --

10 DR. WAYNE SIMPSON: They responded that -
11 - that in -- they thought. That's not really much
12 different is it?

13 MR. ANTOINE HACAULT: Well --

14 DR. WAYNE SIMPSON: You can characterize
15 that as subjective, but I -- I wouldn't.

16 MR. ANTOINE HACAULT: Okay. Because the
17 question itself, and this is in -- in the survey, the
18 question is, "Do you know the approximate annual interest
19 rate on a payday loan?"

20 It wasn't what they thought it was. Do
21 they know it? And they answered "yes."

22 And you changed that into what they
23 thought?

24 DR. WAYNE SIMPSON: I think my answer
25 would be the same as the previous one. If they know --

1 if they know it but they're wrong, then they thought they
2 were right, but they were wrong.

3 MR. ANTOINE HACAULT: And I guess that's
4 my point. You're subjectively making a decision that
5 although they said they knew what it was, you're thinking
6 they were wrong. I'm not going to -- it's not a huge
7 point in this -- in this Hearing.

8 But you changed what the answer -- they
9 said they knew and you've interpreted that if they said
10 they knew and it was lower than 60 percent, then they
11 were wrong.

12

13 (BRIEF PAUSE)

14

15 MR. ANTOINE HACAULT: Isn't that correct?

16 DR. WAYNE SIMPSON: That's not a
17 question.

18 MR. ANTOINE HACAULT: Isn't that correct?

19 DR. WAYNE SIMPSON: That isn't the way
20 I've -- I've characterized it, but that's the way you've
21 characterized it.

22

23 (BRIEF PAUSE)

24

25 MR. ANTOINE HACAULT: The second-last

1 slide is entitled "Consequences on -- of Payday Loan
2 Use." Am I correct in understanding that you have not
3 made any conclusions as to causation, though?

4 We're not saying that because people use
5 payday loans, that causes 7 percent of them to file for
6 bankruptcy?

7 DR. WAYNE SIMPSON: No. Consequence in
8 this context is used as following upon. So it's -- it's
9 following in time. I've not made any causal
10 interpretation there, no.

11 MR. ANTOINE HACAULT: Next, there was
12 COALITION-22, which was a table of statutory regimes in
13 the United States. I believe this is directed to Dr.
14 Buckland.

15

16 (BRIEF PAUSE)

17

18 DR. JERRY BUCKLAND: I have it.

19 MR. ANTOINE HACAULT: Was there any
20 effort to actually get the definitions on which these --
21 this information was based?

22 DR. JERRY BUCKLAND: I'm -- I'm going to
23 have to ask to defer this to Dr. Robinson because I did
24 not work on -- on this data.

25 MR. ANTOINE HACAULT: Have you compiled

1 the statutory definitions that correlate to these -- to
2 this table?

3 DR. CHRIS ROBINSON: Statutory
4 definitions of what?

5 MR. ANTOINE HACAULT: How these rates are
6 defined?

7 DR. CHRIS ROBINSON: Well, the
8 information that we -- that we collected is listed there.
9 It was Elizabeth McCandless and myself. But, I -- I mean
10 you say "a definition." A loan term of ten (10) to
11 thirty-one (31) days, that is defined as the period for
12 which a loan may be permitted to be outstanding, so that
13 you can't take one for less than ten (10) or more than
14 thirty-one (31) days. I mean, I'm not sure what you mean
15 by "definitions." These terms are definitions.

16 MR. ANTOINE HACAULT: My question is --
17 I'll try and rephrase it, if you didn't understand it.

18 Did you take time to gather and look at
19 the statutory definitions?

20 DR. CHRIS ROBINSON: This is from a
21 secondary source that has taken it from the statutes. So
22 we did not read each statute, no, if that's what you
23 mean.

24 MR. ANTOINE HACAULT: Okay. So this
25 table tells us nothing about what the seventeen-fifty

1 (17.50) can be applied to. For example, if we -- if we
2 look at the Money Mart example, they have a cheque
3 cashing fee which is not at all a finance rate fee. It's
4 a different type of fee.

5 Do you know whether or not --

6 DR. CHRIS ROBINSON: These are the total
7 legal -- total legal permitted fees, cheque cashing or
8 anything else included. That's it.

9 MR. ANTOINE HACAULT: Okay.

10 DR. CHRIS ROBINSON: Maximum finance rate
11 and fees.

12 MR. ANTOINE HACAULT: And --

13 DR. CHRIS ROBINSON: So this is the best
14 opinion of the compiler as to what you would be charged
15 regardless. I mean, I've already been on record as
16 stating that -- I mean, this is -- this is really an
17 issue between Rentcash and Money Mart sniping at each
18 other.

19 But what I have said very clearly was that
20 the cheque cashing fee -- and all members of the
21 Coalition -- that we consider the cheque cashing fee to
22 be a part of the cost of the credit for payday loan, as
23 defined under the Manitoba legislation.

24 MR. ANTOINE HACAULT: My point in
25 question is whether or not you had any definitions to

1 know whether those types of fees are included or
2 excluded, and I understand that you have not made that
3 search.

4 MR. BYRON WILLIAMS: Mr. Hacault --

5 MR. ANTOINE HACAULT: Is that correct?

6 MR. BYRON WILLIAMS: Just to help you,
7 and I don't think -- I think Mr. -- Dr. Robinson will
8 answer. I'm just going to share with him the -- the
9 information that was derived from -- I think there is a
10 reference to "Summary of State Laws," but I don't believe
11 that -- that -- certainly to my acknowledge, that we've
12 done so.

13 But I'll -- I'll just share this
14 information with Dr. Robinson, if -- if I could, just --
15 that might expedite matters.

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: I thought it was
19 going to be a noncontentious matter because we had it
20 asked in an Information Request whether or not that had
21 been obtained, and the response was "no."

22 I thought we were just going to have a
23 response "no" and move on to the next question.

24 DR. CHRIS ROBINSON: In the response you
25 said it was a secondary source. The source is actually

1 listed in RC/COALITION-33 as the National Consumer Law
2 Centre's Summary of State Laws.

3 MR. ANTOINE HACAULT: Dr. Buckland, would
4 you agree that if we put the current statutory framework
5 for Canada, we would have to put that the maximum
6 interest that can be charged is 59 percent APR? That's
7 what the statute says.

8 DR. JERRY BUCKLAND: I'm not an expert in
9 this area, but my understanding is the criminal rate of
10 interest specifies you can't charge above 60 -- 60
11 percent or above for loans, but that -- there is an
12 exemption for payday loans if provinces implement
13 regulation.

14 MR. ANTOINE HACAULT: So that for the low
15 -- last five or six years, the statutory obligation in
16 Canada and the maximum finance rate was 59 percent APR.
17 It wasn't 17 percent of the loan amount or anything else?
18 It was the 59 percent APR. Is that correct?

19 That might change, but that was the
20 maximum allowed in Canada under which all these companies
21 have operated for five (5) or six (6) years, at least.

22 MR. JERRY BUCKLAND: My understanding is
23 that while the criminal rate of interest technically
24 should/would/could be applied to all lenders, it was not
25 used outside of class-action suits.

1 And then in Manitoba, I believe it was a
2 year ago that the Attorney General of Manitoba had signed
3 off to take one (1) payday lender to court based on that
4 breaking of the -- the criminal rate of interest.

5 But that in practice, governments haven't
6 -- provincial governments haven't enforced that criminal
7 rate of interest on -- on payday loans or other types of
8 fringe banks. And -- and there are others. Rent-to-owns
9 are not even being discussed now, and yet I've certainly
10 seen studies that find APRs for rent-to-own operations
11 well in excess of 60 percent APR.

12 MR. ANTOINE HACAULT: Would you at least
13 concede this to me then, that knowing the statutory rate
14 really doesn't tell you very much about what's really
15 happening in the market?

16 MR. JERRY BUCKLAND: Well, it may tell
17 us; it may not. It -- it depends on whether the -- the
18 law is enforced and -- and how it's interpreted.

19 MR. ANTOINE HACAULT: And you haven't --
20 your group hasn't studied how the law is enforced or how
21 it's interpreted in each of these states, have you?

22 MR. JERRY BUCKLAND: No, no, we haven't.
23 At the same time, I think because payday lending is more
24 extensive -- like the industry is bigger and it's been
25 around longer in the US. It certainly wouldn't surprise

1 me that there -- well, it doesn't surprise me that the
2 different states have been more active in regulating
3 payday lenders than the provinces, until now, have been.

4 MR. ANTOINE HACAULT: I -- I don't think
5 you've answered my question, though. I asked you
6 specifically whether you not -- whether or not you had
7 actually looked to see what was happening in those
8 markets and how the legislation was interpreted in those
9 areas.

10 We see in -- in Canada -- you see why I'm
11 asking the question -- in Canada, the legal rate is
12 supposed to be 59 percent, but something else is
13 happening in practice.

14 We don't -- you haven't studied as to
15 what's actually happening in practice in those states?
16 Are they actually charging a cheque cashing fee of two
17 dollars and forty-nine cents (\$2.49) in addition to this
18 amount, and is it allowed, for example? And does it
19 figure in everything? We don't know all the components
20 that can be added to this standard fee, do we?

21 MR. JERRY BUCKLAND: Yeah, I have not
22 done that research.

23 MR. ANTOINE HACAULT: Thank you. Next
24 document I was going to refer to is PUB-25, and I'll just
25 quote you the part that I'm interested in and then you

1 could comment as to whether or not you have different
2 information. And if you don't have it now, that's okay;
3 we can get it later.

4 But at page 49 of the Advance America
5 documents -- that's the Form 10-Q, the quarterly report.
6 In the middle of the page a company's reporting at that
7 time, and I'm quoting:

8 "We may decide to reduce fees or even
9 temporarily operate centres at a loss
10 in order to build brand recognition and
11 establish a foothold in these new
12 markets. For example, in Manitoba,
13 Canada we have decided to open one (1)
14 or more centres as loss leaders in
15 anticipation of more favourable
16 provincial legislation."

17 Do you have any information which would
18 contradict that they have decided to open one (1) or more
19 centres as loss leaders?

20 DR. JERRY BUCKLAND: No, I have no other
21 information.

22 MR. ANTOINE HACAULT: Do you have any
23 information from that company as to what threshold they
24 deem to be required to figure into what they've qualified
25 as "favourable provincial legislation"?

1 In other words, do you know whether or not
2 that company believes they can operate in Canada at the
3 same rates that they're operating in the States?

4 DR. JERRY BUCKLAND: No, I don't have any
5 information.

6 MR. ANTOINE HACAULT: So they may very
7 well decide, being the huge company that they are, that,
8 in their analysis, seventeen dollars (\$17) per hundred
9 (100) is just not going to cut it for Canadian costs, and
10 exit as quickly as they came in.

11 Isn't that a possibility?

12 DR. JERRY BUCKLAND: Yes.

13 MR. ANTOINE HACAULT: Dr. Buckland, this
14 is a question to you, and you may need to look at -- this
15 was part of the second interrogatory requests,
16 PUB/COALITION-2-6. And the question was:

17 "Please provide your current assessment
18 of the state of Manitoba payday loan
19 market and whether your proposed fee
20 structure will allow payday lenders in
21 rural communities to be economically
22 viable."

23 And part of the answer -- and it's not the
24 complete answer. I acknowledge that. But at the very
25 end of your response it indicates:

1 "Without detailed data on costs and
2 volumes of business for small-town
3 payday lenders, we cannot say
4 definitively what the outcome will be."
5 Has that answer changed?

6
7 (BRIEF PAUSE)

8
9 DR. JERRY BUCKLAND: Yeah, I don't have
10 anything further to -- to say. I -- I still hold by that
11 conclusion.

12 MR. ANTOINE HACAULT: So that the
13 Deloitte & Touche report hasn't influenced your thinking
14 at all?

15 DR. JERRY BUCKLAND: Well, our concern or
16 my concern with the Deloitte & Touche report is its
17 representativeness of the industry and that there is a
18 potential element of unrepresentativeness in that they're
19 not including all the firms in their study.

20 So I don't think that provides me,
21 personally, with more information.

22 MR. ANTOINE HACAULT: Are you advocating
23 a public utilities model where we would analyze all the
24 different costs of all the small firms in small towns to
25 decide then whether or not we want to let the small-town

1 operations continue?

2 DR. JERRY BUCKLAND: No, I'm coming at
3 this question more from the consumer perspective. And
4 studies that I've looked at and the mystery shopping that
5 we've undertaken has convinced me that there are certain
6 concerns, and the size of the fees is -- is one of those
7 concerns.

8 As a part of this team, then, I believe
9 that the evidence Dr. Robinson has presented about the
10 costs of the efficient -- certain efficient players in
11 the market will help to provide coverage for consumers
12 keeping costs low and also the -- the other concerns
13 about fair disclosure and -- and other policies would be
14 also important.

15 So -- so my vantage point has been more
16 from the consumer perspective.

17 MR. ANTOINE HACAULT: And I don't want to
18 belabour the point, but it wasn't really from the
19 consumer perspective because we haven't asked the
20 consumer what benefits they are losing.

21 There has been no survey done of the
22 consumers to say, If you're not going to have this payday
23 loan in Thompson, Manitoba, how much more are you going
24 to be losing compared to the cost of a payday loan?

25 Nobody has done that analysis, so we don't

1 know whether it's going to benefit or harm the consumer
2 by cutting out that payday lender, do we?

3 DR. JERRY BUCKLAND: Well, when I meant
4 research on the consumer side, what I meant was we were
5 looking at studies that have focussed on the consumer
6 experience with payday lending, including surveys that
7 have asked payday loan clients about their experiences.
8 So that's -- that's what I meant.

9 But, no, we haven't gone into particular
10 neighbourhoods and particular communities and asked at a
11 kind of disaggregated level. So we -- we have not done
12 that.

13 MR. ANTOINE HACAULT: I just want to be
14 clear on this point too. When you're advocating the
15 amount to which -- or how we identify the fee, are you
16 advocating that the bank Interac fees and credit union
17 fees also be included in the APR?

18

19 (BRIEF PAUSE)

20

21 DR. JERRY BUCKLAND: The -- the
22 recommendation is a fee, like a lump sum fee -- so
23 seventeen dollars (\$17) per hundred (100) -- not an APR.
24 Now the question of do we propose the -- the bank and
25 credit union Interac fees be included, I'm not totally

1 clear.

2 Is this the -- is this the case where the
3 payday loan client receives their funds on their bank or
4 credit union debit card? I -- I'm not clear on how --
5 why we would include the bank and credit union Interac
6 fees.

7 MR. ANTOINE HACAULT: Well, my -- I think
8 through the mystery shopping -- unless I'm mistaken from
9 the notes and evidence of your colleagues, Ms. Friesen
10 and Mr. Osborne -- is that some of the payday lenders --
11 Mr. Osborne, considered it not to be optional to take the
12 card.

13 And, consequently, if you take your money
14 on -- on the debit card, I think it follows that you're
15 going to have a point of sale fee or you're going to have
16 a credit union fee or a bank fee.

17 Are you advocating that these bank fees be
18 included in that seventeen dollars (\$17)?

19 DR. JERRY BUCKLAND: Yes. Yes.

20 MR. ANTOINE HACAULT: Can you tell me how
21 a payday loan company is supposed to speculate or guess
22 as to where the consumer will ultimately use the card and
23 how many times the consumer will use the card?

24 I'm trying to think how this is going to
25 work in practise. The customer comes to me, he says, I

1 want it on a debit card. But the customer -- you -- you
2 charge him -- you load the card with a certain amount of
3 money based on what he tells you initially, but then the
4 customer goes shopping and makes a different decision as
5 to compared to what he told you initially.

6 Does that make the payday loan company in
7 breach of this Board's order because the customer decided
8 to change his course of conduct and has incurred more
9 fees, which you say should be included?

10 DR. JERRY BUCKLAND: Okay. I think my
11 recommendation would be for specifically with reference
12 to payday loan debit cards, so the situation where the --
13 the payday lender provides the consumer with a -- a debit
14 card. In that case I think the fees should be included
15 in the cost of calculating the fee.

16 I'm not -- I'm not clear how the bank or
17 credit union debit card comes into the picture from our --
18 - from our research. I'm not clear how those -- that
19 bank and -- and credit union come in.

20 What we have seen is where the payday
21 lender has their own debit card and they charge their own
22 set of fees for that -- that credit card.

23 MR. ANTOINE HACAULT: Okay, well perhaps
24 the best way to explain this is -- and I think it's been
25 distributed, it was a part of the evidence already of

1 Rentcash -- but there's the agreements. I think Mr.
2 Gaudreau has them for distribution.

3

4 (BRIEF PAUSE)

5

6 MR. BYRON WILLIAMS: Mr. Hacault, again,
7 not wishing to interfere with your cross-examination,
8 part -- part of this will be going through evidence Dr.
9 Robinson has presented.

10 We may end up with the scenario of Dr.
11 Robinson whispering in Dr. Buckland's ear. But, can ask
12 your questions as you wish.

13 MS. ANITA SOUTHALL: And can I just
14 indicate going forward now that to the extent you believe
15 it's a question that's probably -- properly, pardon me, a
16 Dr. Robinson question, that you perhaps give
17 consideration to deferring those questions that are Dr.
18 Robinson questions to that part of the cross.

19 MR. ANTOINE HACAULT: Thank you very much
20 for your comments. But I understood that the
21 recommendation wasn't only a recommendation from Dr.
22 Robinson.

23 I understood it was a recommendation from
24 Dr. Buckland and his team in that they endorsed the
25 recommendation by Dr. Robinson.

1 Perhaps I can re-ask that question if it -
2 - if it isn't clear then.

3 MS. ANITA SOUTHALL: No, I'm sorry, Mr.
4 Hacault. I didn't mean to -- to mislead by my comments.
5 I'm not suggesting that this particular question is.

6 But, if -- if you could just keep in mind
7 that if the Dr. Robinson type of questions, to the extent
8 you could identify them, be segregated. I think you've
9 tried your best to do that, but there are some where Dr.
10 Buckland clearly has to defer to Dr. Robinson.

11 MR. ANTOINE HACAULT: Yes.

12 MS. ANITA SOUTHALL: Thank you.

13 MR. ANTOINE HACAULT: Well that's why
14 I've asked him to identify those, then he can just simply
15 say, It's Dr. Robinson and I don't continue.

16 MS. ANITA SOUTHALL: Okay, thank you.

17

18 (BRIEF PAUSE)

19

20 CONTINUED BY MR. ANTOINE HACAULT:

21 MR. ANTOINE HACAULT: Have you finished
22 consulting?

23 DR. JERRY BUCKLAND: Yes, thank you.

24 MR. ANTOINE HACAULT: Okay. Now, this
25 was part of the rebuttal evidence filed by Rentcash on

1 October 31, 2007. It was Attachment B, and it -- first
2 page is a customer receipt and that outlines the various
3 costs.

4 Now, if we flip to the second page,
5 Rentcash explained that first amount, being advanced
6 limit amount; if the customer had asked for a card and
7 told them they were going to use it at one (1) or two (2)
8 points of sale, they would add to that amount -- to that
9 hundred dollar (\$100) amount -- enough money so that the
10 charges from these third parties would be covered.

11 And you could see that all the loan
12 documents, and including the APR further on, are all
13 based -- if we flip two pages further into it, there's a
14 page entitled "Note a Payday Loan is a High-Cost Means of
15 Borrowing, Statement of Disclosure."

16 The company, to comply with the APR
17 requirements, sets out each of the numbers. And in
18 Paragraph G -- have you located that -- Paragraph G
19 expresses a total cost of credit expressed as an annual
20 percentage rate.

21 And my question to you was, if the
22 customer tells them, Well I'm going to use it at a point
23 of sale and it's going to cost me one seventy-five
24 (1.75), so I want you to load a hundred dollars (\$100)
25 plus another dollar seventy-five (\$1.75) onto my card,

1 but then goes and uses it twice.

2 How can the company comply with that
3 uncertainty?

4 DR. JERRY BUCKLAND: I guess one way to
5 do it would be to say, What's the minimum number of ATM
6 fees the client needs to access all the money, so the
7 client could go with the third-party debit card and
8 withdraw all the cash? So what would be the cost of that
9 minimum kind of package? I mean that would be one way to
10 do it.

11 Another way would be to say an average.
12 On average our payday loan clients who take out a three
13 hundred (\$300) loan use three (3), you know, debits, so
14 use that.

15 Or you could put a maximum.

16 So maybe some -- one (1) of those three
17 (3) are the options that come to -- to my mind
18 immediately.

19 MR. ANTOINE HACAULT: Okay, so but if
20 they do that, then they have to -- it's nothing that they
21 touch, because these additional fees that'll be charged
22 at the point of sale or collected by the credit union, it
23 generates no revenue at all to the payday lender.

24 You believe that those have to be added,
25 even though they're totally unrelated to the payday

1 lender?

2 DR. JERRY BUCKLAND: Well, it's a
3 disadvantage of using a third-party debit card for the
4 payday lender. The -- presumably the payday lender has a
5 relationship with a third party and therefore would know
6 what the charges the consumer will face.

7 So they could presumably make these -- one
8 (1) of these three (3) calculations: the minimum cost the
9 client will face to cash -- to get the full amount of
10 cash; an average amount; or some kind of maximum amount.

11 MR. ANTOINE HACAULT: But I think the
12 evidence was that that charge can be totally different.
13 If you go to a 7-Eleven, it might be three dollars (\$3).
14 If he decides to go to his own bank, he may not have any
15 charge, because it may be part of his service package.

16 DR. JERRY BUCKLAND: My understanding is
17 at present the payday lending companies that have debit
18 cards either have their own debit card -- and I believe
19 there's one (1) -- at least one (1) that has it's own
20 debit card -- or they have a -- a relationship with a
21 third party which is not a bank or credit union.

22 And, I mean, I could be wrong, but it
23 seems to me that there are two (2) payday lenders that
24 have a relationship with the same company, but it doesn't
25 matter. Either way they -- they would certainly know

1 what would be the minimum ATM fee or point of service fee
2 the client would face to get the cash for their payday
3 loan.

4 MR. ANTOINE HACAULT: And how would that
5 service the customer though, if -- I'm just trying to see
6 how the Board's order gon -- is going to be applied in
7 practice. Because if you -- the minimum fee is a dollar
8 seventy-five (\$1.75), but they tell you, I'm going to go
9 somewhere, and I know it's going to cost me two dollars
10 (\$2). And then all of a sudden they're left with
11 nineteen dollars and seventy-five cents (\$19.75) that
12 they can't access, because you haven't loaded enough.
13 You've just loaded a minimum fee and not what they're
14 actually going to use.

15 I'm just looking at the practical reality
16 of how companies are going to have to deal with the
17 Board's order and clients and how -- how they possibly
18 can put some kind of a general system to even comply with
19 what you're suggesting.

20

21 (BRIEF PAUSE)

22

23 DR. JERRY BUCKLAND: Well, I guess -- I
24 guess my response would be from the consumer perspective
25 it's important that there not be a lot of additional fees

1 added on without their knowledge and that a rate cap
2 should apply to the whole assortment of fees.

3 I -- I don't know about the various
4 complications that would come into effect with the --
5 with the debit cards, but presumably there -- there would
6 be some way to -- to simplify the system.

7 MR. BYRON WILLIAMS: And we would, Mr.
8 Hacaault, certainly -- and you can continue with your line
9 -- but it -- if -- if we think of something or we have a
10 chance to chat with you offline with some solutions,
11 we'll certainly undertake to do that.

12

13 CONTINUED BY MR. ANTOINE HACAULT:

14 MR. ANTOINE HACAULT: Thank you. I think
15 I'll move on. But you agree with me that there are
16 issues with your proposal and how companies might be able
17 to have difficulties in trying to comply with your
18 proposal. Do you at least agree with that suggestion?

19 It's not as easy as just saying we'll put
20 a minimum amount, because it may affect the customers
21 pretty negatively if all of a sudden you put a minimum
22 amount, and they're stuck with nineteen dollars and
23 seventy-five cents (\$19.75) on their card, which they
24 can't use. The customer is not going to be pleased with
25 the payday lender if that's what happens.

1 Do you agree?

2

3 (BRIEF PAUSE)

4

5 DR. JERRY BUCKLAND: I -- I accept your
6 point that there are certain things, particularly around
7 the debit card, that would need to be clarified.

8 On the other hand, the consumer's going to
9 face lower fees and hopefully a more transparent system.
10 And -- and frankly I think the consumer is going to
11 appreciate -- and I think Ms. Friesen was speaking to
12 this earlier -- will appreciate that transparency.

13 MR. ANTOINE HACAULT: Next I'm moving to
14 the shopping results recommendations, Coalition 33. And
15 I believe -- I don't know who's best to answer that.
16 There's two (2) questions I have, and they relate to page
17 4.

18 The first one is a recommendation that
19 payday loan staff should be trained to be able to fully
20 explain in simple terms all fees.

21 And my question is: Do you recommend that
22 this be a function that be assumed by the two (2)
23 government inspectors that the Consumer's Bureau intends
24 on hiring to ensure uniformity across the industry?

25 In other words, who should be doing this?

1 DR. JERRY BUCKLAND: I think we were
2 recommending that it be done. We hadn't seen the -- the
3 need for us to figure out how it would be done, because
4 of the fact that the Board is focussed primarily on the
5 rate cap issue. But from our mystery shopping results we
6 felt that that was needed.

7 MR. ANTOINE HACAULT: Do you see an
8 advantage of having the government inspectors doing this
9 to ensure uniformity of training?

10 DR. JERRY BUCKLAND: Well, I guess it
11 goes back to kind of that cultural question. The culture
12 of the payday loan staff and -- and management and -- and
13 how do you shift the culture. And it seems to me their -
14 - the training and the ethos has to come from a -- a
15 number of different sources.

16 And -- and to put it on the, you know,
17 solely on the responsibility of the Consumer's Bureau, I
18 think, wouldn't be fair. Like it seems to me the CPLA
19 and the various other payday lenders need to be working
20 together and developing -- you know, banks and credit
21 unions have their in-house training. They also have
22 institutes and -- and training courses for staff from all
23 banks and credit unions.

24 I think that's a good idea. I -- I think
25 the payday lenders need to get together and work on -- on

1 this, the -- the training of their staff, and -- and
2 standardize it. It shouldn't -- I don't think it should
3 fall on the responsibility of the government.

4 And in the end I think it's going to
5 better the -- the payday lenders. It's going to have an
6 advantage on your consumer satisfaction and in -- in the
7 end will benefit you prob -- benefit the industry in
8 terms of the bottom line, I mean, profitability.

9 MR. ANTOINE HACAULT: Let's just test
10 that. So we have a single -- a number of single payday
11 loan companies. Are they supposed to hire somebody to do
12 staff training? And who is it? And who pays for the
13 cost?

14 Is that something they have to pass on to
15 the consumer?

16

17 (BRIEF PAUSE)

18

19 DR. JERRY BUCKLAND: I mean, training is
20 something that is done by all businesses, small and
21 large. And without continuous training in the face of
22 new services and new products and new challenges and new
23 consumers, that's the, I -- I would expect, the death of
24 a business if there isn't that continuous learning and --
25 and training.

1 So it seems to me it's -- it's something
2 that -- but I'm not arguing that it's in -- completely
3 in-house. I think in-house is important, but also
4 industry wide, you know, CPLA and other payday lenders to
5 offer training courses, certificates, various types of
6 approaches to help train staff.

7 So, no, I don't think it would just be
8 respons -- the responsibility of each individual, you
9 know, shop, one (1) outlet firm, that kind of thing.

10 MR. ANTOINE HACAULT: Okay. How do we
11 decide how much to give, because I -- as far as
12 information. I believe Ms. Friesen -- firstly, you've
13 seen the -- all the agreements provided by Rentcash.

14 I believe that's what you've qualified as
15 "information overload."

16 Is that correct?

17 MS. ANITA FRIESEN: I think "information
18 overload" was only used in one (1) case for another
19 lender. It did -- it would seem that -- and I haven't
20 actually looked at how many are in evidence, but it would
21 seem that at some of the other lenders, the actual number
22 of documents required to sign was a lot -- excessive,
23 perhaps.

24 MR. ANTOINE HACAULT: So how does a
25 company make a decision whether they've made you sign too

1 much or not enough, because there's been criticism that
2 there hasn't been enough information and there's been
3 criticism that there's too many agreements and too much
4 information.

5 DR. JERRY BUCKLAND: I guess the question
6 is how accessible is the information? How understandable
7 is it?

8 Now, if it's a lot of information that
9 simply confuses a person or that is so complicated that
10 not many people can understand it, I don't think that's
11 useful.

12 So, I think what we're saying is that the
13 information needs to be simple. It needs to be
14 accessible. It -- it can't be too simple. It can't
15 oversimplified but, you know, there is a sense, from my
16 perspective, that in some cases some of the documents
17 seem to be overly complicated.

18 They -- they seem to present something
19 that wasn't that complicated in a very complicated way.
20 So, I guess, what I would be looking for is a balance
21 between trying to portray the information simply, but not
22 overly simple.

23 MR. ANTOINE HACAULT: We've had the
24 criticism on both sides by the Coalition. Not enough,
25 too much.

1 Is the Coalition prepared to provide the
2 industry what it believes is an appropriate agreement or
3 appropriate disclosure?

4 DR. JERRY BUCKLAND: Well, I --

5 MR. ANTOINE HACAULT: It's easy to
6 criticize both ways, but what's the solution?

7 MR. BYRON WILLIAMS: The client certainly
8 -- if you're asking of the -- the witnesses have provided
9 some ideas, and certainly my clients are happy to meet,
10 both online and offline, with the industry. And I think
11 they do that often with other industry providers, if that
12 helps, Mr. Hacault.

13

14 CONTINUED BY MR. ANTOINE HACAULT:

15 MR. ANTOINE HACAULT: Thank you. The
16 other thing on page 4 is was the recommendation that
17 requirements shouldn't include a Social Insurance Number.

18 I'm not going to get into the same
19 questioning as my colleague, Mr. Foran, did, but is there
20 any reason to discriminate between financial institutions
21 and payday lenders? What's the reason to discriminate
22 between one financial institution as opposed to the
23 others?

24 If the credit unions start to get into
25 this business and if traditionally always required Social

1 Insurance Numbers, why should they stop doing that just
2 because they're going to get into payday lending?

3 MS. ANITA SOUTHALL: I believe that the
4 credit unions have required the Social Insurance Number
5 for interest earning accounts where they have to report
6 to Revenue Canada based on the -- the interest earned or
7 income that a certain person has -- has gained in a
8 particular tax year.

9 And, in the case of payday loans, there is
10 no interest earned by the client. So I believe that it's
11 not required.

12 Credit union may then -- or a bank, if
13 they're going to payday loans, they may choose not to
14 request or require. They probably wouldn't then require
15 the Social Insurance Number.

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: Do you have any
19 collection experience for credit unions and how they use
20 Social Insurance Numbers in their collection process?

21 DR. CHRIS ROBINSON: Mr. Hacault, as part
22 of the original legislation in Canada and agreement with
23 the Parliament of Canada, the Social Insurance Numbers
24 would not be used as general identification numbers for
25 those sorts of purposes. If the credit unions are doing

1 it, they are almost certainly in violation of the law of
2 Canada.

3 The one (1) exception that has been
4 allowed, and has been for some time, is for purposes of
5 the Canada Revenue Agency and collection of income tax
6 owing on dividends, interest, capital gains. But it is
7 not to be used for other purposes.

8 That is the understanding, at least, that
9 I have is a Canadian citizen who was, at the time it came
10 out, only a couple of years short of being able to vote.
11 And it is my understanding from financial institutions
12 that that is the only purpose for which they collect it.

13 I do not have to provide my Social
14 Insurance Number for anything except those cases where
15 there is, in fact, income which should be reported to
16 Canada Revenue Agency.

17 MR. ANTOINE HACAULT: I'll ask my
18 question again. Do you have any information with respect
19 to how Social Insurance Numbers are used for collection
20 practices by credit unions or banks?

21 MS. ANITA FRIESEN: No, I don't. It may
22 be required but --

23 MR. ANTOINE HACAULT: Do you know --

24 MS. ANITA FRIESEN: -- it seems to
25 indicate -- because there was one (1) payday lender that

1 did not require it, and that's a very successful payday
2 lender, it would seem to indicate that perhaps it isn't
3 absolutely necessary to run a successful payday loan
4 company.

5 MR. ANTOINE HACAULT: But you never have
6 operated a payday loan company, so you don't know why the
7 other people use it and need it -- feel they needed it --
8 need it in their business model, do you?

9 MS. ANITA FRIESEN: I don't. I -- I was
10 kind of thinking also that in terms of practices by
11 payday loan companies, because of the frequency of
12 identity theft these days and how often we're being told
13 not to provide or Social Insurance Number, except in
14 certain circumstances, that it would actually work to the
15 benefit of the payday lenders if they didn't have to
16 collect this information.

17 People might not take a payday loan if
18 they're asked to provide or required to -- required to
19 provide their Social Insurance Number. That's my
20 thinking.

21 MR. ANTOINE HACAULT: But that's just
22 speculation, because every payday lender customer has
23 already had a bank account and has already had to submit
24 his Social Insurance Number to a financial institution to
25 get some kind of an account open.

1 So it's speculation to think that if they
2 deal with a payday lender, they would treat the payday
3 lender different than their financial institution at
4 which they currently have a -- a bank account.

5 Isn't that correct?

6 MS. ANITA FRIESEN: I can't answer that.

7 DR. JERRY BUCKLAND: I can take a shot at
8 that because banks do have an agreement with the federal
9 government about what kind of ID is required to open an
10 account. And I think Social Insurance Number card may be
11 one of those cards, but it's one of several, so they --
12 they would not be required to provide that number to open
13 a bank account, necessarily.

14 MR. ANTOINE HACAULT: Is anybody aware of
15 the new practices by banks and financial institutions to
16 prevent fraud and the type of personal IDs that are
17 required by those institutions as part of normal mortgage
18 lending practice, now that fraud has been prevalent, to
19 prevent fraud?

20 DR. CHRIS ROBINSON: Yes, photo ID.

21 MR. ANTOINE HACAULT: And, in addition to
22 photo ID, what else is the practice, sir?

23 DR. CHRIS ROBINSON: You can take out a
24 mortgage loan without a Social Insurance Number.

25 MR. ANTOINE HACAULT: My question is: In

1 addition to photo ID, what are the additional forms of ID
2 required to prevent fraud?

3 DR. CHRIS ROBINSON: They also vary by
4 province, so perhaps it's different in Manitoba. It's
5 not the requirement in Ontario. I have done property
6 transfers within the past twelve (12) months without
7 being required to provide a Social Insurance Number, and
8 it -- the law in Ontario provides to all property
9 transfers, not just mortgages.

10 MR. ANTOINE HACAULT: Now, this question
11 is to Ms. Friesen, and this is in the context -- this was
12 already introduced as evidence at PUB Exhibit 6, Tab 4.
13 It was the article on fringe lending and alternative
14 banking; the consumer experience. It was part of the
15 package we had distributed.

16 At page 103 of that package --

17 MR. BYRON WILLIAMS: If you could just
18 wait one second, Mr. Hacault?

19 MR. ANTOINE HACAULT: Sure.

20 MR. BYRON WILLIAMS: I'll see if I can
21 locate it for Ms. Friesen.

22

23 (BRIEF PAUSE)

24

25 CONTINUED BY MR. ANTOINE HACAULT:

1 MR. ANTOINE HACAULT: I think the
2 question can be asked without necessarily having the
3 document, so let's give that a shot.

4 Firstly, and this relates to Money Mart,
5 and it's not because I'm picking on them. Dr. Robinson
6 uses them as part of his model. So that -- page 103 of
7 that report, and I'm quoting, says:

8 "Money Mart has a graduated scale of
9 item fees that reflect the general
10 quality of different kinds of cheques."

11 And do you know anything about that first?
12 Just say "yes" or "no." It doesn't -- it's not --

13 MS. ANITA FRIESEN: Is -- is that
14 regarding the first-person and second-person cheque --

15 MR. ANTOINE HACAULT: And --

16 MS. ANITA FRIESEN: -- cashing fees?

17 MR. ANTOINE HACAULT: And it goes on, it
18 says:

19 "In this scheme, personal cheques are
20 the most expensive to cash and attract
21 an item fee [This is an older report;
22 it says]
23 of twelve ninety-nine (12.99)."

24 We know now it's thirteen ninety-nine
25 (13.99), is that correct?

1 MS. ANITA FRIESEN: Yes, that's right.

2 MR. ANTOINE HACAULT: Okay.

3 MS. ANITA FRIESEN: That would be the
4 second party cheque cashing fee.

5 MR. ANTOINE HACAULT: It's part of the --

6 MS. ANITA FRIESEN: Is that --

7 MR. ANTOINE HACAULT: -- when you took
8 out the loan, you had to pay a cheque cashing fee as part
9 of the loan.

10 Isn't that correct?

11 MS. ANITA FRIESEN: I believe that's part
12 of their fee structure.

13 MR. ANTOINE HACAULT: Okay.

14 MR. BYRON WILLIAMS: Can we just -- and
15 Mr. Hacault, the questions are fine. I'm -- I just want
16 to make sure we -- far be it for me to being accused of
17 being ethical, but I just want to make sure the witnesses
18 -- make sure they are comfortable with where they are
19 going --

20 MR. ANTOINE HACAULT: Okay.

21 MR. BYRON WILLIAMS: -- on that.

22

23 CONTINUED BY MR. ANTOINE HACAULT:

24 MR. ANTOINE HACAULT: It says:

25 "In addition, a cheque that is

1 that you came?

2 MS. ANITA FRIESEN: They told me that it
3 had been sent, it was no longer in the store, that it had
4 been sent to be cashed. I don't know if it had been
5 actually cashed at that time or not.

6 MR. ANTOINE HACAULT: Bear with me, I'm
7 nearly finished. I have a couple more questions.

8 This is in Robert Whitelaw's paper at
9 page 4, and my question is this: Generally, do you have
10 any knowledge as to whether or not the information in
11 that paper is reliable and, specifically, there's a
12 statement that payday customers pay from seventeen
13 dollars (\$17) to fifty-three dollars (\$53) weekly for a
14 hundred dollar (\$100) loan.

15 Is that something that you feel we can
16 rely on?

17 MR. BYRON WILLIAMS: Which -- which paper
18 just, Mr. Hacault, again, just because there's so much
19 information, if you don't mind it --

20 MR. ANTOINE HACAULT: It's the March 30,
21 2007, paper what was produced by the Coalition.

22 MR. BYRON WILLIAMS: March 30th?

23 MR. ANTOINE HACAULT: 2007. It was a
24 paper by Robert Whitelaw and it was --

25 MR. BYRON WILLIAMS: It's an

1 interrogatory response?

2 MR. ANTOINE HACAULT: Interrogatory
3 response.

4 MR. BYRON WILLIAMS: Yeah, which one --
5 which one is it, Mr. Hacault? There's a number of things
6 authored by Mr. Whitelaw on the record, so I'm just --
7 and my memory is starting to fail me rapidly.

8 MR. ANTOINE HACAULT: It was part, as I
9 have here, it says -- I just want to make sure it's the
10 actual number here, because it refers to a couple of
11 different responses. It was the November 6, 2007,
12 response and it followed page 117 of those responses.

13 MR. BYRON WILLIAMS: I -- I think we've
14 located it. If -- Dr. Buckland, if there's a reference,
15 you might help other parties.

16 DR. JERRY BUCKLAND: Yeah, we found a
17 paper entitled "Small Loans Big Markets," end of quote,
18 Alterna Convenience Loan Project, Credit Union Central
19 of Ontario.

20 And it seems to be written by Bob
21 Whitelaw. It's a presentation.

22

23 CONTINUED BY MR. ANTOINE HACAULT:

24 MR. ANTOINE HACAULT: That -- okay. And
25 then there's -- so you've located it and at page of that

1 presentation, I just wanted to know whether you felt
2 that, when he was quoting that there were rates between
3 seventeen dollars (\$17) and fifty-three dollars (\$53)
4 weekly for a hundred dollar (\$100) loan, whether that was
5 reliable information.

6 DR. CHRIS ROBINSON: I think I should
7 answer that since I'm the person who worked with Mr.
8 Whitelaw. Mr. Whitelaw was the first president of the
9 Canadian Payday Lenders Association which, at that time,
10 had a different name.

11 So he, in fact, had some experience across
12 Canada. He doesn't specify in there where those
13 different experiences came from. So that the rates that
14 he's -- he's quoting will have been drawn from his memory
15 and also are applying to past as well as current
16 practice.

17 So it is reliable, given Mr. Whitelaw's
18 very wide experience. Whether it would be literally true
19 today as opposed to yesterday, I mean, even in the
20 process -- the time that I've been doing this research,
21 fees have changed. Different firms have raised their
22 fees.

23 MR. ANTOINE HACAULT: You would agree
24 that a fifty dollar (\$50) -- fifty-three dollar (\$53) fee
25 per hundred (100) would be one (1) of those outliers --

1 one (1) of those excessive rates that should be chopped
2 off under --

3 DR. CHRIS ROBINSON: Yes, I --

4 MR. ANTOINE HACAULT: -- Dr. Clinton's
5 approach.

6 DR. CHRIS ROBINSON: I have -- well, I
7 don't endorse any of Dr. Clinton's approach, so I won't --
8 -- I'll -- I won't accept that part of it.

9 But in my experience, the fifty dollars
10 (\$50) per hundred (100) is higher than I have observed.
11 Of course, it's -- you know, we have Rentcash -- well, we
12 have -- we have from the mystery shopping, actually, 44
13 and 38 percent, but that's as high as I have seen.

14 And just trying -- I'm just trying to --

15 MR. ANTOINE HACAULT: My question was
16 just whether or not that would be a rate that would be
17 considered excessive if we had a fifty-three dollar (\$53)
18 fee.

19 DR. CHRIS ROBINSON: I would consider it
20 excessive. I've -- I do not know where he obtained that
21 figure from. But we've certainly seen no evidence of it
22 in Manitoba.

23

24 (BRIEF PAUSE)

25

1 MR. ANTOINE HACAULT: Is anybody on the
2 Coalition aware of any price collusion in Manitoba
3 practices in the payday loan industry?

4 DR. WAYNE SIMPSON: No.

5 MR. ANTOINE HACAULT: In fact, if there
6 was price collusion, the Competition Bureau would be able
7 to intervene.

8 Do you agree?

9 DR. WAYNE SIMPSON: If there was
10 collusion that was -- for which you've gathered evidence,
11 for example, written -- written statements and that kind
12 of thing. I wouldn't expect that businesses, if they did
13 collude, would -- would do that kind of thing.

14 But there are all sorts of possible
15 collusion referred to in -- when we use the term
16 "collusion," we include those things that are explicit in
17 writing, things that are explicit in language and things
18 that are implicit in terms of an understanding between
19 parties about what the response would be of one (1) party
20 if the other party acted.

21 MR. ANTOINE HACAULT: I have a couple
22 more questions on the recommendations that were made.
23 There were six (6) points in your presentation, Dr.
24 Buckland. The first one was with respect to repeat
25 loans.

1 take it to be a recommendation. Sorry, if I
2 misunderstood.

3

4 (BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: That's the best I
7 can do to segregate my questions. The other ones, I
8 think, are more related to Dr. Robinson, so thank you
9 very much for your patience. Thank you very much to the
10 panel for being co-operative and providing me the best
11 information you have.

12 MR. BYRON WILLIAMS: And, Mr. Chairman,
13 if I might, I do know that there's one (1) additional
14 question of -- or series of questions of Dr. Simpson that
15 Mr. Hacault will want to ask. We're going to discuss it
16 offline with him tomorrow to assist him.

17 But, certainly, I understand that he -- he
18 may need to talk to Dr. Simpson as well when the panel
19 next appears.

20 THE CHAIRPERSON: Okay, thank you, Dr.
21 Hacault, thank you panel. We will take a short break and
22 then when we come back, we will resume.

23

24 --- Upon recessing at 2:37 p.m.

25 --- Upon resuming at 3:01 p.m.

1

2 THE CHAIRPERSON: Okay, welcome back
3 everyone. So now we are over to Ms. Southall. Ms.
4 Southall...?

5 MS. ANITA SOUTHALL: Thank you, Mr.
6 Chairman. And just before we resume the record, I -- I
7 mentioned to Dr. Buckland that, because I know he has to
8 leave today for a 3:30 meeting, it may be that the
9 majority of my questions are answered before he has to
10 leave, given that I -- I hopefully won't have that many
11 of him.

12 To the extent that the Panel, once he
13 leaves, defers to Dr. Buckland, we will have to -- I'll
14 just make a note of that and he will be present, I
15 believe, at Friday's Hearing. So we could -- if -- if
16 there's a need, we could revisit those.

17

18 RE-CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: First of all, and
20 here I'm not going to ask you to look at the transcript
21 yourself, Dr. Buckland, but I'm just going to -- pardon
22 me for a moment. I need to locate my transcript.

23 Going all the way back to your original
24 testimony, Dr. Buckland, at page 2667 of the transcript,
25 with respect to references to the Financial Consumer

1 Agency of Canada survey and also the survey on financial
2 security, and I'm -- I'm giving you those two (2) points
3 of reference so you don't have to read the transcript.
4 There was a statement made at line 23 to 25, where you
5 said:

6 "And basically we use statistical
7 analyses and a little bit of
8 econometrics to analyze key issues
9 related to consumer characteristics."

10 Now, I don't mean to have you revisit that
11 if you believe that. I believe Dr. Simpson then spoke to
12 some issues associated with correlation of data, and he -
13 - and he used a technical phrase and I think it was
14 "probit analysis." Is that the same issue, or is
15 "econometrics" a more broad term than that?

16 I'm really looking for an understanding of
17 what you meant by "analysis using econometrics"?

18 DR. JERRY BUCKLAND: Okay. And I would
19 want to also ask Dr. Simpson to comment. My
20 understanding is that econometrics is that probit
21 analysis, so it's a more sophisticated particular kind of
22 statistical analysis that's used in economics and -- and
23 I think other social sciences but "probit" was the
24 reference for the econometric.

25 The statistical analysis was looking at

1 percentages and correlations, so that's a more basic set
2 of statistical analyses.

3 MR. WAYNE SIMPSON: Yeah, I think there
4 are also some comparisons of mean incomes and some other
5 things that we'd know more properly, statistical
6 inference. But I think the reference to "a little bit of
7 econometrics" was a -- a comment I made to Dr. Buckland
8 earlier not to overstate how much econometrics was
9 involved here.

10 Most of it is what we would call
11 "descriptive statistics," a little bit of statistical
12 inference. And then where -- where we did the probit
13 analysis to look at the interrelationships amongst the
14 characteristics, that would be the -- the econometrics
15 portion.

16 MS. ANITA SOUTHALL: This -- to the
17 extent that this is a question that's properly deferred,
18 either to the rest of the Panel or specifically to Dr.
19 Robinson, Dr. Buckland, you can -- you can just say
20 that.

21 There's been much discussion in the -- the
22 direct evidence of this panel and also on cross-
23 examination on the issue of the applicability of US
24 industry research and data to the Canadian marketplace
25 and to the Canadian situation and circumstance with

1 respect to payday lenders.

2 I am wondering if you have any views as to
3 -- or have given consideration -- as to whether there are
4 characteristics that yet remain comparable. In other
5 words, the market is concentrated in Canada, not so
6 concentrated in the United States, for example, as one
7 (1) of the factors where comparability between the
8 markets may not exist.

9 However, if there are other aspects of the
10 relationship between payday lenders and consumers that
11 are comparable or there are other characteristics, both
12 of consumers and of lenders, that are comparable, I
13 wondered whether or not you'd, at this point, given your
14 review of the US literature and research, whether you
15 were able to speak to that.

16 And as I say, I could defer that to -- in
17 particular Dr. Robinson; I could come back to that during
18 his cross-examination.

19 DR. JERRY BUCKLAND: Well the -- the few
20 points that I can off the top think of are the, you know,
21 the income levels of consumers using payday loans in the
22 US. I believe that the data in the US suggests a -- a
23 relatively lower income person is using the payday loan,
24 on average, than in Canada.

25 Whereas in Canada, we seem to have the --

1 the national surveys point to a lower than average
2 income, but the US data seems to point to a -- a much
3 lower than average.

4 Now I'd -- I need to -- I would certainly
5 be willing to -- to provide you with some statistics on
6 that. So that would be -- I mean, in -- in -- at one
7 level that's a similarity, but there is a slight
8 difference. So we're talking about consumers who are
9 lower income and modest income in both cases, but in the
10 US it's a somewhat lower income person.

11 In the US as well they've also identified
12 certain minority groups as significant consumers of -- of
13 payday loans. We haven't found data in the -- in Canada
14 that points -- points to that.

15 And other than that, I -- I really
16 couldn't comment about other similarities or difference.

17 MS. ANITA SOUTHALL: And as I say, I
18 think we'll, I -- I want to defer that for Dr. Robinson,
19 because I may have other questions arising from it that
20 Dr. Robinson is -- is best in a position to address on --
21 on financial-related issues.

22 So I'll -- I'll stop there if I can --
23 unless there's other panel members, other than Dr.
24 Robinson, who wanted to comment on that.

25 DR. WAYNE SIMPSON: Well, just to the

1 extent that I, you know, we don't want to overemphasize
2 the -- the differences between the Canadian market and
3 the US market. In other words, we think that the -- the
4 US experience is relevant because the -- the nature of
5 the delivery of the -- of payday lending services, the
6 fact that the companies often are -- are US companies, or
7 are affiliated with US companies, and the fact that the
8 consumer culture in the US is not very dissimilar from
9 Canada, and so on, make all of this information from the
10 United States instructive, bearing in mind that there are
11 institutional and other differences between the two (2)
12 countries.

13 MS. ANITA SOUTHALL: Thank you. If I
14 could turn back to Dr. Buckland. Dr. Buckland, I note
15 again in your initial evidence that there's a description
16 of your involvement with, I believe it's called
17 International Development Studies. You've -- pardon me,
18 at page 2675 of the transcript, you indicated:

19 "I'm not ethicist, but through my work
20 in international development studies, I
21 have experience with ethical aspects of
22 development as a form of applied
23 ethics."

24 Do you recall that?

25 DR. JERRY BUCKLAND: Yes, I do.

1 MS. ANITA SOUTHALL: Is -- is there, in
2 the field of international development studies, any kind
3 of bias towards government intervention or regulation?
4 In other words, to the extent that -- and -- and if you
5 want to look at the transcript, you may. There's a
6 reference to the fact following this -- this point I've
7 made on international development studies, the statement:

8 "IDS makes an explicit claim that
9 values and goals are embedded in every
10 action we take policies practice in the
11 way in which society is ordered. Thus,
12 IDS seeks to be explicit about those
13 ethical issues and to address them head
14 on."

15 Now ,I may have read more into what
16 follows from that, but just on that issue of
17 international development studies, does there tend to be
18 a solution found? And I'm talking here very broadly
19 internationally. Does it -- does it tend to lead to
20 government intervention as way to control excesses in the
21 market?

22 DR. JERRY BUCKLAND: Well, I think
23 international development studies has, within it,
24 different perspectives. And one common way in which
25 those perspectives are described as -- is neoliberal,

1 reform neoliberal, local development, and post-
2 development. Those are four (4) common perspectives.

3 So depending on the perspective, I think
4 the -- the role of the state would be less significant in
5 a more neoliberal approach, more significant in a reform
6 neoliberal, and so it varies.

7 So I don't think IDS has a particular
8 prescription on the role of the state.

9 MS. ANITA SOUTHALL: Yes, thank you.
10 That's exactly what I was trying to understand. And with
11 respect to -- if you can comment on whether with the --
12 the school that would consider themselves neoclassical
13 economists?

14 Likewise, is there, to your knowledge, a
15 bias for free market operation versus any kind of
16 government intervention or control? You know, in terms
17 of a recognized bias in the community of economists, if I
18 can put it that way?

19 DR. JERRY BUCKLAND: Well the
20 neoclassical economic framework is premised on some
21 pretty important assumptions including that markets work
22 most effectively when they're perfectly competitive.

23 And I think there's been some, you know,
24 discussion around this table about what "competition"
25 means and what does "perfect competition" mean. So that

1 I -- I think that in the neoclassical economic world,
2 like of economists, typically the -- the assumption is
3 that the markets are either perfectly competitive or
4 close enough to perfect competition by and large.

5 So that state intervention is seen as an
6 impediment in -- in some cases, in some industries. But
7 I don't think necessarily that the -- the assumptions
8 hold in the markets in which the analyses are done.

9 MS. ANITA SOUTHALL: Thank you. I -- I'm
10 going to move to a different -- a different sort of more
11 general question, and I appreciate that the nature of
12 this question is such that you may be able to talk for
13 the rest of the day on it, but that you had to leave for
14 a meeting shortly.

15 I'm not inviting you to do that. I'm not
16 inviting that, but if I could ask you in advance to be
17 succinct and for any other panel members to be succinct
18 on this.

19 I want to inform the record by asking why
20 is it generally more desirable that people are banked
21 versus unbanked? And if you could keep in mind the
22 particular issues that we're focussed on here with
23 respect to payday lending. There -- there appears to be
24 an underlying premise in the Coalition evidence that that
25 is a desirable end.

1 So could you please explain that, and
2 maybe just focus on the inherent features of that
3 relationship which -- which makes it more desirable?

4 DR. JERRY BUCKLAND: Well, from my
5 perspective, there's maybe a few different ways to think
6 about it. From a -- from an economic perspective, I
7 think there's advantages to being banked because your
8 costs are probably lower in terms of the services you
9 get. Your services are more open-ended. You've got
10 opportunities to grow your savings, build your credit and
11 get into higher level types of financial services.

12 So, economically speaking, I think there's
13 a number of advantages, both short and -- and medium
14 term. There's also the social and political advantages,
15 I think, of being banked in the sense that the
16 participation in a bank may be is one more experience
17 that a person can have to feel as if they're a part of
18 society.

19 And in a society where most people are
20 banked, if -- means that unbanked people may have a --
21 feel of stigma. I'm not saying that they do, but they
22 may have it. And some of the research I've done, I think,
23 I would have to say that some people do feel a stigma not
24 being banked. So there's a social benefit to being
25 banked.

1 And then there's a political benefit as
2 well. If you are a part of a group that has access to
3 more resources through your banking relationship, then,
4 politically, you've got more control over your -- your
5 lives.

6 So I would say those three (3) -- for
7 those three (3) reasons, banking -- being banked has
8 advantages.

9 MS. ANITA SOUTHALL: Again, just a point
10 of clarification. At page 2683 of the transcript there
11 is a comment by you, Dr. Buckland, with respect to an
12 approach that Dr. Clinton has taken in this proceeding
13 versus an approach that you have taken.

14 And I -- I'm not sure exactly what you
15 mean by it, which is why I'm looking for clarification.
16 So the distinction I can see is -- first of all at line
17 19 of page 2683, the statement is made:

18 "In some cases I think our
19 understanding is more intuitive and
20 implicit. In other cases it's more
21 deliberate and explicit. And so, for
22 instance, I did note that one (1) of
23 the Intervenor representatives, Mr.
24 Clinton, has provided a -- a more
25 explicit and deliberate kind of

1 theoretical analysis of the market for
2 payday loans."

3 Again not -- not to invite a long
4 discussion of it, but is there something specific you
5 mean.

6 And if there's something specific you mean
7 by that, that puts Dr. Clinton's analysis in a different
8 light from your analysis, so we can understand the
9 distinction for the record, please.

10 DR. JERRY BUCKLAND: Yes, and -- and just
11 to clarify, when I said "our understanding," I meant sort
12 of broadly the -- all of the various parties here. Like,
13 I think we all try to theorize what's caused the
14 phenomenon that we're seeing. And so some people maybe
15 are more implicit in their understanding, some people are
16 more deliberate.

17 And I thought Dr. Clinton had explicitly
18 provided a theoretical analysis of what was going on. So
19 his demand-and-supply model and his analysis of the --
20 the market was one way to explicitly deliberately
21 theorize what's caused the phenomenon of payday lending
22 and what are -- maybe we could, from that, infer what are
23 some possible outcomes from various kinds of rate caps.

24 I don't personally agree with Dr.
25 Clinton's theory. I -- I appreciate that he's provided

1 the theory. I think that that theory comes from
2 neoclassical economics which is based on certain
3 premises. I think it's a useful way to try to understand
4 the phenomenon, but I think we also need to consider
5 other theories, behavioural economics.

6 You know, is there at least an element of
7 the payday loan consumer that isn't about behaving in a
8 simple Homo economicus kind of way, as well as there
9 institutional factors that are leading some people maybe
10 out of that banking market.

11 So that was sort of where I was going.

12 MS. ANITA SOUTHALL: Thank you and -- and
13 if at some point you do have to exit the hearing today,
14 we know you have a meeting you must attend. Thank you.

15 DR. JERRY BUCKLAND: Thank you.

16

17 (JERRY BUCKLAND RETIRES)

18

19 MS. ANITA SOUTHALL: And proceeding with
20 the remainder of the panel then and, again, mindful of
21 the fact that if you feel the need to defer a question to
22 Dr. Buckland that we will make a note of that and -- and,
23 to the extent it's necessary, return to that.

24 Is it possible that the payday loan market
25 in Canada is so new that competition simply hasn't fully

1 evolved? I take it from earlier evidence in cross-
2 examination and in -- in direct testimony as well as all
3 of the filings, for example, Dr. Simpson, that you would
4 have expected to see price competition in this market as
5 part of a -- a competitive market structure.

6 But, for example, if the Rentcash company
7 has only been in existence in Canada since 2003, is it
8 possible that the market has simply not evolved to that
9 point yet?

10 DR. WAYNE SIMPSON: I think this was a
11 line of questioning that was pursued by -- by Mr. Slee,
12 that he was -- this was one of the things he was getting
13 at.

14 We have a -- the market has not been in
15 operation a long time. It has a number of substantial --
16 substantial dominate firms -- a couple of dominate firms
17 -- in the market. They have entered and garnered a large
18 share of the -- of the market.

19 They have done so without resorting to a
20 great deal of price competition, which is what economists
21 would -- would emphasize is -- is at least one of the --
22 the benefits of competition. And we see a number of
23 elements of, what I would call, non-price competition in
24 the market.

25 As it being too early for that, that's

1 always a possibility. But the industry has been around
2 long enough now that I think if there were significant
3 benefits in the structure of the market as it now stands
4 for a firm to come in and be aggressive on price and gain
5 a significant market share, I think we'd probably have
6 seen that happen. But I can't definitively say that for
7 any, you know -- it's large -- it's largely a theoretical
8 statement, not a -- not an empirical one.

9 DR. CHRIS ROBINSON: Was that addressed
10 to all the panel or just to Dr. Simpson?

11 MS. ANITA SOUTHALL: Did you want to add
12 to that, Dr. Robinson?

13 DR. CHRIS ROBINSON: Yes, well, I proceed
14 somewhat more empirically in that it's been about twelve
15 (12) years, roughly, that the market's been in existence.
16 Rentcash may have entered more recently, but there have
17 been many other players. They -- we -- it's a -- a
18 relatively simple industry compared, say, to
19 manufacturing automobiles or something of that sort.

20 The only changes that I've been able to
21 see in -- during my work have been increases in fees
22 rather than decreases, which is empirically not very
23 common when you're seeking market share, especially in a
24 product which is relatively simple, relatively
25 undifferentiated.

1 You would expect to see some very fierce
2 price competition and people collapsing from it, but
3 instead we've seen price rises and a huge dispersion in
4 prices.

5 And so I -- I find it even less likely --
6 not on theoretical basis but on the empirical basis of
7 what I've observed -- that in fact we're seeing the
8 effect of competition. That in fact it's -- it's not
9 happening, and it's not simply because of the timing of
10 the market.

11 I also notice that the growth of the
12 market, according to the evidence provided in -- by
13 several people, including the industry Intervenors, is
14 that the growth has slowed considerably at which point we
15 should also be seeing a real struggle for market share
16 which should be coming about by price competition, and we
17 see no evidence of that at all.

18 MS. ANITA SOUTHALL: Thank you. We had a
19 comment made earlier in testimony by Dr. Clinton
20 referring to a concept of the stigma associated with
21 taking out a payday loan, of something that he had come
22 across and with paraphrasing the evidence that Dr.
23 Clinton gave that an employee would not want their
24 employer, for example, to know that they had the need to
25 take out a payday loan, just as one example of the kind

1 of -- because there may be consequences to the employee
2 by the employer.

3 And, although Dr. Clinton didn't
4 elaborate, I wondered whether or not anyone who remains
5 on the panel -- again this may have to be deferred to Dr.
6 Buckland and his review of literature -- have you come
7 across anything that actually addresses that concept of
8 why there is a stigma associated or if, in fact, there
9 is?

10 If that was a valid -- like, whether it's
11 supportable in literature, the -- the kind of thing that
12 Dr. Clinton was referring to?

13 DR. CHRIS ROBINSON: There is some
14 material, work by Michael Grant and Sue Lott (phonetic),
15 some of the focus groups that might get at some of this.
16 I think the problem, though, I mean we're all looking a
17 little blank is because if you do feel it's a stigma,
18 you're not going to talk. And so any sort of sample
19 survey or anything is going to tend to be biased.

20 I was trying to think, Do I think it's a
21 stigma? Well, I don't have to borrow from a payday
22 lender and, I mean, Ms. Friesen borrowed from a payday
23 lender but not out of desperate necessity. And so I
24 think the problem is that it's always -- so that the
25 mystery shopping that revealed something to the

1 particular attitude, it -- it can't.

2 Any research that you get is going to be
3 biassed on that, I think. I'm not aware of any, but I'm
4 warning you right now, what I have seen was clearly
5 biassed. These are people who felt happy, just as when
6 we get letters from payday lenders -- payday borrowers
7 saying that they were very happy with the experience.

8 The people who were happy or unhappy, but
9 felt stigmatized, would never write. Okay? They might
10 have felt -- been very -- felt they were treated well,
11 but nonetheless felt terrible about it. So I'm afraid
12 that you can't really rely on anything that we might say
13 or that we might find.

14 I mean unless the -- the mystery shoppers
15 might have a different feel from what people around them
16 were saying but...

17 MS. ANITA SOUTHALL: Ms. Friesen or Mr.
18 Osborne...?

19 MS. ANITA FRIESEN: I -- we didn't look
20 into that specifically, but I can just give a couple of
21 examples of that stigma in our case.

22 I was the only one (1) of the three (3) of
23 us who chose to take a payday loan, and John was just
24 mentioning -- well, maybe I should have him -- he can
25 speak to his own feelings on that.

1 at the credit union, and I think they're a little more
2 open-minded, would I say, when it comes to that. They
3 deal with a wider range of customers that might have that
4 in their background. That was what she explained to me,
5 my banker did.

6 But she also recommended that I get
7 letters, and I have on file now from Tom Carter and Dr.
8 Buckland and from the Public Interest Law Centre stating
9 that if I ran into problems in the future, these letters
10 say that I was undertake -- that I took out the payday
11 loan as part of a research project, not because of my
12 need.

13 Because it would indicate to them, I
14 think, that I don't handle my finances as well as I
15 should, perhaps.

16 MS. ANITA SOUTHALL: I'm asking if they
17 came out and told you that specifically, that that was a
18 risk you were facing without the letters.

19 I suppose that's what I'm trying to
20 confirm, is simply, did your credit union representative
21 tell you to protect yourself that way because there was
22 some actual risk in future?

23 MS. ANITA FRIESEN: She wasn't absolutely
24 sure about other banks. She was -- she assured me that
25 at the credit union, it wouldn't be a problem. But she

1 said that it might be with other financial institutions
2 and, therefore, she -- she couldn't say for sure, but
3 that it would be to my advantage to have those letters in
4 case it was a problem in the future.

5 MS. ANITA SOUTHALL: Mr. Osborne...?

6 MR. JOHN OSBORNE: Yeah, I'd like to
7 address a few points about this. First of all, I was --
8 I was going to be a mystery shopper to follow everything
9 all the way through to the end just like Anita did.

10 Then a few different points came up what -
11 - what we were really getting into, and it came down to -
12 - I just didn't want this sort of thing on my record.

13 Just -- Dr. Carter had spoken with a long-
14 time member of the banking industry who had reservations
15 about it. Dr. Carter had reservations about it. He said
16 he wouldn't do it if it was him, and he wouldn't want his
17 staff to do anything he wouldn't want to do.

18 I was still on the fence whether I wanted
19 to do it or not. The other mystery shopper said she was
20 not going to. I have a lot of credit. It's been alluded
21 to. I'm a cowboy, a farm boy. I have a herd of ca --
22 credit is very important to me.

23 I'm know to protect -- all a farmer has is
24 his credit rating, and that's maybe not so good. But I
25 wanted to make sure everything was pristine. So, from a

1 financial point of view, I was concerned about stigma.

2 I -- kind of anecdotally just -- when
3 people know I'm working on this thing, I get some kind of
4 rude glances until I make it clear that I'm not working
5 for the industry, and then there's smiles.

6 MS. ANITA SOUTHALL: Mr. Williams, if you
7 could ask Dr. Buckland, in anticipation of his return,
8 specifically in respect of whether he's either reviewed
9 any literature or his own previous research indicates
10 some explanation -- well, first of all, whether there is
11 so-called stigma in the usage of it that's been
12 identified.

13 And, secondly, whether he's identified any
14 rationale or explanation for that, just that -- just that
15 very specific two (2) points.

16 MR. BYRON WILLIAMS: Yes, and we'll
17 undertake to do so both, in terms of the empirical work
18 other than Dr. Buckland's as well as his own work as
19 well.

20 MS. ANITA SOUTHALL: Thank you.

21 MR. BYRON WILLIAMS: And the literature.

22 Thank you.

23

24 --- UNDERTAKING NO. 91: Dr. Buckland to indicate to
25 Board whether he's either

1 reviewed any literature or
2 his own previous research
3 indicates whether there is
4 so-called stigma in the usage
5 of it that's been identified
6 and, secondly, whether he's
7 identified any rationale or
8 explanation for that

9

10 MS. ANITA SOUTHALL: And I am not asking
11 him to go off and do more research.

12 MR. BYRON WILLIAMS: Yeah. I understand.

13

14 (BRIEF PAUSE)

15

16 CONTINUED BY MS. ANITA SOUTHALL:

17 MS. ANITA SOUTHALL: If I could ask Ms.
18 Friesen and Mr. Osborne: Exactly what information, sort
19 of in your training and preparation for the mystery
20 shopping experience, exactly what information did you
21 ultimately obtain about payday loan companies or about
22 the payday loan process in advance of -- of undertaking
23 the mechanics of the exercise?

24 There -- it is my recollection from your
25 earlier evidence that you -- you were equipped with some

1 information. Obviously a methodology was identified and
2 I don't intend on reviewing that any more as part of my
3 cross-examination.

4 Could you just each identify specifically
5 what you recall being equipped with, in terms of
6 information prior to the start?

7 MS. ANITA FRIESEN: I personally had only
8 basic information. I wasn't even clear exactly on what a
9 payday loan was at the outset. I had read some of Dr.
10 Buckland's articles that he's written about fringe
11 banking in general. And I also had a roommate that
12 worked at a payday lender. And so that's really the only
13 information I had, the only understanding I had.

14 So I did kind of go into the mystery
15 shopping knowing very little, perhaps as a -- any other
16 general person off the street would have known about the
17 industry.

18

19 (BRIEF PAUSE)

20

21 MS. ANITA SOUTHALL: Mr. Osborne, could
22 you just explain what information you -- you would have
23 been equipped with prior to undertaking the exercise?

24 MR. JOHN OSBORNE: I read -- I'm not --
25 I'm sure they are filed before the Board -- some previous

1 literature prepared by Dr. Buckland, I think also by Dr.
2 Robinson. I'm not -- I'm not sure of the names of those
3 and what they're filed under, but just some -- some
4 background briefings. I'd read a bit about Dr.
5 Buckland's report on the cheque cashing and so on.

6 So I -- it was just background reading on
7 -- on sort of the background of the industry, not
8 anything specific to different firms except for what was
9 in those materials.

10 MR. BYRON WILLIAMS: And, Ms. Friesen,
11 just if -- if I can help. There is one thing in the pre-
12 filed evidence in terms of the vague references to
13 Robinson and Buckland. At page 85, one of the appendices
14 to -- to the actual evidence of Buckland et al, there's
15 one of the background documents, which is a -- a few-page
16 briefer. That -- it was prepared, I believe, by Dr.
17 Robinson.

18 So there -- some of that material's in the
19 Buckland et al report.

20

21 CONTINUED BY MS. ANITA SOUTHALL:

22 MS. ANITA SOUTHALL: Does that help to
23 refresh the witness's memory, Ms. Friesen, Mr. Osborne?
24 Like, did you have that -- the document Mr. Williams was
25 averting to as a -- as a resource material in advance?

1 the Board to also know that subsequent to that, because
2 of the information that things that they learned and
3 subsequent things that I've done, that I have in fact --
4 and you can probably -- you could see this going through
5 the testimony -- that I then found out more ways that
6 fees got charged, more complications, more issues, and
7 changed my statements in fact as to how fees are charged
8 for both Money Mart and Rentcash as I started to
9 understand more.

10 So if you like, it was a -- a learning
11 process along. So I was not -- I thought I was -- I
12 might give them a, you know, a -- this -- this will tell
13 you everything, and you'll just find one or another. But
14 it didn't turn out that way at all.

15 They, you know, so they have continued to
16 inform me. And even just sitting in the proceedings,
17 I've continued to find more complications. I mean, Mr.
18 Hacault, has also referred to -- to some of these.

19 MS. ANITA SOUTHALL: Ms. Friesen and Mr.
20 Osborne both, had you formed any opinions about the
21 payday loan industry before you undertook your mystery
22 shopping exercise based on what you had read in advance?

23 MS. ANITA FRIESEN: I -- I had opinions
24 formed. I tried to sort of suspend them. But I have to
25 say that prior to undertaking the mystery shopping I was

1 a bit suspicious of payday lenders. And I guess I -- I
2 had a -- a stereotype in mind that -- that they were dark
3 holes in the wall, in suspect areas, down dark alleys,
4 and that they -- they were places to be visited only in
5 absolute desperation.

6 When I -- when I did the actual mystery
7 shopping, I was pleasantly surprised at how professional
8 the -- the staff were, how professional the -- the
9 outlets looked, and how, you know, it certainly changed
10 my opinion.

11 I did feel though that there must be some
12 -- my -- my roommate had assured me that she was working
13 in a very safe and professional environment. So I
14 understood that that lender was a lender that did not
15 follow with my stereotypes. Does that help?

16 MS. ANITA SOUTHALL: Thank you, yes,
17 that's -- that's an answer to the question. I appreciate
18 it. Mr. Osborne...?

19 MR. JOHN OSBORNE: One thing as being
20 geographer, there's no such thing as a geographer. You
21 have to learn a little about everything, and then apply
22 spatial processes to it. So I didn't know much about the
23 industry beforehand. And I guess I was a little bit
24 different than Anita. I didn't -- hadn't been form --
25 formed an opinion.

1 I -- I read the documents I -- I told you
2 about before with -- with interest, trying to learn about
3 this industry to upgrade my knowledge. If anything, I
4 guess I worked from the other end of the continuum in
5 that I was -- I didn't know what to expect. I had a very
6 open mind.

7 And some of these different complications
8 and experiences I had mystery shopping and telephone fee
9 calling, I guess, whereas, Ms. Friesen's opinion may have
10 grown, mine may have reversed.

11 So -- but I -- I didn't have many
12 preconceived notions. I had very little knowledge before
13 I read the papers and -- and so on.

14 MS. ANITA SOUTHALL: Thank you.

15 MS. ANITA FRIESEN: I just wanted to
16 state too that my opinions of what a -- a payday loan
17 outlet would be like were based on my own personal
18 experiences and understanding, not from what I had read
19 about them.

20 MS. ANITA SOUTHALL: Yeah, thank you for
21 that clarification, Ms. Friesen. I change subjects now.
22 And again, first of all with respect to Coalition Exhibit
23 15, which would be Dr. Buckland's paper.

24 So, Mr. Williams, this might be an
25 appropriate question to put to Dr. Buckland. It's really

1 a question with respect to the chart that Mr. Hacault was
2 reviewing earlier today at page 11 on the issue of -- oh,
3 it's called "Table 2, Fringe Bank Outlets and Mainstream
4 Bank Branch Closures in Winnipeg by Neighbourhood
5 Cluster."

6 We were unable to do the math on how the
7 table shows -- or how the calculation occurs to show bank
8 closures per hundred thousand (100,000). I'm assuming
9 it's hundred thousand (100,000) of population. So that's
10 the last column. What we had tried was taking the
11 population figure in Column 2 and divide by the --
12 divided by a hundred thousand (100,000), pardon me, and
13 divided by closures in the -- in the penultimate column.
14 So I'm not sure if that makes any sense at all.

15 But nevertheless could you just see
16 whether or not that last column of information is somehow
17 derived from the previous columns in some fashion. And
18 if there are any changes to be made to the table, let us
19 know, please.

20 MR. BYRON WILLIAMS: Yes, and we will
21 undertake to do so. We'll review the transcript. And my
22 understanding it's with regard to Coalition Exhibit 15.
23 And it's the table regard -- regarding bank closures, and
24 in particular the -- the calculation of per hundred
25 thousand (100,000) population and how it was derived and

1 whether it can be taken out of that table or not. We
2 will undertake to do so.

3

4 --- UNDERTAKING NO. 92: Coalition to indicate for
5 Board whether or not, in
6 Table 2 of "Fringe Bank
7 Outlets and Mainstream Bank
8 Branch Closures in Winnipeg
9 by Neighbourhood Cluster,"
10 that last column of
11 information is somehow
12 derived from the previous
13 columns in some fashion. And
14 if there are any changes to
15 be made to the table

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: Thank you. And one
19 more issue of comparison. Again, it may be Dr. Buckland
20 who's best positioned to do it.

21 There is -- there appear to be two (2)
22 different references to two (2) different numbers for
23 closures at Exhibit 16, slide Number 3. And you don't
24 have to turn to this, nor does the panel of witnesses at
25 the moment.

1 and Exhibit 15, page 11,
2 Table 2
3

4 CONTINUED BY MS. ANITA SOUTHALL:

5 MS. ANITA SOUTHALL: Were you -- were you
6 referring to FCAC, Mr. Osborne?

7 MR. JOHN OSBORNE: Yes.

8 MS. ANITA SOUTHALL: Okay. Thank you.

9 MR. JOHN OSBORNE: Yeah. I -- I gave the
10 source. I think I even give a link in the report.
11

12 (BRIEF PAUSE)
13

14 MS. ANITA SOUTHALL: Mr. Osborne, at one
15 of the breaks I actually gave you an indication that I
16 was going to be asking about this and that I would
17 paraphrase from the transcript for this purpose.

18 You identified in your testimony that
19 there were some limitations on the data that you used for
20 the purposes of mapping.

21 Do you recall that?

22 MR. JOHN OSBORNE: Yes.

23 MS. ANITA SOUTHALL: And as I indicated
24 to you, one of the points that I would seek to clarify
25 was a limitation, which I noted -- and without reference

1 back to the transcript -- was something that was -- that
2 I recorded as frequency-based statistics and that in the
3 analysis you did not attempt to examine the statistical
4 significance of that. And I'm sorry. That -- without
5 going back to the transcript, that's about the best I can
6 do.

7 But are you able to speak to what that
8 limitation actually amounts to and what the impact is?

9 MR. JOHN OSBORNE: Yes, that's -- it's
10 very similar to a question you'd asked Dr. Simpson
11 earlier. When I say "frequency based," it was
12 descriptive statistics we used. In my analysis it's --
13 it's the -- it's percentages of -- of outlets located in
14 the inner city and so on.

15 There's some -- much more complex
16 statistical analysis that can be performed spatially.
17 And Dr. Simpson probably knows these tests better than
18 me. I've -- I've taken some course work in them. I have
19 no practical use of them in -- in the work I've done at -
20 - with the CRC and Dr. Carter. But the -- there are more
21 tests. You can check for -- correlation and statistical
22 relevance. And I am out of my league here to be able to
23 speak before the Board. Dr. Simpson could probably speak
24 more.

25 There are certain spacial ones I could do

1 within the GIS software, but we -- we never did them. I
2 would -- it would take us more time and resources than
3 what we had available for -- for it.

4 MS. ANITA SOUTHALL: Before we -- Dr.
5 Simpson, don't feel you need to elaborate. But if you
6 want to, you can.

7 But before we do that, Mr. Osborne, just
8 on the second part of that question, even though you
9 can't speak in depth to that issue, do you have -- are
10 you able to address at all what the impact of that is in
11 terms of the use of what's been presented?

12 MR. JOHN OSBORNE: As far as the use of -
13 - of what we have, we have a very -- a straightforward,
14 descrip -- descriptive use of payday loan locations.
15 There's not in-depth -- there's a certain number of
16 population within this bound -- within a one (1)
17 kilometre boundary of this payday lender or so on. It's
18 -- it's basically about the location relative to
19 neighbourhoods using the different LICO and median income
20 that we've used.

21 As far as limitations, that's for the
22 Board to decide how useful it is. We've shown spatial
23 patterns more than anything. We were very careful to say
24 spatial patterns from a consumer point of view.

25 Well we -- we've talked a lot of things,

1 but we haven't really discussed effects on
2 neighbourhoods. And -- and, you know, the payday
3 lenders, you know, assert that visibility and
4 accessibility are important things, but they are also
5 part of neighbourhoods. And there are specific issues
6 affecting certain parts, certain Winnipeg neighbourhoods.
7 And payday lenders can't close their eyes and say, we're
8 serving everybody as accessible.

9 They are a part of neighbourhoods, and
10 there's effects both on neighbourhood residents and the
11 payday loan outlets themselves.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: Dr. Simpson, was
16 there anything more in terms of the limitations on that
17 examine -- the -- the -- or the -- the determination not
18 to take that next step and examine the statistical
19 significance?

20 If you want to -- you're -- you're not
21 obliged to.

22 DR. WAYNE SIMPSON: I -- I profess no
23 real expertise in spatial statistics and spatial
24 econometrics other than to say that there -- there is a
25 very large literature and there are, like any other data,

1 you can -- you can grind it until it cries help.

2 But often that isn't -- isn't helpful to
3 inform -- to inform people.

4 MS. ANITA SOUTHALL: Thank you, sir.
5 Going back to you, Mr. Osborne, or if this is again
6 interdisciplinary, other members of the panel present.

7 We did hear evidence of clusters of payday
8 loan operators, as I understand it, in the, what I will
9 call the St. Vital area, what I believe is the Polo Park
10 area of the city. And I believe I -- I accurately noted
11 also the Kildonan Place part of the city -- or that sort
12 of shopping centre area.

13 Is that accurate, first of all? Maybe Mr.
14 Osborne, if you could answer that.

15 MR. JOHN OSBORNE: Yes, there's --
16 there's various smaller clusters outside of the inner
17 city, specifically at certain malls and so on. I should
18 say that the -- the ones at Polo Park aren't actually in
19 the Polo Park facility but on St. James, very -- very
20 near Polo Park.

21 But for all intents and purposes, that's -
22 - that's a good way to address it.

23 MS. ANITA SOUTHALL: And when we use the
24 term "cluster" for these locations of payday loan
25 outlets, are you identifying -- or can you speak to the

1 issue of geographical competition then in that immediate
2 region?

3 In other words would those outlets be
4 competing with each other for whatever traffic might flow
5 from payday consumer -- payday loan consumers?

6 MR. JOHN OSBORNE: I think I've mentioned
7 this before, that I'm not an expert in economic
8 geography. But I'm not sure how to -- how far to -- I
9 can -- am able to speak on that sort of thing.

10 But it -- when -- when you're locating
11 next to one another, there's a more likelihood that
12 people will be able to compare and -- and choose, have
13 options, as Dr. Buckland mentioned in a Sorensen's versus
14 Money Mart's comparison in the North End.

15 So, yes, they'll -- they'll be competing
16 for -- for some of the same customers when you locate
17 next to one another. Location is a big factor.

18 MS. ANITA SOUTHALL: Dr. Simpson, did you
19 have any comment on that?

20 DR. WAYNE SIMPSON: Yeah, they -- they'd
21 be competing probably in a variety of respects. One
22 element could be price. I think we've seen considerable
23 evidence that there isn't much price competition, so they
24 would probably be competing in a variety of other ways.

25 If location -- if they're all in the same

1 -- roughly the same location so the location is not a
2 factor, then are other elements related to convenience,
3 the nature of the requirements for the loan, and so on
4 that might be elements to their competition. So non-
5 price competition elements.

6 MS. ANITA SOUTHALL: Thank you, sir.

7

8 (BRIEF PAUSE)

9

10 MS. ANITA SOUTHALL: Again, I -- I'm not
11 going to take you to a specific quote in the transcript.
12 But I -- Dr. Simpson, I believe that this might be your
13 testimony. And if -- if it's not, it may be Dr.
14 Buckland, so you could alert me to that.

15 There was reference to -- in my notes on
16 the evidence to page 106 of the Buckland report and
17 Figure 9 with respect to analysis of any correlation or
18 relationship between young people in Winnipeg
19 neighbourhoods and payday loan outlets. In other words -
20 - well maybe that's the best way to put it without trying
21 to paraphrase that yet again.

22 But there was a statement that I've noted
23 again, and Dr. Simpson, I -- I think I'd attribute it to
24 you. So if I'm wrong on that let me know.

25 But there was some comment that causation

1 was not looked at in respect of that youth category.

2 MR. BYRON WILLIAMS: I believe that might
3 have been Dr. Buckland on that --

4 MR. WAYNE SIMPSON: Yeah, I was going to
5 say Figure 9 is too high a figure for my contribution
6 specifically to this -- this project. So that would be
7 Dr. Buckland.

8 MS. ANITA SOUTHALL: Thank you. So Mr.
9 Williams will know to -- I'm simply looking to
10 clarification of what was meant by that statement in the
11 testimony, please? Oh, Mr. Osborne has a comment.

12 MR. JOHN OSBORNE: Yeah, that -- that age
13 group was something that he -- the previous maps had been
14 more from a consumer point of view. Dr. Buckland also
15 wanted to look -- there was a higher proportion of
16 younger users of payday lenders. So this is more from a
17 market point of view. He wanted to see relationships
18 that way.

19 And that's why I felt inadequate to speak,
20 because I'm not a market specialist. I -- I was more
21 from the consumer point of view.

22 MR. BYRON WILLIAMS: We will undertake to
23 try and clarify that reference.

24 MS. ANITA SOUTHALL: Thank you.

25

1 --- UNDERTAKING NO. 94: Coalition to clarify for
2 Board the comment that
3 causation was not looked at
4 in respect of that youth
5 category with regard to page
6 106 of the Buckland report
7 and Figure 9
8

9 CONTINUED BY MS. ANITA SOUTHALL:

10 MS. ANITA SOUTHALL: Ms. Friesen, there -
11 - there has already been a fair bit of interchange on the
12 issue of the concept of social sciences research and that
13 kind of research and the social sciences generally versus
14 other kinds of sciences and, you know, the analytical
15 tools or -- or methodology that may be used in other
16 kinds of sciences versus social sciences. So I'm
17 alerting you to that as -- as the basis of this question,
18 and I don't intend to revisit that.

19 But within the context of what you've
20 already provided to the Board, in terms of your
21 commentary on -- on social sciences research and the
22 validity of it, can you then, as -- as applied to the
23 mystery shopping methodology and exercise, can you tell
24 us how the Board is to use the results that have been
25 before it, in terms of -- for everyone, not just for

1 yourself, by the way.

2 I -- I'm asking you to address the results
3 on the whole as opposed to just your own views as to what
4 the outcomes were.

5 MS. ANITA FRIESEN: There's -- and I -- I
6 apologize that I didn't make this clearer in previous
7 questions. But I'm understanding now in hindsight where
8 their questioning was coming from. There's perhaps a
9 bias towards objective research only, and that's more of
10 a scientific, hard science method.

11 And as much as possible and where
12 appropriate in our research, we did undertake to be
13 objective and to limit subjectivity. And the process --
14 the way that we did that was to ensure that we, as
15 mystery shoppers, made notes of the specific details that
16 we were told or the specific documents that were
17 required. And those were listed so that the reader would
18 know as -- as much objective information as -- as they
19 could.

20 And then -- but on top of that, it was
21 also part of the research to represent an experience of
22 the customer. And so there -- and because I was the only
23 customer in the actual loan taking experiences, or
24 mystery shops, unfortunately there's only my viewpoint to
25 represent and -- which may be quite different from other

1 actu -- other customers.

2 But I'm just -- I report the -- my own
3 viewpoint as representing some portion of a customer's,
4 sort of a snapshot of time -- or a snapshot of these
5 different experiences that can be used to perhaps
6 represent a particular portion of the customers that
7 would shop payday loans and to supplement -- and to -- to
8 -- yeah, to supplement the -- the actual details the --
9 I'm sorry I'm taking so long to explain this -- the
10 objective, more objective part.

11 So it's up to the people reading it to --
12 they can see exactly what the information was that we
13 collected. And they can base their own conclusions on
14 that.

15 But then we supplemented that with more
16 qualitative information that we hope does represent the
17 customer's viewpoint and that that could be taken into
18 consideration by the people who are making the decisions
19 by the Board, or they could toss that out if -- if they
20 wish or agree with that if they wish.

21 Is that helpful? I'm not being very
22 clear, I'm sorry. My apologies.

23 MS. ANITA SOUTHALL: No, that's really
24 what I was getting at is if it was just sort of the, I
25 guess, one more point that I -- I wasn't following

1 completely. And I thought there may be sort of a, like,
2 a general statement of principle, in terms of how, in the
3 social science world, how such information, the results
4 of such study, could be applied, not necessarily just by
5 this Board, but at large, what the value of that kind of
6 methodology is.

7 And I did -- I have no intention of
8 revisiting the kinds of questions that, for example, Mr.
9 Foran had put in terms of some of the matters he put to
10 you on cross-examination regarding other papers that were
11 referenced. So that's fine, if that's what you can
12 offer.

13 Dr. Robinson, did you have something --

14 DR. CHRIS ROBINSON: Well --

15 MS. ANITA SOUTHALL: -- specific on that?

16 DR. CHRIS ROBINSON: -- I'm actually a
17 user of that information, as I indicated. And I have
18 extensive experience in both performing and teaching
19 people how to do qualitative research, which is uncommon
20 for a finance professor. And I've already stated that --
21 that they have followed accepted methods, performed the
22 information, and I found it reliable.

23 How it would inform the Board is that it
24 is part of the structure that forms the basis of doing
25 other research. Of course, we're doing it all at once.

1 But if, just to give a hypothetical
2 example, had the mystery shopping found that they go in,
3 that there's a big sign posted in every place, tells them
4 what every possible loan might be, they understand what
5 it is, they see large numbers of people saying, Oh,
6 that's too expensive, and turning away -- in other words,
7 different experiences than they had -- that this would
8 inform differently how I would interpret the results that
9 I've done from a very different source. It's partly
10 called triangulation.

11 The fact that they have stated that these
12 are neat places and clean and that they -- the -- the
13 number of minutes that they recorded spending time with
14 people shows us, for example, that we expect -- I mean,
15 what we already expected.

16 But we have no very clear evidence that
17 that is a high-cost loan process, because it does take
18 ten (10) to twenty-five (25) minutes, if I'm recollecting
19 the -- the different times, to do the initial loan.

20 And so consequently it makes the -- the
21 kind of -- more numerical -- and by numerical I do not
22 mean more objective, okay. I mean all of -- all of
23 theses things are subjective. But it makes the sort of
24 analysis that I'm doing reasonable and informs it so
25 that it helps me to go in the direction that I did.

1 And, for example, Mr. Hacault has proposed
2 that we need -- that the -- he wants to consult with the
3 clients, with our clients, as to -- our clients? Mr.
4 Williams' clients? Anyway, somebody's clients, about how
5 we should go through disclosure because that's an issue,
6 even though it is not actually formally an issue in front
7 of the Board, it's just setting rates.

8 So that is the basis that you use such
9 research. I'm in fact about to engage in research of
10 qualitative nature which some day will allow me to do a
11 much more quantitative research. And that effectively is
12 partly what they have been doing. So it is extremely
13 important. Without that understanding, you'd be working
14 in the dark.

15 MS. ANITA SOUTHALL: Thank you, sir.

16 MR. BYRON WILLIAMS: Ms. Southall, I hate
17 to -- on this point, I believe Dr. Buckland just -- and I
18 don't -- we won't have a lengthy answer, but I think that
19 there -- there is something that he has given a lot of
20 thought to that he may want to add, just a brief -- a
21 brief point on that when he returns.

22 MS. ANITA SOUTHALL: Well if you -- if
23 you could ask him, what I am looking at -- for is
24 clarification though. So if he could just keep that in -
25 - in mind what my --

1 MR. BYRON WILLIAMS: For this specific,
2 narrow point --

3 MS. ANITA SOUTHALL: Right. Thank you.

4 MR. BYRON WILLIAMS: -- I understand your
5 question.

6

7 CONTINUED BY MS. ANITA SOUTHALL:

8 MS. ANITA SOUTHALL: Dr. Simpson, I want
9 to address this next question to you. And that is that
10 you have no doubt had an opportunity to consider Dr.
11 Clinton's evidence earlier in this proceeding.

12 Is that the case?

13 DR. WAYNE SIMPSON: Yes, I've read his
14 submissions.

15 MS. ANITA SOUTHALL: Dr. Clinton -- and
16 again, here I'm summarizing as opposed to giving you an
17 exact quote from his testimony that -- but in his
18 submission of his expert evidence he did indicate that
19 there were a -- a number of -- or a potential number of
20 differentiating factors in terms of what different payday
21 loan operators could provide to consumers in the payday
22 loan market.

23 And in addition to that, that the loss to
24 payday loan consumers with a -- a narrowing of payday
25 loan firm offerings would be harmful to consumers, and

1 that -- that there were non-price issues which would --
2 would not be addressed by price alone.

3 I'm giving you that, and I apologize. I
4 know that's -- that's a very general statement. And I
5 don't know if -- if you're able to harken back to your
6 review of Dr. Clinton's evidence.

7 But he appeared to be addressing the
8 benefits of payday lenders and the negative consequences
9 of -- of fewer payday lenders on more than price.

10 And I'm -- I'm bringing that to your
11 attention because in your testimony you -- you, at page
12 2839, you made the statement at line 13

13 "But there's a specific sense in which
14 economists talk about competitiveness,
15 and that's in terms of, what we would
16 say, price competition."

17 It goes on:

18 "And a lot of what we talk about as
19 competing is really competing along
20 non-price lines: advertising for
21 finding new ways of finding customers,
22 improving service, reducing wait times,
23 making it quicker to get a loan, and so
24 on."

25 You then go on to say:

1 "These are all elements of competition,
2 but they don't refer -- refer to the
3 notion that economists are -- are
4 focussing on, which is price
5 competition."

6 And then you finally say:

7 "And in the sense of thinking about
8 regulation and fee regulation, I think
9 that is an important factor that we
10 obviously want to consider."

11 So it -- I understood that Dr. Clinton was
12 also talking from an economist point of view. So I'm
13 trying to understand if there is a difference in opinion
14 as between yourself and Dr. Clinton on that issue.

15 In other words, are you of the view that
16 it's fundamentally price and that's really what
17 economists should be talking about?

18 Or do you also give credence to the fact
19 that there are other kinds of service objectives that
20 payday lenders may have which truly may differentiate
21 them?

22 I'm just trying to understand if there's a
23 difference there.

24 DR. WAYNE SIMPSON: Well, I -- if I
25 remember correctly, the context I -- I was referring to

1 was that we -- we use the term "competition" to include
2 both price and non-price elements. And there will always
3 be competition, sometimes fierce competition, even if
4 there is no price competition.

5 And certainly in considering the issue of
6 rate setting, obviously price competition is a -- is an
7 important factor. So I wanted to bring that back to the
8 fore, and that's what economic analysis typically does.

9 My concerns with Dr. Clinton's analysis
10 would be over, for example -- well, there's -- I don't
11 know where to start. But let me start with the notion of
12 a -- a competitive market, as he's characterized it here.

13 This seems to be a market in which -- a
14 perfectly competitive market in which there are many
15 buyers and many sellers. The sellers are earning no
16 excess profits in the sense Dr. Robinson has described,
17 which is that there is no profits above their alternative
18 return on capital elsewhere. And it's an industry that
19 has likely settled down so that there are -- there's some
20 entry and exit, but not significant amounts. And this
21 isn't the kind of market we observe here.

22 We observe a market in which there are
23 excess profits being earned and there -- there obviously
24 is some entry being attracted by those profits. And
25 we've also seen that there is an absence of price

1 were easily comparable that the demand would be as
2 inelastic as it is. By inelasticity, I mean that
3 consumers wouldn't respond to price.

4 And this is why, for example, it seems to
5 me that if prices were more easily comparable and lower,
6 you might in fact have a higher volume of activity in
7 this market. And that would offset some of the
8 incentives for firms to exit the market when -- when the
9 rate is regulated. I -- I can go on, but I think I'll
10 stop there.

11 MS. ANITA SOUTHALL: Thank you. And
12 again, Dr. Simpson, I -- I'm going to make reference to
13 another portion of your testimony at page 2841 of the
14 transcript. And there is a -- a statement, following on,
15 I think, what you've just -- what you've just given
16 evidence on in -- in answer to my question. Starting at
17 line 10 on that page, you make the statement:

18 "Consequences of perfect competition
19 for consumers, the market tends to
20 protect consumer interests by ensuring
21 that no one (1) firm or a group of
22 firms affects the market price."

23 And then at line 14:

24 "The price is set by competition
25 amongst the suppliers in the market in

1 their anonymous attempts to attract
2 consumers by adjusting their prices,
3 and total welfare is maximized."

4 I don't know if you have a recollection of
5 speaking to that, but that -- that is that portion of the
6 transcript I wanted to bring to your attention.

7 And just on that point again, would like
8 to ask you to consider Dr. Clinton's analysis of welfare
9 being maximized and the -- the models that he introduced
10 to consider the maximization of welfare.

11 Is that the same concept that the two (2)
12 of you are discussing in your -- in your economic
13 theories?

14 DR. WAYNE SIMPSON: Dr. Clinton and I
15 both graduated from the London School of Economics with a
16 PhD. So I think we probably have fairly common
17 terminology.

18 The difference here would be over the --
19 over the nature of the market and how it's working for
20 payday loans. We all -- we both would agree that if a
21 market is operating consistent with the principles of
22 perfect competition, that it would be maximizing the
23 total social welfare, which would be the welfare of
24 consumers and producers combined, yes.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: I think I just had
4 one (1) further question from today's testimony, if you
5 give me a moment.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: This may be Dr.
10 Simpson or Dr. Robinson, I'm not sure, but I -- I would
11 start with Dr. Simpson on this.

12 And it arises from a series of questions
13 that My Friend, Mr. Hacault, put to the panel with
14 respect to whether or not if a -- a payday lender exited
15 a small rural market -- I'm using "small" in -- in the
16 context of as compared to the Winnipeg market in Manitoba
17 on the concept of whether we know what the impact or
18 consequences would be on that local market. He was
19 putting it in terms of knowing whether or not it would
20 cause some harm to potential consumers in that market.

21 It's not a question that -- that relates
22 directly to that, but I'm putting it within that context
23 to -- to ask whether or not any of you can speak to the
24 issue of whether, generally speaking, the competitive
25 market for this kind of service or for a product

1 offering, a company identifies a threshold size of market
2 or population that is required in order for them to set
3 up a profitable enterprise.

4 And for -- the one that comes to mind for
5 me, and I have no idea whether this is relevant at all,
6 but Ikea still has not located in Winnipeg, much to my
7 disappointment.

8 But I have always heard that the reason
9 why that -- using that example -- they haven't located
10 here was because they're looking for a certain size of
11 population. And I translate that into a certain market
12 size.

13 Is there -- is there any -- are there any
14 basic principles associated with -- that -- that you can
15 extrapolate which identify that you'd have to have a
16 certain market size in order to make an offering, even if
17 it's only one (1) payday loan operator in a particular
18 community?

19 MR. CHRIS ROBINSON: Okay, I -- I don't
20 think you're disadvantaged by not having Ikea here, but -
21 - given my personal experience.

22 However, we observe only -- I've been
23 across the entire -- you know, all of Canada looking at
24 the locations of the payday lenders in general, and they
25 are heavy concentrations in the large cities and in

1 fairly good sized cities, so that the experience in
2 Manitoba is common.

3 In fact, you know, most rural areas of
4 Manitoba are not served directly by payday lenders, and
5 it is a volume consideration.

6 That is, that using the sort of cost
7 information that I have, you will recall that I said that
8 anything under a loan volume of -- well, seven hundred
9 and fifty thousand (750,000) for sure, probably under 1
10 million loan volume -- which is still not a lot of
11 business really, I mean, it's a very small operation then
12 -- is quite possibly not viable.

13 Now, of course, this can depend on -- on
14 rents and -- and local conditions. But, you know, in
15 other words the -- just charging -- merely charging very
16 high rates, you've got to have enough business to operate
17 in the first place.

18 And so, the imposition of a rate cap is
19 not as significant as looking at whether or not there is
20 the probability of enough volume.

21 Furthermore, volume in Manitoba is going
22 to have another characteristic, and this is one which was
23 brought forcibly by -- to my attention over the Christmas
24 holidays by a payday lender. And that is that you have
25 to have the right employment characteristics, and

1 Manitoba doesn't have them -- rural Manitoba doesn't
2 have them.

3 Because, in fact, you would not -- you do
4 not give -- or many lenders do not lend to those who are
5 on any form of social assistance, pension or anything
6 else, but only to those who are working. Mr. Slee
7 explained very clearly why that -- why he would not do
8 so. And you don't lend to people who are self-employed
9 or have very irregular incomes; they can't produce that
10 regular pay stub.

11 Well, of course, that's describing the
12 farm population and the farm service industries because
13 they're small.

14 The particular -- I will not identify the
15 particular spot that I was in, but it was, in fact, a
16 community where it would probably be nuts to run a payday
17 lender and he found out the hard way -- he was doing
18 other business as well -- simply because too -- there
19 were no factories, no steady jobs, seasonal work, that
20 kind of thing.

21 So, consequently, it -- it's both a case
22 of the population size and the market. And the reality
23 is that it is larger centres that attract the stable
24 employment that makes payday lending a -- an operation
25 that you can do.

1 MS. ANITA SOUTHALL: Thank you. I -- I
2 misled everyone in the room in indicating that that was
3 my last question.

4 This is my last question, which is: Have
5 you identified or located any studies in any of the
6 literature search which speak to the issue of informing
7 consumers via credit counselling or other forms of
8 financial training, and the impact of -- of that kind of
9 financial capability on their future behaviour.

10 In other words, and just from a general
11 recommendations point of view, is there any empirical
12 research? Dr. Robinson, given that you've got personal
13 financial planning expertise, you might be best equipped
14 to respond to that.

15 But -- or I'm not sure if anyone else on
16 the panel has -- has come across any empirical research
17 on that, but is there any indication that if someone goes
18 to -- like, any indication, not anecdotally, but any
19 studies that indicate if someone is to receive a degree
20 of credit counselling at some point in their financial
21 journey, do -- do they tend to be better off from a
22 financial management point of view after that is
23 complete?

24 Or if they receive financial training
25 through curricula or some other either secondary or post-

1 secondary education?

2 Are there any studies that indicate that
3 that makes any difference in terms of their spending
4 patterns or their behaviour?

5 DR. CHRIS ROBINSON: The studies that
6 I've seen in the personal finance literature, we're just
7 starting to learn about this, or at least what I've seen,
8 so that it's a case of more often identifying that most
9 people haven't a clue what they're doing which is what
10 all of my colleagues at York University keep telling me,
11 including the other finance professors.

12 So Dr. Buckland is interested in that
13 broader issue of financial capability, by which we don't
14 just mean that we don't -- he's not meaning how much
15 money you have, but how -- your capability of taking on
16 the -- of using the financial system as it's intended to
17 be used for your benefit. So I would think that it would
18 -- he would be the person we'd want to ask.

19 For the rest of us, I mean in my work and
20 so on, I take it more as an article of faith than of one
21 that we are able to prove easily; that better education
22 will lead to more informed financial decision making.
23 But empirical evidence in either Canada or the United
24 States -- not of the kind you're looking for. I've not
25 seen it. Dr. Buckland may know.

1 MR. BYRON WILLIAMS: And, again,
2 realizing my job is to keep the responses narrow, Ms.
3 Southall, on that narrow point we'll see if Dr. Buckland
4 is currently aware of any -- any empirical information
5 going to your point.

6 MS. ANITA SOUTHALL: Thank you. Those
7 are my questions for everyone except when we get back to
8 the completion of Dr. Robinson's cross-examination. And
9 again, I will follow the cross-examination of Mr. Foran
10 and Mr. Hacault.

11 Mr. Chairman, we would turn to that.

12 THE CHAIRPERSON: Thank you, Ms.
13 Southall. I think that we will probably close off today
14 with Mr. Foran beginning with Dr. Robinson. We might as
15 well get a start on it, but we will take a five (5)
16 minute break to get a little bit of water before we get
17 into that. But I have one (1) question for Dr. Simpson
18 just for clarification, just a really simple question, I
19 imagine.

20 When you economists are talking about
21 "perfectly competitive markets," does the definition of
22 "the market" when you're talking about a particular
23 industry -- payday lending -- start and end with the
24 payday lenders?

25 Or does the market also include other

1 forms of lenders?

2 DR. WAYNE SIMPSON: Well, that's --
3 that's a good question because "the market," unless we're
4 talking about the aggregate market for goods in an
5 economy, is typically a whole series of markets that are
6 interrelated, some more so than others. And, of course,
7 the payday lending market would have some interaction
8 with other markets, for example with the mainstream
9 financial markets.

10 So, decisions made in one market would --
11 would impact on the other, yes.

12 THE CHAIRPERSON: Because presumably the
13 other segments of the consumer lending market are
14 available to the payday borrowers. I think we heard some
15 testimony that something between ninety-seven (97) and 99
16 percent of adults in Canada have banking or credit union
17 accounts.

18 Is that not true?

19 DR. CHRIS ROBINSON: Ninety-nine (99).

20 DR. WAYNE SIMPSON: Ninety-nine (99)
21 percent, I think, was the number, yes.

22 THE CHAIRPERSON: We heard of the
23 restrictions preventing them from getting credits from
24 other lenders. So the market doesn't just stop with one
25 (1) group of lenders.

1 There are interrelationships between
2 lenders or market segments, if you like?

3 DR. WAYNE SIMPSON: That's correct, yes.

4 THE CHAIRPERSON: Okay. Thanks. On that
5 note, we will take five (5) minutes and then we will come
6 back with Mr. Foran.

7

8 --- Upon recessing at 4:21 p.m.

9 --- Upon resuming at 4:38 p.m.

10

11 MR. BYRON WILLIAMS: Mr. Chairman, one of
12 Ms. Southall's question, going to Coalition Exhibit
13 Number 15, slide 11, there was a calculation that she was
14 having difficulty reconciling. And I think Dr. Simpson
15 can hopefully help her out with that rather than having
16 to go back to Dr. Buckland on Friday.

17 THE CHAIRPERSON: Dr. Simpson...?

18 DR. WAYNE SIMPSON: Yes. If you take the
19 bank branch -- I'm sorry, do -- do you have it? If you
20 take the bank branch closure number, say in the first
21 case Point Douglas South, you take one (1) and you
22 multiply it times a hundred thousand (100,000) and you
23 divide through by the population, which is eleven
24 thousand three hundred and fifty (11,350). Mr. Robinson
25 has assured me -- Dr. Robinson has assured me that that

1 comes out to eight point eight (8.8), and similarly for
2 the rest.

3 So that will give you the number. So that
4 just standardizes in the last column each of the numbers
5 in the previous column to a population of a hundred
6 thousand (100,000).

7 MS. ANITA SOUTHALL: Thank you very much.
8 I -- that's fine, thank you, Dr. Simpson, I appreciate
9 that clarification.

10 THE CHAIRPERSON: Okay. Dr. Robinson
11 looks like he is well settled in, Mr. Foran, so I think
12 you can begin.

13

14 CONTINUED CROSS-EXAMINATION BY MR. ALLAN FORAN:

15 MR. ALLAN FORAN: Thank you, Mr.
16 Chairman, members of the Board, good afternoon.

17 I actually am just going to be focussing
18 my questions on Dr. Robinson, so I -- I leave it up to My
19 Learned Friend, but I don't think we need the balance of
20 the panel up there.

21 DR. CHRIS ROBINSON: They have to be here
22 to restrain me and whatnot. Haven't you noticed?

23 MS. ANITA SOUTHALL: Dr. Robinson, I plan
24 to do that, so Mr. Foran, you can proceed.

25

1 CONTINUED BY MR. ALLAN FORAN:

2 MR. ALLAN FORAN: I would like to start
3 with your curriculum vitae, which is located at
4 PUB/COALITION-B-1, Dr. Robinson. And my understanding is
5 that you began your academic career in 1983 with an
6 appointment to the Schulich School of Business at York
7 University.

8 Is that correct?

9 DR. CHRIS ROBINSON: Yes.

10 MR. ALLAN FORAN: And, as I understand
11 it, Schulich is York's business school, sir?

12 DR. CHRIS ROBINSON: You don't really
13 want the answer to that because it's an extremely
14 contentious political question at the moment, since the
15 school I now work for is a business school that is twice
16 the size of Schulich. And you don't want to get into the
17 politics, and both business schools have existed all
18 along.

19 MR. ALLAN FORAN: Okay. The Schulich
20 School offers an MBA and a PhD program in business?

21 DR. CHRIS ROBINSON: A BBA, MBA, PhD,
22 Master of Public Administration, LOB MBA Joint, probably
23 a few other degrees that I can't -- oh, yes, diplomas in
24 financial engineering, sort of goes on and on.

25 MR. ALLAN FORAN: And I understand that

1 you taught in the MBA program at Schulich?

2 DR. CHRIS ROBINSON: I taught almost
3 entirely MBA and PhD programs while I was there.

4 MR. ALLAN FORAN: So you taught PhD
5 courses?

6 DR. CHRIS ROBINSON: Yes.

7 MR. ALLAN FORAN: And what did you teach
8 PhD course in, sir?

9 DR. CHRIS ROBINSON: Seminar in -- in
10 Financial Economics.

11 MR. ALLAN FORAN: And a "Seminar in
12 Financial Economics," can you tell me what that means?
13 Is that, like, an accredited course where you get class
14 credits?

15 DR. CHRIS ROBINSON: No, no, it would --
16 it's part of the academic process of teaching people
17 things that are completely unintelligible to anybody
18 ordinary. So it's economic theory applied in finance.
19 It's -- it's not something I can describe to you.

20 Think of it as a highly theoretical series
21 of courses where we are discussing the frontiers of
22 research and where most of it would not be something that
23 you would try to describe to somebody ordinarily.

24 MR. ALLAN FORAN: I will try and make
25 this very basic. If I wanted to take a course from you,

1 and I wanted to take one of those PhD courses, would I
2 look down a list and see what Dr. Robinson was teaching
3 in the MBA program at -- or, I'm sorry, the PhD program
4 at Schulich?

5 DR. CHRIS ROBINSON: Not in recent years.
6 I haven't been teaching in those courses in recent years.
7 I've been teaching in the Master of Environmental
8 Studies, the MBA. But, of course, remember for the past
9 three and a half (3 1/2) years I've been teaching in --
10 at Atkinson.

11 MR. ALLAN FORAN: Okay. Well, maybe just
12 to finish that question off, so if I had looked at a
13 course material brochure, I would have found you teaching
14 PhD courses. I could have paid my money, signed up and
15 attended your -- your classes? And that would have been
16 at Schulich.

17 DR. CHRIS ROBINSON: Yes, I'm -- I'm not
18 sure where you're -- you're going with this. I mean, it
19 would be very unlikely you -- likely you'd want to. I
20 mean we're talking two (2), three (3), four (4) students
21 at most in a class.

22 MR. ALLAN FORAN: Now from 2004 to the
23 present I understand you held an appointment in the
24 Atkinson Faculty of Liberal and Professional Studies,
25 which is also at York University?

1 DR. CHRIS ROBINSON: Yes.

2 MR. ALLAN FORAN: Can you explain the
3 difference between teaching business at Schulich and
4 teaching business at Atkinson?

5 DR. CHRIS ROBINSON: From my point of
6 view, I was teaching undergraduate students at Atkinson.
7 I used the same textbooks. Schulich uses my textbook in
8 personal finance. When I was teaching Financial
9 Statement Analysis, I was using the same textbooks that I
10 used at Schulich for the masters students.

11 If I were teaching Introductory Finance,
12 if I had been teaching at Schulich -- and I taught that
13 many times -- I would have been using a textbook
14 coauthored in the MBA program by Gordon Roberts, in the
15 undergraduate program by Elizabeth Mains. And we are, in
16 fact, using Elizabeth Mains textbook.

17 So, for all practical purposes, the
18 courses -- I mean, we all bring our own changes. What
19 I'm current -- the sort of things I've been teaching the
20 most recent year are courses that are not offered
21 anywhere else in the country really at a advance and
22 professional financial planning levels. And so those,
23 you would not find anything like that at Schulich.
24 There's nobody there capable of teaching them, but --

25 MR. ALLAN FORAN: Would it be -- if I

1 suggested to you that Atkinson is primarily a continuing
2 education university, would that be a fair assessment?

3 DR. CHRIS ROBINSON: No. Continuing
4 education, as it's meant in universities, is for people
5 who are not pursuing degree programs. Atkinson --
6 everybody has a continuing education. I mean, I've
7 taught continuing education -- for example, I've taught
8 in Saskatchewan as part of the continuing education at
9 Schulich.

10 But what Atkinson's traditional mandate --
11 and it's changed just since I -- it changed before I got
12 there. Atkinson faculty, Atkinson College originally was
13 founded under the Atkinson principles. Joe -- Joe
14 Atkinson was the founder of the Toronto Star, was well --
15 not the founder, but one of the early publishers -- of
16 making education more broadly available to the world.
17 And it's also been part of York's mandate.

18 So Atkinson College originally was for
19 students who took part-time education but were not coming
20 straight out of what, in those days, was grade 13 and is
21 now grade 12.

22 However, what happened at the time that I
23 went there -- the school has forty-six hundred (4,600)
24 students at the present time which makes it larger than
25 many Canadian universities -- what happened was that they

1 admitted huge numbers of full-time students straight out
2 of grade 12. So at this point, the population that I'm
3 teaching is indistinguishable, really, from undergraduate
4 programs all over the place.

5 The class that I attended last Monday,
6 every single student was a full-time student. None of
7 them were working, for example.

8 MR. ALLAN FORAN: Do you currently teach
9 MBA programs in business?

10 DR. CHRIS ROBINSON: No, I don't.

11 MR. ALLAN FORAN: And do you currently
12 teach PhD courses in business?

13 DR. CHRIS ROBINSON: No.

14 MR. ALLAN FORAN: In your evidence on
15 Friday, I believe it was, in response to one of the
16 questions of Mr. Slee, you referred to Schulich as "the
17 evil place where you used to work."

18 Could you -- could you, explain to me,
19 sir, why the Schulich School of Business is an evil
20 place?

21 DR. CHRIS ROBINSON: Well, shall we give
22 you one (1) example? The dean of that school has ordered
23 all the members of his faculty not to speak to any person
24 in my school. That is in complete violation of the
25 morals of any respectable university in the world. And

1 he's made that statement publicly. He's put it in
2 writing. And in fact people who have worked with me for
3 twenty (20) years say they are not allowed to speak to
4 me. Others, of course, say, you know, Forget that. I'm
5 going to continue to work and, of course, you can see --
6 well, you can't see -- but of course I continue to
7 coauthor with people from that school.

8 But I don't go over there. I'm not
9 considered to be welcome -- I and every other member --
10 every other member of the eighty (80) or so people that I
11 have as colleagues.

12 MR. ALLAN FORAN: And any other examples
13 of -- of what makes the Schulich School of Business an
14 evil place?

15 DR. CHRIS ROBINSON: I think that's a
16 sufficient example. You're not in university; perhaps
17 you're not accustomed to the issues of academic freedom
18 and interchange of -- free interchange of ideas.

19 MR. ALLAN FORAN: Now --

20 DR. CHRIS ROBINSON: Perhaps -- perhaps
21 the fact that the dean is also -- has a habit of
22 screaming imprecations at people who disagree with him.
23 He doesn't do that to me, but he does that, especially to
24 women, is another reason why you might not consider it a
25 good place to work.

1 MR. ALLAN FORAN: Just -- following up on
2 that. Does the Dean of the Schulich School of Business
3 have any disagreements with you?

4 DR. CHRIS ROBINSON: Well, when I told
5 him I was leaving, he said something. His English is not
6 all that strong, so I couldn't actually understand what
7 he said, but it took less than a minute. Okay.

8 The previous time was when I got tenure,
9 and he asked me to resign because he didn't like me.

10 MR. ALLAN FORAN: Now, I see from your CV
11 that your title is Associate Professor.

12 DR. CHRIS ROBINSON: Yes.

13 MR. ALLAN FORAN: And I understand that
14 the usual career path in universities is to be promoted
15 through the ranks?

16 DR. CHRIS ROBINSON: Yes.

17 MR. ALLAN FORAN: And my understanding is
18 that it is usual to move from associate professor to
19 professor within five (5) to six (6) years.

20 Is that about right?

21 DR. CHRIS ROBINSON: No.

22 MR. ALLAN FORAN: Okay, can you tell me
23 what the time frame then would be to move from associate
24 professor to --

25 DR. CHRIS ROBINSON: It's not like law

1 firms where it's virtually automatic. First of all, you
2 have to apply. There's no money -- I mean, there's no
3 money in it. It will make no difference to my earnings,
4 so I've never really bothered.

5 I've been asked to apply for full
6 professor and, in fact, I am in the process of doing it,
7 and I expect will achieve full professor. But it's
8 really irrelevant. It's -- takes time as opposed to
9 having fun doing research.

10 As I said, there's no -- this is not like
11 the United States where you are -- if you do not become a
12 full professor, you starve. My salary is already far
13 above the floor for -- or the floor for a full professor,
14 so...

15 MR. ALLAN FORAN: So just looking again
16 at your CV, by my calculation you've been an associate
17 professor since 1989, which is approximately eighteen
18 (18) years, sir?

19 DR. CHRIS ROBINSON: Yeah.

20 MR. ALLAN FORAN: And, again, I just -- I
21 want to be fair to you for the record purposes. The --
22 the reason why you have not advanced to a full professor
23 position is because you haven't applied.

24 Is that your evidence?

25 DR. CHRIS ROBINSON: Yes. My director,

1 who is in fact Chair of the Tenure and Promotions
2 Committee, has been asking me for three (3) years to
3 apply, but I just haven't gotten around to it.

4 As I said, it's -- there is also another
5 thing at York. It's not -- how do I explain it? In some
6 places it's considered normal; in some places it's
7 considered that you're a total failure. It's sort of not
8 something -- I mean, if I wanted -- if I were to achieve
9 prestige at York, it wouldn't be by becoming a full
10 professor. It would be by becoming one (1) of the twelve
11 (12) "university professors," in quotes.

12 These are people like Gareth Morgan, whom
13 I've referred to previously in these Hearings, who is --
14 you know, is -- has an eminence that I could not hope to
15 -- to duplicate.

16 Other than that, there's really very
17 little distinction, so that my -- my salary, I mean, you
18 know, if you think of money, my salary is higher than
19 most full professors in the university; whether I earn
20 it, is another matter.

21 But it's -- I don't care.

22 MR. ALLAN FORAN: Yeah, you've ascribed
23 something to the question. I actually wasn't interested
24 in the money. I was interested in -- in the position and
25 your explanation why you -- you haven't moved from your

1 current position to a full professor and you've explained
2 that. Thank you.

3 Now, coming back to your CV, going through
4 it there was an extensive number of publications. I've
5 identified five (5) items that relate to payday lending
6 and I'd like to take you through those five (5) items.

7 DR. CHRIS ROBINSON: Okay. I'd just like
8 to make one distinction. This is an academic type of
9 distinction. I'm not published -- I've really not
10 formally published anything in payday lending. I've
11 written a number of papers.

12 In the academic field we regard
13 publication as actually appearing in a journal. Now, of
14 course, with electronic media, it's becoming extremely
15 messy to determine. So, for example, my ACORN report is,
16 you know, more -- much more widely disseminated than if
17 it were in a journal. But no, I have not yet published
18 anything in payday lending. I've simply done a lot of
19 work.

20 MR. ALLAN FORAN: Okay, I appreciate you
21 correcting me. And -- and you're right, I'm not part of
22 your academic world. I'm -- I'm a lawyer; I'm just going
23 to ask you a whole bunch of questions and we'll see where
24 it goes.

25 So the first thing is that you've

1 corrected me and that is that you -- you haven't
2 published anything on payday lending in fact?

3 DR. CHRIS ROBINSON: No.

4 MR. ALLAN FORAN: But you have noted in
5 your CV five (5) items that relate to payday lending,
6 that I've identified --

7 DR. CHRIS ROBINSON: If I disagree the
8 item about payday lending, we can talk about that later.

9 MR. ALLAN FORAN: Well, I'm going to be
10 asking --

11 DR. CHRIS ROBINSON: I can't remember the
12 count right now.

13 MR. ALLAN FORAN: Okay. Your answer is
14 complete? Okay.

15 I'll take you through, and I'm just going
16 to identify for you what I have found and you can tell me
17 later, subject to check, whether I've missed anything.
18 And then I'm just going to ask you some questions, Dr.
19 Robinson, with respect to these items.

20 So the first item that I see is a February
21 2004 item, which is a research scoping report on payday
22 loans for Industry Canada, through the Individual Finance
23 and Insurance Decision Centre of the Fields Institute.

24 DR. CHRIS ROBINSON: Yes --

25 MR. ALLAN FORAN: Okay.

1 DR. CHRIS ROBINSON: -- that was the
2 start of this.

3 MR. ALLAN FORAN: May 2005 is the second
4 one, and it was a research report on cost, profitability
5 and regulation of payday loans for Industry Canada?

6 DR. CHRIS ROBINSON: Yes.

7 MR. ALLAN FORAN: The third item on your
8 CV relating to payday loans is August of 2005, and it's a
9 notation that -- that says:

10 "The following regulating payday loans
11 and the underbelly of Canadian
12 society."

13 And it was, as I understand it, some sort
14 of a presentation or something that you did at the
15 Alternative Perspectives on Finance Conference in
16 Kilkenny, Ireland?

17 DR. CHRIS ROBINSON: Yes. For the
18 assistance of the Board, I'm pretty sure that all -- that
19 it was part -- it would have been part way through the
20 ACORN report at that point, as I recall. In other words,
21 it would look -- what I was presenting would look very
22 much like the material that you have seen from ACORN with
23 posing the ethical issue.

24 And the ethical issue, of course, was if
25 you cut off -- if -- if -- I mean the ethical issue we've

1 -- well, no, actually, I'm sorry. It was a -- it was an
2 Irishman that put the conference together.

3 MR. ALLAN FORAN: Okay. We'll come to
4 that. So the fourth item on your CV was a May 24th,
5 2006 reference to the regulation of payday lending, a
6 report to ACORN?

7 DR. CHRIS ROBINSON: Yes.

8 MR. ALLAN FORAN: And who is "ACORN"?

9 DR. CHRIS ROBINSON: The Association of
10 Community Organizations for Reform Now.

11 MR. ALLAN FORAN: And you understand that
12 to be a community-based group that takes positions on
13 community issues?

14 DR. CHRIS ROBINSON: Yes.

15 MR. ALLAN FORAN: The fifth item that I
16 noted from your CV was from August of 2006, and it is
17 entitled "Payday Loans, An Ethical and Socially
18 Responsible Industry, with M. S. Schwartz, (phonetic)
19 Alternative Perspectives on Finance Conference, Zakopane,
20 Poland."

21 DR. CHRIS ROBINSON: Yes. That was --
22 well, it will have been an earlier version of the paper
23 which Mr. Dawson was discussing with me, but it will have
24 had the characteristics -- I can't tell you what position
25 it was. You understand that we re-write papers

1 constantly until we submit them for publication, and then
2 keep rewriting them.

3 So it will have had those frameworks that
4 were discussed, and it will have had examples from the
5 industry showing these frameworks, but it will not have
6 been -- had -- I don't know which pieces would have been
7 -- would have been different at that point.

8 MR. ALLAN FORAN: Now, the third document
9 I referred to was a conference in Kilkenny, Ireland.
10 This document, the fifth one, is a conference in
11 Zakopane, Poland. That was sponsored by the same
12 organization?

13 DR. CHRIS ROBINSON: Yes.

14 MR. ALLAN FORAN: Again, Poland, another
15 good place for economists to sit around and have
16 discussions and perhaps --

17 DR. CHRIS ROBINSON: Well, we're not
18 economists. We're finance accountants. The guy running
19 it in fact was a physicist who -- who does nothing but
20 behavioural finance research. We are a group of a very
21 different sort of people. By the way, "sponsored" is the
22 wrong word. I have to pay to go to these things.

23 MR. ALLAN FORAN: Okay. And the one in
24 Ireland was in Ireland because somebody Irish organized
25 it. Was the one in Poland in Poland because somebody

1 Polish organized it?

2 DR. CHRIS ROBINSON: Yes.

3 MR. ALLAN FORAN: Okay.

4 DR. CHRIS ROBINSON: Yes. It's wherever
5 you can find somebody who will run it.

6 MR. ALLAN FORAN: All right.

7 DR. CHRIS ROBINSON: I mean, I've run one
8 in Quebec City.

9 MR. ALLAN FORAN: Okay. So now I'm going
10 to -- having identified those five (5) items and -- and
11 if you find anymore from your resume, let me know. We
12 looked pretty darn closely.

13 DR. CHRIS ROBINSON: You're correct. I
14 guess the sixth item by implication is the various things
15 that I have subsequently written specifically for the
16 Board.

17 MR. ALLAN FORAN: And we'll get to that
18 and, in fact, I wouldn't classify that as six (6),
19 because I think what we'll do is we'll identify them as
20 six (6), seven (7), eight (8), nine (9), perhaps even ten
21 (10). But I'll -- I'll come to that.

22 So let's start with Number 1. The 2004
23 research scoping report on payday loans, were you paid to
24 do that study?

25 DR. CHRIS ROBINSON: Yes.

1 MR. ALLAN FORAN: And in CPLA/COALITION-
2 2-8 we asked for the terms of the study and the
3 documentation which restricts the release of the report.

4 DR. CHRIS ROBINSON: The restriction was
5 simply oral. Michael Jenkins, who was the direct -- at
6 the time was the director -- so I never actually worked
7 with him. I mean I spoke with him -- Jenkins -- Jenkins
8 -- who was a director of some sort in Industry Canada
9 and, therefore, was the person who was senior to -- to
10 the -- to the people I was working with directly, who are
11 also, at that point, no longer there, told me that I
12 could not release any of this to anybody under any
13 circumstances.

14 I will again, for the Board's edification
15 and just to save you some trouble -- essentially, what
16 they did was pay me to learn more about the industry and
17 figure out what we might do or what might get done. So
18 that there's nothing in that report that would be
19 terribly -- you know, that would be really terrifically
20 relevant.

21 MR. ALLAN FORAN: Okay, and when we talk
22 about "they" -- "they" in fact is --

23 DR. CHRIS ROBINSON: Industry -- Industry
24 Canada.

25 MR. ALLAN FORAN: -- Industry Canada, the

1 -- the Government of Canada.

2 DR. CHRIS ROBINSON: Yes, the Government
3 of Canada through Industry Canada.

4 MR. ALLAN FORAN: Okay, and so we're not
5 in the position to -- to see the terms of the report or
6 the content of what you did. You're under some
7 restriction. You can't give that to us.

8 DR. CHRIS ROBINSON: The terms of
9 reference -- terms of reference would of been saying,
10 Here, this is what we'll pay you to -- to learn more
11 about payday loans. I mean it was as simple as that.
12 There was no -- they wanted me to go fishing. They did
13 not have a view. The Consumer Measures Committee wanted
14 more work done on this. The federal government was going
15 to do it.

16 They were convening the committee, and so
17 I went ahead and started learning. And then they decided
18 -- would then decide what more they wanted to do.

19 MR. ALLAN FORAN: All right. Now my
20 understanding, from your resume, is that this was done
21 through the Fields Institute. Correct? I'm looking at
22 your resume.

23 DR. CHRIS ROBINSON: Yeah, no, I'm trying
24 to remember whether I was actually paid through the --
25 probably that one, I was paid through the Fields

1 Institute. Now the Fields Institute of Mathematics has
2 nothing to do with payday loans ordinarily.

3 It's just a peculiarity that the Institute
4 -- and Individual Finance and Insurance Decisions
5 Organization inside the Fields is a group of finance
6 people who do very mathematical research in personal
7 finance. And I'm part of that group, but my skills are
8 more towards this direction.

9 So I work math -- you know, mathematical
10 people through that. So it was an accident. They went
11 there and asked them to do it and they said, We have no
12 idea how to do it, but Chris Robinson might.

13 MR. ALLAN FORAN: All right, so let me
14 just come back to this. My understanding is the Fields
15 Institute, in fact, is a world-renowned research centre
16 for mathematics at the University of Toronto, correct?

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: And I understand from
19 your response that Industry Canada, in fact, approached
20 Dr. Malefski at the Fields Institute to conduct research
21 on payday lending. Correct?

22 DR. CHRIS ROBINSON: Yes.

23 MR. ALLAN FORAN: And Dr. Malefski had no
24 interest in it, correct?

25 DR. CHRIS ROBINSON: Yes.

1 MR. ALLAN FORAN: And Dr. Malefski
2 referred this matter back to you, correct?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: And after that time,
5 the Fields Institute had no further involvement, correct?

6 DR. CHRIS ROBINSON: I used their
7 offices. I used some assistance from them on that first
8 study. But, no, this primarily my work. I, you know, I
9 -- there's no significant contribution from Fields
10 Institute.

11 MR. ALLAN FORAN: Okay, so when we read
12 this, really, this is a project between yourself and
13 Industry Canada, and it doesn't directly relate to the
14 Fields Institute other than it was a -- a resource?

15 DR. CHRIS ROBINSON: Yes, that, yes,
16 that's correct.

17 MR. ALLAN FORAN: Okay. Now, the second
18 item that I referred you to was a 2005 report for
19 Industry Canada. And I -- I -- my understanding is it's
20 on cost and regulation of the payday loans.

21 Were you paid for that study?

22 DR. CHRIS ROBINSON: Yes, I was.

23 MR. ALLAN FORAN: And in CPLA/COALITION-
24 2-9 we asked you for the terms of that study, and you
25 wouldn't provide it to us, correct?

1 DR. CHRIS ROBINSON: The same
2 restrictions for Michael Jenkins. They didn't want any
3 of this discussed in any way. And they were even more
4 emphatic about this and -- well, I mean, I can -- I can
5 wonder why. I don't really understand why.

6 For the benefit of the Board, however,
7 what I think is quite reasonable for me to say is that I
8 did a lot of descriptive work which has now popped up now
9 in other things or have been updated in other things
10 we've done.

11 And I did the same -- just started
12 developing the same methods as you see in the ACORN
13 report and as you see in all the work that I've done
14 directly for the Board. So that the difference between
15 that report and now is that I have more data, I've
16 learned more, and so were that report now made public, I
17 would simply say, It is superceded completely by the work
18 that I've done since.

19 MR. ALLAN FORAN: Okay. Now one of the
20 things we asked you for was the written documentation
21 that restricted the release of the report.

22 Do you recall that?

23 DR. CHRIS ROBINSON: It was all oral.
24 Yeah, he just said, Don't do it.

25 MR. ALLAN FORAN: Now, did you --

1 DR. CHRIS ROBINSON: So I didn't get
2 anything in writing. I mean, I -- at the time, you see,
3 I didn't of course contemplate ever working for the
4 Manitoba Public Utilities Board. I did not contemplate
5 the federal government taking the action it did so that I
6 had no reason to do anything more about it.

7 MR. ALLAN FORAN: Let me come back to
8 this. But -- but a couple quick things just before I
9 forget. You haven't been retained by the Public Utility
10 Board to do anything, have you?

11 DR. CHRIS ROBINSON: Well that's an
12 interesting question. I'm not sure. I mean, I believe
13 that I am supposed to assist the Public Utilities Board.
14 I have an oral retainer from Mr. Williams asking me to
15 assist the Board. That's it.

16 I had nothing in writing and I have no
17 instructions as to what I am supposed to do for the Board
18 other than to advise him with respect to the legislation
19 and their mandate.

20 MR. ALLAN FORAN: We'll come back to
21 this. And it -- it seems obvious, but the Board hasn't
22 sent you a letter of retainer, correct?

23 DR. CHRIS ROBINSON: Oh, no.

24 MR. ALLAN FORAN: They haven't -- they're
25 not paying your fees?

1 DR. CHRIS ROBINSON: Well I hope
2 somebody's going to pay me sometime. But I'm not -- I'm
3 assure -- I'm told that I'm not assured of that.

4 MR. ALLAN FORAN: Ms. Southall, the Board
5 counsel, is not giving you instructions or asking your
6 opinions on anything?

7 DR. CHRIS ROBINSON: No.

8 MR. ALLAN FORAN: You haven't
9 communicated with members of the Board panel in relation
10 to any areas that you felt should be turned over or added
11 to or edited your -- your evidence with the assistance of
12 the Board panel? You haven't done any of that, have you?

13 DR. CHRIS ROBINSON: No. The only direct
14 communication with anybody -- and you would have been on
15 those lists -- were, as we've already stated, when I had
16 to send out spreadsheets and couldn't send them through
17 the Public Interest Law Centre simply because of the
18 technological problem so that on occasion I have given --
19 I'm sorry, I can't remember the lady's name. There's
20 somebody in the back room there, Christina, that I have
21 in fact --

22 MS. ANITA SOUTHALL: Ms. Schwanke.

23 DR. CHRIS ROBINSON: -- yes, Ms.
24 Schwanke, that I have in fact sent materials through her,
25 and I have on occasion sent materials directly. But

1 typically that has been to all the Intervenors, the
2 panel, Mr. Williams. Anybody else? I guess not to the
3 Board. They're not on that list. But --

4

5 CONTINUED BY MR. ALLAN FORAN:

6 MR. ALLAN FORAN: Okay. Just for our
7 purposes can I take it that the Board has not retained
8 you, you're not working for the Board, you're here as an
9 independent expert?

10 Can we take it on that basis?

11 DR. CHRIS ROBINSON: Oh. Yes. I'm --
12 that is my understanding, that I am to be here as an
13 independent witness to give --

14 MR. ALLAN FORAN: Okay.

15 DR. CHRIS ROBINSON: -- my best opinion.

16 MR. ALLAN FORAN: Excellent. Then --
17 then let me just -- I just wanted to clear that up
18 because we're going to come back to this a little bit
19 later. I've got some other questions on -- on that for
20 you.

21 But let's stick with your second document
22 on your CV, the Industry Canada report. Did you make a
23 recommendation on a fee structure to the Government of
24 Canada in that report?

25 DR. CHRIS ROBINSON: Yes, I did.

1 MR. ALLAN FORAN: And are you able to
2 tell us what the fee structure is today?

3 DR. CHRIS ROBINSON: My understanding is
4 that that would be something that they didn't want said.
5 As far as I can determine they did not even allow the
6 Senate to see that document because the Senate, Jerry
7 Grafstein, was asking questions in public forums that I
8 had already answered. And it was clear that he had not -
9 - know where there's a document in -- by two (2)
10 parliamentary assistants, which also makes it clear that
11 they had never seen my report.

12 But, yes, I did give recommendations and
13 they -- on fee caps and on other matters. And they -- I
14 will not tell you, because I don't believe they wish me
15 to, but the -- the method of the way that I was working -
16 - in other words, saying, you know, so much per hundred
17 or whatever -- is -- is identical.

18 So that if you were to read that report
19 you would say, well, this, you know, We now see where his
20 next report came from; this is where he started.

21 MR. ALLAN FORAN: Did the Government of
22 Canada implement your fee recommendations?

23 DR. CHRIS ROBINSON: No.

24 MR. ALLAN FORAN: And so to your
25 knowledge Industry Canada declined or refused to provide

1 the report to the Senate, correct?

2 DR. CHRIS ROBINSON: I am inferring that
3 from the statements made by other persons who you would
4 have expect to have seen it. Now of course a number of
5 provincial employ -- provincial officials have seen it,
6 including, possibly -- including, possibly, Manitoba.
7 But I didn't ever speak with people in Manitoba.

8 When I was doing the report I was
9 consulting with individuals. Oh, you actually have a
10 copy of it? Isn't that interesting?

11

12 (BRIEF PAUSE)

13

14 DR. CHRIS ROBINSON: Obviously, they only
15 objected to me disclosing it and not to you disclosing
16 it.

17 MR. ALLAN FORAN: Can you identify that
18 as the report that I've just referred to as the second
19 item on your CV, Dr. Robinson? Mr. Gaudreau, perhaps
20 what I will do is, I've got copies of reports we can
21 distribute.

22 MS. ANITA SOUTHALL: Mr. Foran, you --
23 you may want to identify for the Board the source of the
24 information, given that Mr. Robin -- or Dr. Robinson's
25 already identified that he was under some restrictions in

1 his retainer. I -- I think it's important for -- for you
2 to --

3 DR. CHRIS ROBINSON: Oh, no. I mean if -
4 - if -- I mean it's up to the Board whether they wish
5 this to be entered in evidence. It's no problem for me.
6 Of course it's been a while, so I would have to see the
7 different aspects. But I mean it does -- it exactly --
8 do what exactly I said.

9 I mean the recommendations for regulation
10 look like the sort of thing that -- that we're doing now.
11 The numbers are different.

12

13 CONTINUED BY MR. ALLAN FORAN:

14 MR. ALLAN FORAN: So let's --

15 DR. CHRIS ROBINSON: I should also point
16 out that the numbers at that point were lower so that if
17 you wish to recommend that these should be adopted
18 instead of my current recommendations before the Board, I
19 -- I don't think your client would be too happy.

20 MR. ALLAN FORAN: So -- so let me stop
21 you right there, because what's going to happen over the
22 course of the next number of hours is I'm going to have
23 an opportunity to ask you questions, and -- and let's
24 take it in bite sizes.

25 So the first bite is this. There's a

1 document that I've showed to you called "Regulation of
2 Payday Lending, a Report to Industry Canada." It's got
3 the name "Chris Robinson, PhD, CACFB."

4 Can you confirm that that's the report
5 that I've identified as reference Number 2 on your CV
6 that you prepared for Industry Canada? That's the first
7 question I've got.

8 DR. CHRIS ROBINSON: All right. You're
9 going to have to give me a minute, because of course what
10 I did was submit to them a series of reports while we
11 discussed details of what they might or might want. So
12 if you'll give me a minute, I'll take a look and see if
13 this is in fact the final report. Plus again,
14 technological problems of transmitting stuff, they did --

15 MR. ALLAN FORAN: Sure.

16 DR. CHRIS ROBINSON: -- the final format,
17 physical formatting, so that -- oh, wait a second.
18 There's no...

19 MR. ALLAN FORAN: So let me stop again,
20 because I -- I think what's going to have to happen here,
21 Dr. Robinson, first of all, is some things I'm going to
22 suggest to you and I'm going to ask you to take it as a
23 given. And some things if you don't agree with me,
24 you'll object. I'm sure you're not comfortable with me
25 yet, so why don't I suggest to you that this document was

1 received by CPLA from the Federal Government of Canada in
2 response to an Access of Information Request.

3 And if I suggested that to you, could you
4 perhaps just help me out here? There's -- there's
5 nothing in it for the Government of Canada to mislead
6 CPLA by issuing the wrong report, is there?

7 MR. BYRON WILLIAMS: Can I -- just on
8 this, and I think I'm -- I'm quite confident we can help
9 you, Mr. Foran, if -- just two (2) things come to mind:
10 One is if you'll give Dr. Robinson a couple of minutes to
11 review it, I'm sure we can help you with -- with that.

12 But secondly, just for my -- in terms of
13 where we are time-wise, Mr. Chairman, I have my own
14 commitments on another file that I -- I have to attend to
15 so I'm sure we can --

16 THE CHAIRPERSON: Apparently --

17 MR. BYRON WILLIAMS: -- answer Mr.
18 Foran's question before we go, and if there's a few more
19 questions, but I'm just on a bit of a tight time line,
20 that's all.

21 THE CHAIRPERSON: Okay. I understand
22 there are others in the same predicament. So if Dr.
23 Robinson is able to answer that one (1) question, then we
24 will adjourn until Friday.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Mr. Chairman,
4 perhaps we could start with that on Friday? He's got the
5 paper --

6 THE CHAIRPERSON: Okay.

7 MS. ANITA SOUTHALL: -- at hand. Maybe
8 he can show up and tell us whether or not it's the right
9 document.

10 DR. CHRIS ROBINSON: Sorry. Thank you.
11 As far as I can tell, this is the report. It -- it looks
12 like it's the conclusions that I -- that I arrived at at
13 the time. It's just there's one (1) or two (2) things --

14 THE CHAIRPERSON: Well, let's leave
15 this --

16 DR. CHRIS ROBINSON: -- that looked odd
17 in the ordering. But it's very unlikely that there's
18 anything wrong with this, that it's anything other than
19 that. However, you -- you may not have read the
20 newspapers recently about access to information.

21 THE CHAIRPERSON: Why don't we leave it
22 to subject to check if it is all right with you, Mr.
23 Foran, and we will take this up again on Friday morning?
24 Thanks to all.

25 DR. CHRIS ROBINSON: Thank you.

1 THE CHAIRPERSON: We stand adjourned.

2 MS. ANITA SOUTHALL: And we begin at 9:00
3 on Friday just as a reminder. We had a late start today,
4 but we go back to 9:00 a.m. Thank you.

5

6 (WITNESSES RETIRE)

7

8 --- Upon Adjourning at 5:03 p.m.

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12 Certified Correct,

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17 _____
Sean Coleman, Mr.

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