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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 18th, 2008  
Pages 4244 to 4442

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1 --- Upon commencing at 9:09 a.m.

2

3 COALITION PANEL:

4 WAYNE SIMPSON, Resumed

5 CHRIS ROBINSON, Resumed

6 JERRY BUCKLAND, Resumed

7

8 THE CHAIRPERSON: Okay, good morning,  
9 everyone. Ms. Southall, do we have some information to  
10 share?

11 MS. ANITA SOUTHALL: Yes, Mr. Chairman.  
12 The Board had secured some additional information based  
13 on some additional research.

14 We have, as a result of that, a new PUB  
15 exhibit which is a series of documents which have been  
16 put together in bindered form. Again, this is comparable  
17 to the original book of documents. It's supporting in  
18 background information.

19 And so we have -- pardon me, Mr. Gaudreau,  
20 if you will advise me as to what exhibit number. PUB-32  
21 for the record.

22

23 --- EXHIBIT NO. PUB-32: Additional documents based on  
24 additional research.

25

1                   And that will be distributed. Thank you,  
2 Mr. Chairman.

3                   THE CHAIRPERSON:     And we also have a new  
4 version of CPL-11?

5                   MS. ANITA SOUTHALL:    I'm not sure if we  
6 marked -- it is -- it is CPLA-11. I'm not sure if we  
7 left off with that actual number on the record. But Mr.  
8 Foran could address that perhaps.

9                   THE CHAIRPERSON:     Mr. Foran...?

10                  MR. ALLAN FORAN:     Yes, thank you very  
11 much, Mr. Chairman. So, at the tail end of the cross-  
12 examination on Tuesday, I put to Dr. Robinson a report he  
13 prepared for Industry Canada, and it was brought to our  
14 attention that tables on certain pages, after Dr.  
15 Robinson reviewed them in the evening, had -- had some  
16 numbers cut off.

17                  And that was -- that was something that  
18 happened in our office. I went back to the original  
19 document received by CPLA, and what we had attempted to  
20 do was to make the table a little more readable by  
21 expanding it.

22                  So what I've done, it's for the Board's  
23 purposes, I provided Mr. Gaudreau a brand new report --  
24 full report -- and the tables that were cut off, and  
25 thank you Dr. Robinson for your review, were on pages 14,

1 15, 18, 19, 39 and 40.

2 And subject to anything being noted by  
3 other counsel, the only thing that is amended then is the  
4 addition of those missing lines. We haven't changed  
5 anything, this is the document I understand CPLA  
6 received.

7 THE CHAIRPERSON: Ms. Southall, I am  
8 sorry, the PUB book of documents, is it number 31? Is  
9 that what you said?

10 MS. ANITA SOUTHALL: I will double-check  
11 that, Mr. Chairman. A PUB-32 is how Mr. Gaudreau has  
12 recorded it.

13 THE CHAIRPERSON: Okay. Thank you. So  
14 then the consultation paper with respect to BC is 31  
15 then?

16 MS. ANITA SOUTHALL: That's correct,  
17 thank you.

18 THE CHAIRPERSON: Okay.

19 DR. CHRIS ROBINSON: Mr. Chairman, with  
20 respect to one (1) other item, from Mr. Foran, for that  
21 report we also left it that I would review and determine  
22 whether, in fact, it was the right report and, yes, it  
23 is.

24 THE CHAIRPERSON: Thank you, sir. Mr.  
25 Williams...?



1                   MR. BYRON WILLIAMS:    Just to slow things  
2 down a little bit -- little bit more, Mr. Chairman, we  
3 did take a number of Undertakings over the last couple  
4 days.  Some we we'll provide this afternoon.  But I saw  
5 Mr. Slee here, so we had undertaken last Friday to  
6 provide -- Dr. Robinson had undertaken to provide more  
7 information about Missouri -- the State of Missouri -- so  
8 we've got that available for distribution, and once it's  
9 distributed I'll ask Dr. Robinson to just highlight the  
10 first couple pages.

11                   THE CHAIRPERSON:    Thank you.

12

13                                       (BRIEF PAUSE)

14

15                   MS. ANITA SOUTHALL:    And in case I  
16 confused things, it's not related to this undertaking  
17 issue of Mr. Williams but back to the CPLA document.  The  
18 original form of the Industry Canada report had not been  
19 exhibited, so the revised and corrected form of Industry  
20 Canada report as received originally by CPLA, for the  
21 record, is CPLA-11, just for everybody's information.  
22 Thank you.

23                   THE CHAIRPERSON:    I thought my writing is  
24 bad but I think this beats me.  Is this Coalition 36?  
25 The one from Missouri.  Thank you.

1 THE CHAIRPERSON: Thank you.

2 MS. ANITA SOUTHALL: So the Undertaking  
3 Response of Coalition on the analysis of payday lending  
4 regulation in Missouri is Coalition Exhibit 36.

5  
6 --- EXHIBIT NO. COALITION 36:

7 Undertaking Response of Coalition on the  
8 analysis of payday lending regulation in  
9 Missouri

10  
11 THE CHAIRPERSON: Very good. Mr.  
12 Williams, you want Dr. Robinson to say something?

13 MR. BYRON WILLIAMS: Yes, if he can just  
14 highlight a bit of information from that, that would be  
15 helpful.

16 DR. CHRIS ROBINSON: Thank you. Good  
17 morning. It's nice to be still here in Manitoba with the  
18 -- the wind howling.

19 The -- okay, we are grateful to Mr. Slee  
20 for having brought the Missouri situation to our  
21 attention. It was most interesting to investigate it.  
22 Mr. Slee is correct; Missouri, at least as far as I can  
23 determine without searching all of their statute,  
24 Missouri has no cap on payday loans.

25 There's a call for a rate cap of

1 36 percent APR. There's obviously some odd politics  
2 going on in Missouri that -- that I don't understand,  
3 because a member of the Government of Missouri is calling  
4 for this, but it isn't -- isn't actually going into  
5 legislation. So it appears that the ruling parties don't  
6 agree with each other. But I can't tell you any more  
7 than that.

8           Consumer lenders do need to register every  
9 year with the Missouri Division of Finance, and they then  
10 do the survey which Mr. Slee had found.

11           And so, the average APR is 422 percent,  
12 which is equivalent to a fee of -- well, I said 16.1 --  
13 16.19 percent of the principle. And they estimate it --  
14 and there's some widely varying estimates -- they  
15 estimated \$787 million in loans. And the State issued --  
16 and this is something that is incorrect in the -- then  
17 which Missouri is actually incorrect in its own  
18 representations -- the State issued fifteen hundred and  
19 forty-five (1,545) payday lending licenses in the most  
20 recent year recorded.

21           However, its estimate is that, at any  
22 given time, there were twelve hundred and sixty-two  
23 (1,262) actually active payday lenders.

24           So, they're reporting it as if there were  
25 fifteen hundred (1,500) odd; there were actually twelve

1 hundred and sixty-two (1,262) or something like that. So  
2 there is considerable exit and entry in Missouri,  
3 something which we do not see happening as rapidly in  
4 Canada.

5 THE CHAIRPERSON: A lender is the way  
6 what you just described it is an office or branch rather  
7 than a firm?

8 DR. CHRIS ROBINSON: Yes. I'm sorry,  
9 yes, it's a -- it's an office branch. And the number of  
10 licenses issued was increa -- increased three and forty  
11 (347) over the previous year.

12 So we've got, in fact, tremendous flow in  
13 and out of this business. Now, I didn't say this in the  
14 -- in -- in my undertaking here but we've heard previous  
15 evidence. The US is more fragmented and there are many,  
16 many more individual payday lenders relative to the large  
17 firms. And the same is true in Missouri.

18 So. at the end of 2006, Advance America,  
19 the biggest, had eighty-four (84) stores in Missouri  
20 which is a market share of 5.4 percent by store number.  
21 Okay?

22 So Dollar Financial, which claims to be  
23 the second largest payday lender, had no company owned  
24 stores. It may have had some franchise stores, but I  
25 cannot determine that. I

1                   In other words, the information simply  
2 isn't available without me having time to chase down and  
3 get them to tell me where their stores are -- where their  
4 franchisees are.

5                   The -- oh yes, Ace Cash Express, which is  
6 the third largest lender in the US, I think, has eleven  
7 (11) stores in Missouri. So what we have is a very  
8 unconcentrated market.

9                   Now, Advance America charges 19 percent of  
10 principle or 19 percent of value received on its loans in  
11 Missouri.

12                   Ace charges 17 percent and, interestingly,  
13 specifies specifically a fee of 5 percent on a rollover.  
14 Okay? So not a rollover at 17, but a specific rollover  
15 fee of 5 percent, with a maximum of three (3) rollovers  
16 allowed.

17                   And this -- we do see this in -- this in  
18 various places elsewhere in the US. I've not highlighted  
19 or -- or -- or thought about this very carefully  
20 previously.

21                   So this is additional evidence for the  
22 Board about how rollovers are handled elsewhere.  
23 Sometimes they're banned. If they're not banned, there's  
24 a limit to the number of times you can rollover.

25                   And sometimes there are specifications on

1 what the fees are. And -- and if they're specified,  
2 they're, of course, lower than the entire fee being  
3 rolled over.

4 I couldn't determine what the Dollar  
5 Financial fee was. Actually it occurs to me, I should  
6 say something more about that rollover, because that has  
7 been an issue in front of the Board.

8 The Manitoba legislation permits what we  
9 call rollovers except they're calling them replacement  
10 loans. And so the issue before the Board is regulating  
11 the fee.

12 The concerns expressed by the industry and  
13 the reason for the industry to -- the reason of the CPLA,  
14 Money Mart and Rentcash to state that -- to not have  
15 rollovers was because, as a rollover is commonly defined  
16 in Canada, it was where you pay the entire fee again.  
17 Okay?

18 So there's a difference between sort of a  
19 legal definition and what the practical definition of the  
20 industry has been. So when we talk about the evils of  
21 rollovers, as you may recall my example of the milkmaid.

22 And that was simply -- you know, the fee,  
23 every time, compounds so you get a huge increase.  
24 Anyway, now, in addition, the States surround Missouri  
25 have rate caps in place. Okay? They all have rate caps.

1                   So Mr. Slee's assertion shows that  
2 competition -- that competition will lead to lower rates  
3 is partially supported by the facts. But the nature of  
4 the competition is very different from Manitoba.

5                   There are about as many payday lenders in  
6 Missouri as there -- as there are in all of Canada or  
7 about twenty (20) times the number in Manitoba. Okay?  
8 So that there's huge per capita difference.

9                   So -- and this appears to be unique to --  
10 to Missouri. Other States that allow payday lending have  
11 per capita numbers of outlets that are closer to the US  
12 average. Okay? That is that they're, you know, they --  
13 they sort of look more like each other.

14                   Missouri seems to have this incredible  
15 concentration of payday lenders. I -- I mean, it may be  
16 because there is no rate cap, but there are other places  
17 that don't have rate caps which do not have that, so I  
18 can't tell you why that's happening.

19                   Now, the American average -- and it would  
20 be complicated to calculate it in detail to compare it to  
21 Canada, but it's about double per capita. So the  
22 Americans have got twenty-four thousand (24,000) payday  
23 loan lenders -- lending stores -- roughly, and Canada has  
24 thirteen hundred (1,300).

25                   However, some states and Quebec bar it, so

1 you'd have to make all kinds of adjustments. But it's  
2 about double the number.

3                   So for some reason it's a much more common  
4 occurrence in the US even though they have rate caps.  
5 Okay? I mean, remember, the States where it's allowed  
6 have rate caps mostly, and yet there are more payday  
7 lenders per capita there than there are in Canada where,  
8 until now, we've had no rate caps, effectively.

9                   Now, one (1) of the important issues is  
10 that -- that because all the states surrounding Missouri  
11 have payday loan caps in place, and it's a fairly densely  
12 populated state, and, therefore, anybody who's close to  
13 the border, is effectively competing with the lenders  
14 across the border so that -- and that's particularly the  
15 case in Kansas City, because it's a twin city that spans  
16 the border.

17                   In addition, as -- as I showed in Exhibit  
18 1, given the claims that, despite what we've said here --  
19 I mean I'm -- I'm on record as saying that, you know, the  
20 criminal rate of interest is completely unsustainable for  
21 a payday lender, a standalone payday lender -- the  
22 Missouri -- at least part of the Missouri Government is  
23 threatening and wants to regulate at a 36 percent APR,  
24 which is what happened in North Carolina and Oregon, at  
25 which point the industry ceased to exist.



1                   So, the threat of regulation is very real.  
2   And, as we know in -- in labour economics and in  
3   regulatory economics -- and in chess -- the threat is  
4   often as effective as the actual regulation for two (2)  
5   reasons.

6                   The existing lenders want to preempt  
7   regulation. They want to prevent it from occurring.  
8   Okay? So they will take whatever actions are necessary  
9   to prevent regulators from entering the -- sorry, from  
10   entering the market -- regulators from -- from putting on  
11   a rate cap.

12                   Second, no prudent businessman would enter  
13   that business if the threat of regulation were very real,  
14   and he or she expected to be unable to compete under that  
15   regulation. Okay?

16                   Now, nonetheless, we see lots of entry and  
17   exit in Missouri. I don't know whether the -- you know,  
18   whether they -- what their estimate of the probability of  
19   the threat is, but what it does mean is that the  
20   regulation -- the threat of regulation -- will, in fact,  
21   create the same effect as if rate caps were in place.

22                   Now, of course, it won't effect -- create  
23   the effect of a 36 percent per -- 36 percent APR, since  
24   that's not sustainable. So that the rates that we see in  
25   Missouri are, in fact, very similar to the rates -- you

1 know, are -- are showing the effect of competition, but  
2 they're also showing the effect of regulation, so that it  
3 is as if it was being regulated.

4           And there's no evidence in this  
5 competition of particular benefit to the consumer.  
6 Missouri is a relatively densely populated state. It's  
7 got this huge number of outlets which should drive prices  
8 down.

9           The 2005 report for the Centre for  
10 Responsible Lending titled "Financial Quicksand" shows  
11 that the average rate charged in Missouri is 18 percent,  
12 and they've been very careful about their rates. I'll be  
13 addressing that later information for the Board.

14           And that's higher than that charged in  
15 thirty-two (32) other states, equal to the rate in one  
16 (1) state and lower than the rate charged in seven (7)  
17 states. And two (2) of the seven (7) states with higher  
18 rates at that time were Oregon and North Carolina, both  
19 of which have adopted the radical stance that drives out  
20 the industry of 36 percent APR.

21           So -- and the two (2) big competitor's  
22 rates I did mention in Missouri were Advance America at  
23 19 percent, which is well above the average fee charged  
24 by Advance America across all states, and Ace Cash  
25 Express at 17 percent.

1                   So, I guess I should have summarized this  
2 in writing, too. What we can see from the competition is  
3 that competition will -- you know, the rates have not  
4 gone to 30 percent in Missouri. Maybe there's somebody  
5 charging that, but on average they're not. On average  
6 the rates are down, sort of, around the rates that --  
7 that I'm recommending. 16.2 percent is very close to  
8 what I've -- what I've recommended, so that the  
9 competition -- however, that competition has not provided  
10 any noticeable benefit.

11                   The largest lenders -- and of course in  
12 Manitoba where the largest lenders control the market --  
13 have relatively high rates; higher than they charge  
14 elsewhere, and the -- so there's no evidence that the  
15 competition is, in fact, benefiting the state. It could  
16 well be hurting it, but in any case, there's not a huge  
17 difference. The State is behaving as if it were  
18 regulated.

19                   MR. BYRON WILLIAMS: Dr. Robinson, just  
20 one (1) last point, then we'll move on to, I'm sure, Mr.  
21 Foran. It's just a clarification.

22                   When you were talking about -- on the  
23 second page of your -- your typed report, or your -- you  
24 -- the second paragraph, you refer to "Exhibit 1" and by  
25 that, I take it you meant "Appendix 1"?

1 DR. CHRIS ROBINSON: I'm sorry, I don't  
2 understand a question I got about that too. Yes, I'm  
3 sorry, I meant -- can't keep my own labelling straight,  
4 yes, Appendix 1 is Exhibit 1. Yes.

5 MR. BYRON WILLIAMS: So just -- just for  
6 the clarification of the Board, it should read on page 2,  
7 "Appendix," rather than "Exhibit," and what Dr. Robinson  
8 is referring to appears on page 3, which is Appendix 1,  
9 and it's a news release from the Attorney General of  
10 Missouri reiterating a call for reform in the payday  
11 lending industry in Missouri, just for the Board's  
12 clarification.

13 THE CHAIRPERSON: Okay. Thank you, Mr.  
14 Williams. Dr. Robinson, we will go back to Mr. Foran now  
15 and let him resume his cross-examination.

16 MR. ALLAN FORAN: Thank you.

17

18 CONTINUED CROSS-EXAMINATION BY MR. ALLAN FORAN:

19 MR. ALLAN FORAN: Dr. Robinson, the  
20 Industry Canada report -- when I provided you with a copy  
21 on Tuesday, you indicated that you thought Industry  
22 Canada changed the numbers, changed the tables, changed  
23 the information.

24 Now that you've had a chance to look at  
25 the report, is the report in fact your report?

1 DR. CHRIS ROBINSON: No, I didn't -- I  
2 didn't say they changed the numbers. I said that I had  
3 to find out, but it is the same report, as I already  
4 said.

5 MR. ALLAN FORAN: So they did not change  
6 your numbers?

7 DR. CHRIS ROBINSON: No, I never said  
8 that they did change the numbers. I said that they had  
9 been doing editing on the report primarily to put in a  
10 table of contents and things like that.

11 MR. ALLAN FORAN: Okay. So after your  
12 review of the report, can you tell me what specific areas  
13 were edited by the Government of Canada?

14 DR. CHRIS ROBINSON: Oh. The only thing  
15 that I could recall, specifically, would be literally the  
16 table of contents. There was a technological problem  
17 again with computing and doing stuff across the Internet,  
18 and so they undertook to take my written report and  
19 paginate it and everything else.

20 We were having problems actually -- I  
21 mean, it sounds ridiculous -- but we were having problems  
22 getting the pages to line up and put in a table of  
23 contents and it was easier for them to -- to do it  
24 themselves for me.

25 MR. ALLAN FORAN: I'd like to clarify the

1 comments you made on Tuesday about your appointment at  
2 the Schulich School of Business, Dr. Robinson. And I  
3 understood from your evidence on Tuesday that the Dean of  
4 the Schulich School of Business did not like you.

5 Is that correct?

6 DR. CHRIS ROBINSON: That would appear to  
7 be the case.

8 MR. ALLAN FORAN: And the Dean of the  
9 Schulich School of Business, I understand, is Dean  
10 Horvath, is he the dean at that "evil place," as you've  
11 called it?

12 DR. CHRIS ROBINSON: Yes.

13 MR. ALLAN FORAN: And my understanding is  
14 that Dean Horvath was appointed Dean of the Schulich  
15 School of Business in 1988, and he is still the dean; is  
16 that correct?

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: I also understand he's  
19 one of the longest serving deans in North America. He's  
20 been dean for twenty (20) years, and he's been reviewed  
21 and reappointed at least four (4) times to his position,  
22 correct?

23 DR. CHRIS ROBINSON: No.

24 MR. ALLAN FORAN: He is the -- one (1) of  
25 the longest serving deans in North America, you'll agree

1 with me?

2 DR. CHRIS ROBINSON: Yes.

3 MR. ALLAN FORAN: And he's --

4 DR. CHRIS ROBINSON: Well, you're making  
5 that statement. I don't know, not having surveyed the  
6 other deans in North America. I'm sure Peter Lustig of  
7 UBC served longer but...

8 MR. ALLAN FORAN: Okay. And so you won't  
9 quibble with me if I say then he's one (1) of the longest  
10 serving deans?

11 DR. CHRIS ROBINSON: Yes.

12 MR. ALLAN FORAN: And he's been dean for  
13 almost twenty (20) years? That's correct? 1988, this  
14 is --

15 DR. CHRIS ROBINSON: Yeah. Yes.

16 MR. ALLAN FORAN: -- 2000 and --

17 DR. CHRIS ROBINSON: Yeah. Yeah. I was  
18 just trying to figure out when he was appointed. Yes, it  
19 was probably '88.

20 MR. ALLAN FORAN: Okay. And my  
21 understanding is that appointments of deans are  
22 approximately five (5) year terms.

23 Is that your understanding?

24 DR. CHRIS ROBINSON: Yes.

25 MR. ALLAN FORAN: So there's nothing in

1 the statement I previously said that you disagree with  
2 now that I've broken that up into individual questions,  
3 correct?

4 DR. CHRIS ROBINSON: Yes, I still  
5 disagree. You said that he was reviewed.

6 MR. ALLAN FORAN: All right. So the --  
7 the --

8 DR. CHRIS ROBINSON: No review took  
9 place.

10 MR. ALLAN FORAN: The quibble is the --  
11 the word "review." He was reappointed.

12 DR. CHRIS ROBINSON: He was reappointed  
13 by the fiat of the president on each occasion, --

14 MR. ALLAN FORAN: Right.

15 DR. CHRIS ROBINSON: -- against normal  
16 practises of the university.

17 MR. ALLAN FORAN: I also understand that  
18 Dean Horvath was named Dean of the Year by the Academy of  
19 International Business.

20 Are you aware he won that award?

21 DR. CHRIS ROBINSON: Yes.

22 MR. ALLAN FORAN: And that was in 2004,  
23 and that was the first time a Canadian had ever won that  
24 award. Are you aware of that?

25 DR. CHRIS ROBINSON: No.



1 MR. ALLAN FORAN: I'm going to suggest to  
2 you that that's accurate, and if -- you wouldn't disagree  
3 with me, would you?

4 DR. CHRIS ROBINSON: No.

5 MR. ALLAN FORAN: Now, when he won that  
6 award, the Chairman of the Canadian Imperial Bank of  
7 Commerce at the time, John Hunkin, said that Dean Horvath  
8 "had succeeded in transforming Schulich into a globally  
9 oriented centre of management learning."

10 Were you aware of that?

11 DR. CHRIS ROBINSON: You're saying it.

12 MR. ALLAN FORAN: Okay. And I'll tell  
13 you what I did, is, I just -- we went to the York web  
14 page and I simply pulled off the article where this is  
15 quoted.

16 You wouldn't disagree with me if -- if  
17 it's on the York web page it's probably accurate?

18 MR. CHRIS ROBINSON: It's your evidence.

19 MR. ALLAN FORAN: Okay, thank you. And  
20 the president and CEO of the CIBC also said that Dean  
21 Horvath was most deserving of this international honour.

22 Were you aware of that?

23 MR. CHRIS ROBINSON: I would hardly  
24 expect him to say anything else.

25 MR. ALLAN FORAN: Now, if I understood

1 your comments correctly on Tuesday, you said that when  
2 you received tenure, Dean Horvath asked you to resign  
3 because he did not like you.

4 I don't understand what you mean by that;  
5 can you -- can you provide me with the reasons why he  
6 asked you to resign?

7 MR. CHRIS ROBINSON: Well, he'd have to  
8 have provided me with reasons; he didn't.

9 MR. ALLAN FORAN: He didn't provide you  
10 with reasons.

11 MR. CHRIS ROBINSON: No. It is customary  
12 that you take a faculty member who's received tenure and  
13 promotion out to lunch and talk to them about their  
14 future and the contributions they're going to make. His  
15 choice was to take me out to lunch and tell me that I  
16 should resign.

17 MR. ALLAN FORAN: Would you agree with me  
18 that based on the results of Dean Horvath's reviews and  
19 reappointments, the faculty and his colleagues must think  
20 he's making good decisions?

21 MR. CHRIS ROBINSON: No.

22 MR. ALLAN FORAN: Now, you think his  
23 colleagues are making bad decisions then?

24 MR. CHRIS ROBINSON: His colleagues are  
25 not allowed to make any decisions.

1 THE CHAIRPERSON: Mr. Foran, I'm  
2 struggling to understand the relevance of this. I'm sure  
3 you're going to come to it.

4 MR. ALLAN FORAN: Yes, probably in  
5 closing argument. One (1) of the things we indicated at  
6 the very beginning, Mr. Chairman, relates to not the  
7 qualification as to experts, but certainly the weight  
8 that should be applied. So we do have a series of  
9 questions, and I can certainly tell the Board this.

10 I will be going through -- continuing to  
11 go through Dr. Robinson's CV.

12 THE CHAIRPERSON: Okay, Mr. Foran.

13

14 CONTINUED BY MR. ALLAN FORAN:

15 MR. ALLAN FORAN: Now, one (1) of the  
16 things we also talked about on Tuesday, Dr. Robinson, was  
17 the various papers that you wrote. And I'd now like to -  
18 - just before the break, we spoke to the Board on the  
19 Industry Canada report -- I'd now like to turn to the  
20 report you wrote, "Regulating Payday Loans and the  
21 Underbelly of Canadian Society."

22 Do you recall writing that report, sir?

23 MR. CHRIS ROBINSON: Yes.

24 MR. ALLAN FORAN: And that was a report  
25 that was presented at the Alternate Prospective on

1 Finance Conference in Kilkenny, Ireland.

2 MR. CHRIS ROBINSON: Yes.

3 MR. ALLAN FORAN: Were you paid to do  
4 that paper?

5 MR. CHRIS ROBINSON: That's a more  
6 complicated question than you thought. I haven't reread  
7 that paper; however, you could say that I was paid to  
8 write that paper, in a sense, because a large part of  
9 that -- I mean, it's a complicated situation, right?

10 It goes back to the Federal Government,  
11 which did pay me. It didn't pay me very well, but they  
12 paid me TO -- to start learning about the payday lending  
13 industry, and that's how I got into this field of  
14 research.

15 So, in that sense, yes, my research -- I  
16 mean, I then turned it into academic research. But it  
17 was -- the initial part of it, yes I did receive payment.  
18 However, there was no direction as to what I was supposed  
19 to find, it was simply, Go do this research and tell us.

20 MR. ALLAN FORAN: And again, I have to  
21 confess, I don't understand your answer. Either you were  
22 paid to prepare a report that you presented in Kilkenny  
23 Ireland, or you were not.

24 Did the government of Canada pay you for  
25 that report, sir?

1 MR. CHRIS ROBINSON: No, they didn't pay  
2 me to present the report in Kilkenny.

3 MR. ALLAN FORAN: Thank you. Now, you --  
4 you selected the title for that report.

5 Is that correct, Dr. Robinson?

6 MR. CHRIS ROBINSON: Yes.

7 MR. ALLAN FORAN: Can you tell me, who is  
8 the underbelly of Canadian society?

9 MR. CHRIS ROBINSON: What I had in mind  
10 at that time -- at that point, I had read Dr. Buckland's  
11 report from north Winnipeg. I think the members of the  
12 Board are familiar with this massive report he did on  
13 financial exclusion. And so, at that time, I was  
14 considering the issue of who was -- and -- and I've read  
15 other reports.

16 I've played soccer with Michael Grant, who  
17 wrote a number of reports on payday lending. And the  
18 evidence seemed to be that it was -- that quite a number  
19 of people who were taking payday loans were -- were --  
20 were not the really poor, not the homeless, the mentally  
21 ill, et cetera, but those you were the working poor.

22 Of course, the choice of the title was  
23 simply because I'm a show-off, and it was more useful to  
24 have a title like that, because the Alternative  
25 Perspective on Finance Group is quite different from

1 typical finances conferences.

2                   It is a conference where many of the  
3 participants are not in finance, and the research and  
4 belief structures are very different from those to be  
5 found in traditional finance conferences, so that we have  
6 radical sociologists, critical economists, feminist --  
7 feminists. I work in deep ecology which is an area not  
8 seen by anywhere else in finance.

9                   And so, we actually -- most finance  
10 conferences are incredibly boring and badly presented,  
11 and we actually try to engage our -- all of us try to  
12 engage in debate.

13                   So my purpose in doing that was to engage  
14 in a debate with people who, unlike a typical finance  
15 conference, would actually understand how to do ethical  
16 analysis and how to discuss the issues I was presenting,  
17 but also understand the finance.

18                   And for example, Alec, I don't remember  
19 who the discussant with paper was now, it might well have  
20 been Alec Arthur (phonetic) who is in fact a philosopher,  
21 a Scottish philosopher, who to make a living teaches  
22 accounting but does only philosophy research.

23                   So you have to understand that the -- it  
24 didn't really matter what paper I put up, what it was was  
25 here we've got this interesting industry. Let's talk

1 about it.

2 Now, I subsequently then worked with Mr.  
3 Schwartz (phonetic) -- with Dr. Schwartz and he has a  
4 formal model of how to do ethical analysis.

5 MR. ALLAN FORAN: Okay, and, in fact, you  
6 did not answer my question, so let me just go back. Who  
7 was the underbelly? Are you referring to consumers, sir?

8 DR CHRIS ROBINSON: Yes. I -- I answered  
9 that right at the beginning. I said that it would be --

10 MR. ALLAN FORAN: I didn't hear it.

11 DR. CHRIS ROBINSON: -- the working poor.

12 MR. ALLAN FORAN: I probably lost it in  
13 your answer. Who -- who are the lenders? Are they the  
14 underbelly as well?

15 DR. CHRIS ROBINSON: No.

16 MR. ALLAN FORAN: And was it your intent  
17 that regulation would deal with the underbelly of  
18 society? Was that part of the intention of the paper?

19 DR. CHRIS ROBINSON: No. The intention  
20 of the paper was simply to generate a debate about the  
21 issue. That was the only reason for taking the paper  
22 there.

23 That paper is not presented to a group  
24 that had anything to do with regulation.

25 MR. ALLAN FORAN: And so the title was

1 partially selected by you to be provocative.

2 Is that correct?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: Now, in that paper, you  
5 stated in the final lines:

6 "Because I have written a confidential  
7 report to Industry Canada, I'm not  
8 willing to commit myself to a specific  
9 rate cap."

10 Is that correct?

11 DR. CHRIS ROBINSON: I haven't re-read  
12 that paper, so I will take it that you're correct. But,  
13 I mean, considering the time I was writing that, yes,  
14 that -- I presumably would have said that or should have  
15 said that.

16 MR. ALLAN FORAN: Okay. Thank you and --  
17 and if I'm wrong, you'll correct me? Now you -- you  
18 mentioned the purpose of these conferences was to deal  
19 with alternative perspectives.

20 I -- I'll come to the next paper in due  
21 course. But my understanding of this -- this conference  
22 is that you were a co-founder of it with Mr. Skip McGowan  
23 (phonetic)?

24 DR. CHRIS ROBINSON: Yes.

25 MR. ALLAN FORAN: In trying to get



1 information on this kind of a conference, I actually  
2 found a description that was generated by Mr. Skip  
3 McGowan. I'm going to show you a copy of that, sir.

4

5 (BRIEF PAUSE)

6

7 MR. ALLAN FORAN: Actually, Mr. Williams,  
8 I can provide him with the copy if...

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Do you have a copy for  
13 us, Mr. Foran?

14 MR. ALLAN FORAN: Yes.

15 THE CHAIRPERSON: Thank you.

16

17 (BRIEF PAUSE)

18

19 THE CHAIRPERSON: Perhaps, Mr. Gaudreau,  
20 you could find an exhibit number for it.

21

22 (BRIEF PAUSE)

23

24 MS. ANITA SOUTHALL: This document would  
25 be marked as CPLA Exhibit 12.

1 --- EXHIBIT CPLA-12: Description of conference  
2 generated by Mr. Skip  
3 McGowan.  
4

5 THE CHAIRPERSON: Thank you.  
6

7 (BRIEF PAUSE)  
8

9 CONTINUED BY MR. ALLAN FORAN:

10 MR. ALLAN FORAN: Now on this document,  
11 Mr. McGowan claims to be the creator and organizer of  
12 nine (9) conferences on alternative perspectives. But --  
13 but it still is your evidence that you co-organized these  
14 conferences, sir?

15 DR. CHRIS ROBINSON: Yes, in -- in the  
16 later years, given the health and personal problems I've  
17 had, he's done more of it. And, of course, in every case  
18 we had a local organizer so that he was the local  
19 organizer for the first conference to make the actual  
20 arrangements.

21 The Finance Minister of Slovenia was the  
22 organizer of two (2) of the conferences in Slovenia.  
23 There was another conference not listed there, et cetera,  
24 so that you were inquiring about Zakopane, and the  
25 organizer of that is a physics professor who does

1 behavioural research in finance.

2 MR. ALLAN FORAN: Okay. Now, I don't  
3 know. Do I call him "Professor McGowan"? Is that his  
4 title -- Skip -- Professor Skip?

5 DR. CHRIS ROBINSON: Well, nobody ever  
6 uses his -- his name which is Elton but he's a William H.  
7 Dunkak Professor of Finance at Bucknell University.

8 MR. ALLAN FORAN: Okay. And you'll  
9 notice the first thing on the document I've provided to  
10 you is that his approach to finance research is  
11 different. He views it as a pop culture phenomena.

12 Is that something that -- do you have that  
13 same philosophy?

14 DR. CHRIS ROBINSON: Oh, no, this is  
15 about alternative perspectives on finance. The -- I mean  
16 first of all, we do take many different perspectives:  
17 literary, critical theory. I -- I'm not sure that I see  
18 the relevance of discussing all of these. I mean, if you  
19 want lectures on alternative perspectives, I can go on  
20 for quite a few days.

21 I guess you would say -- and it's not  
22 really relevant to the Board. I've already stated what  
23 sort of way I was investigating payday loans for the  
24 Board, which is strictly a business perspective, but the  
25 -- the sum of my most alternative work in that field has

1 been using deep ecology which is an area of ecophilosophy  
2 developed by Arne Naess of Norway and -- but again you  
3 don't -- I mean, if you want, I can give you lectures on  
4 deep ecology, but I don't really think it's going to be  
5 terribly relevant to payday lending.

6 MR. ALLAN FORAN: Are you an expert on  
7 that too, sir?

8 DR. CHRIS ROBINSON: Deep ecology?

9 MR. ALLAN FORAN: Yes.

10 DR. CHRIS ROBINSON: Deep ecology,  
11 applied to finance, economics, and accounting, yes. Deep  
12 ecology, as an original researcher in the field, no.

13 MR. ALLAN FORAN: Okay. Just coming back  
14 to CPLA-12, the document, then if I could?

15 In the full second paragraph under the  
16 heading "Skip McGowan" he notes that the conferences --  
17 he hopes the conferences will broaden dialogue in finance  
18 and encourage research that is interdisciplinary or that  
19 challenges prevailing beliefs.

20 Is that something that you assisted him on  
21 in terms of establishing a theme for these conferences?

22 DR. CHRIS ROBINSON: Yes.

23 MR. ALLAN FORAN: And so when you  
24 presented your paper on payday lending, it fell into that  
25 category; something that you wanted to challenge a

1 prevailing belief on, Dr. Robinson?

2 DR. CHRIS ROBINSON: Well, actually, I'm  
3 trying to introduce new ideas and new ways of looking at  
4 finance problems. However, admittedly, in fact, when --  
5 when you say it that way, by the likes of other work that  
6 I've done and the work that Dr. McGowan does, and other  
7 people in the conference, the payday lending work is  
8 really quite main -- really quite mainstream.

9 As I said, it's following the same sort of  
10 themes as is -- as are generally followed in finance and  
11 economics.

12 MR. ALLAN FORAN: Now, one (1) of the  
13 articles that apparently was presented at a conference  
14 was -- and I'm just now referring to the third paragraph:  
15 Money in Motion, Born to be Wild; Crash; Porsches and  
16 Portfolios at the End of the Road; Walt's Street and Wall  
17 Street; Theming Theatre and Experience in Finance.

18 Is -- are those typical of the kinds of  
19 papers that are presented at these conferences?

20 DR. CHRIS ROBINSON: Yes. I've just got  
21 -- actually I've gotten the right answer from my  
22 colleague here. Nothing is --

23 MR. ALLAN FORAN: Let me stop you. And  
24 actually this is -- this is a point that I'm -- I'm just  
25 to ask. I've cross-examined the entire panel but for

1 you, and so perhaps we'll just -- we'll stop here for a  
2 moment.

3 Are you getting answers to some of my  
4 questions from your colleagues?

5 DR. CHRIS ROBINSON: No, we're discussing  
6 issues.

7 MR. ALLAN FORAN: Perhaps you could just  
8 discuss that then. Let me know what Dr. Simpson advised  
9 you. I'd be interested in -- in what his views are on  
10 this question.

11 DR. CHRIS ROBINSON: I was just about to  
12 tell you before you interrupted me.

13 Okay. Dr. Simpson's view -- and in fact,  
14 he, of course, has attended many conferences of every  
15 kind -- is that nothing is typical in this or, indeed, in  
16 any other conference. This conference is certainly not  
17 typical -- the -- those papers are typical of the  
18 imagination that Skip McGowan brings to it -- a quality  
19 which is generally valued in university professors,  
20 though perhaps not everyone values it.

21 He is the most imaginative of all of us  
22 who -- who are engaged in that -- in that conference.

23 MR. ALLAN FORAN: Imagination's an  
24 important factor when you write papers to present at  
25 these conferences? Is that correct, Dr. Robinson?

1 DR. CHRIS ROBINSON: Imagination is an  
2 important factor in most serious research. If you have  
3 no imagination, you would be unable to perceive beyond  
4 anything that is already plainly evident to everyone.

5 You couldn't imagine that there might be  
6 something different or something more to learn. So  
7 imagination is -- without it, typically researchers,  
8 especially in social sciences and humanities, stop doing  
9 research and become administrators.

10 MR. ALLAN FORAN: So, for the purpose of  
11 the papers on your CV, you've applied your imagination as  
12 well as your research in crafting your conclusions.

13 Is that a fair assessment, sir?

14 DR. CHRIS ROBINSON: Yes. Not in every  
15 paper or -- well, there's always imagination; pretty  
16 limited doses in some papers, a great deal in -- in  
17 others.

18 MR. ALLAN FORAN: So to understand what  
19 part of your papers are pure research and what part  
20 you're using your imagination on, we'd have to actually  
21 go through each and every report.

22 Is that correct?

23 DR. CHRIS ROBINSON: I'm afraid I'm not  
24 explaining myself properly. Imagination is part of the  
25 research process. You don't separate these things. If

1 you have no imagination, you're not going to be doing any  
2 research that is worthwhile.

3 So that, not merely me, but I mean the  
4 Nobel prize winners in economics show -- had different  
5 ideas, had more imagination. That's, in large part, why  
6 they got the Nobel prize in -- in economics.

7 MR. ALLAN FORAN: Have you ever presented  
8 a paper at the American Finance Association Conference or  
9 the European Finance Association Conference?

10 DR. CHRIS ROBINSON: No.

11 MR. ALLAN FORAN: In your CV you have a  
12 section, sir, entitled "Presentations at Refereed  
13 Conferences."

14 Can you explain to me how a refereed  
15 process works?

16 DR. CHRIS ROBINSON: Oh. There are a  
17 variety of refereeing processes. Typically, somebody who  
18 is knowledgeable in the field, you hope, reads the paper  
19 and says -- and it depends on the conference, just how  
20 much detail I go into.

21 But basically they say, This paper is  
22 worth presenting and having people hear about it. There  
23 may be more than one (1) referee. The referee may or may  
24 not know the name of the author for the -- of the pa --  
25 excuse me, or authors for the paper.



1                   But it's meant to be an independent  
2 process and to -- well, it acts -- it has two (2) things.  
3 One (1) that acts as a gatekeeper so that it allow -- it  
4 means that people who don't think the way you think are  
5 not allowed into the conference.

6                   The other thing is that it's supposed to  
7 prevent papers that have no -- have no merit or  
8 insufficient merit or that are completely irrelevant to  
9 that conference.

10                  MR. ALLAN FORAN:    So it's a quality check  
11 in effect, is it?

12                  DR. CHRIS ROBINSON:   It's partly a  
13 quality check and partly a means of maintaining control  
14 over the ideas that you allow to be discussed.

15                  MR. ALLAN FORAN:    Is the American Finance  
16 Association Conference a refereed conference?

17                  DR. CHRIS ROBINSON:   Yes.

18                  MR. ALLAN FORAN:    And is the European  
19 Finance Association Conference a refereed conference?

20                  DR. CHRIS ROBINSON:   I would assume so.  
21 I've never attended it.

22                  MR. ALLAN FORAN:    Is the Alternative  
23 Perspectives on Finance Conference a refereed conference?

24                  DR. CHRIS ROBINSON:   Yes.

25                  MR. ALLAN FORAN:    Okay.

1 DR. CHRIS ROBINSON: All -- all the  
2 academic conferences, anything we call an academic  
3 conference, I guess, is refereed. Is it -- it's, of  
4 course, much more difficult to get into some conferences  
5 than others, and for different reasons. So that  
6 Alternative Perspectives on Finance, we would tend to  
7 have rejected papers because there was no alternative.

8 Whereas, American Finance Association  
9 would reject all papers because they're not sufficiently  
10 technically complex or because they do, in fact, think  
11 differently.

12 MR. ALLAN FORAN: Do you know ,for the  
13 conference at which the paper I just referred to -- the  
14 underbelly of society paper -- who refereed your paper?

15 DR. CHRIS ROBINSON: No. I can't even  
16 remember who discussed it. This conference is somewhat  
17 different from most conferences in that the author does  
18 not present the paper. The discussant does.

19 MR. ALLAN FORAN: And -- and were you, in  
20 fact, the one that was refereeing the other papers?

21 DR. CHRIS ROBINSON: I would have looked  
22 at -- possibly looked at some of the other papers, but I  
23 really can't recall now. I may -- I mean, I have  
24 refereed for that conference all the time, because I have  
25 so much knowledge in the alternative field and not many

1 people do. But I don't recall the details.

2 MR. ALLAN FORAN: Do you know whether  
3 your paper, in fact, was refereed at that conference?

4 DR. CHRIS ROBINSON: I assume so. I  
5 mean, so -- I mean it will have been read in advance and  
6 decided now does this fit.

7 On the other hand, there is obviously an  
8 automatic presumption as one of the co-founders of the  
9 conference. As you can imagine in real life, Nobel prize  
10 winners don't get turned down on the American Finance  
11 Association, and typically, I wouldn't be turned down at  
12 the Alternative Perspectives on Finance.

13 MR. ALLAN FORAN: And so you'd expect any  
14 paper you wrote to be something that was worthy of  
15 presentation?

16 DR. CHRIS ROBINSON: Yeah, I wouldn't  
17 bother writing it unless it was going to be worthwhile  
18 for that -- or I wouldn't bother presenting it unless it  
19 was going to be worthwhile for that conference, so that  
20 my mainstream papers I -- I never bring to that  
21 conference. This is actually the most mainstream paper  
22 I've ever had there.

23 MR. ALLAN FORAN: Okay. Just going back  
24 chronologically, the next paper you wrote was the  
25 Regulation of Payday Lending, a Report to ACORN, May

1 24th, 2006.

2 DR. CHRIS ROBINSON: Yes.

3 MR. ALLAN FORAN: Were you paid for that  
4 study?

5 DR. CHRIS ROBINSON: Well, the agreement  
6 -- I don't even know if it was written -- the agreement  
7 was that they would pay me ten thousand dollars (\$10,000)  
8 to write that report. I never billed them for it. So I  
9 gave it to them for free. I determined that the -- the  
10 money came from -- the money came from Van City, no  
11 strings attached; that is, they said, Here's ten thousand  
12 dollars (\$10,000), get somebody to write a report on  
13 payday lending.

14 And John Young found me, somehow -- I'm  
15 not sure how since, you know, it wasn't publicly known I  
16 was doing this -- and -- and asked me to write a report  
17 for them. And he gave me no terms of reference other  
18 than write a report. And he said that I couldn't charge  
19 him more than ten thousand dollars (\$10,000).

20 MR. ALLAN FORAN: Did they tell you what  
21 subject matter they wanted you to write on?

22 DR. CHRIS ROBINSON: Payday lending.  
23 Regulation of -- I don't -- as I said, I don't I have  
24 anything in writing. He -- he --

25 MR. ALLAN FORAN: They told you to write

1 a report on regulation --

2 DR. CHRIS ROBINSON: Pay --

3 MR. ALLAN FORAN: -- of payday lending,  
4 correct, sir?

5 DR. CHRIS ROBINSON: I'm not even sure if  
6 it was regulation of payday lending.

7 MR. ALLAN FORAN: I'm just --

8 DR. CHRIS ROBINSON: But I think it would  
9 be assumed that that's what I would be dealing with or  
10 how payday lenders operate or something. They gave me  
11 pretty much free rein.

12 Van City was not clear, they -- they put  
13 no strings on it. They just said, Do some more in this.  
14 Clearly, of course, as the Board knows, Van City is  
15 interested in getting into the field.

16 But there were no instructions. I never  
17 spoke to anybody from Van City. I only know from John  
18 Young that that's where the money came from. And Van  
19 City did not, through him, provide any direction as to  
20 what they expect. They didn't ask me to say, Is this  
21 viable to get into or anything like that. So I was  
22 pretty much left on my own.

23 And what I did do, as you can now see, was  
24 simply try to do a better job of what I had done for  
25 Industry Canada.

1 MR. ALLAN FORAN: And, just so it's clear  
2 in my mind, the title on the report is "A Report for  
3 ACORN," correct?

4 DR. CHRIS ROBINSON: Yes.

5 MR. ALLAN FORAN: ACORN retained you,  
6 correct?

7 DR. CHRIS ROBINSON: Yes.

8 MR. ALLAN FORAN: ACORN asked you to  
9 prepare a report on payday lending, correct?

10 DR. CHRIS ROBINSON: Yes.

11 MR. ALLAN FORAN: Ultimately, you became  
12 aware that the funding was coming from Van City, correct?

13 DR. CHRIS ROBINSON: They might have told  
14 me even before I wrote the report. Can't remember.

15 MR. ALLAN FORAN: You didn't take any  
16 guidance from Van City, however, correct?

17 DR. CHRIS ROBINSON: That's right.

18 MR. ALLAN FORAN: And so all your  
19 discussions were with ACORN, correct?

20 DR. CHRIS ROBINSON: There were virtually  
21 no discussions with ACORN.

22 MR. ALLAN FORAN: Okay. Any discussions  
23 you had were with ACORN, correct?

24 DR. CHRIS ROBINSON: Yes.

25 MR. ALLAN FORAN: Now, in that report you

1 actually made a recommendation for a fee structure,  
2 correct?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: Why did you change your  
5 mind about making public your recommended fee structure  
6 when you did the report from ACORN as compared to the  
7 report you noted on your CV that you presented at the  
8 Alternatives for Finance Conference?

9 DR. CHRIS ROBINSON: Oh. Well, because  
10 ACORN wanted its report public. They -- you have to  
11 remember the timing. When I wrote the report for the  
12 Alternative Perspectives on Finance Conference, I hadn't  
13 done the work for ACORN. I don't remember if I was  
14 actually engaged in it or -- at the time.

15 But, in any case, I -- what I felt was I  
16 couldn't reveal the recommendations from -- that I had  
17 given to the Federal Government -- well, they'd ordered  
18 me not to. And I didn't have these, you know, the ACORN  
19 report was, if I recollect -- and you've got to remember  
20 papers, of course, they're written many months in advance  
21 of -- of a conference, so that I didn't have the -- the  
22 subsequent set of recommendations to -- to advance to --  
23 to the audience at that point.

24 MR. ALLAN FORAN: Now in 2005 you went to  
25 a conference, you were not paid to prepare a paper and

1 you did not present a fee recommendation.

2 In 2006, you were paid, or you believed  
3 you could be paid, for a paper and you did make a  
4 recommendation.

5 Can I suggest to you, sir, that the reason  
6 you made a recommended fee structure public is that you  
7 were paid to do so by Acorn?

8 MR. CHRIS ROBINSON: Oh, yes.

9 MR. ALLAN FORAN: Thank you. Now, later  
10 that same year, in 2006, you presented another paper:  
11 Payday Loans and Ethically and Socially Responsible  
12 Industry. And again, sir, that was at the Alternative  
13 Perspectives on Finance Conference in Zakopane, Poland.  
14 Correct?

15 MR. CHRIS ROBINSON: Zakopane, yes.

16 MR. ALLAN FORAN: And were you --

17 MR. BYRON WILLIAMS: Just, just on that  
18 point, and there may -- I just want to make sure the  
19 question was properly heard. And there's no doubt that  
20 Dr. Robinson participated in the writing of that paper;  
21 just in terms of presented, I -- I'm not quite sure  
22 whether it was Dr. Robinson or colleague. Just -- and  
23 so --

24 MR. ALLAN FORAN: Well, that's a very --

25 MR. BYRON WILLIAMS: And for the Board, I



1 just want to make sure --

2 MR. ALLAN FORAN: Well, that's a very  
3 unhelpful intrusion, frankly, because I've asked a  
4 question, he's given an answer. But if you'd like him to  
5 change his answer, go ahead and --

6 MR. BYRON WILLIAMS: No, I just wanted --

7 MR. ALLAN FORAN: -- I'll just listen to  
8 your counsel.

9 MR. BYRON WILLIAMS: I just want him to  
10 make sure that he understood your question, and if he did  
11 present it, it's fine. I know he wrote or participated  
12 in the writing, and so I just want to make sure that the  
13 -- he heard your question.

14 MR. CHRIS ROBINSON: Yes, I presented  
15 that paper at Zakopane, or a -- and earlier version,  
16 probably, than the one you have, and Dr. Schwartz  
17 presented it at an ethics conference in the US.

18

19 CONTINUED BY MR. ALLAN FORAN:

20 MR. ALLAN FORAN: Okay. Were you paid to  
21 do that paper? And I actually am now hesitant about even  
22 trying to pronounce Zakopane. Zakopane?

23 MR. CHRIS ROBINSON: Well, probably the  
24 Poles would laugh at me, too. No, I was not paid.  
25 That's purely academic work.

1                   MR. ALLAN FORAN:   And you did not make a  
2 fee recommendation in that paper, correct? I'm going to  
3 suggest --

4                   MR. CHRIS ROBINSON:   No, no, I did not.

5                   MR. ALLAN FORAN:   -- and then just make  
6 it simple -- you did not.

7                   MR. CHRIS ROBINSON:   No, I didn't -- no,  
8 I didn't make a fee recommendation in that paper. I was  
9 -- I trying to remember the -- the timing of things. I  
10 was probably in the -- okay, so I presented -- that paper  
11 was written before I had finished the work for ACORN, but  
12 presented after I'd finished the work for ACORN.

13                   And, if I had had more time, I would then  
14 have presented the fee recommendations. If I recollect  
15 the paper -- I reread it after Mr. Dawson brought it up -  
16 - the ending we say there should be a fee cap. Mark had  
17 written that -- that version of the paper. I'm now  
18 rewriting it, so that at this point I will, in fact -- I  
19 will in fact take advantage of these proceedings and  
20 refer to the fee caps that I have put it in these  
21 proceedings before I submit it to a journal.

22                   MR. ALLAN FORAN:   Just -- just so that  
23 I'm centred, I'm going to suggest to you, you made no fee  
24 recommendation in that report.

25                   Do you agree with me?

1 MR. CHRIS ROBINSON: No, we didn't make a  
2 numerical fee recommendation. We recommended there  
3 should be rate caps.

4 MR. ALLAN FORAN: Thank you.

5 MR. CHRIS ROBINSON: We didn't say what  
6 they should be.

7 MR. ALLAN FORAN: Now, finally, we have  
8 your evidence in this case on behalf of the Coalition.

9 Are you being paid for your participation  
10 in this case?

11 MR. CHRIS ROBINSON: I am told that I  
12 will be paid for part of my time, but that it is  
13 contingent upon the Board making a cost determination.  
14 Am I being paid right now to appear in front of you? No,  
15 and I won't be paid for -- for this cross-examination.

16 MR. ALLAN FORAN: But it was your  
17 expectation when you were retained that you would be paid  
18 to provide evidence in this hearing, correct?

19 MR. CHRIS ROBINSON: Yes.

20 MR. ALLAN FORAN: Do you have a formal  
21 contract with the Coalition?

22 MR. CHRIS ROBINSON: No. I have no  
23 contract with the Coalition. I have a oral agreement  
24 with Mr. Williams.

25 MR. ALLAN FORAN: Thank you. When were

1 you contacted by the Coalition or a representative of the  
2 Coalition?

3 MR. CHRIS ROBINSON: I'd rather defer to  
4 Mr. Williams as to when he called me. I can't remember -  
5 - some time in the spring, I guess.

6 MR. ALLAN FORAN: That -- that's fine.  
7 Subject to check, you can just let me know.

8 MR. BYRON WILLIAMS: I think the check is  
9 wrong though. I think it was probably July, but Mr.  
10 Foran, we'll -- we'll undertake to check that for you.

11

12 --- UNDERTAKING NO. 95: To advise when Dr. Chris  
13 Robinson was first contacted  
14 by the Coalition.

15

16 CONTINUED BY MR. ALLAN FORAN:

17 MR. ALLAN FORAN: Thank you. And what  
18 were the terms of your engagement in this proceeding?  
19 What were you asked to do?

20 MR. CHRIS ROBINSON: Same as all the rest  
21 -- as -- as all the previous -- as work for ACORN and the  
22 Federal Government. It was basically write a report on  
23 regulation of payday lending, except that in this case I  
24 was to be responding to the -- you know, to the Board  
25 itself, to its mandate, to the legislation, so that I had

1 -- I guess the mandate was to be an expert witness for  
2 the Board, not a guest.

3 The mandate was to be an expert witness in  
4 front of the Board to give my independent expert opinion  
5 on the charge that was laid upon the Board.

6 And, of course, that's why my  
7 recommendations are couched in the -- the particular  
8 wording that they are. So that in that sense they're  
9 couched in somewhat different wording than appears in  
10 earlier papers where I had even less guidance.

11 MR. ALLAN FORAN: To date, has any of  
12 your work on payday lending been published in a scholarly  
13 journal?

14 DR. CHRIS ROBINSON: No.

15 MR. ALLAN FORAN: And just by way of  
16 recap then, Industry Canada retained you, paid you and  
17 you came out with a fee recommendation, correct?

18 DR. CHRIS ROBINSON: Yes.

19 MR. ALLAN FORAN: ACORN retained you,  
20 paid you and you came out with a fee recommendation,  
21 correct?

22 DR. CHRIS ROBINSON: Yes.

23 MR. ALLAN FORAN: The Coalition retained  
24 you, suggested you would be paid and you came out with a  
25 fee recommendation, correct?

1 DR. CHRIS ROBINSON: Yes.

2 MR. ALLAN FORAN: And then the other two  
3 (2) papers that the alternative of -- just let me get the  
4 name correct, sir.

5 DR. CHRIS ROBINSON: Alternative  
6 Perspectives on Finance.

7 MR. ALLAN FORAN: Right. The other two  
8 (2) papers, you were not paid for?

9 DR. CHRIS ROBINSON: No.

10 MR. ALLAN FORAN: And neither of those  
11 papers contain a fee recommendation, correct?

12 DR. CHRIS ROBINSON: That's right.  
13 They're primarily interested in ethics.

14 MR. ALLAN FORAN: Thank you. Maybe just  
15 on that point, again, I -- I just want to make sure I  
16 understand this. By that, do you mean that if there's an  
17 ethical issue involved, you don't want to be paid for it?  
18 It's -- it's a question.

19 DR. CHRIS ROBINSON: I'm trying to  
20 determine what the question is that you asked.

21 MR. ALLAN FORAN: I -- I actually am just  
22 asking a question on your answer, sir.

23 DR. CHRIS ROBINSON: If there's an  
24 ethical issue, I don't want to be paid for it?  
25 University professors who are doing serious research, are

1 doing research in order to enquire into problems as they  
2 see them.

3 So that one (1) of the issues, and indeed  
4 this issue does appear in -- clearly, in all of the work;  
5 the issue is the balance. The balance between fee  
6 recommendations knocking a whole bunch of people who are  
7 doing a -- trying to a legitimate business out of -- out  
8 of their business and saving money for consumers.

9 And, so, the two (2) ethics pa -- the  
10 ethical sort of work; the issue of what the specific fee  
11 cap is, is not the -- not the more interesting issue.  
12 The issue is how do we determine the ethics of -- of the  
13 -- the situation that we're regarding in -- in various  
14 ways.

15 And, so, the audience and the people that  
16 are going to be interested in that sort of discussion  
17 typically will not also be interested or, indeed, may not  
18 be capable of delving through the very complicated  
19 numerical analyses that lead to a specific rate cap.

20 And, so, one (1) of the problems in  
21 academia is that all papers are too long. The look on  
22 Mr. Hacault's face when he got that last volume was quite  
23 telling as to the amount he was going to have to read.

24 We do try to reduce the amount. So, had  
25 I, in fact, presented the fee recommendations in those

1 particular forums, people weren't really interested in  
2 that. They were interested in talking about the ethical  
3 issues and take it for granted that a fee cap will do  
4 something to some participants and will save money for  
5 some consumers.

6                   And, so, it was not a suitable thing to  
7 put that in those papers, and they would have become  
8 incredibly long. Alternative Perspectives on Finance, in  
9 particular, is a conference where we -- we don't go into  
10 the complex econometric details of papers or something  
11 like that.

12                   There are some papers that appear that  
13 way, but not many. We leave that for other conferences  
14 just -- and this is a case -- right across academia,  
15 there are conferences that are specialized in many  
16 different areas.

17                   MR. ALLAN FORAN:   And -- and, in fact,  
18 that kind of a conference, as Mr. McGowan has so aptly  
19 put it, is designed to satisfy a thirst for travel,  
20 correct?

21                   DR. CHRIS ROBINSON:   Mr. McGowan didn't  
22 say that. You -- there -- there's something I guess you  
23 don't -- that the Board perhaps has not seen about  
24 universities.

25                   Things like this are written by



1 communications departments. I avoid the Communications  
2 Department at York like a plague because of the sort of  
3 things they're apt to say.

4 But -- and then do say about me since I've  
5 donated a lot of money to York. But the -- you're trying  
6 to portray Dr. McGowan as being some sort of weird guy  
7 who shouldn't be a professor. He has a huge publication  
8 record in scholarly journalism.

9 MR. ALLAN FORAN: You know, I should stop  
10 you there. I don't think, sir, you should assume  
11 anything about my questions. I think what you should do  
12 is listen to them and answer them.

13 DR. CHRIS ROBINSON: Okay.

14 MR. ALLAN FORAN: So I will stop you  
15 there because I don't want the record to improperly  
16 reflect anything, so please don't assume what I'm  
17 thinking.

18 Now, let me come back to the questions  
19 that I'd like to ask you, Dr. Robinson. In your ACORN  
20 report on page 6, footnote 1, you state the following --  
21 and that's the report that was filed as part of the  
22 evidence package on behalf of the Coalition.

23 MR. BYRON WILLIAMS: And we'll just allow  
24 Dr. Robinson to make sure he has the report.

25

1 CONTINUED BY MR. ALLAN FORAN:

2 MR. ALLAN FORAN: It's the report you  
3 authored, sir, and it was filed on behalf of the  
4 Coalition. ACORN, page 6, footnote 1, and it says:

5 "I also make this statement in my  
6 position as a qualified expert witness  
7 in finance, particularly personal  
8 finance."

9 Do you recall that?

10 DR. CHRIS ROBINSON: Yes.

11 MR. ALLAN FORAN: And in response to  
12 CPLA/COALITION-229...

13

14 (BRIEF PAUSE)

15

16 MR. ALLAN FORAN: In response to  
17 CPLA/COALITION-229 you self-describe yourself as "an  
18 internationally recognized expert on all aspects of  
19 personal financial planning."

20 Do you recall that?

21 DR. CHRIS ROBINSON: No, but I'll take  
22 your word for it.

23 MR. ALLAN FORAN: Okay. Thank you. And  
24 what I'd like to know is who, other than that self-  
25 description, recognizes you as an internationally

1 recognized expert on all aspects of personal financial  
2 planning?

3 DR. CHRIS ROBINSON: CFP Board of  
4 Standards in Denver Colorado, for example, which has --  
5 as far as I'm aware, I'm the person who's received two  
6 (2) full grants from them for my research, and despite  
7 the fact that they are an American organization and I'm a  
8 Canadian using Canadian data.

9 The Academy of Financial Services, which  
10 is primarily American but has people from around the  
11 world, where I have won more awards for my papers than  
12 any other person writing with a wide variety of different  
13 co-authors on subjects that are philosophic, regulatory,  
14 dividends, retirement planning, stochastic financial  
15 planning, sociology, et cetera.

16 The Academy of Financial Services and the  
17 Financial Service Review of which I have been a co-editor  
18 and which I was a guest -- guest editor of the special  
19 issue on international personal financial planning papers  
20 is the -- is recognized as a premier journal in personal  
21 finance.

22 The other commonly-cited journal is  
23 Financial Counselling and Planning. I have also been a  
24 member of the editorial board of that journal at -- at  
25 the request -- the personal request of the founding

1 editor of the journal.

2 I have also been on the executive -- I was  
3 on the executive of the Academy of Financial Services for  
4 many years.

5 My textbook co-authored with Kwa Ko  
6 (phonetic) has been adopted into -- adapted into French  
7 for use in Quebec. It has been adapted into Chinese for  
8 use in China. It has been adapted into American for use  
9 in the United States by somebody who was -- who was also  
10 president of the Academy of Financial Services. And one  
11 (1) of the enthusiastic users and book reviewers of that  
12 book is, in fact, the founding editor of Financial  
13 Counselling and Planning, was one (1) of the most highly  
14 regarded scholars in that field.

15 My book has also been adapted for use in  
16 the Netherlands in an unusual form; it's in English with  
17 Dutch subtitles. It is currently in the final throes of  
18 adaptation in the United Kingdom at Manchester Polytech  
19 for -- for an English edition to come out.

20 There is -- there has been, for many  
21 years, an edition being prepared in Mexico by an -- by a  
22 co-author who likes to work very slowly.

23 And, finally, I signed a contract for an  
24 adaptation that would be used in -- in Spanish of course  
25 -- in Argentina, Mexico, and one (1) other country,

1 probably Uruguay. But the collapse of the -- it was  
2 primarily Argentina -- and the collapse of the  
3 Argentinian economy a few years ago meant that the  
4 authors were not able to proceed with the -- with the  
5 project, because they said that the book had ceased to be  
6 relevant in -- in that economy.

7 MR. ALLAN FORAN: Okay. Thank you. So,  
8 now what I'd like to do is turn to where you've been  
9 qualified as an expert witness.

10 And when I looked at your CV, sir, you  
11 listed some names of cases that you were involved with on  
12 page 11 of your CV.

13 DR. CHRIS ROBINSON: Yes.

14 MR. ALLAN FORAN: And, in fact, we asked  
15 you for citations for those cases, but you were unable to  
16 provide them, correct?

17 DR. CHRIS ROBINSON: Well this -- the  
18 case has never been reported in the standard reporters  
19 because they are typically settled, and always settled  
20 and in favour of my clients.

21 MR. ALLAN FORAN: All right. I gather,  
22 from the CV and the various questions we've asked, that  
23 you've only been formally qualified in two (2) cases --

24 DR. CHRIS ROBINSON: Yes.

25 MR. ALLAN FORAN: -- as set out in your

1 CV, correct?

2 DR. CHRIS ROBINSON: Yes. I've been  
3 formally qualified under oath in -- in two (2) cases.  
4 One (1) was Xerox versus Ohlmers (phonetic) which was the  
5 case involving fair value, accounting, finance,  
6 economics, operation of markets -- sort of everything you  
7 could think of thrown all in at once.

8 The other one where I was specifically  
9 qualified under oath was a case in -- an ADR case in --  
10 in front of a judge in -- in an alternative dispute  
11 resolution chambers where I gave -- I was qualified, gave  
12 evidence and, after the -- after the expert witness for  
13 the defendant had given evidence which totally destroyed  
14 his client, they settled the case.

15 MR. ALLAN FORAN: Okay. And that was a  
16 Gladys Brant (phonetic) versus William Young and CIBC  
17 Wood Gundy case?

18 DR. CHRIS ROBINSON: Yes. And since  
19 you'd like to know the connections, Gladys Brant's son is  
20 Michael Grant whose authored report -- co-authored  
21 reports that are in here, that was how I met him.

22 MR. ALLAN FORAN: Okay. So let's start  
23 with the Xerox case. Who qualified you in that case?

24 DR. CHRIS ROBINSON: All right. The lead  
25 lawyer for --

1 MR. ALLAN FORAN: Perhaps, let me just  
2 change the question --

3 DR. CHRIS ROBINSON: Okay.

4 MR. ALLAN FORAN: -- because I think  
5 maybe we're off track. I'd like to know what -- first of  
6 all, I'd like to know what Tribunal qualified you?

7 DR. CHRIS ROBINSON: I can't remember. I  
8 had to swear oath and be qualified as an expert witness.  
9 The lawyer for the other side -- whoever he was, and I  
10 can't remember him -- cross-examined me and -- and they  
11 accepted my qualifications.

12 MR. ALLAN FORAN: Okay. So you can't  
13 remember today who qualified you there?

14 DR. CHRIS ROBINSON: Well, I think it  
15 was back in the '80's some time.

16 MR. ALLAN FORAN: What area -- and what  
17 areas were you formally qualified in that case?

18 DR. CHRIS ROBINSON: Well, as I told you,  
19 it was -- it was a mix. It was not -- really what you  
20 want to know, was it personal finance. No, this was not  
21 a personal finance case. This was a massive securities  
22 case between Xerox and Ohlmers.

23 MR. ALLAN FORAN: Was there a judge  
24 involved in that case?

25 DR. CHRIS ROBINSON: Yes.

1 MR. ALLAN FORAN: And, just to remind me,  
2 sir, was there a decision in that case?

3 DR. CHRIS ROBINSON: No, the case went on  
4 for years after I stopped testify -- or, well, I never  
5 had to testify in court. Markets changed and they  
6 finally settled.

7 I don't know the terms of the settlement.  
8 I thought they should have settled long before, but, in  
9 any case, there was no final decision and there's no -- I  
10 have no idea what effect, if any, my evidence played in  
11 any of that.

12 MR. ALLAN FORAN: Okay. Thank you. And  
13 I was going to ask, and I appreciate you -- because  
14 that's where I was going. Were there other experts as  
15 well in that case?

16 DR. CHRIS ROBINSON: Oh yes. I don't  
17 know if there were other experts for Xerox. I was -- I  
18 was an expert witness for Xerox. There were other  
19 experts for Ohlmers which included at the time, the --  
20 Canada's foremost business valuator.

21 But I -- this was a big case with lots of  
22 stuff going on, and I was not part of all of it.

23 MR. ALLAN FORAN: Okay. I appreciate  
24 your answer, sir. So the Gladys Grant case, again, who  
25 qualified you? The same structure -- I'm not interested



1 in the name of the lawyer, I'm interested in the name of  
2 the judge or the Tribunal.

3 DR. CHRIS ROBINSON: I can't remember the  
4 judge. It was an alternative dispute resolution agreed  
5 to by both parties. It was a -- a judge, so it was  
6 taking place under rules of evidence, but it was an  
7 actual organization in Toronto that does dispute  
8 resolutions.

9 MR. ALLAN FORAN: Right.

10 DR. CHRIS ROBINSON: So it's, you know,  
11 a court -- a private court, if you like.

12 MR. ALLAN FORAN: Not a public court  
13 proceeding.

14 DR. CHRIS ROBINSON: No.

15 MR. ALLAN FORAN: Really a dispute  
16 resolution mechanism.

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: And what area were you  
19 formally -- in what area -- what areas were you formally  
20 qualified in that case?

21 DR. CHRIS ROBINSON: Personal finance and  
22 investment analysis advice.

23 MR. ALLAN FORAN: Were you cross-examined  
24 in that proceeding?

25 DR. CHRIS ROBINSON: Yes.

1 MR. ALLAN FORAN: Were there other  
2 experts involved?

3 DR. CHRIS ROBINSON: Not -- not for  
4 Gladys Grant. There was an expert for -- for the  
5 defendant.

6 MR. ALLAN FORAN: And to your recollection  
7 then there's no written decision of that proceeding?

8 DR. CHRIS ROBINSON: No. Well there  
9 would be none because again, they -- they settled when it  
10 was clear they were about to lose.

11 MR. ALLAN FORAN: Have you ever been  
12 qualified as an expert witness in payday lending, sir?

13 DR. CHRIS ROBINSON: No. Well, yes I  
14 have, at this Tribunal, but not previously.

15 MR. ALLAN FORAN: Well, I'm going to, in  
16 fact, just take you there. Is that what you think? Do  
17 you think you've been qualified in this hearing as an  
18 expert on payday lending?

19 DR. CHRIS ROBINSON: Mr. Williams'  
20 looking uncomfortable, so if the Board does not wish to  
21 view me as qualified, that would be their decision.

22 MR. ALLAN FORAN: Because I'll tell you -  
23 - let me just put it to you --

24 MR. BYRON WILLIAMS: We -- we will  
25 concede that, in terms of whatever the qualifications the

1 Board had, that that's -- that's what he was qualified  
2 under. Your --

3

4 CONTINUED BY MR. ALLAN FORAN:

5 MR. ALLAN FORAN: Right. My  
6 understanding is that you were qualified as an expert on  
7 finance, personal finance and not specifically on payday  
8 lending.

9 Would you agree with that, sir?

10 DR. CHRIS ROBINSON: Somebody else has to  
11 decide, because I don't -- I don't actually remember the  
12 details of what specific statements you said. Since Mr.  
13 Williams has said that I was not qualified under payday  
14 lending, then I guess I was not.

15 MR. ALLAN FORAN: Okay. You don't -- and  
16 -- and, again, I -- this really isn't designed to go too  
17 much further, but do you recall today what you were  
18 qualified in for this hearing?

19 DR. CHRIS ROBINSON: Well, I guess I  
20 would have to look back at the statement that I made to  
21 the Board on this basis.

22 MR. ALLAN FORAN: I'm just asking today,  
23 today, right now, do you recall what you were qualified  
24 in for this hearing? I'm not asking the specifics, just  
25 whether you remember them?

1 DR. CHRIS ROBINSON: I'm not sure I  
2 understand -- okay, you said no specifics. Finance,  
3 accounting, financial statement analysis, personal  
4 finance -- I had thought that we had specific -- that I  
5 had been specifically qualified, based on the very  
6 extensive research I've done, as an expert on payday  
7 lending. But Mr. Williams informs you that's not the  
8 case.

9 MR. ALLAN FORAN: Okay. Have you ever  
10 been qualified as an expert in any aspect of regulation?

11 DR. CHRIS ROBINSON: No.

12 MR. ALLAN FORAN: And you're not holding  
13 yourself out as an expert on US law, are you?

14 DR. CHRIS ROBINSON: No.

15 MR. ALLAN FORAN: One (1) of the things  
16 that you indicated earlier, and -- and I'm going to  
17 encourage you to keep me on the straight and narrow --  
18 but you indicated that some of your evidence has been  
19 quoted with approval or used by the Supreme Court of  
20 Canada, in a case that it dealt with, and I'm curious  
21 about that. That's a very August court.

22 Perhaps you could help me with, did you  
23 appear in the Supreme Court, sir?

24 DR. CHRIS ROBINSON: No, no.

25 MR. ALLAN FORAN: Did you give evidence

1 in the Supreme Court?

2 DR. CHRIS ROBINSON: No.

3 MR. ALLAN FORAN: So could you again  
4 maybe just help me; what was your reference to? If I was  
5 looking, and we actually did look, by the way, --

6 DR. CHRIS ROBINSON: Oh, good.

7 MR. ALLAN FORAN: -- but if I was looking  
8 to find what the Supreme Court of Canada used your  
9 expertise to decide upon, where would I look?

10 DR. CHRIS ROBINSON: Okay. The case is  
11 Dunphy (phonetic). It was a case that started in Court  
12 of Queen's Bench in Alberta, and Dunphy claimed that  
13 because of the common practice of stating -- I'm  
14 summarizing, you realize; this is a very messy, actually  
15 a very silly case. But he -- he claimed that because the  
16 lender to him -- and this is not a personal loan, this  
17 was a commercial loan -- because the lender to him was  
18 using the common practice of APR, okay, of stating a loan  
19 in an APR, so your loan is -- and this all turned on  
20 detailed wording, common wording, right -- you're pay  
21 12 percent per annum, payable monthly.

22 Now, the understood practice of that means  
23 that you pay 1 percent a month, which means it compounds  
24 to 12.68 percent. I'm just giving this as a number, I  
25 don't remember the exact numbers.

1                   What Dunphy claimed was that they were, in  
2 fact, therefore, misleading him or not charging the  
3 actual rates stated and, therefore, under that  
4 circumstance, he had right to the statutory relief which  
5 is that they could charge him no more than 5 percent  
6 simple interest per annum.

7                   And Court of Queen's Bench actually  
8 thought there was some merit to this argument. And I  
9 came into this because Stephen Penkas (phonetic), who is  
10 now -- who is a lawyer, was and is a lawyer in Toronto,  
11 wanted to talk to me about this, and Elizabeth Maines  
12 (phonetic) and I, who is another professor of finance at  
13 York University at Schulich, consulted with him, not on  
14 the same --

15                   MR. ALLAN FORAN:    Can I just stop you  
16 there for a second.

17                   DR. CHRIS ROBINSON:    Yes.

18                   MR. ALLAN FORAN:    Schulich...?

19                   DR. CHRIS ROBINSON:    Yes.

20                   MR. ALLAN FORAN:    And she's a colleague  
21 of yours, but -- are you at Schulich?  Maybe I missed  
22 this.

23                   DR. CHRIS ROBINSON:    Well she -- well I  
24 was at Schulich.

25                   MR. ALLAN FORAN:    Okay.

1 DR. CHRIS ROBINSON: Remember, I was at  
2 Schulich for twenty (20) years.

3 MR. ALLAN FORAN: I'm sorry, so this case  
4 goes back some time?

5 DR. CHRIS ROBINSON: Oh, yes. Yes. We  
6 co-authored a paper in the Canadian Business Law Journal  
7 in which we investigated the issue of APR versus AER and  
8 what commercial practice was, and essentially tried to  
9 explain this for -- for lawyers. I mean, that's what we  
10 were doing was trying to explain this for lawyers.

11 And it proved to be much more difficult  
12 than we thought. I mean, it's easy to say, Well, we know  
13 what this means, but as the Board has seen from the  
14 debates that have gone on in front of it over AER -- EAR  
15 and APR, it's -- it's not so easy to -- to make it clear.  
16 That work was then used.

17 Mr. Pinkus was involved in some way in the  
18 case or in some further appeal, and he informed me that  
19 this then, you know, this material eventually went to the  
20 Supreme Court.

21 But, of course, I was not -- neither was -  
22 - Elizabeth nor I were testifying. Dunphy did get  
23 appealed to the Supreme Court, and the -- the -- the  
24 lender's position that he should be able to charge his  
25 APR compounded monthly was upheld, as was the common

1 commercial practice.

2                   Subsequently -- I can't remember her name  
3 now, It's a -- a lady, I think, in British Columbia --  
4 Marilyn something who has written the standard work on  
5 interest in Canada who also cites that paper and -- in  
6 our arguments.

7                   MR. ALLAN FORAN:    Okay.  And so just to -  
8 - to really cut to the chase here, you didn't provide  
9 expert advise on that case, correct?

10                  MR. CHRIS ROBINSON:   Well, I can't  
11 remember if I did at some point to Mr. Pinkus -- whether  
12 I was actually providing expert advice.  What I recall is  
13 that we ultimately wrote the paper, because that's what -  
14 - that's what university professors tend to do.

15                  So we may actually have provided expert  
16 advice, or we provided advice to him, certainly, which he  
17 then used professionally.  But, no, neither Elizabeth nor  
18 I were qualif -- you know, were qualified, appeared in  
19 front of any court or gave formal testimony.  The test  
20 was the academic one; the Canadian Business law Journal  
21 reviewed and accepted our paper for publication.

22                  MR. ALLAN FORAN:    Okay, and you've really  
23 -- you've -- you've caught the drift of my questions.  
24 You neither were qualified, testified to, nor appeared  
25 before a judge so far as it related to that case.



1 Correct?

2 MR. CHRIS ROBINSON: That's right.

3 MR. ALLAN FORAN: And to the best of your  
4 knowledge, the Supreme Court may have looked at the  
5 article, but you can't provide me with any information,  
6 site, quote or anything like that?

7 MR. CHRIS ROBINSON: No. I -- this was -  
8 - I -- I agree. This was secondhand information I  
9 received from -- from Mr. Pinkus at the time. That was a  
10 long time ago, so I doubt if either he or I would recall  
11 any more.

12 MR. ALLAN FORAN: So we're not to make  
13 much note or we should note that -- and I want to be fair  
14 to you -- when you make your statement to this Board  
15 about your information being used by the Supreme Court of  
16 Canada, you're using that in a peripheral way.

17 They may have looked at it, but it wasn't  
18 because of something that you specifically did in that  
19 court?

20 MR. CHRIS ROBINSON: Yes. I'll actually  
21 even concede something more to you, which is simply that  
22 the evidence that I was giving on interest rates is  
23 something that I would consider any qualified finance  
24 professor would be equally qualified to give. We're not  
25 talking rocket science here.

1                   MR. ALLAN FORAN:    Thank you.  Subject to  
2 what the Board would like to do, perhaps this would be an  
3 appropriate time for a break.

4                   THE CHAIRPERSON:    Very good, Mr. Foran.  
5 We'll be back in fifteen (15) minutes.

6

7 --- Upon recessing at 10:24 a.m.

8 --- Upon resuming at 10:44 a.m.

9

10                  THE CHAIRPERSON:    Okay, folks.  Thank  
11 you.  Mr. Foran...?  Sorry, Mr. Williams.

12

13                                       (BRIEF PAUSE)

14

15                  THE CHAIRPERSON:    Okay, Mr. Williams  
16 returned to his chair.  Mr. Foran, you can continue with  
17 your cross-examination.

18

19 CONTINUED BY MR. ALLAN FORAN:

20                  MR. ALLAN FORAN:    Thank you, Mr.  
21 Chairman.  Dr. Robinson, on October 4th, 2007 you sent me  
22 an email entitled 'Payday Lending Hearings and Steve  
23 Sardo'.

24

DR. CHRIS ROBINSON:    Yes.

25

MR. ALLAN FORAN:      Now I'm not

1 particularly interested in your perceived problems with  
2 Mr. Sardo but I'm interested in the interpretation of  
3 your ending sentences and it went like this.

4 "In any case, should anyone think they  
5 can extend threats like that to me to  
6 influence my evidence, it won't work.  
7 Bigger players than anybody in this  
8 hearing have been threatening me for  
9 over twenty (20) year."

10 End quote. Do you recall writing that,  
11 sir?

12 DR. CHRIS ROBINSON: Yes.

13 MR. ALLAN FORAN: Thank you. Can you  
14 tell -- just -- and I'm coming to the question now. Can  
15 you tell me who 'the bigger players' are who have been  
16 threatening you for over twenty (20) years?

17 DR. CHRIS ROBINSON: Do you really want  
18 that story? Or any of them?

19 MR. ALLAN FORAN: I've asked a question,  
20 you can answer it or not answer, I leave it to you.

21 MR. BYRON WILLIAMS: I'm not sure of the  
22 relevance. So the -- like, Mr. Foran, and -- and if it's  
23 central to the issues before the Board, you know, we  
24 could be here -- so that's my caution on that statement.

25 It wasn't part of his -- part of his

1 evidence so as you wish.

2 MR. ALLAN FORAN: Mr. Chairman, I -- I  
3 believe that I'm entitled to some scope on cross-  
4 examination. There's a point to why I'm asking these  
5 questions, if that's an objection.

6 THE CHAIRPERSON: I think it's a fair  
7 question. I mean is it a turn of phrase or is it a real  
8 comment.

9 DR. CHRIS ROBINSON: Okay. All right.  
10 Ed Clark, now the Chief Executive Officer of TD Canada  
11 Trust. A man whose name I now forget who was the --  
12 formerly the Chair of the Alberta Securities Commission.  
13 Will that do?

14

15 CONTINUED BY MR. ALLAN FORAN:

16 MR. ALLAN FORAN: Yes. And -- and just  
17 so long as its germane, why did the -- and -- I'm sorry,  
18 who's Mr. Clark again?

19 DR. CHRIS ROBINSON: He's the Chief  
20 Executive Officer of TD Canada Trust.

21 MR. ALLAN FORAN: So he's the head of the  
22 Toronto-Dominion Bank? He -- he threatened you?

23 DR. CHRIS ROBINSON: Through his lawyer,  
24 yes. Not at that time. Not while he was head of TD  
25 Canada Trust. But you asked who had so I'm telling you.

1 MR. ALLAN FORAN: Did it have anything to  
2 do with your writings on payday lending, sir?

3 DR. CHRIS ROBINSON: No.

4 MR. ALLAN FORAN: Okay, thank you. And  
5 what about the Chief -- and again, I hope I have this  
6 right, the Alberta Securities Commission.

7 If you could just tell me did that -- who  
8 -- who is that individual?

9 DR. CHRIS ROBINSON: I can no longer  
10 remember his name. He was a lawyer, he was objecting to  
11 the fact that I was testifying on -- that I was giving  
12 expert advice and appearing on CBC Television regarding  
13 Tower Mortgage and Housing.

14 And he phoned me up and told me that he  
15 was going to make sure that I got really badly hurt  
16 because of what I was saying about him. I didn't  
17 actually say anything about him but I was implicitly  
18 criticizing Alberta Securities Commission for its  
19 complete failure to properly scrutinize the prospectus  
20 that Tower Mortgage and Housing had put in.

21 MR. ALLAN FORAN: Okay. And again,  
22 nothing having to do with Payday lending.

23 DR. CHRIS ROBINSON: No.

24 MR. ALLAN FORAN: And so the comment in  
25 your email then, just for clarification of the record,

1 when you're speaking to Mr. Sardo, you're not suggesting  
2 that anybody in the payday lending industry has  
3 threatened you over the course of the last twenty (20)  
4 years?

5 DR. CHRIS ROBINSON: No. And I think  
6 it's only fair to Mr. Sardo, I think that the Board  
7 should be aware since Mr. Sardo's name is getting dragged  
8 into this.

9 Mr. Sardo misunderstood the process of  
10 something that he was saying and made a comment that was  
11 quite inappropriate and seemed to be a threat. But he  
12 had no intention of doing so I then realized.

13 And I think you've seen that I feel very  
14 positively about Mr. Sardo and his participation in this.  
15 So I probably overreacted at the time given that I have  
16 had some threats. One (1) of those threats for a \$100  
17 million lawsuit which is more than I -- I own and the --  
18 we published anyway. But Mr. Sardo -- I -- I'm just  
19 trying to protect because the implication, since he's now  
20 on the record, is Mr. Sardo may have been issuing threats  
21 or doing something really awful.

22 Mr. Sardo, like me, didn't understand  
23 everything going on and he was, in fact, behaving and  
24 trying to behave in a way supportive to the -- to your  
25 work and I would not like there be any suggestion that I

1 otherwise now.

2 MR. ALLAN FORAN: Is appreciate. Thank  
3 you very much for the clarification.

4 I received another email from you, sir, on  
5 November 9th, 2007 entitled 'Money Mart Costs Reformatted  
6 Version 2.xls.' Do you remember sending that?

7 DR. CHRIS ROBINSON: Give me the date  
8 again?

9 MR. ALLAN FORAN: I'll give you the  
10 document, November 9th, 2007. sIn it you state this, and  
11 I'll -- I'll just quote you and you tell --

12 DR. CHRIS ROBINSON: I -- I had to send  
13 so many e-mails with respect to this and we've had  
14 technical problems.

15 MR. ALLAN FORAN: In that e-mail, and  
16 I'll just --

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: -- do -- do you have it  
19 before you, so you --

20 DR. CHRIS ROBINSON: Yes.

21 MR. ALLAN FORAN: In that e-mail you  
22 state the following, quote:

23 "I think the corruption occurs because  
24 the PILC..."

25 PILC, and I understand that's the Public Interest Law

1 Centre. Is that correct, sir? Is that what you  
2 intended, Public Interest Law Centre?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN:

5 "I think the corruption occurs because  
6 the PILC uses Lenex and Microsoft makes  
7 sure its files always are corrupted by  
8 Lenex as a competitive measure to  
9 continue to and enjoy an unethical and  
10 illegal monopoly."

11 Do you recall making that statement, sir?

12 DR. CHRIS ROBINSON: Yes.

13 MR. ALLAN FORAN: Also on November 9th,  
14 2007, in a separate e-mail that you sent, entitled  
15 "Spreadsheet for PUB Coalition 2, 15.xls," do you recall  
16 sending that e-mail, sir?

17 DR. CHRIS ROBINSON: Not particularly,  
18 I'll --

19 MR. ALLAN FORAN: Okay.

20 DR. CHRIS ROBINSON: -- assume that it --

21 MR. ALLAN FORAN: It does --

22 DR. CHRIS ROBINSON: -- I mean, I --

23 MR. ALLAN FORAN: Here it is.

24 DR. CHRIS ROBINSON: My e-mail  
25 correspondence is too great and I don't have a secretary.



1 MR. ALLAN FORAN: Your counsel will show  
2 it to you.

3

4 (BRIEF PAUSE)

5

6

7 DR. CHRIS ROBINSON: Yes.

8 MR. ALLAN FORAN: In that e-mail you  
9 state the following, quote:

10 "This is almost certainly due to the  
11 standard illegal, unethical and anti-  
12 competitive behaviour of Microsoft..."

13 And I'll paraphrase:

14 "Sorry for the difficulties Microsoft  
15 has caused you."

16 End quote. Do you recall --

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: With reference to those  
19 two e-mails, do you think that a lack of competition in  
20 that industry causes a problem?

21 DR. CHRIS ROBINSON: The problem in that  
22 industry is that -- that's a very good question and  
23 that's not what I was expecting you to suggest. Let me  
24 think about this for a minute. This is -- this is  
25 certainly worth answering thoughtfully for the Board.

1                   MR. ALLAN FORAN:   And by that, sir, and I  
2 don't mean anything by this, but all your answers to my  
3 questions have been thoughtful so far, have they not?

4                   DR. CHRIS ROBINSON:   Yes, but they  
5 haven't taken as long to think about.  This question is -  
6 - is just different, that's all.

7

8   (BRIEF PAUSE)

9

10                   DR. CHRIS ROBINSON:   I think the problem,  
11 and I'm not in the least willing to withdraw my comments  
12 about Microsoft, they are all, after all, supported in  
13 law by the European Union.  I think the problem with  
14 Microsoft's behaviour is what can happen when you have  
15 two (2) conditions applying:  One is that the --  
16 something about the industry leads to a natural monopoly  
17 being possible.

18                                   And a natural monopoly is, for example,  
19 where the costs are such that -- the fixed costs such as  
20 the utilities that the Board normally regulates, you  
21 can't do it any other way than have monopolies or at  
22 least localized monopolies.

23                                   In the case of Microsoft it's a  
24 technological advantage, they didn't -- it may be not --  
25 you could not describe it as not a natural monopoly but

1 it is a monopoly-like situation where if one (1) firm  
2 gains such a technological advantage so that nobody else  
3 can compete.

4                   And the second condition follows from the  
5 first: That one (1) firm or some very small group  
6 becomes so large that their behaviour then affects not  
7 merely through competition and price or quality, but the  
8 -- the very behaviour of their goods and services  
9 prevents others from even offering competing goods and  
10 services. And that clearly also has been the case with  
11 Microsoft.

12                   So it's not a lack of competition, it is  
13 the nature of that market that allows Microsoft to behave  
14 in that way and which, therefore, has invited regulatory  
15 responses in Europe.

16                   Is that -- is that helpful?

17                   MR. ALLAN FORAN: Yes. And that's not  
18 something that you advocate, correct? That type of  
19 behaviour from a large competitor that tries to stymie the  
20 industry in growth and competition? You don't  
21 countenance that, do you?

22                   DR. CHRIS ROBINSON: There is -- well,  
23 it's a very difficult -- no, I do not countenance the  
24 sort of behaviour that Microsoft has done whereby it has  
25 made others unable to compete on the fair nature of

1 whether they have better or worse software.

2 I'm unable to use the software I would  
3 prefer to use which is superior to Microsoft's because I  
4 then have exactly the situation. I then become unable to  
5 communicate with others because of Microsoft's dominant  
6 position.

7 MR. ALLAN FORAN: And in that case,  
8 choice is good, correct, sir?

9 DR. CHRIS ROBINSON: Yes.

10 MR. ALLAN FORAN: Thank you.

11 MR. BYRON WILLIAMS: And I apologize, Mr.  
12 Chairman. I had warned Board -- Board counsel of -- I'm  
13 going to ask if I could stand down this matter on -- I  
14 have just and I apologize for the discourtesy.

15 I just have another matter that's  
16 ongoing --

17 THE CHAIRPERSON: No, you've got to  
18 attend to it, Mr. Williams.

19 MR. BYRON WILLIAMS: Yes.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Okay, folks. Mr.  
24 Foran...?

25

1 CONTINUED BY MR. ALLAN FORAN:

2 MR. ALLAN FORAN: Thank you, Mr.  
3 Chairman. Dr. Robinson, I had the opportunity of  
4 reviewing the York University website and there's several  
5 articles about you on that website.

6 And what I'd like to do...

7

8 (BRIEF PAUSE)

9

10 MR. ALLAN FORAN: Were you aware, Dr.  
11 Robinson, that these articles were on a York website,  
12 first of all?

13 DR. CHRIS ROBINSON: I don't recall if  
14 I'd seen all of them but -- but -- I mean, yes. Clearly  
15 they are and --

16 MR. ALLAN FORAN: Okay. So let me just  
17 start, Dr. Robinson, with the first one that the -- I  
18 guess first of all, this -- this will be an exhibit.

19 MR. ANITA SOUTHALL: Yes, it'll be  
20 recorded as CPLA-13.

21

22 --- EXHIBIT NO. CPLA-13: Articles from the York  
23 University website.

24

25 DR. CHRIS ROBINSON: For the benefit of

1 the Board, Mr. Foran, this does not, however, constitute  
2 all the articles that are written about me on the York  
3 website, does it?

4

5 CONTINUED BY MR. ALLAN FORAN:

6 MR. ALLAN FORAN: Dr. Robinson, I'll ask  
7 you questions about the articles that I'd like to ask and  
8 -- if there's some followup later from your counsel,  
9 certainly he's free to discuss that with you.

10 So the first article that I'd like to ask  
11 you questions about is the -- at the top of the first  
12 page and it's titled 'Feds to give payday lenders more  
13 freedom to operate' and it's dated January 29th, 2007.

14 Do you see that, sir?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ALLAN FORAN: And about, say, five  
17 (5) lines from the bottom, the article says this:

18 "The Government has simply abdicated  
19 the field, said Robinson."

20 Do you believe that that's true, sir?  
21 That the Federal Government has abdicated the field?

22 DR. CHRIS ROBINSON: Yes. It was my  
23 opinion then and it is now clear that you have the --  
24 that you have the report to the Federal Government on the  
25 record that, I believe, that the Federal Government

1 should simply regulate in the same way that we are  
2 proposing now, through the -- through the Criminal Code  
3 to regulate the rates.

4 And the reason I believe that was it was  
5 simply more efficient rather than requiring the enormous  
6 expenditure of every province to do it separately.

7 So that I felt that was an abdication of  
8 the field of a responsibility that they had  
9 constitutionally and should have taken up and done.

10 MR. ALLAN FORAN: This article and this  
11 conclusion you have predated your retainer from the  
12 Coalition; correct, Dr. Robinson?

13 DR. CHRIS ROBINSON: Yes.

14 MR. ALLAN FORAN: And at this time then  
15 you had formed the conclusion that a Public Utility Board  
16 like the Manitoba Public Utility Board should not be  
17 setting rates, correct?

18 DR. CHRIS ROBINSON: No. I had formed a  
19 conclusion and stated to the gov -- to the Federal  
20 Government that they should be regulating the rates.

21 I have not --

22 MR. ALLAN FORAN: I thought you just --

23 DR. CHRIS ROBINSON: -- concluded that  
24 Manitoba Public Utility Board should not be doing it. I  
25 thought the Federal Government should be doing it. That

1 does not preclude -- I did not make any statement of what  
2 the Provincial Government should be doing.

3 MR. ALLAN FORAN: And I'm sorry, I was  
4 simply responding to your answer and perhaps I -- I just  
5 need to -- to go back a step then.

6 So at this point in time your preference  
7 for efficiency purposes was to have the Federal  
8 Government just impose a rate, correct?

9 DR. CHRIS ROBINSON: Yes.

10 MR. ALLAN FORAN: And so you'd formed the  
11 conclusion that Provincial hearings wouldn't be an  
12 efficient way of proceeding, correct?

13 DR. CHRIS ROBINSON: Yes.

14 MR. ALLAN FORAN: All right. That same  
15 paragraph you have a notation is that payday -- and this  
16 is about the fourth line from the bottom:

17 "Payday lenders are making excessive  
18 profits already."

19 Do you see that?

20 DR. CHRIS ROBINSON: Yes.

21 MR. ALLAN FORAN: And how did you come to  
22 that conclusion?

23 DR. CHRIS ROBINSON: That was from the  
24 ACORN report.

25 MR. ALLAN FORAN: And so you had that



1 conclusion in your mind prior to your retainer from the  
2 Coalition, correct?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: Okay. Last sentence or  
5 last two (2) sentences.

6 "They need to be regulated."

7 Do you see that, sir?

8 DR. CHRIS ROBINSON: Yes.

9 MR. ALLAN FORAN: And "they" refers to  
10 payday lenders, is that who you meant?

11 DR. CHRIS ROBINSON: Yes.

12 MR. ALLAN FORAN: And it says that:

13 "That will force them to be efficient."

14 And the "that" is regulation?

15 DR. CHRIS ROBINSON: Yes.

16 MR. ALLAN FORAN: And what you were  
17 looking for is efficiency, correct?

18 DR. CHRIS ROBINSON: Yes.

19 MR. ALLAN FORAN: And then you go on to  
20 say:

21 "And not destroy people who can't

22 afford it."

23 Correct?

24 DR. CHRIS ROBINSON: Yes.

25 MR. ALLAN FORAN: Because you believed at

1 that time that payday lenders destroyed people, correct?

2 DR. CHRIS ROBINSON: Yes. I thought they  
3 were harm -- that they were being harmful to people who  
4 could not afford it.

5 MR. ALLAN FORAN: So prior to your  
6 retainer from the Coalition, you had come to the  
7 conclusion that payday lenders needed to be regulated,  
8 forced to be efficient and stop destroying people,  
9 correct?

10 DR. CHRIS ROBINSON: Some people

11

12 (BRIEF PAUSE)

13

14 MR. ALLAN FORAN: Next article I'd like  
15 to bring to your attention, sir, is the -- just on that  
16 same first page it's entitled "York Professor Among  
17 Protesters Targeting Money Lender on Danforth."

18 Do you see that, sir?

19 DR. CHRIS ROBINSON: Yes.

20 MR. ALLAN FORAN: And that York professor  
21 in fact was you, correct?

22 DR. CHRIS ROBINSON: Yes.

23 MR. ALLAN FORAN: And you were part of a  
24 protest on the Danforth targeting moneylenders, correct?

25 DR. CHRIS ROBINSON: Actually, I was part

1 of a press conference. That was a press conference.  
2 ACORN was doing the protesting. I was talking to the  
3 media about the report that was released that day by  
4 ACORN.

5 MR. ALLAN FORAN: And so you were working  
6 with ACORN in terms of a protest on a specific payday  
7 location on the Danforth that day, correct?

8 DR. CHRIS ROBINSON: No, I was working  
9 with ACORN for a press conference. They chose to make it  
10 into a -- into a protest as well.

11 MR. ALLAN FORAN: You knew it was going  
12 to be a protest prior to your attendance, did you not,  
13 sir?

14 DR. CHRIS ROBINSON: Yes.

15 MR. ALLAN FORAN: And you were there at  
16 the request of ACORN to assist in the ACORN presentation  
17 of your conclusions, correct?

18 DR. CHRIS ROBINSON: Yes.

19 MR. ALLAN FORAN: And in that first full  
20 paragraph underneath that, third sentence:

21 "Chris Robinson is demanding a  
22 crackdown of Canada's payday lending  
23 industry."

24 That's you, sir? You're Chris Robinson?

25 DR. CHRIS ROBINSON: That is what the

1 reporter was reporting. Those are the reporter's words  
2 and not mine and you, of course, have my own words on the  
3 record in the form of the ACORN report and the government  
4 reports.

5 MR. ALLAN FORAN: So the reporters you  
6 spoke to concluded that you were looking for a crackdown,  
7 correct? That's what we can surmise from this?

8 DR. CHRIS ROBINSON: Those were the words  
9 they chose to use.

10 MR. ALLAN FORAN: Okay. You don't  
11 disagree with the characterization, do you?

12 DR. CHRIS ROBINSON: I wouldn't have used  
13 the word "crackdown." I simply recommended regulation.  
14 I pointed out that -- that this business needed to be  
15 regulated for the various reasons that I have -- that I  
16 stated in a -- in a lengthy and quite complicated report  
17 that took me a long time to prepare. I didn't use the  
18 word "crackdown."

19 I would remind you, of course, if you were  
20 to use the word "crackdown," we'd point out that they are  
21 all in violation of the Criminal Code of Canada.

22 MR. ALLAN FORAN: That's your conclusion?  
23 Your legal conclusion, is that what you're providing?

24 DR. CHRIS ROBINSON: It seems to have  
25 been the conclusion of some other courts as well.

1                   MR. ALLAN FORAN:    Are you providing that  
2 conclusion that all payday lenders are in violation of  
3 the Criminal Code, sir?

4                   DR. CHRIS ROBINSON:   Yes, that -- that is  
5 also my opinion.

6                   MR. ALLAN FORAN:    Okay.  And that's based  
7 on what grounds?

8                   DR. CHRIS ROBINSON:    Section 347 of the  
9 Criminal Code.  I've explained why I believe that in  
10 writing in my submissions to the Board.

11                   MR. ALLAN FORAN:    You haven't been  
12 qualified as an expert on legal matters, have you, sir?

13                   DR. CHRIS ROBINSON:    No.

14                   MR. ALLAN FORAN:    Okay.  So coming back  
15 to the crackdown on Canada's payday lending industry, can  
16 you tell me what was the nature of the protest?  What  
17 were the protesters attempting to do?

18                   DR. CHRIS ROBINSON:    They were attempting  
19 to get media attention for the report and for their  
20 campaign against payday lending.  I'm not the only person  
21 who had in fact written for them.  They had been working  
22 on this quite extensively prior to my involvement with  
23 them, but, the entire purpose of this was simply to have  
24 a place where they could get the press to come and where  
25 they would actually be visible as opposed to, say, doing

1 it in a -- in a room somewhere.

2 MR. ALLAN FORAN: Next paragraph if I  
3 could refer you to that which says this:

4 "Robinson and ACORN are calling on the  
5 Federal Government to regulate the  
6 industry and stop it from preying on  
7 customers by charging loan shark  
8 rates."

9 Did you say that, sir?

10 DR. CHRIS ROBINSON: No, I didn't.

11 MR. ALLAN FORAN: It was reported that  
12 way, correct?

13 DR. CHRIS ROBINSON: Yes, the Toronto Sun  
14 also managed to misreport even the written material I  
15 provided them. The East York Mirror is not quite the  
16 same as the National Post or the Globe and Mail in terms  
17 of its standards of accuracy. I did not refer to loan  
18 shark rates. They aren't loan shark rates and I did not  
19 use the word "preying." I don't regard this -- unlike  
20 many highly respected commentators in the industry, I  
21 don't regard it as predatory.

22 MR. ALLAN FORAN: Now, you're quoted as  
23 saying "technically payday lenders are criminals."

24 Do you still believe that today, sir?

25 DR. CHRIS ROBINSON: Well, that's unclear

1 at the moment because as soon as the -- as soon as the  
2 Public Utilities Board of Manitoba or any other Public  
3 Utilities Boards issue orders giving rate regulation,  
4 that will then set the law and then, of course, it  
5 becomes a different determination.

6                   It is my understanding - but as you say  
7 I'm not a lawyer, so I'll let you provide your expert  
8 opinion - that what the Attorneys General and the Federal  
9 Government are essentially agreeing to do is suspend any  
10 application of the criminal code until the provinces can  
11 act, so that there is sort of a legal hiatus here, so  
12 that are they in -- are the payday lenders now in  
13 violation of the law?

14                   I -- not clear to me that anybody could  
15 answer that question.

16                   MR. ALLAN FORAN: Prior to your retainer  
17 by the Coalition you had formed the conclusion that  
18 payday lenders are criminals, correct, sir?

19                   DR. CHRIS ROBINSON: Yes.

20                   MR. ALLAN FORAN: And if we keep going,  
21 last sentence of that middle paragraph:

22                   "Are they evil people destroying  
23 society? No, they are doing a business  
24 they can get away with."

25                   And at this point in time, May 30th, 2006,

1 you thought the payday lenders were getting away with  
2 something; correct, Dr. Robinson?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: And you were  
5 participating in a protest, with a crowd, organized by  
6 ACORN, a community group, who were trying to stop payday  
7 lenders from operating on the Danforth, correct?

8 DR. CHRIS ROBINSON: You've asked quite a  
9 few questions in one question or rather you've made quite  
10 a few statements and assertions, so I can't accept your  
11 statement.

12 To call a half dozen people there a crowd  
13 is -- is, I think, somewhat over stating the situation.  
14 It was a nice day and I cycled there so I presumed that  
15 they had a half dozen instead of one (1) person in a rain  
16 suit.

17 They -- they were not trying to stop  
18 payday lenders from operating on the Danforth, okay,  
19 there were no guns, there were no -- there was no  
20 suggestion -- they didn't try to blockade the doors, go  
21 inside, yell at the Money Mart employees inside or  
22 anything of the sort. They were, as I've already said,  
23 trying to have a venue where they could get publicity for  
24 their campaign to get the governments to regulate payday  
25 lending, not to stop payday lenders from operating on the



1 Danforth.

2 MR. ALLAN FORAN: And you agreed to  
3 participate in that even?

4 DR. CHRIS ROBINSON: I agreed to go and  
5 talk to the -- talk to all of the press. But, yes, I  
6 agreed, I knew this was a -- that this would be a  
7 protest, I did not feel uncomfortable about that.

8 I would like to inform the Board, in  
9 support of what I've actually said here, the parts that  
10 you're not referring to, that Money Mart has the lowest  
11 rates and I suggested that they should go find a store  
12 that had higher rates, since it would be rather more  
13 suitable, the -- but other than that it was their show.

14 MR. ALLAN FORAN: And that's because you  
15 have no quarrel with Money Mart's rates, sir?

16 DR. CHRIS ROBINSON: What I have is the  
17 evidence that I've presented and however it will shake  
18 out. One of the issues was that Money Mart has changed  
19 and continues to change its rates; that I have had -- I  
20 thought my problems were only with Rentcash but, in  
21 fact, I have had -- discovered that I had great  
22 difficulties in verifying Money Mart's rates. In fact,  
23 Money Mart has told me that they are unable to tell me  
24 what their rates are, so that, --

25 MR. ALLAN FORAN: Well just -- let me

1 just stop you.

2 DR. CHRIS ROBINSON: -- I'm not sure that  
3 I can quarrel with Money Mart's rates or not. I'm not  
4 sure I have absolute evidence as to what Money Mart  
5 charges now.

6 MR. ALLAN FORAN: I should just say,  
7 Dr. Robinson, and your counsel certainly is welcome to  
8 stop me if I've misquoted you, I'm simply asking  
9 questions on what you just told me.

10 So in May of 2006, you told the protestors  
11 that they should be choose a location different than a  
12 Money Mart to protest against because the rates were  
13 higher somewhere else, correct, Dr. Robinson?

14 DR. CHRIS ROBINSON: Yes, that is  
15 correct.

16 MR. ALLAN FORAN: And that's because you  
17 didn't at that time, May 30th, 2006, have an issue with  
18 the Money Mart rates, you had an issue with rates that  
19 were higher; correct, Dr. Robinson?

20 DR. CHRIS ROBINSON: No.

21 MR. ALLAN FORAN: But you didn't want  
22 protestors protesting against Money Mart at that period  
23 of time, correct?

24 DR. CHRIS ROBINSON: That's not what I  
25 said. What I said was, I thought it would be more

1 suitable to pick somebody with even higher rates. Money  
2 Mart is, as I have testified as far as I can determine to  
3 the extent they're willing to let me know, Money Mart is,  
4 as far as I can tell, charging the lowest rates in the  
5 industry anywhere in Canada.

6 MR. ALLAN FORAN: So at that period of  
7 time you were providing ACORN with advice on where they  
8 should picket, correct, Dr. Robinson?

9 DR. CHRIS ROBINSON: Yes, advice which  
10 they ignored, obviously.

11 MR. ALLAN FORAN: Did you give them other  
12 advice on how to set up their demonstration, Dr.  
13 Robinson, apart from what's -- what outlet they should  
14 select?

15 DR. CHRIS ROBINSON: No, had no idea.  
16 They chose that outlet because it was the closest one to  
17 their headquarters.

18 MR. ALLAN FORAN: But they sought your  
19 expertise on what outlet would be appropriate, correct?

20 DR. CHRIS ROBINSON: No.

21 MR. ALLAN FORAN: You provided your  
22 advice on what outlet they should choose, correct?

23 DR. CHRIS ROBINSON: They told me -- no.  
24 They -- well, let me see if I can recall what they --  
25 it's difficult for me to recall exactly and it -- calling

1 it "advice" is -- is suggesting a -- a weight -- a  
2 weighty process that is far beyond anything we were  
3 engaging in.

4 I think what they -- I think what I recall  
5 is that they said, well, there's a Money Mart close to  
6 our -- close to our office because their office is in  
7 East York and so we think that one. Now, should there be  
8 -- would there be one other -- another one or someplace  
9 else or, you know, what do you think about that?

10 And I would -- what I would have said was  
11 something to the effect, well, Money Mart has the lowest  
12 rates. Maybe you want to go to someplace else that has  
13 higher rates. And the upshot of all of that -- I mean  
14 they -- they just told me later they didn't -- you know,  
15 they told -- told me when -- when it would be and where  
16 and made sure that I could be available at that time but  
17 they said, you know, if we're to get -- you know, we've  
18 only got so much time to do this. We've got to get  
19 people from our local organization. ACORN is quite new  
20 in Toronto and so that's where we are so that's where  
21 we're going.

22 MR. ALLAN FORAN: So they sought your  
23 guidance, you provided them with some input with respect  
24 to the demonstration, and then you showed up, correct,  
25 Dr. Robinson?

1 DR. CHRIS ROBINSON: Yes.

2 MR. ALLAN FORAN: Okay. As a result of  
3 your conclusions as at that period of time, May 30th,  
4 2006, did you believe payday lenders should be in jail?  
5 Did you not make that statement?

6 DR. CHRIS ROBINSON: I can't recall  
7 making that statement that payday lenders should be in  
8 jail and if I recollect correctly the Criminal Code  
9 provisions don't -- I can't remember what the Criminal  
10 Code -- I don't think there is a provision for jailing.  
11 I don't think anybody's been jailed for a user in Canada  
12 in -- possibly ever. I certainly wouldn't have -- it  
13 wouldn't have even occurred to me to suggest that. This  
14 is a -- a commercial -- you know, sort of a commercial  
15 issue that should be dealt with commercially and ideally  
16 through regulation.

17 MR. ALLAN FORAN: If you look at the  
18 bottom paragraph of that same press release, four (4)  
19 lines from the bottom.

20 "If the banks came into this, they  
21 could knock every payday lender out of  
22 business."

23 Do you see that?

24 DR. CHRIS ROBINSON: I'm sorry. Yes.

25 MR. ALLAN FORAN: And that was your

1 conclusion at the time?

2 DR. CHRIS ROBINSON: Yes.

3 MR. ALLAN FORAN: And you thought that  
4 would be a good thing as of May 30th, 2006, correct, Dr.  
5 Robinson?

6 DR. CHRIS ROBINSON: Yes.

7 MR. ALLAN FORAN: And you believe that  
8 today, correct?

9 DR. CHRIS ROBINSON: Yes.

10 MR. ALLAN FORAN: And you believed that--

11 DR. CHRIS ROBINSON: Well --

12 MR. ALLAN FORAN: -- it would be a good  
13 thing to have banks come in and knock payday lenders out  
14 prior to your retainer from the Coalition, correct, Dr.  
15 Robinson?

16 DR. CHRIS ROBINSON: I would like you to  
17 tell me what you mean by what you think I'm meaning by  
18 "knock out."

19 I thought that they would force them to  
20 exit the business in one (1) way or another or maybe they  
21 would have to change their business model drastically,  
22 but, I felt that the banks and do feel that the banks  
23 have the capability if they choose, and I've said so  
24 writing, that the banks have the capability to offer a  
25 reasonable -- reasonable replacement for payday loans

1 that would undercut the rates charged by the payday  
2 lenders dramatically; would undercut them just because of  
3 the reasons we've talked about at great lengths, of the  
4 economics -- because of the economics of the situation  
5 and that this would, therefore, provide consumers with  
6 considerable savings.

7 I didn't feel this would be a particular  
8 hardship because my experience with bank managers are  
9 that a great number of them come from the -- from  
10 alternative finance sector so, in fact, what I was sort  
11 of visualising at the time -- I'm -- I'm actually  
12 visualising individuals that I have taught that the  
13 people working for Money Mart, RentCash, et cetera, in  
14 the event -- and of course it didn't seem likely it was  
15 going to happen in any hurry, but in the event that the  
16 entire industry ended up, the knocking out would include  
17 -- those people would end up working for the banks  
18 because they now had that education and this is the sort  
19 of creative destruction that the Chicago economists like  
20 to talk about in -- in economic systems.

21 MR. ALLAN FORAN: And you believe in  
22 creative destruction, do you, Dr. Robinson?

23 DR. CHRIS ROBINSON: That's a question  
24 that is just too big for me to answer yes, no, or -- or  
25 anything else. It seemed like it was a reasonable

1 process. It is, in fact -- this process has been  
2 happening with the small finance companies, consumer  
3 finance companies in Canada for some time.

4 So that whether I believe in it or not is  
5 kind of irrelevant. This is what is likely going to  
6 happen.

7 MR. ALLAN FORAN: So prior to your  
8 retainer from the Coalition for this proceeding, you had  
9 formed the conclusion that it would be a good thing to  
10 have banks come in and knock out payday lenders.

11 Correct, Dr. Robinson?

12 DR. CHRIS ROBINSON: I felt it was a good  
13 thing to have the banks come in, banks and credit unions.  
14 There I'm quoted just saying banks. I probably at the  
15 time actually said credit unions and they just eliminated  
16 that.

17 But I've always thought of the banks and  
18 credit unions as being jointly in this. A few years ago,  
19 of course, I would have added trust companies but they  
20 don't' exist anymore.

21 MR. ALLAN FORAN: So you agree with my  
22 statement as long it's expanded to include credit unions?

23 DR. CHRIS ROBINSON: Yes.

24 MR. ALLAN FORAN: And that is -- thank  
25 you for that. The next article is entitled 'OPG denies



1 lawsuit allegations.'

2 OPG is the Ontario Power Generation Inc.,  
3 Dr. Robinson, is that correct?

4 DR. CHRIS ROBINSON: Yes.

5 MR. ALLAN FORAN: And just referring to  
6 that article, I -- I see that you launched a \$50 billion  
7 lawsuit against Ontario Power Generation, is that  
8 correct, sir?

9 DR. CHRIS ROBINSON: No.

10 MR. ALLAN FORAN: "Lawyer seeking class  
11 action approval filed a lawsuit on  
12 behalf of three (3) activists."

13 DR. CHRIS ROBINSON: Yes. The lawyers  
14 launched the suit.

15 MR. ALLAN FORAN: They did. Elizabeth  
16 May (phonetic) was one of them, correct?

17 DR. CHRIS ROBINSON: Yes.

18 MR. ALLAN FORAN: Kimberly Protta  
19 (phonetic) was the other, correct?

20 DR. CHRIS ROBINSON: Yes.

21 MR. ALLAN FORAN: And the third was  
22 yourself, Christopher Robinson, correct?

23 DR. CHRIS ROBINSON: Yes.

24 MR. ALLAN FORAN: Do you believe you're  
25 an activist, sir?

1 DR. CHRIS ROBINSON: With respect to  
2 environmental matters, possibly.

3 MR. ALLAN FORAN: You're a consumer  
4 activist?

5 DR. CHRIS ROBINSON: No. With respect to  
6 environmental matters. I've not been involved in any  
7 consumer activist issues. As a strong environmentalist,  
8 I -- it is innately part of my nature to try to consume  
9 less. Although I must admit I don't do that with  
10 chocolate.

11 And to encourage a society in which there  
12 is less consumption of material goods. So that consumer  
13 activism of the sort of -- of the sort of -- you know, we  
14 need to have more goods available to people and -- and is  
15 not an area that I've gotten engaged in because what I  
16 want to do is encourage less consumption period. So my  
17 activism has been and -- and the issues that I have  
18 endorsed most strongly are the ones strictly relating to  
19 the eco-system.

20 You've heard me earlier testify that I use  
21 deep ecology as a philosophy; that is also a philosophy  
22 that I try to adhere to.

23 MR. ALLAN FORAN: And -- and just so that  
24 we don't quibble about words later, I -- I'm just looking  
25 at this.

A \$50 billion lawsuit was filed that you

1 were aware that that was the number that was being  
2 sought?

3 DR. CHRIS ROBINSON: Yes.

4 MR. ALLAN FORAN: And you are, in fact,  
5 or were as a plaintiff in that particular case amongst  
6 others?

7 DR. CHRIS ROBINSON: Amongst other  
8 plaintiffs, not amongst other cases.

9 MR. ALLAN FORAN: In that -- in that  
10 case, thank you. Now Elizabeth May, that is the  
11 individual who is head of the Green Party, correct, sir?

12 DR. CHRIS ROBINSON: Yes, she is now head  
13 of the Green Party.

14 MR. ALLAN FORAN: Have you ever provided  
15 advice to the Green Party on taking a position with  
16 respect to payday lending?

17 DR. CHRIS ROBINSON: No. For the  
18 edification of the Board and for the lawyers in the -- in  
19 the group, there's a difference in lawsuits. This  
20 lawsuit was filed but never served.

21 And it was never served because we could  
22 not get indemnification and the other plaintiffs were not  
23 willing to take that risk.

24

25 (BRIEF PAUSE)

1

2 MR. ALLAN FORAN: I'm showing you, Dr.  
3 Robinson -- I'm showing you, Dr. Robinson, a document  
4 from York Weekly Newsletter, August 2006 edition. Do you  
5 have that in front of you? Turn to the second page  
6 please, sir.

7 DR. CHRIS ROBINSON: Yes.

8 MR. ALLAN FORAN: Is this -- is this a  
9 student run enterprise? The -- I'm sorry and I'm  
10 speaking now to the York Weekly Newsletter.

11

12 (BRIEF PAUSE)

13

14 DR. CHRIS ROBINSON: Okay, I'm sorry.  
15 It's a big university. I have never seen this article.  
16 I was not aware of the existence of YLife. There are  
17 newspapers and other things all over the campus.

18 So this is the first I've heard of this.  
19 They didn't speak to me on this and I -- I --

20 MR. ALLAN FORAN: If you go to the second  
21 page, sir, is that your picture?

22 DR. CHRIS ROBINSON: Yeah. Yes.

23 MR. ALLAN FORAN: And there's a note  
24 above it saying 'Payday lenders are hard to kill' says  
25 Robinson. Are you Robinson?

1                   MR. BYRON WILLIAMS:    Let's -- let's just  
2 stop for a minute because the -- in terms of this one, at  
3 least to date, Dr. Robinson has indicated he's not spoken  
4 to a reporter.

5                   Now if you can give some context in terms  
6 of where this information could have come from --

7                   MR. ALLAN FORAN:    I will do no such  
8 thing. I will ask questions and he will either agree  
9 with me or won't agree with me and if he denies that he  
10 said this, we'll deal with it.

11                  MR. BYRON WILLIAMS:   Well --

12                  MR. ALLAN FORAN:    But my first question  
13 is: Are you Robinson?

14                  MR. BYRON WILLIAMS:   Except for Dr.  
15 Robinson is questioning the -- or at least you're  
16 presenting an article to -- to him from a newspaper he's  
17 not aware of -- from a reporter he doesn't recall  
18 speaking to.

19                  So in terms of establishing a foundation  
20 for this, I don't think that foundation has been  
21 established, sir.

22                  MR. ALLAN FORAN:    Thank you for using the  
23 word 'sir', so, I'm going to continue asking questions  
24 and he will either agree with me or --

25                  MR. BYRON WILLIAMS:   No, I --

1 MR. ALLAN FORAN: -- disagree with me.

2 MR. BYRON WILLIAMS: No, you're -- you're  
3 not going to ask questions yet if -- if I could. If I  
4 can have -- if Dr. Robinson -- if you can lay a  
5 foundation for where you got this document from and -- I  
6 don't have a problem with Dr. Robinson answering the  
7 questions, but it's a bit unfair to put to a witness a  
8 document from a journal he's never heard of and from a  
9 reporter who he hasn't -- is there an author, is a  
10 reporter indicated for example?

11 MR. ALLAN FORAN: So I'm going to  
12 continue to ask my questions, you keep --

13 OBJ MR. BYRON WILLIAMS: No, I'm objecting to  
14 the question.

15 MR. ALLAN FORAN: So you're objecting to  
16 me asking questions, Mr. Williams?

17 OBJ MR. BYRON WILLIAMS: I'm objecting to  
18 asking questions for which a foundation has not been  
19 laid. I've been very generous for you in --

20 MR. ALLAN FORAN: You've not been  
21 generous at all. I've been asking questions, your  
22 witness is under cross-examination.

23 MR. BYRON WILLIAMS: Well then I'm  
24 objecting.

25 MR. ALLAN FORAN: So here's my first

1 question.

2 MR. BYRON WILLIAMS: I'm objecting to the  
3 question. I'm asking for a ruling from the Chairperson.

4 MR. ALLAN FORAN: That I can't ask  
5 questions?

6 MR. BYRON WILLIAMS: The -- the objection  
7 is that a question has been framed and -- and perhaps  
8 over the break if Dr. Robinson wants to look at the  
9 article, or if we can have some information about who the  
10 reporter is, when the interview is alleged to have taken  
11 place, what this journal is, I think it's an unfair  
12 question to put to the witness because there -- he --  
13 because there's no foundation laid for it.

14

15 CONTINUED BY MR. ALLAN FORAN:

16 MR. ALLAN FORAN: So let's try and lay  
17 the foundation. I'm showing you a document that's on the  
18 York University website. Do you see that, Dr. Robinson?

19 DR. CHRIS ROBINSON: You're showing me a  
20 document that appears in the York University website and  
21 you're asking me if I read everything on the York  
22 University website everywhere? I mean is that what --

23 MR. ALLAN FORAN: I haven't asked that  
24 question but let's -- one step at a time.

25 DR. CHRIS ROBINSON: Okay. Yes. That is

1 a picture of me, there is a picture of me on my own  
2 website, probably several pictures taken at various times  
3 which anybody could have access to and use.

4 MR. ALLAN FORAN: The document -- so let  
5 me -- let me just ask the question because your counsel's  
6 objected.

7 I'm showing you a document dated August  
8 2006, Summer Monthly Edition. Have you ever seen this  
9 document before, sir?

10 DR. CHRIS ROBINSON: No.

11 MR. ALLAN FORAN: Are you aware of what  
12 YLife is?

13 DR. CHRIS ROBINSON: No.

14 MR. ALLAN FORAN: Have you ever heard of  
15 it?

16 DR. CHRIS ROBINSON: No.

17 MR. ALLAN FORAN: Now it's self titled as  
18 a weekly newsletter for students. Do you see that on the  
19 first page, top left-hand corner?

20 DR. CHRIS ROBINSON: Yes.

21 MR. ALLAN FORAN: Does that assist you in  
22 your recollection?

23 DR. CHRIS ROBINSON: I don't recollect  
24 it.

25 MR. ALLAN FORAN: Okay. Now if you turn



1 to page 2. That's your picture in the middle of the  
2 page, correct, sir?

3 DR. CHRIS ROBINSON: The handsome guy on  
4 the left, yes. Well there are two (2) pictures.

5 MR. ALLAN FORAN: That's your picture,  
6 left- hand side of the page?

7 DR. CHRIS ROBINSON: Yes.

8 MR. ALLAN FORAN: And in the second  
9 paragraph, the lower paragraph right next to the picture,  
10 there's a quote that says this:

11 "This is an industry that's hard to  
12 kill entirely."

13 Do you see that, sir?

14 DR. CHRIS ROBINSON: Yes.

15 MR. ALLAN FORAN: Do you recall making  
16 that statement, sir?

17 DR. CHRIS ROBINSON: No.

18 MR. ALLAN FORAN: Do you recall ever  
19 being interviewed by a reporter from YLife?

20 DR. CHRIS ROBINSON: No.

21 MR. ALLAN FORAN: "There has to be a  
22 better way." that's in quotes. Do you see that, sir?

23 DR. CHRIS ROBINSON: Yes.

24 MR. ALLAN FORAN: Do you recall ever  
25 making that statement?

1 DR. CHRIS ROBINSON: No. I would,  
2 however, not disagree with the statement.

3 MR. ALLAN FORAN: And you also don't --  
4 you wouldn't disagree with the statement that this is an  
5 industry that's hard to kill entirely; is that fair to  
6 say as well?

7 DR. CHRIS ROBINSON: No, I don't agree  
8 with the statement. I didn't make it. I wouldn't have --  
9 -- wouldn't characterise it in -- in this way or discuss  
10 it in this way.

11 MR. ALLAN FORAN: Okay. Now, that's a  
12 different answer. So now you've said you didn't make  
13 that statement?

14 DR. CHRIS ROBINSON: I didn't make the  
15 statement and I don't agree with the statement but it's --  
16 -- I don't agree with the statement in that it's not  
17 responsive to the kind of analysis I've done, the kind of  
18 conclusions that I've reached regarding the payday  
19 lending industry.

20 MR. ALLAN FORAN: And that is that they  
21 are resilient and they are hard to kill; that's the thing  
22 you have difficulty with in terms of reconciling or is it  
23 the intent?

24 DR. CHRIS ROBINSON: You're now changing  
25 the words of the statement. I -- I mean I can't agree --

1 I can't agree or disagree with a statement when you now  
2 change the words of it.

3

4 (BRIEF PAUSE)

5

6 MR. ALLAN FORAN: It's fair to say that  
7 prior to your retainer by the Coalition you had come to a  
8 conclusion that led you to believe you did not like the  
9 payday lending industry; correct, Dr. Robinson?

10

11 (BRIEF PAUSE)

12

13 DR. CHRIS ROBINSON: No, that's not true.  
14 What I've concluded or what -- what I've come to do of  
15 course, and it's a continuing process, is to learn a good  
16 deal more about it and I find it very interesting and I'm  
17 afraid that's what university professors and researchers  
18 are like is that we find these questions really  
19 fascinating to deal with and to try to provide insight  
20 into so that, as I think I've said already, my passion  
21 for social issues is most notably engaged with  
22 environment and it's been that way for my entire life.  
23 So I wasn't particularly passionately engaged in  
24 disliking this industry.

25

It's really -- it's been -- and my

1 colleagues share the feeling and -- and the Coalition,  
2 it's been really interesting to -- to learn more about it  
3 and to -- to understand all of the, you know, what's --  
4 what's going on in it so that I -- I didn't. I can't  
5 recall what I would have said to you at 2006 or 2005 but  
6 mostly for me it has been a process of -- of academic  
7 discovery.

8 MR. ALLAN FORAN: But as a result of your  
9 academic discovery prior to retaining -- retainer with  
10 the Coalition, you had formed certain conclusions on who  
11 should be involved with the industry to make it more  
12 efficient for consumers, correct?

13 DR. CHRIS ROBINSON: Yes.

14 MR. ALLAN FORAN: And that being banks  
15 and credit unions, correct?

16 DR. CHRIS ROBINSON: Yes.

17

18 (BRIEF PAUSE)

19

20 MR. ALLAN FORAN: Mr. Chairman, with  
21 leave, we're getting close to noon. I have a whole new  
22 area that doesn't relate to the kinds of questions that  
23 I've pursued this morning and it's -- it's, again, going  
24 to be a lengthy area and my submission is if it's  
25 appropriate and convenient we would just break now?

1 THE CHAIRPERSON: Sounds sensible, Mr.  
2 Foran. We will come back at one o'clock. Sorry, Mr.  
3 Hacault...?

4 MR. ANTOINE HACAULT: I might have two  
5 (2) or three (3) questions that follow logically on just  
6 what was completed. I don't know whether we want to wait  
7 till after lunch.

8 THE CHAIRPERSON: Mr. Foran, are you all  
9 right if Mr. Hacault follows up on your current questions  
10 with a few of his own or should he wait his turn? Your  
11 preference, sir.

12 MR. ALLAN FORAN: If it's my preference,  
13 my preference is to continue when I'm back logically and  
14 just follow through. And -- and I don't want to disrupt  
15 the Board's proceeding. I had understood that I would,  
16 in effect, have the opportunity of going from beginning  
17 to end with Dr. Robinson and we thought that might be  
18 efficient.

19 THE CHAIRPERSON: Very good, sir. Okay.  
20 We'll break now and come back at 1:00 and Mr. Foran can  
21 continue. Thank you.

22 MS. ANITA SOUTHALL: Sorry. Mr.  
23 Chairman, just on that point something which was not  
24 clear was that Mr. Foran can't attend this afternoon.  
25 He's got personal obligations that require him to be away

1 this afternoon and so I had discussed with my friends  
2 during the break, morning break, what we could do and  
3 whether or not Mr. Hacault could step in.

4 That's really what Mr. Foran is getting at  
5 and that he had hoped that he would be able to proceed  
6 and complete his cross-examination understanding that  
7 that might mean that we don't use all of this afternoon's  
8 time.

9 I have some follow-up with Dr. Buckland  
10 and Mr. Hacault has some follow-up with Dr. Simpson so  
11 that's really what he's asking. I suppose without coming  
12 out and saying it that's really what Mr. Foran is asking  
13 the Board to consider.

14 MR. ALLAN FORAN: And if I could just for  
15 the purposes of the record, and -- and I hate doing this.  
16 I have nothing but deference for the panel. When this  
17 date was set, I actually, at the very first opportunity,  
18 said I was not available in the afternoon and it was set  
19 on the basis that I would not be able to be present in  
20 any event.

21 THE CHAIRPERSON: Okay. Fair enough, Mr.  
22 Foran. We'll follow what the understanding was so come  
23 back at one o'clock and we'll proceed down a different  
24 path. Thank you.

25 MR. BYRON WILLIAMS: And at one o'clock

1 we'll have probably a number of undertakings from the --  
2 or at least one (1) from the panel.

3

4 --- Upon recessing at 11:54 a.m.

5 --- Upon Resuming at 1:07 p.m.

6

7

8 THE CHAIRPERSON: Okay, Mr. Williams...?

9 MR. BYRON WILLIAMS: Yes, and we'll --  
10 we'll -- we won't offer any discussion but we had  
11 undertaken to -- to assist Mr. Hacault with another  
12 scenario in terms of net -- net present value and Dr.  
13 Buckland has done that.

14 We suggest that it be marked as COALITION-  
15 37 and I believe Mr. Gaudreau has kindly distributed it  
16 throughout the room so -- and then I can just indicate  
17 that Dr. Buckland is available to respond to some of the  
18 undertakings that Ms. -- or if Ms. Southall wishes to put  
19 some questions to him, he's available for that.

20

21 --- EXHIBIT NO. COALITION-37: Answer to undertaking re  
22 net present value

23

24 THE CHAIRPERSON: Do you have any  
25 questions on this?

1 MS. ANITA SOUTHALL: No, I don't, Mr.  
2 Chairman.

3 THE CHAIRPERSON: Mr. Hacault, do you  
4 have any questions of Professor Buckland on this?

5 MR. ANTOINE HACAULT: Just one (1) or two  
6 (2) clarifications.

7 THE CHAIRPERSON: Sure. Please proceed.

8

9 CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

10 MR. ANTOINE HACAULT: In this example,  
11 Dr. Buckland, we've only focussed on the to and from  
12 work; is that correct?

13 DR. JERRY BUCKLAND: Yes, that's correct.

14 MR. ANTOINE HACAULT: So that if a family  
15 had children or if they had to go grocery shopping or  
16 take their children to sports events or other events,  
17 we'd have to -- even with the bus fare add all these  
18 additional activities that a family would normally engage  
19 in; is that correct?

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

21 MR. ANTOINE HACAULT: Thank you.

22 THE CHAIRPERSON: Okay Thank you. Mr.  
23 Hacault, you have questions for Professor Simpson I  
24 believe?

25



1 CONTINUED BY MR. ANTOINE HACAULT:

2 MR. ANTOINE HACAULT: Yes, I had given to  
3 the Board Secretary two (2) extracts and I had already  
4 given a copy to my colleague Mr. Williams of data sets  
5 from the FCAC 2005 report and they'll be distributed.  
6 There are two (2) packages. One (1) is entitled "Payday  
7 Loan Sample Canada, Including Quebec" and the other one  
8 is an extract entitled "Payday Loan Sample Manitoba."

9 And can we perhaps have the exhibit number  
10 for that?

11

12 (BRIEF PAUSE)

13

14 THE CHAIRPERSON: It's COALITION-38 as a  
15 package, the two (2) of them, Quebec and Manitoba.

16

17 --- EXHIBIT No. COALITION-38: Two (2) packages, one (1)  
18 entitled "Payday Loan Sample  
19 Canada, Including Quebec" and  
20 an extract entitled "Payday  
21 Loan Sample Manitoba."

22

23 MR. ANTOINE HACAULT: Thank you.

24 MS. ANITA SOUTHALL: That would be  
25 correct, Mr. Chairman.



1 handwriting is mine, it's not Dr. Simpson's.

2 MR. BYRON WILLIAMS; Okay well -- okay,  
3 then hold on one (1) second please.

4

5 (BRIEF PAUSE)

6

7 MR. BYRON WILLIAMS: I apologize, Mr.  
8 Chairman and Members of the panel. We -- we don't want  
9 to interfere with Mr. Hacaault's cross but I just wanted -  
10 - we've done this to assist him.

11 I just want it clear that the notes on the  
12 side are -- are not Dr. Simpson's.

13

14 (BRIEF PAUSE)

15

16 CONTINUED BY MR. ANTOINE HACAULT:

17 MR. ANTOINE HACAULT: Now, Dr. Simpson,  
18 the first document has my handwriting on the first page  
19 and on subsequent pages there are also handwriting  
20 notations which I have added.

21 Could you confirm, firstly, that these  
22 data results were produced using the sub data that you  
23 received which you understand was used to prepare this  
24 FCAC report.

25 Is that correct?

1 DR. WAYNE SIMPSON: If by "sub data" you  
2 mean the -- the actual survey data results, then yes.

3 MR. ANTOINE HACAULT: Thank you. So on  
4 the first page we see a table and on that table there's  
5 the number 92.

6 Could you remind us again the size of the  
7 full sample and out of that full sample what this ninety-  
8 two (92) means?

9 DR. WAYNE SIMPSON: Yes, the sample was  
10 five thousand and five (5,005) Canadians and ninety-two  
11 (92) of them reported that they had used the services of  
12 a payday lender.

13 MR. ANTOINE HACAULT: And that's a  
14 weighted average. We'd seen another number 89. Do you  
15 know what that's about? It's not on this particular  
16 table, though, but it's in your slides and in the FCAC  
17 report. It's not critical if you don't remember.

18 DR. WAYNE SIMPSON: No, at this point I -  
19 - I don't remember.

20 MR. ANTOINE HACAULT: Okay. Turning then  
21 to the second page of this document, it's actually page  
22 numbered 9. I can indicate for the record that I didn't  
23 photocopy but Dr. Simpson did produce pages that go in  
24 between these.

25 Could you explain what number 1 from the

1 frequency table is intended to convey? When it says:

2 "Valid - yes, 92."

3 to the question and I'm quoting the  
4 question.

5 "Have you ever used the services of a  
6 cheque cashing outlet or a payday loan  
7 company?"

8 DR. WAYNE SIMPSON: Well this is a sample  
9 of all people who used a payday loan company, so, all of  
10 those people would have used a cheque cashing or a payday  
11 loan company.

12 MR. ANTOINE HACAULT: Okay. And the  
13 second heading on that same page 9 is just a continuation  
14 of the sub data with respect to those ninety-two (92)  
15 respondents? Is that -- am I reading that correctly?

16 DR. WAYNE SIMPSON: You're referring to  
17 question number 2 below?

18 MR. ANTOINE HACAULT: Yes.

19 DR. WAYNE SIMPSON: Yes. Questions were  
20 asked about why people had used the cheque cashing or  
21 payday loan service. And this refers to those who used a  
22 payday loan service and it indicates the reasons why they  
23 -- they had used one.

24 MR. ANTOINE HACAULT: Okay. Now flipping  
25 on to the next photocopied page which is page 13. At the

1 top - and hopefully my writing is clear - am I right in  
2 reading this table as follows.

3                   There are about 67 percent that have used  
4 payday loans once or twice a year, or less than that  
5 amount.

6                   MR. WAYNE SIMPSON: I'm sorry. Could you  
7 repeat that?

8                   MR. ANTOINE HACAULT: If I look at  
9 question 3 --

10                  MR. WAYNE SIMPSON: Yes.

11                  MR. ANTOINE HACAULT: -- and I was trying  
12 to determine the percentage of people that were surveyed  
13 that used the service two (2) times or less in a year,  
14 where would I have to look?

15                  MR. WAYNE SIMPSON: Two (2) times or less  
16 a year? You're referring, then, to once or twice a year  
17 plus those who used it less than once a year, which would  
18 be the two (2) categories indicated. And you've  
19 indicated that that adds to -- well, it doesn't. It adds  
20 to 65 percent, I think.

21                  MR. ANTOINE HACAULT: That's right. So  
22 I've made a math error that should be corrected.

23                  MR. WAYNE SIMPSON: Well, I think you've  
24 added in the "don't know" or "refused" perhaps.

25                  MR. ANTOINE HACAULT: Okay. So --

1 MR. WAYNE SIMPSON: That's 65 percent.

2 MR. ANTOINE HACAULT: -- we'll correct  
3 that. Now, flipping on to page 14, question number 7,  
4 you had reported on the third last slide of your  
5 presentation that 36 percent of the people thought - is  
6 the word you had used - that the interest rate of a  
7 payday loan was below the interest rate of a credit card.

8 Could you look at page 14 and see whether  
9 or not that's correct, or it needs to be corrected.

10 MR. WAYNE SIMPSON: Yes, I stand  
11 corrected, as you've pointed out. In fact, that should  
12 read:

13 "36 percent of payday loan customers  
14 thought that rates were less than or  
15 equal to those charged by a credit card  
16 company."

17 I've put -- I've put "lower" -- it should  
18 be "lower -- "less than or equal to."

19 MR. ANTOINE HACAULT: Okay.

20 MR. WAYNE SIMPSON: You mentioned this  
21 question of "thought" -- this question says:

22 "Do you know the approximate interest  
23 rate on a payday loan?"

24 I would think if consumers were  
25 interpreting that as knowledge, the answer would be "yes"

1 or "no." But since the question involves an assessment  
2 of what that rate is, I think the use of the word  
3 "thought" is -- is appropriate.

4 So I -- I think -- if I -- if I recanted  
5 that in earlier discussions, I don't recant it anymore.  
6 I think, as I've characterized it, it is what they think  
7 because they're not being asked if they knew or not,  
8 they're being asked what they think the rate is.

9 MR. ANTOINE HACAULT: Okay, I'm not going  
10 to belabour this, but is your understanding that the  
11 question immediately beside the 7 on this page is the  
12 question that was asked to them on the telephone  
13 interview?

14 MR. WAYNE SIMPSON: This is the question  
15 on the -- in the survey documentation.

16 MR. ANTOINE HACAULT: So that on the  
17 phone the consumers would have been asked -- and I'm  
18 quoting -- "do you know." They don't ask you "do you  
19 think."

20 Do you agree with that? I'm just  
21 wondering where you get the word "thought" from the word  
22 "know."

23 MR. WAYNE SIMPSON: When I -- when they -  
24 - when someone asks me do I know something, I either know  
25 it or I don't. I'd say "yes" or "no."



1 MR. ANTOINE HACAULT: Okay, so --

2 MR. WAYNE SIMPSON: So that's not the --  
3 the set of responses below do not invite that response.

4 MR. ANTOINE HACAULT: In fact, what's the  
5 last response -- if they didn't know what the interest  
6 rate was, did they have an option of telling the survey  
7 person whether they knew or didn't know?

8 MR. WAYNE SIMPSON: Yes, as in other  
9 questions.

10 MR. ANTOINE HACAULT: So that if they  
11 didn't know the answer, we see that the frequency was --  
12 there was about 16 percent that didn't know what they  
13 were being charged, but the balance of the -- or that  
14 they refused to answer, but that the balance of the  
15 people actually knew what they were being charged.

16 Isn't that what the responses to the  
17 question indicate?

18 MR. WAYNE SIMPSON: I would not  
19 characterize it that way, no.

20 MR. ANTOINE HACAULT: Okay.

21 MR. WAYNE SIMPSON: I don't even know  
22 that the -- the fifteen (15) who responded, that they  
23 don't know/refuse, simply refused but I take your point  
24 that there is a category which says "don't know" but that  
25 category also exists in all the other questions where

1 they're no question about knowledge.

2 MR. ANTOINE HACAULT: So it may be -- and  
3 we would have been able to break this down into subdata,  
4 that there may be just one (1) person that didn't know  
5 what they were being charged, the fourteen (14) other,  
6 because there's fifteen (15) in all in this subset of the  
7 -- that don't know/don't refuse or refused; is that  
8 correct first?

9 There's fifteen (15) people that answered  
10 either "I don't know" or they refused to answer; is that  
11 -- am I interpreting that table correctly?

12 DR. WAYNE SIMPSON: That would depend on  
13 how the -- how the questionnaire was constructed. There  
14 might have been separate categories for "don't know" and  
15 "refused" or they may have simply categorized all  
16 questions of non-response as "don't know" or "refused."  
17 I don't know that.

18 MR. ANTOINE HACAULT: So we can't even  
19 say from this that there was 16 percent that didn't know  
20 what they were being charged? It might be substantially  
21 less than 16 percent that didn't know what they were  
22 being charged; isn't that correct?

23 DR. WAYNE SIMPSON: I -- I don't  
24 interpret the question that way. I wouldn't respond to  
25 the question that way.

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Apart from the  
4 actual report which showed the question and the available  
5 responses, do we have any other information as to how  
6 this interview was conducted?

7 DR. WAYNE SIMPSON: No.

8 MR. ANTOINE HACAULT: And on page 28 of  
9 the report the question, that's the FCAC report that I'm  
10 talking about, what you filed in evidence?

11 DR. WAYNE SIMPSON: Yes.

12 MR. ANTOINE HACAULT: Subject to  
13 correction, I'm suggesting to you that the question is  
14 listed and then four (4) options are given, the same four  
15 (4) options that are listed in the printout that you gave  
16 me.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: Subject to  
21 correction you'll -- or verification, you'll agree with  
22 that statement?

23 DR. WAYNE SIMPSON: I would expect that's  
24 the case, yes, without going back to the document.

25 MR. ANTOINE HACAULT: Now, could you flip

1 to the next page in this document? It's page numbered  
2 27. Have you located that page?

3 DR. WAYNE SIMPSON: Yes.

4 MR. ANTOINE HACAULT: Now, there are two  
5 (2) boxes at the bottom of that page which break down the  
6 people who responded by region and also by province.

7 Do you see that?

8 DR. WAYNE SIMPSON: Yes.

9 MR. ANTOINE HACAULT: And for some reason  
10 my math is not very good because when we talk about  
11 region they put Saskatchewan and Manitoba and they put  
12 thirteen (13) people responded; do you see that?

13 DR. WAYNE SIMPSON: That's right and  
14 under "Province" it adds to fourteen (14). I -- I did  
15 not -- because the samples are -- is so small which I'd  
16 pointed out in my initial -- my direct presentation or  
17 direct evidence, I did not look carefully at the  
18 breakdown by province or region because one knows that  
19 if, for example, Manitoba is one-thirtieth (1/30) of the  
20 population of Canada and there's ninety-two (92)  
21 respondents, one would expect only three (3) from --  
22 respondents from Manitoba and, in fact, there's six (6),  
23 so, Manitoba's over-sampled in that respect or has a  
24 higher proportion of payday lenders than the rest of the  
25 country.

1 MR. ANTOINE HACAULT: And how many payday  
2 lenders might we have in a particular year in Canada?  
3 How small is this sample?

4 We've been criticising, like the Deloitte  
5 and Touche report that had thirteen (13) participants as  
6 far as industry and five (5) only surveyed which was  
7 about a third of the entire group of thirteen (13).

8 Now, would ninety-two (92) be anywhere  
9 close to a third of the people that use payday loans in  
10 Canada?

11 DR. WAYNE SIMPSON: No, but statistical  
12 reliability never depends upon the proportion of the  
13 population sample, it depends upon the size of the  
14 sample.

15 MR. ANTOINE HACAULT: And what's the size  
16 of the sample compared to the entire people who use  
17 payday loans in Canada? Is it point .01 percent?

18 DR. WAYNE SIMPSON: I would guess that  
19 it's in the same proportion to the proportion of Canadian  
20 samples by the FCC to the total population of Canada.

21 The fact that they only chose five  
22 thousand (5,000) Canadians to sample is indicative of the  
23 fact that they thought they could draw reliable  
24 conclusions about the Canadian population with regards to  
25 what they were interested in from a population of -- from

1 a sample of five thousand (5,000), despite the fact that  
2 the population of Canadian for adults is something like  
3 20 million.

4 MR. ANTOINE HACAULT: So the larger five  
5 thousand (5,000) sample tells us something about the  
6 sample that's big enough. But am I correct that in your  
7 opinion ninety-two (92) is a -- you've indicated that's a  
8 very small sample.

9 And that certainly wouldn't be a big  
10 enough sample to give us representative answers with  
11 respect to what's happening in the payday loan industry.

12 Isn't that correct?

13 DR. WAYNE SIMPSON: No, I haven't said  
14 that at all. I don't think I've used the word 'very  
15 small'. I've said the sample of -- of payday loan  
16 consumers is small for Canada as a whole and, therefore,  
17 I don't think any breakdown into the provinces and  
18 regions would be useful.

19 I wouldn't care to draw any conclusions  
20 from a sample of size -- of size six (6) for Manitoba.

21 MR. ANTOINE HACAULT: And the size six  
22 (6) for Manitoba is not much proportionately bigger than  
23 the size ninety-two (92) for Canada; is it?

24 DR. WAYNE SIMPSON: Well, actually,  
25 proportionately it -- it might be double from what I just

1 said which is bigger. So, I guess I disagree with that  
2 statement.

3 MR. ANTOINE HACAULT: So it -- so it  
4 would be like sampling twelve (12) people in Manitoba and  
5 drawing conclusions on what's happening in the payday  
6 loan industry by asking twelve (12) people what's  
7 happening in -- in this industry?

8 DR. WAYNE SIMPSON: No. I wouldn't do  
9 that. But I -- I would take a sample the size ninety-two  
10 (92) for Canada as a whole is telling me something about  
11 the payday lending consumers in Canada.

12 MR. ANTOINE HACAULT: And what's  
13 considered payday lenders? Because on the same page we  
14 have a sample of eleven (11) people from Quebec. Is that  
15 correct?

16 DR. WAYNE SIMPSON: Yes.

17 MR. ANTOINE HACAULT: And I thought we  
18 heard that Quebec doesn't give payday loans?

19 MR. BYRON WILLIAMS: Just -- Dr.  
20 Simpson's welcome to answer the question but I think  
21 we've heard a mixture of evidence about Quebec, including  
22 the fact that some consumers from Quebec may go across  
23 into Ontario to take payday loans.

24 But in any event, please continue with  
25 your -- just I'm cautioning you to be careful in terms of

1 the broad statements that you've making.

2

3 CONTINUED BY MR. ANTOINE HACAULT:

4 MR. ANTOINE HACAULT: Am I correct,  
5 firstly, when I've heard the evidence that Quebec doesn't  
6 allow payday loans; they just have maximum interest rate.

7 Is that your understanding, Dr. Simpson?

8 DR. WAYNE SIMPSON: From what I've heard,  
9 yes.

10 MR. ANTOINE HACAULT: Okay. So we don't  
11 know what kind of sample of people are answering these  
12 questions from Quebec and how that skews these results,  
13 do we?

14 DR. WAYNE SIMPSON: I'd really only be  
15 speculating and I -- I don't think it would inform  
16 anybody.

17 MR. ANTOINE HACAULT: And if we flip to  
18 the next page, being page 29, am I right in interpreting  
19 this table that there were two (2) people from Winnipeg  
20 that were interviewed with respect to payday loans?

21 DR. WAYNE SIMPSON: Yes.

22 MR. ANTOINE HACAULT: And two (2) people  
23 from Brandon that were interviewed?

24 DR. WAYNE SIMPSON: Yes.

25 MR. ANTOINE HACAULT: And the other two



1 (2) would have been either in a rural or other unstated  
2 urban area, is that correct?

3 DR. WAYNE SIMPSON: Yes. A community  
4 under the size of Brandon.

5 MR. ANTOINE HACAULT: Flipping on to the  
6 next page, 35. I know in the slides you've reported this  
7 in a different way.

8 But am I right in understanding the top  
9 table is indicating that there's a total of 83.7 percent  
10 of the people that answered this survey that had  
11 education being at least a high -- high school level of  
12 education?

13

14 (BRIEF PAUSE)

15

16 MR. WAYNE SIMPSON: Yes.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: And flipping on to  
21 the last page, which is part of the payday loan sample  
22 for Canada, am I right in interpreting this last table as  
23 indicating that approximately 49.1 percent of this small  
24 sample made for -- more than forty thousand dollars  
25 (\$40,000) a year annual household income?

1 MR. WAYNE SIMPSON: No.

2

3 (BRIEF PAUSE)

4

5 MR. WAYNE SIMPSON: Do you want me to  
6 elaborate?

7 MR. ANTOINE HACAULT: There's -- okay,  
8 let's take it by little chops then. On the extreme  
9 right-hand side there's accu -- accumulative percent?

10 MR. WAYNE SIMPSON: Yes.

11 MR. ANTOINE HACAULT: Okay. And across  
12 each line -- so for the first line, they've identified  
13 4.5 percent had made under ten thousand dollars  
14 (\$10,000)?

15 MR. WAYNE SIMPSON: Yes.

16 MR. ANTOINE HACAULT: And then when they  
17 include people to just under twenty thousand dollars  
18 (\$20,000), it brings the total to 17.2 percent?

19 MR. WAYNE SIMPSON: Yes, and when they get  
20 to under forty thousand dollars (\$40,000), it's 50.9  
21 percent.

22 MR. ANTOINE HACAULT: And maybe I'm -- my  
23 math is wrong. That's the group of people that make  
24 under forty thousand dollars (\$40,000), is fifty-nine  
25 (59) -- 50.9 percent, so that those are the people making



1 respondents, there were no people who used this product  
2 more than once a month.

3 Is that correct?

4 MR. WAYNE SIMPSON: That's right.

5 MR. ANTOINE HACAULT: And out of that  
6 sample there were -- this is Number 4, the the second  
7 arrow on page 10.

8 There were three (3) out of the six (6)  
9 that were, I'm going to say, pure payday loan people.  
10 They didn't use other products when they walked into a  
11 payday loan centre.

12 Is that correct?

13 MR. WAYNE SIMPSON: That's correct. And  
14 there appears to be one (1) person in that category who's  
15 disappeared entirely, because there's three (3) no cheque  
16 cashing and two (2) cheque cashing. I don't know what  
17 happened to the sixth person.

18 MR. ANTOINE HACAULT: Well, you might be  
19 able to explain that further. I think at the beginning  
20 of the study, the -- and I'm not too familiar with how  
21 they extend these.

22 But given that they only take one (1)  
23 respondent per five (5), they extend stata -- statistical  
24 data. Is that your understanding?

25 So that may create these numbers

1 difference, because this is a weighted average. It's not  
2 the actual respondents.

3 MR. WAYNE SIMPSON: I -- I'm not sure  
4 what you're getting at there, so I'll take -- I'll take  
5 your point.

6

7 MR. ANTOINE HACAULT: Okay.

8 DR. WAYNE SIMPSON: I was just  
9 questioning what had happened there. The numbers don't  
10 add up, but it's not consequential.

11 MR. ANTOINE HACAULT: Okay. And on the  
12 second page that's photocopied, being page 12, at  
13 question Number 9, each of the Manitoba respondents were  
14 banked in the sense that they had an account at a  
15 financial institution.

16 Is that correct?

17 DR. WAYNE SIMPSON: Yes.

18 MR. ANTOINE HACAULT: And flipping on to  
19 the next page, question 11, each of the people surveyed  
20 had never been refused an account at a financial  
21 institution.

22 Is that correct?

23 DR. WAYNE SIMPSON: That's correct.

24 MR. ANTOINE HACAULT: Those are all my  
25 questions.

1 THE CHAIRPERSON: Thank you, Mr. Hacault.  
2 I think what we were going to do, have a short break to  
3 see if we could find any more things to do.

4 Correct, Ms. Southall?

5 MS. ANITA SOUTHALL: Actually, we do have  
6 some undertaking responses from Dr. Buckland. And I  
7 suppose some of them wouldn't be characterized  
8 necessarily as undertakings, but that Dr. Buckland had to  
9 leave the panel early the other day. And I posed a  
10 number of questions that had to be turned to Dr. Buckland  
11 for consideration.

12 So we could move on to that, complete  
13 that, and then take a shorter adjournment to determine if  
14 -- if we can use the remainder of the day for another  
15 portion of cross-examination.

16 THE CHAIRPERSON: And we have a few  
17 questions too as well. So we could fit that in.

18 MS. ANITA SOUTHALL: Thank you. So, Mr.  
19 Williams, could we turn over to you for that?

20 MR. BYRON WILLIAMS: And I don't think we  
21 had anything formally written. So Dr. Buckland's  
22 prepared to answer the -- the questions, Ms. Southall.  
23 And if I miscommunicated, I -- I apologize. But he --  
24 he's -- and he's -- he's just sitting there waiting.

25 So he could even -- so if you -- he might

1 even be able to help us through this. If -- if we'll  
2 just stand down for one second, I'll see if we could do  
3 it in a more structured manner.

4

5 (BRIEF PAUSE)

6

7 MR. BYRON WILLIAMS: And we're -- I'm not  
8 exactly quoting the -- the questions posed by Ms.  
9 Southall, but I believe we identified five (5) areas of  
10 inquiry.

11 Dr. Buckland, one of the first areas of  
12 enquiry was whether or not you could provide the Board  
13 with any evidence -- literature, studies, et cetera --  
14 that deal with the stigma associated with taking out a  
15 payday loan.

16 Specifically, my understanding was that  
17 the Board would like to know if there's evidence of the  
18 stigma and whether there is a real risk involved -- i.e.,  
19 viewed negatively by employer, goes on your record,  
20 affects your credit rating -- if a mainstream bank is  
21 aware that a customer has used payday loans.

22 Could you respond to that please, Dr.  
23 Buckland?

24 DR. JERRY BUCKLAND: Yes, thank you. I'm  
25 not aware of studies. The -- the one thing that I -- I

1 did want to mention was that on the 15th of January, on  
2 Tuesday, I think I had mentioned something about social  
3 stigma.

4                   And I just wanted to clear up that I was  
5 referring to the -- the unbanked phenomenon. And so in  
6 research that I've done with Thibault Martin, a colleague  
7 of mine from sociology, formerly at the U of W, now at  
8 the University of Quebec in Otta -- in Gatineau.

9                   He particularly highlighted that, that in  
10 the research we did in the North End of Winnipeg, we  
11 identified social stigma as something that we heard  
12 people describe when they talked about being unbanked.  
13 Now that's not the same as -- as having a payday loan.

14                   So, no, I'm not aware of studies that have  
15 looked specifically at the relationship with using payday  
16 loans.

17                   I -- I did want to mention another thing  
18 that at the time we did our -- our north end study in --  
19 in Winnipeg, we came across one (1) payday lender who had  
20 an interesting program. And I won't name the lender, but  
21 the lender claimed that if the consumer took out ten (10)  
22 payday loans consecutively and paid all those payday  
23 loans off on time, that the lender would then help to  
24 improve that person's credit rating by sending the credit  
25 bureau a letter explaining what's happened; the person's





1 apparent difference in the statistic for bank closures.  
2 So if you could assist the Board with that.

3 MR. JERRY BUCKLAND: Yes, thank you. And  
4 this has really challenged my understanding of -- of  
5 authoritative lists. I thought there was such a think --  
6 a thing as authoritative lists. I've now come to realize  
7 there's not, necessarily and I was very appreciative that  
8 the Board identified this gap.

9 And just to be clear, in Table 2 of my  
10 direct evidence, I identified twenty-nine (29) bank  
11 branch closures; that does not include credit union  
12 closures, just bank branch closures.

13 That comes from the same data set that Mr.  
14 Osborne used to determine that there were twenty-two (22)  
15 bank branch closures. The -- the data that I collected  
16 for the table in my direct evidence was done in 2006.  
17 The data that John Osborne collected was just done in --  
18 in August. And so, my question was, well, how could  
19 it be that there's fewer bank branch closures in 2007,  
20 because this is accumulative. This is from 2002 -- the  
21 beginning that they collected the data until the present.  
22 So there should be more, not less.

23 So I was fortunate enough to have this  
24 question -- have pre-knowledge of this question, and so I  
25 had a conversation with the Financial Consumer Agency of

1 Canada because they're the ones that collect the data.

2 And about a year ago, which would be  
3 before -- sorry, after I collected my data and before Mr.  
4 Osborne collected his data, about a year ago the FCAC  
5 changed the criterion by which they would include a bank  
6 branch closure.

7 Now, the criterion, I -- I believe -- and  
8 I only had a brief conversation with the person at FCAC  
9 but I believe that the criterion may have always been the  
10 same, however, the way FCAC applied it changed about a  
11 year ago.

12 And the basic point here is that  
13 previously, when I collected my data, they included all  
14 bank branch closures. Since 2000 -- since I did my data  
15 and the John Osborne data, they no longer include bank  
16 branches where the receiving branch is within 500 metres.

17 And they, in fact, went back and they  
18 deleted branches where the receiving branch was less than  
19 500 metres away. So, apparently, the Bank -- and I'm no  
20 legal expert, but the Bank Act apparently requires banks  
21 only report on branch closures when the receiving branch  
22 is greater than 500 metres away.

23 So, my -- my conclusion is that, in fact,  
24 the -- the data that FCAC now provides is actually  
25 understating the total number of bank branch closures.

1 And I -- I -- I'm sorry that we didn't, you know, clearly  
2 state that it was this 500 metre criteria previously.  
3 But that's my understanding of the -- the gap between the  
4 two (2) numbers.

5 MR. BYRON WILLIAMS: And -- and I might  
6 just ask a follow-up question on that specific point just  
7 to make sure I understand it.

8 The data that you reported, Dr. Buckland,  
9 of twenty-nine (29) bank closures would be all, in your  
10 understanding, that were in that area at that time.

11 Is that right?

12 DR. JERRY BUCKLAND: Yes.

13 MR. BYRON WILLIAMS: By contrast, the --  
14 the data provided by Mr. Osborne would have deleted bank  
15 closures where the receiving branch was within 500 metres  
16 of the bank that had closed; is that right?

17 DR. JERRY BUCKLAND: Yes.

18 MR. BYRON WILLIAMS: Okay. Thank you.  
19 The -- and again I'm paraphrasing Ms. Southall's much  
20 more eloquent questions so -- but the third area that I'd  
21 like you to respond to, Dr. Buckland, is clarify the  
22 relevance of the age of payday lender from Figure 9 of  
23 the Buckland et al report.

24 DR. JERRY BUCKLAND: Yeah. As you might  
25 recall in our mapping exercise we had a more deductive

1 approach. We used both more inductive methods than  
2 deductive methods. The mapping was more deductive and so  
3 what we wanted to start with was a hypothesis.

4                   And the -- the principal hypothesis was,  
5 is there a spatial bias in terms of payday lenders  
6 locating in lower income neighbourhoods. At the same  
7 time, I was interested in pursuing another hypothesis and  
8 that was, is there a spatial bias in terms of payday  
9 lenders locating in neighbourhoods where there's a large  
10 number of people or a large proportion of people, we did  
11 both, that fit a younger age category.

12                   And so that was the rationale for that --  
13 that table or that figure and the -- the conclusion that  
14 I came to from that analysis was that there wasn't as  
15 strong a correlation with age as we found with income  
16 level.

17                   MR. BYRON WILLIAMS: Thank you, Dr.  
18 Buckland.

19                   Moving on to area number 4, there was a  
20 fairly broad question posed by Board counsel about how  
21 should the mystery shopping evidence be used or  
22 considered by the Board?

23                   And I believe both -- one (1) of the  
24 mystery shoppers as well as Dr. Robinson offered some  
25 comment but any advice you can provide to the Board on

1 that matter?

2 DR. JERRY BUCKLAND: The social science  
3 methods range from highly qualitative methods, for  
4 instance, a life history to very -- we might describe it  
5 as scientific, you know, random sampled, large sample  
6 size, and then the kind of analysis that we apply to  
7 those different methods also varies.

8 And I -- I think you saw kind of within  
9 the -- the Coalition research a range of those kinds of  
10 approaches but the mystery shopping we deliberately  
11 described as a qualitative method. That's not to say  
12 mystery shopping can't be done quantitatively; it can and  
13 I think FCAC is mandated to do that. What they do is  
14 they go in and they -- I think they sample -- they --  
15 they find a sample size and I'm not sure about random  
16 selection but they have a simple yes/no kind of question:  
17 Can the shopper open an account or not? So for instance  
18 when they're looking at, do banks live up to those  
19 regulations, it's a yes/no kind of thing.

20 What we chose to do is a more qualitative  
21 approach and ask questions about the politeness of the  
22 staff, the accessibility of the information, and the  
23 understandability about the information, information  
24 regarding fees and -- and loan rules.

25 And I previously made the point that

1 qualitative methods are not in any way, from my  
2 understanding, less valid than quantitative methods.  
3 That qualitative methods can be as or more valid than  
4 quantitative methods and so this question of validity, is  
5 it providing a -- a true snapshot, a valid snapshot, of  
6 what's going on?

7 I think that qualitative methods have a  
8 strong, a strong history in providing a valid snapshot.  
9 So I guess, firstly, I'd -- I'd want to say that I  
10 believe that we have provided a valid snapshot about the  
11 consumers' experience with payday lender -- a payday loan  
12 in regards to the politeness question of staff and the  
13 information accessibility and -- and understandability.

14 And in addition, we did some cross-  
15 checking. We had the in-person shops. We had the loan  
16 shops, extension shops. We had the telephone calls  
17 happening, so, we did some cross-checking and just one  
18 (1) piece of cross-checking that I think is interesting  
19 is how close we came with the fees for the loan and in  
20 comparing the telephone calls to the -- the actual loan -  
21 - well, no, the actual formulas that we got from the  
22 lenders from the contract.

23 So I think that's an important point that  
24 we did some cross-checking and -- and it does show on  
25 that point some strong reliability. In other words,

1 we've done a couple of different methods and we've got  
2 the same response.

3                   So, I think that we've done a useful  
4 qualitative method that is both a valid method and in the  
5 limited research that we did within the limited period of  
6 time, reasonably reliable.

7                   So I guess, you know, in the end I think I  
8 would like to make the case that it's -- it provides a  
9 valid representation of the consumer experience with --  
10 with payday lenders.

11                   MR. BYRON WILLIAMS:   Thank you, Dr.  
12 Buckland.

13                   Are you aware of any studies which show  
14 the effect of credit counselling courses on sub --  
15 subsequent financial behaviour; i.e., if someone takes a  
16 credit counselling course are they better at financial  
17 planning?

18                   DR. JERRY BUCKLAND:   Well, my -- my kind  
19 of tie into this question in terms of the literature has  
20 to do with the whole area of asset building. I'm not  
21 claiming that there aren't other important areas of study  
22 and -- and practice that could inform this discussion.

23                   But certainly in terms of the asset  
24 building literature - which there is quite an extensive  
25 literature - I think there is solid evidence not



1 specifically credit counselling but more broadly  
2 financial education, financial literacy, financial  
3 knowledge that there is a -- a relationship between that  
4 and greater financial -- and if I can use that concept,  
5 capability.

6                   Greater financial capability. So in other  
7 words, there is evidence from the asset building  
8 literature that people who have the basic tools and  
9 understanding of their finances and how they tie into  
10 their economic and social lives and the tools, that they  
11 have available to them that -- that will improve their --  
12 their economic and social lives.

13                   So, going back to an earlier discussion  
14 this morning about creativity, Michael Sheradan  
15 (phonetic) is an American prof at the University of  
16 Washington and St. Louis. He's one of the kind of  
17 pioneers in asset building. Very creative, very  
18 brilliant academic and -- and he's pioneered this kind of  
19 analysis of -- of assets and how they tie into economic  
20 life and -- and it's very interesting and rich  
21 literature.

22                   But certainly they found that financial  
23 management is -- is a factor. And there's actually a  
24 homegrown kind of example of this. It's -- the  
25 interesting thing about asset building is it's not just a

1 theoretical literature. There's -- there's a lot of  
2 interesting practice out there.

3           And the biggest program I'm aware of in  
4 Canada is the Learn Safe project which has been  
5 implemented by SEDI, Social and Enterprise Development  
6 Innovations, a Toronto based non-profit.

7           And they have -- they're doing a pilot  
8 study of asset building in Canada. It's called Learn  
9 Safe and they have -- one of their projects is here in  
10 Winnipeg with Seed Winnipeg. That's S-E-E-D. It's an  
11 acronym. SEED Winnipeg.

12           And SEED Winnipeg operates this Learn Safe  
13 project as well as some other asset building projects.  
14 And I believe they have found financial management  
15 education in terms of their projects has definitely  
16 supported people in terms of this asset building.

17           I mean, the basic idea with asset building  
18 is that you assist -- instead of providing somebody with  
19 credit ahead of time and then they pay off the loan, you  
20 help people to develop goals and then help them to build  
21 savings.

22           And usually there are programs that the --  
23 the participant puts in a certain sum of money and then  
24 that's matched to some -- maybe three (3) to one (1) or  
25 more by some sponsoring organization.

1                   And my understanding is that with SEED  
2 Winnipeg, the financial management part of the asset  
3 building programs have been so successful or in such  
4 demand that they've actually started financial management  
5 separate programs.

6                   In other words, they -- they didn't have  
7 enough space to allow everyone into these asset building  
8 programs but there was a big demand for financial  
9 management training.

10                  So they just started offering financial  
11 management courses in addition. So, I -- I think there's  
12 evidence right here in Winnipeg that, in practice, this  
13 does have an important effect on people's financial well  
14 being.

15                  MR. BYRON WILLIAMS:    Mr. Chairman, I  
16 think those are the questions we -- we felt we were --  
17 have been asked to answer.

18                  I should note and my clients have been  
19 popping in and out of the hearing for a number of days  
20 and I've neglected to introduce them. But Mr. Benham  
21 from Winnipeg Harvest is here as is Ms. Desorcy.

22                  This is not the first time they've  
23 appeared at the hearing this week so I've been a bit  
24 remiss in that regard.

25                  THE CHAIRPERSON:       Thank you, Dr.

1 Williams -- Mr. Williams.

2 DR. CHRIS ROBINSON: We do sometimes give  
3 them doctorates at the university if they've been around  
4 long enough and giving us enough money.

5 THE CHAIRPERSON: Mr. Williams' been  
6 around a long time. I've got, for the panel, a couple of  
7 questions since we have this opportunity of Dr. Robinson  
8 if I may and then we'll have a short break and Ms.  
9 Southall can see whether there is anything more that we  
10 can take care of today or we will just adjourn.

11 Dr. Robinson, leaving aside the interest  
12 rate, however one wants to express it, do you hold that  
13 payday loans, as designed, limited to fifteen hundred  
14 dollars (\$1,500), sixty-two (62) days, tied to the next  
15 paycheque represents a valuable addition to consumer loan  
16 options; other options being, presumably, lines of  
17 credit, consolidation loans, auto loans, overdraft  
18 protection, et cetera?

19 DR. CHRIS ROBINSON: I think -- that's  
20 quite a big question. I think that -- let me first fo --  
21 let me focus on some of the pieces of that definition.

22 The fifteen hundred dollar (\$1,500) limit  
23 which has been set by the Federal Government and the  
24 sixty-two (62) days are not in practice -- you don't get  
25 many loans -- see many loans being made.

1                   Now, we don't have evidence from the  
2 industry but have asked them. And, certainly, we know we  
3 don't see many loans for sixty-two (62) days.

4                   We also see in the US that the limits are  
5 much tighter. No -- I don't know of anywhere they allow  
6 a loan as large as fifteen hundred (1,500). And I think  
7 the feeling there is that you're getting into the size of  
8 loan where it shouldn't really be done under payday  
9 terms. Very unlikely somebody will be able to repay such  
10 a loan in one payday.

11                   So that it's not clear -- these are -- we  
12 can observe that -- that heroin is useful, but that  
13 doesn't allow us to conclude -- or we can observe --  
14 screwing up my own example.

15                   We can observe that heroin is used, but  
16 that doesn't allow us to conclude that it's useful. And  
17 Dr. Buckland has raised the point that perhaps what is  
18 more needed from these sort of small loans is a loan that  
19 can be repaid off -- repaid over a longer period of time,  
20 rather than to the next payday. And that's not something  
21 that is showing up either.

22                   What I really think is needed is an  
23 extension of a modest overdraft protection facility to a  
24 far wider range of consumers than banks and credit unions  
25 are currently offering it. If that were -- if that were

1 to happen, and it hasn't so far, then I would say that I  
2 would not see an enormous benefit to having payday loans,  
3 as such. Well, that would be -- you could just argue  
4 that that is a payday loan.

5 As it now stands in the market, it seems  
6 that, although some people are using it mistakenly or do  
7 not understand what they're doing, certainly, some people  
8 are using it advisedly in a way that they need it. We  
9 don't know how many those are.

10 I realize I can't answer your question  
11 sort of "yes" or "no" but -- so I'm uncomfortable with  
12 the range of consumer credit choices that are available  
13 and the costs of them right now. As the market stands  
14 right now, though, it seems that we don't have a  
15 replacement for payday loans for a significant number of  
16 people who might wish to have access to that kind of  
17 credit.

18 So that -- that is sort of answering your  
19 question. As it is now, we would -- we would want to  
20 continue to have access to that in the market.

21 THE CHAIRPERSON: If one makes a low  
22 income and has no savings and takes a three hundred  
23 dollar (\$300) loan that will cost three hundred and sixty  
24 dollars (\$360) to pay it back on the next payday, hasn't  
25 -- has one not moved the problem out two (2) weeks with

1 the problem now just bigger by sixty dollars (\$60)?

2 DR. CHRIS ROBINSON: Yes. And in fact,  
3 while -- just while Dr. Buckland was answering questions,  
4 I was trying -- and I'm going to try to calculate with  
5 Dr. Simpson what the average amount is that a payday  
6 borrower is borrowing in a year.

7 In other words, we talk about single  
8 loans. We know there's a lot of repeat customers. The  
9 numbers I'm coming up with are so large that the costs  
10 would be very large as well. So that it would be not  
11 only compounding the problem two (2) weeks out -- in  
12 other words, if you can't make your expenses today, what  
13 means -- means you'll be able to make them further on.

14 As I have -- I have recommended elsewhere  
15 that the percentage of pay granted should be smaller than  
16 50 percent. It's hard to conceive of anybody giving up  
17 50 percent of their next paycheque -- or, sorry, 50  
18 percent plus the interest on their next paycheque.

19 But there's also the question of the  
20 quantity that the repeat borrows are borrowing and the  
21 amount that they are paying now. In fact, the -- I mean,  
22 this is subject to us having to do more calculation and  
23 think about it.

24 But doing it several different ways, so  
25 far it looks like the average payday borrower could be

1 paying a thousand dollars (\$1,000) a year in fees, which  
2 I hadn't -- I mean, you'd think I would have thought of  
3 that in aggregate before. It's sort of putting together  
4 different numbers.

5                   So in that case, it's not merely pushing  
6 the problem out. It is exacerbating the total problem,  
7 because that's a very significant amount for somebody  
8 who's -- well, we don't even need to be very low income.

9                   A thousand dollars (\$1,000) a year paid on  
10 financial services, if you're making forty thousand  
11 dollars (\$40,000) a year, is -- is certainly going to  
12 hurt you.

13                   THE CHAIRPERSON: Dr. Robinson, are you  
14 aware -- seems a very simple question -- of the origins  
15 of the payday loan design? Like where did the concept,  
16 size of the loan, number of days, tied to the next pay,  
17 come from?

18                   DR. CHRIS ROBINSON: Well actually, the  
19 earliest design of payday loans does not come from the  
20 payday loan industry. It actually comes from a practice  
21 to be found in companies.

22                   And the practice would be -- and this, of  
23 course, is also from an era when we had -- when far  
24 greater percentages of the population had -- rather on  
25 farms or had stable employment, okay?



1                   So picture yourself in a -- in a factory  
2 where everybody works there for life. Well, sorry.  
3 That's sounds a little too grim -- for their working  
4 life. Okay, so that -- you know, I'm working for -- for  
5 thirty (30) years until retirement at what, Flyer  
6 Industries? Does Flyer -- Flyer Industries, okay.  
7 That's an example of one that exists, pays reasonably  
8 well.

9                   And I'm having these problems. And so  
10 payday, you know, everybody knows when payday is. And I  
11 come in at lunch on, you know, in the middle of --  
12 middle, you know, partway towards next payday.

13                   And I go over to Jovial Jerry, who is --  
14 you know, who's a mechanic with a -- with a -- and he  
15 opens his lunch box. But his lunch box doesn't just  
16 contain lunch; it also contains a bunch of money.

17                   He knows exactly when my next payday is.  
18 He knows pretty much what I'm going to be getting paid.  
19 And he makes me a loan. Whether -- with repayment terms  
20 being that he's going to see me at lunch the next time.

21                   That's where it seems to have come from.  
22 That -- so that it was much more a social, almost credit-  
23 union-like arrangement. I can't tell you -- of course,  
24 there's no source for this sort of information now, to  
25 tell you what rates were charged.

1                   But ultimately, the companies, of course,  
2 knew what was going on. And indeed, in one example,  
3 which I received orally, the company eventually put up a  
4 little kiosk for the person -- it was just another  
5 employee -- to deal with his payday loans, you know,  
6 collect on payday and payout the rest of the two (2)  
7 weeks.

8                   The payday lending as we now see it, as a  
9 commercialised practice rather than a socially instituted  
10 practice, seems to have arisen in the United States. It  
11 seems to have arisen very recently, sometime in the mid  
12 '90s. It's come from the cheque cashers.

13                   And of course, exactly the same thing  
14 happened in Canada. That is that the -- because the  
15 largest operator is Money Mart. Money Mart was  
16 originally an independent Canadian company, bought by  
17 Dollar Financial after it'd established a network of  
18 cheque cashing and doing other things.

19                   And Dollar Financial, of course, makes  
20 payday loans, so that the model came up from the US, but  
21 it's not like it was sort of established. The commercial  
22 operation was established in the US.

23                   In 1992, when John Caskey (phonetic) was  
24 presenting at the Alternative Perspectives on Finance  
25 Conference - and he's one of the authors in this field -

1 he discussed -- he did not discuss payday lending at all.  
2 And he was, at that time, probably the most expert on the  
3 alternative financial systems of anybody in the US.

4           So it seems it had not reached his radar.  
5 And he was not referring to old research. His papers are  
6 published around that time. He was, in fact, deeply  
7 engaged in that research and still is.

8           So what we've got is a model which had a  
9 social antecedent. Commercial practice recognized it.  
10 The US is somewhat different in they do much of -- some  
11 of their lending is done, what we call rent-a-bank.

12           So the banks are hidden behind it, whereas  
13 in Canada, they are not. Well, one (1) or two (2) US  
14 banks may be, but in Canada it's primarily in -- you  
15 know, companies that are actually doing it.

16           Okay? So that although Rentcash, for  
17 example, has Assistive Financial behind it, you know,  
18 providing the money, Assistive Financial is not Wells  
19 Fargo Bank. Okay? It is another small, Canadian  
20 company.

21           And so that's -- that's how it seems to  
22 have arisen. Now, there have been no rigorous historians  
23 researching this. And so I can't tell you more than  
24 that, but that's where it seems to have come from. And  
25 that of course is why, you know, that the commercialised

1 practice we see now bears great resemblance to what we  
2 see in the US, because we copied them, and we copied them  
3 very soon after they started doing it.

4 THE CHAIRPERSON: Thank you, Dr.  
5 Robinson. Have you considered at all or studied the  
6 impact on consumers in Quebec of the absence of payday  
7 loans?

8 DR. CHRIS ROBINSON: No, I have not.

9 THE CHAIRPERSON: So you do not know how  
10 the population manages without the service then?

11 DR. CHRIS ROBINSON: No, I can present to  
12 you some -- some preliminary evidence from North  
13 Carolina, where payday loans were just ended recently.  
14 Do you wish that -- for me to comment on that? Or would  
15 you rather just stick to Quebec?

16 THE CHAIRPERSON: Please.

17 DR. CHRIS ROBINSON: Okay. I had a  
18 conversation two (2) days ago with a researcher at the  
19 Centre for Responsible Lending, which has an interesting  
20 term to it. This is a centre that is sponsored  
21 essentially by one (1) man in the credit union -- who's  
22 in the credit union business and somewhere along the line  
23 has made a lot of money and has founded this institution.

24 So they do research. They are quite  
25 strongly opposed to payday lending as a practice, and

1 they succeeded in persuading the Government of North  
2 Carolina to withdraw an agreement. Now, here of course I  
3 don't have enough knowledge of American law.

4           But there had been some law passed but  
5 which had, I guess, a sunset clause on it or at least was  
6 not going to go on forever. And so if North Carolina  
7 didn't do anything, payday lending went back to 36  
8 percent APR. Remember that's per annum, not, you know,  
9 36 percent per loan, a number which of course you're all  
10 aware -- I have -- I have agreed, everyone here has  
11 agreed -- is unsustainable for an independent payday  
12 lender.

13           Now, so I asked him what had been the  
14 experience so far. And presumably they will write a  
15 report about it, but it's pretty soon. What he said is  
16 that they are -- that the credit unions, and even some of  
17 the small banks and consumer finance companies, are in  
18 fact stepping in and are making loans that fall within  
19 the law and that they have not so far -- that is, fall  
20 within 36 percent APR -- and that they have not so far  
21 received any information or had any evidence that there  
22 is any particular hardship being encountered by the  
23 consumers of North Carolina because they have no payday  
24 loans.

25           However, this -- this is all I have. I

1 could ask him to provide more information to us, but  
2 there's nothing in writing at the moment. This is, you  
3 know, nothing, no completely detailed survey. And so  
4 it's -- it's more than anecdotal. These are people who -  
5 - who -- their professional work is to -- to observe  
6 this. But it is not yet in a form where we have a really  
7 -- a very complete answer.

8 THE CHAIRPERSON: I assume the people of  
9 North Carolina would not be much different than people in  
10 Quebec, that they could presumably get a payday loan by  
11 the Internet or telephone or go to the neighbouring state  
12 or province?

13 DR. CHRIS ROBINSON: Yes, that's true.  
14 And of course I've been -- was making the same point with  
15 respect to Missouri. I'm not sure how the enforcement of  
16 claim works for somebody. And this is something I've  
17 never figured out, and I believe Mr. Slee is interested  
18 in this problem.

19 How do you actually enforce the claim if  
20 it -- if you are charging a rate which is illegal in one  
21 state but legal in another state? So you're operating a  
22 legal business in the state you're in, but you're selling  
23 to a customer who's in a state where what you're selling  
24 is illegal. And I don't know how that works. I have  
25 often wondered about that.

1                   But, yes, the people of North Carolina  
2 could use telephones and -- and get loans from somebody  
3 else. Or if they're on the border, they could go to the  
4 next state.

5                   THE CHAIRPERSON: Just switching a little  
6 bit, the comments being made by various parties that  
7 there's a growing inequality of income in Canada and  
8 that, I believe, it was the bottom four (4) deciles of  
9 household income it would affect, no after-inflation  
10 growth, the past twenty (20) years.

11                   Do you have any reasons to doubt that  
12 perspective?

13                   MR. CHRIS ROBINSON: No. I have read  
14 some of the evidence. This evidence, among other things,  
15 is coming from Statistics Canada, which is highly  
16 regarded.

17                   The evidence that I have read, and I have  
18 not investigated it deeply, but I believe that the  
19 problem is more serious in the United States than it is  
20 in Canada, but it is appearing in Canada.

21                   That said, it may not -- it may or may not  
22 be relevant. We have, of course, had many debates  
23 already about what is low income and what is not.

24                   Again, the consumers who are affected are  
25 not the poorest consumers. The poorest consumers who go

1 to the alternative financial system are going to the  
2 pawnshops. I think we have strong evidence of that. So  
3 that pawnshops would be, in fact, the places who would  
4 see this first.

5                   So if what you're trying to do is assist  
6 the very poorest Canadians, you would regulate pawnshops  
7 first. And they are, to some extent, already regulated  
8 by rates much more tightly than are -- in some locations  
9 -- than are payday lenders.

10                   THE CHAIRPERSON: Looking ahead, is there  
11 any reason to suggest that inequality of income will not  
12 continue to grow and household incomes for the lower  
13 earners will not continue to be stagnant?

14                   Are there any trends developing to  
15 suggest --

16                   MR. CHRIS ROBINSON: I have seen no  
17 trends. It is my belief that that trend -- that that  
18 trend will continue and worsen. But, of course, the last  
19 time I predicted interest rates, I was wrong for ten (10)  
20 years. So that's a pretty hard one to predict. And of  
21 course it might be biased by my beliefs, by my other  
22 beliefs.

23                   But I think that the problems of education  
24 and entitlement to stable, continued employment are such  
25 that more and more people are unable to have the middle-



1 class income that they could have relatively easily in  
2 the 1950s, '60s, and early '70s.

3 THE CHAIRPERSON: Thank you. I will just  
4 finish these ones, or are you on a different subject?

5 Are you aware of any ownership linkages  
6 between finance companies and payday loan firms, either  
7 here or in the US, as there are between linkages between  
8 banks and finance companies?

9 MR. CHRIS ROBINSON: Okay, I mean, there  
10 is of course Assistive. And now, Mr. Hacault or -- or  
11 anybody from Rentcash, correct me.

12 Assistive is not the only finance company  
13 providing financing for Rentcash, is it?

14 THE CHAIRPERSON: They said, no there was  
15 others --

16 MR. CHRIS ROBINSON: Yes, that's what I  
17 recall from their testimony. And that's what I recall  
18 that Rentcash has stated publicly as well.

19 But to the best of my knowledge these are  
20 independent, small operators who provide a pool of  
21 capital, bring together a number of investors, so that  
22 they are not in the financial mainstream in -- in any  
23 other way.

24 The large Canadian banks may, of course,  
25 provide -- well, undoubtedly do provide loans in the

1 normal course of business to some of the payday lenders.  
2 But they are -- are not allowed to take equity positions  
3 in them. And I -- I think it very unlikely that -- I  
4 mean I've not seen any evidence, and I would be really,  
5 really surprised if there were any connection.

6           The consumer finance companies that have  
7 almost disappeared in Canada likewise don't appear to  
8 have any connection. I mean, the big players are, of  
9 course, Money Mart, Cash Money and Rentcash.

10           Rentcash is a publically-traded company.  
11 Its ownership -- significant positions in its ownership -  
12 - are a public matter. They have connections with  
13 venture capitalists through -- well, it will be on the  
14 record somewhere. They've been making -- Mr. Reykdal has  
15 made speeches in New York.

16           But this is not the same as being  
17 connected. It's not the same as the rent-a-bank  
18 phenomena in the US, by any means. It is just investors  
19 who are investing for rate of return.

20           Dollar Financial, which controls Money  
21 Mart -- I can't remember its ownership positions or what  
22 its relationship is. It has done rent-a-bank work in  
23 some states. But itself, it's, again, an independent  
24 company operating -- you know, it -- it's operating its  
25 business. So it may make a deal with a bank to be -- to

1 do work in a certain state.

2                   Those deals are disappearing in general.  
3 That is they seem -- that seems to be -- it's sort of  
4 like the broker model but not exac --not identical. And  
5 it is disappearing. More and more states are banning it  
6 for one reason or another.

7                   THE CHAIRPERSON: Dr. Robinson, this just  
8 to confirm something; it is a small point. In response  
9 to a question from Mr. Dawson, you indicated that you had  
10 advised the federal government to establish caps,  
11 nationally and unilaterally.

12                   Do we take it that this report that Mr.  
13 Foran has put on the record is the advice that you gave?

14                   DR. CHRIS ROBINSON: Yes, that is  
15 correct.

16                   THE CHAIRPERSON: Thank you. Dr.  
17 Robinson, our understanding is that before Section 347  
18 there was a Small Loans Act, which was enacted apparently  
19 in 1939 and repealed in 1980 with the advent of Section  
20 347.

21                   Are you aware of the thinking that lay  
22 behind the repeal of the Small Loans Act?

23                   DR. CHRIS ROBINSON: No, I'm not.

24

25                   (BRIEF PAUSE)

1                   THE CHAIRPERSON:   Dr. Robinson, you have  
2   accepted Mr. Foran's assertion that, at least in the  
3   past, you had considered at some point payday lenders  
4   criminals.

5                   If that is the case, how do you explain  
6   that, with Section 347 in place for some twenty-seven  
7   (27) years, there has been so few prosecutions?

8                   DR. CHRIS ROBINSON:   That's a very good  
9   question.  And I think that the best way to answer it is  
10  to return to Mr. Dawson's cross-examination of me and to  
11  think of the three (3) ethical principles -- well, no,  
12  just to think of one (1) of the ethical principles in the  
13  framework for the ethical consideration, and that is the  
14  conventional framework.

15                  I might -- well, I will, in fact, when I  
16  revise that paper, write it somewhat differently.  But it  
17  is quite clear, in my opinion, that there has been no  
18  huge public outcry over payday lending.

19                  There have been -- there are, for example,  
20  the members of the Coalition who have taken up this  
21  cause.  In Nova Scotia there's a consumer advocate  
22  operating and so on.  The NDP Government and, believe it  
23  or not, the Conser -- or, sorry, the NDP Party and the  
24  Conservative Party in Ontario have both proposed laws to  
25  limit payday lending -- the Conservatives, of course, out

1 of their great concern for social welfare. And ACORN has  
2 expressed its concern.

3 So there are groups -- quite legitimate  
4 groups, parties, et cetera -- who have expressed  
5 considerable concern.

6 It is, however, not at the same level of  
7 public attention and concern -- first of all, it's, of  
8 course, a smaller issue. I mean the dollars involved,  
9 the effect on people is smaller. So it is not at the  
10 same level as concern as social issues such as human  
11 rights or -- well, of course, my personal concern is the  
12 environment.

13 So that in a conventional sense, the  
14 reason it has not -- laws don't operate unless the  
15 populous generally agrees to them or else are, you know,  
16 coerced with military force.

17 The public has, in general, not been suff  
18 -- sufficiently concerned to want to -- to see the rather  
19 blunt nature of criminal prosecutions. Because, as  
20 you're pointing -- as you're implicitly pointing out,  
21 calling somebody a criminal -- I mean, it's -- it's  
22 strictly true. This is the Criminal Code. Somebody who  
23 violates the Criminal Code is a criminal.

24 This seems to all of us to be an  
25 unnecessarily large sledgehammer to be using to regulate

1 a commercial activity. And we don't normally do that  
2 elsewhere. So you might say that it's kind of an anomaly  
3 that it was put in the Criminal Code; it should have been  
4 in somewhere else. Possibly, that's the reason it now  
5 has to be in the provinces, because it's possible, under  
6 the Constitution, that only under the Criminal Code could  
7 they -- could the federal government do that.

8                   So, yes, I've used the word "criminal."  
9 That is strictly true. I, and everybody else here, finds  
10 it pretty uncomfortable to say that, and so does the  
11 population. So we haven't asked our Attorneys General  
12 very hard to do any prosecuting.

13                   THE CHAIRPERSON: You have suggested that  
14 the banks and the credit unions basically step into the  
15 picture and provide the credit, if you like, at lower  
16 charges.

17                   Are you suggesting that the banks and  
18 credit unions would offer such credit at standard rates  
19 when these customers, apparently 97 to 99 percent of  
20 them, have bank accounts now and may have maxed out  
21 credit cards or credit difficulties and problems of that  
22 ilk?

23                   Why would the banks and the credit unions  
24 extend credit to these borrowers?

25                   DR. CHRIS ROBINSON: Okay. Well, there

1 are a number of reasons for that. One (1) of them Dr.  
2 Buckland has actually articulated very clearly already  
3 which is that they should be wanting to establish  
4 relationships rather than simply sell products.

5  
6 Now, I've been trying in vain for over  
7 twenty (20) years to actually hammer the idea of  
8 relationships as opposed to flogging products into the  
9 heads of thick-skulled bankers. Some of them are  
10 starting to get it; other of them still think they should  
11 just be selling products like a meat market.

12 So that, if you establish a relationship  
13 with somebody who is not so well off now and they do  
14 better later, for example, giving credit cards to  
15 university students who have no money, then you may get  
16 them for longer. And we know that about half of bank  
17 customers are -- tend to value relationships rather than  
18 immediate price so that you can form a good relationship  
19 with them. So that's a business reason for them to do  
20 it.

21 A second business reason is that with  
22 their efficiencies I believe that they can make money on  
23 this. The reason they haven't done so is that it's small  
24 potatoes for them, but, I see no reason why the banks and  
25 credit unions cannot make profit -- make a profitable

1 investment in this, add it to their existing line because  
2 of the economies of scale and scope, that they can make  
3 money out of -- out of customers by providing -- I  
4 envision it as essentially making overdraft protection  
5 much more widely available.

6 I think that it's much less risky for them  
7 because they have the bank accounts already and have  
8 control over those bank accounts in some sense.

9 Finally, I think -- and this -- credit  
10 unions of course has a different -- have a different  
11 mandate, have a social mandate and they do exercise that  
12 and that's why the one (1) -- they are the ones who are  
13 first inter -- who are now finding interest in this, but,  
14 I believe that the Canadian banks have a moral  
15 obligation. They have a very beneficial place in  
16 society. They are regulated because they are an  
17 oligopoly with enormous power but they also are very  
18 profitable.

19 As a holder of significant bank shares, I  
20 am morally willing to give up if necessary -- I don't  
21 think that's actually necessary. I think they'll make  
22 money but I think that the banks should be spending some  
23 of my money, and it wouldn't be very much, to be  
24 extending financial services back out to the community to  
25 find ways to do that, not just payday loans.



1                   But as Dr. Buckland has talked about, the  
2   entire issue of financial exclusion and I actually  
3   believe Canadian banks are much more moral than -- than  
4   they're given credit for in the popular press so that  
5   with a certain amount of prodding and reminding, I'm  
6   hopeful that they will start to see that as they are, for  
7   example, in Toronto where a huge public housing  
8   development called Regent Park is being redeveloped and  
9   the Royal Bank is committed to putting a branch right in  
10  the middle of it, an area they -- and -- and make it  
11  work.

12                   So that's -- I mean that's a long answer  
13  to your question. Whether they will do it, I don't know.  
14  If I were to make a moral judgment - and of course  
15  there's some question as to whether I have very strong  
16  moral views that are completely unsustainable - I view  
17  the banks as having a greater moral obligation in this  
18  matter than the payday lending firms do, that is to say,  
19  it's not that the payday lenders are so evil, but rather  
20  that the banks should be doing this as their part in  
21  Canadian society, a part which we all benefit from  
22  enormously because our banking system is very efficient.

23                   THE CHAIRPERSON: Thank you. Your paper  
24  that was brought again to all of our attention by Mr.  
25  Dawson, the paper that you co-wrote with I imagine

1 Professor Schwartz (phonetic) --

2 DR. CHRIS ROBINSON: Yes.

3 THE CHAIRPERSON: -- that you presented  
4 in Poland. Do the views that are expressed in that paper  
5 continue to represent your views?

6 DR. CHRIS ROBINSON: I've received --  
7 I've learned a whole lot from these proceedings and so I  
8 will be re-writing the paper. So it's difficult for me  
9 to say without going through everything.

10 I think that the views that I now hold  
11 which it's more in -- in -- relatively in nuance version,  
12 so the views that I now hold are the ones I've expressed  
13 to the -- to the Board in all the various things I've  
14 written and said and I will, in fact, be re-writing that  
15 paper for re-submission. Dr. Schwartz (phonetic) did  
16 most of the writing of the previous version. I provided  
17 all the payday lending, he did all the ethical analysis.

18 I will now be using what I've learned to  
19 deepen that analysis to provide more examples to -- to  
20 ground it more -- more fully and then I think we'll  
21 probably submit it to the Canadian Journal Administrative  
22 Sciences.

23 I know that's not an exact answer without  
24 me actually going through the paper and saying, well do I  
25 agree with this statement or do I agree with that one. I

1 can't.

2 I said one (1) thing, the conventional  
3 thing I would now say, the answer I just gave you, I'd  
4 say this is the conventional, what the conventional  
5 morality says its.  
6 Some people are objecting; there's some objection to this  
7 publicly; it's not an overwhelming one.

8 THE CHAIRPERSON: The test that you and  
9 Professor Schwartz used in the paper though, would such  
10 test be reasonably applied to a variety of services in  
11 industries?

12 DR. CHRIS ROBINSON: Yes, that is the  
13 intention of that -- that model, this -- this ethical  
14 model. It is only worth applying where there are -- where  
15 there are questions that arise in the first place.

16 In other words, it's never easy. If it  
17 were easy, we wouldn't have to apply, at least not in  
18 western society. The activity would be illegal or it  
19 would be so universally recognized as being benign or  
20 beneficial to society that -- so we don't -- at the  
21 moment we're not arguing that there should be specific  
22 regulation or ethical analysis of chewing gum  
23 manufacturers.

24 You could argue well, there's sugar in  
25 their gum, et cetera, but nobody really takes that.

1 Payday lending is a much more difficult field and so it's  
2 such fields. It's such areas that you -- you do -- do  
3 this kind of analysis.

4 THE CHAIRPERSON: I have one (1) more  
5 question and my colleague has a question or two (2) as  
6 well.

7 Are you aware of any public hearing  
8 processes evidence base sworn witnesses that's related to  
9 the work that we've being doing here for the last several  
10 month that undergirds decisions reached in other  
11 jurisdictions?

12 DR. CHRIS ROBINSON: No, I'm not. I've -  
13 - I expect I will be speaking with somebody from Nova  
14 Scotia on the weekend. And -- but -- but, no, I have not  
15 in the US. I've not seen any evidence. I -- I would  
16 have liked to have seen some evidence of the kind of  
17 analysis that we're trying to do.

18 It would have made me feel a lot more  
19 comfortable. So I'm kind of out -- alone here. I'm  
20 doing something that no one else is doing. But I haven't  
21 seen that. The closest is the Centre For Responsible  
22 Lending. But I don't see -- I don't -- they don't report  
23 that they've been giving sworn testimony anywhere. It  
24 seems to have been more political lobbying.

25 THE CHAIRPERSON: Thank you, Dr.

1 Robinson.

2 MS. SUSAN PROVEN: Dr. Robinson, last  
3 week you said and I was very interested in your comment.  
4 I quote:

5 "Most people haven't got a clue about  
6 financial management."

7 And you said that better education would  
8 lead to better financial management. I'm just curious as  
9 a professor in these matters, personal financial  
10 management, I have a multi-faceted question.

11 First of all, when should this begin?  
12 When should education begin in these matters?

13 DR. CHRIS ROBINSON: The answer I'm going  
14 to give you is probably not the one that you would expect  
15 and most personal finance professors give.

16 I don't think that it should be introduced  
17 as a formal part of public school or high school  
18 curriculum. And the reason for that has to do with the  
19 social importance of all the other things that we have to  
20 teach which are becoming overwhelming.

21 So that I think that it is one of those  
22 things that we have to provide socially outside the  
23 school system through families, through access to  
24 counselling rather than it being formally part of the  
25 system.

1                   Now of course you can incorporate it and  
2 it is incorporated already to some extent in some aspects  
3 of -- of teaching as such, you know, in other courses.  
4 But I don't see -- I don't agree with adding that and the  
5 reason -- I guess the reason bluntly, I'm sure my  
6 colleagues would see this as well, is that the world has  
7 gotten so complex, our students come to us out of grade  
8 12 and they don't know enough.

9                   They haven't got enough in more  
10 fundamental things. So I can teach them personal finance  
11 in twelve (12) weeks but only if they can do some fairly  
12 fundamental mathematics and they can read and write  
13 English fluently.

14                   That said, what I teach at the university  
15 is not primarily designed to produce better consumers.  
16 What I do at the university is designed -- what I'm doing  
17 is designed to teach the top professionals how to -- how  
18 to function in this field.

19                   My research covers much broader things.  
20 But I'm an expert in teaching them how to become  
21 financial planners ultimately. Of course, many of the  
22 students are taking one (1) course in it only for the --  
23 purely for their own interest.

24                   MS. SUSAN PROVEN: Well as you can  
25 imagine that's why I asked the question. Because I want

1 to know who's supposed to do this job, and I wanted your  
2 thoughts on it. And I think I heard you say perhaps  
3 parents or the community.

4 I also am interested in knowing: Who  
5 should pay for it? Or is it something we have to pay  
6 for? Because -- I guess I'm just hearing about, you  
7 know, counselling, credit counselling, credit unions  
8 doing this job.

9 But if -- if people aren't involved with  
10 banks and credit unions, I'm just wondering how we can  
11 make sure that they get this kind of education and how it  
12 can be paid for.

13 MR. CHRIS ROBINSON: Well, that's also a  
14 -- really a question also for Dr. Buckland. But the  
15 first time I met Dr. Buckland in person was about a year  
16 ago in Toronto at St. Christopher House, which is a  
17 community-based -- I mean, it's a charitable organization  
18 that does many things.

19 So when I wandered around St. Christopher  
20 House, there were kids in corners doing their homework  
21 and people helping them and other people doing campaigns  
22 for this. And we were talking to them about financial  
23 counselling. And they have what sounds to me like a very  
24 impressive ability to help people with basic financial  
25 issues.

1                   And they weren't really very interested in  
2 me or anything I might have to say. And the reason was  
3 fairly evident. They had people who knew exactly how to  
4 deliver what they needed so they'd get the basic  
5 financial literacy.

6                   And I have sort of been contemplating  
7 whether what I should be doing is going with a similar  
8 centre and finding out what is needed in financial  
9 literacy and trying to start developing those sort of  
10 programs through the community organizations.

11                   Because, of course, the greatest risk --  
12 well, there's a great risk to people who don't have any  
13 education to start with. But there's also, at least in  
14 Toronto, a very substantial risk for people who are new  
15 to the community, which is a large part of Toronto.

16                   And while some of them come in and are  
17 professionals with lots of money and so on, and therefore  
18 they're not at much risk, many of them aren't. So that  
19 the centre where I was just -- donated some money and  
20 gave them some toys and so on, they're -- what's it?

21                   Oh, yes, they've established a cooking  
22 group in which Somali women cook meals. And they're  
23 thinking maybe they can somehow start some kind of  
24 restaurant, which, given my love for food, interested me  
25 immediately.



1                   But they also are trying to give some kind  
2 of idea and help to these people, you know, how do you  
3 deal with the bank? Now, I'm not actually an expert in  
4 that, because born and brought up in Canada and  
5 privileged middle class. And so I just absorbed it  
6 somehow, but lots of people can't.

7                   I just -- but I don't think putting it  
8 into the school system is going to help, because now  
9 you'll have kids who sort of know what a bank is, but  
10 their reading skills aren't good enough. There's only so  
11 much in science and so many things that we -- we need to  
12 learn that weren't there even when we went to school.

13                   MS. SUSAN PROVEN: Thank you.

14                   THE CHAIRPERSON: Ms. Southall, do you  
15 think it is going to be useful to have a break and come  
16 back, or should we simply adjourn?

17                   MS. ANITA SOUTHALL: Hard to say, Mr.  
18 Chairman. Maybe I could just ask a couple of short  
19 followup questions, just arising from some of the answers  
20 that have just been provided in the last forty-five (45)  
21 minutes or so?

22                   THE CHAIRPERSON: Sure.

23

24 CONTINUED CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

25                   MS. ANITA SOUTHALL: Just to clarify a

1 couple of things. First of all, going way back to a  
2 comment that Dr. Robinson made that he and Dr. Simpson  
3 had huddled and come up with a aggregate annual estimate  
4 of fees that may be paid by an individual for payday  
5 loans in a given year of around a thousand dollars  
6 (\$1000).

7 Am I right, Dr. Robinson?

8

9 (BRIEF PAUSE)

10

11 MR. CHRIS ROBINSON: We're -- you put a  
12 lot of very nice-sounding language on what was a number  
13 on my calculator. And we've just been discussing it.  
14 Every time we discuss it, it gets worse, the numbers  
15 rise.

16 It was a thousand (1,000) -- what I was  
17 saying was a thousand dollars (\$1,000) in fees and like  
18 five thousand dollars (\$5,000) in borrowings. Which -- I  
19 mean, it's -- it's crazy that I hadn't done that before.  
20 I hadn't actually thought of it in that way, and it sort  
21 of staggered me.

22 And I had this feeling that I must have  
23 done something wrong, but I can't find it so far. It is  
24 no question that if somebody just borrows -- just think,  
25 we have these fifth -- we know that there's a bunch of

1 people borrowing once a month, okay -- roughly, or even  
2 more frequently -- once a month borrow three hundred  
3 dollars (\$300). That's thirty-six hundred dollars  
4 (\$3,600) at 20 percent.

5 MS. ANITA SOUTHALL: Mm-hm.

6 DR. CHRIS ROBINSON: You just paid seven  
7 hundred and twenty dollars (\$720) --

8 MS. ANITA SOUTHALL: Mm-hm.

9 DR. CHRIS ROBINSON: -- in fees in  
10 addition to whatever you're paying your -- for your  
11 banking fees. Seven hundred and twenty dollars (\$720) is  
12 a pretty significant sum, and there are clearly people in  
13 worse situations than that.

14 The aggregate numbers seem to be making it  
15 look even work. And therefore I'm -- I'm -- it -- I  
16 don't -- I don't like that. I don't know what's wrong.  
17 But there's no question that it's not just a few dollars,  
18 okay, for a significant number of the payday borrowers,  
19 by the -- by the payday lenders' own evidence, because of  
20 the number of repeat loans are paying a lot of money in  
21 fees, an amount that -- that would seem very significant  
22 to anybody other than on quite a substantial income.

23 But I can -- I'm happy to undertake to  
24 provide those calculations if you like, yeah.

25 MS. ANITA SOUTHALL: That was exactly my

1 point. So if you -- if you could just provide that so  
2 that we have an understanding of where you actually  
3 derive that number. It was just placed on the record  
4 with a -- a comment, and I think it's important. And no  
5 doubt My Friends, Mr. Foran and Mr. Hacault, may actually  
6 have some questions associated with that. Thank you.

7 MR. BYRON WILLIAMS: We'll -- we'll  
8 undertake to do that and -- and I think part of -- the  
9 thing that may assist -- and I don't need Dr. Robinson to  
10 comment now.

11 But they used the word "average," and it  
12 would be helpful to see how they defined average as well.  
13 And I think we'll certainly give a -- a helpful answer to  
14 the Board on that.

15  
16 --- UNDERTAKING NO. 96: Dr. Chris Robertson to  
17 provide the calculations as  
18 to where he derived the  
19 number of around a thousand  
20 dollars

21  
22 CONTINUED BY MS. ANITA SOUTHALL:

23 MS. ANITA SOUTHALL: A separate question  
24 for Dr. Buckland is associated with his reference to the  
25 organization SEED Winnipeg and financial management

1 training sessions that are provided through that  
2 organization.

3                   It's difficult without further  
4 explanation, I think, to understand the extent to which  
5 that kind of training may be available.

6                   Dr. Buckland, are you aware of where SEED  
7 Winnipeg focusses its efforts in the City of Winnipeg?  
8 Could you just briefly touch on that if you could? I  
9 don't think it's particularly extensive throughout  
10 Winnipeg, I suppose just based on the little bit I know  
11 about that organization from my government cheque cashing  
12 hearing research.

13                   So if you could just speak to that?

14                   DR. JERRY BUCKLAND: Yes, SEED Winnipeg  
15 is based in the North End, right on Salter Avenue just  
16 south of Selkirk. I don't -- don't know the address.

17                   Their programs, I think, though are -- are  
18 citywide. However, probably because of their location  
19 they would attract more folks from the North End. They  
20 are a part of a coalition, the Alternative Financial  
21 Services Coalition, which involves a number of nonprofit  
22 organizations from around the city.

23                   So for instance Ross -- Rossbrook House  
24 and the North End Women's Centre and others, I believe,  
25 are members of the AFSC. And I believe through the AFSC,

1 the Alternative Financial Services Coalition, they do  
2 provide asset building training to those organizations,  
3 so asset building programs are not just offered through  
4 SEED Winnipeg, but through some other nonprofits.

5                   Now, the financial management separate  
6 program, I'm not sure if it also is offered through these  
7 other programs or if it's just offered through SEED  
8 Winnipeg.

9                   MS. ANITA SOUTHALL: And finally, one  
10 question I -- I didn't raise at all with any of the panel  
11 members last week but would like -- would like to ask Dr.  
12 Buckland and -- and the other panelists, Dr. Simpson and  
13 Dr. Robinson, is a question associated with -- perhaps  
14 it's a spinoff of the concept of financial literacy but  
15 more to the point of the availability or, on the flipside  
16 of that, disparity of access to technology, in terms of  
17 lower-income people.

18                   I'm not sure we've seen much data on that.  
19 But with the -- with the growing use of the Internet and  
20 of, perhaps, lessening available based on data presented  
21 to this panel, lesser availability of face-to-face  
22 interaction with banking facilities or credit union  
23 facilities or other kinds of financial institutions, is  
24 there any consideration given to resources directed to  
25 lower-income people being able to be trained in use of

1 technology so that they're more comfortable with use of  
2 technology -- including, for example, bank cards, debit  
3 cards -- without having face-to-face?

4                   And Internet hubs or any other kind of  
5 hubs that could be provided so that you didn't have to  
6 have the facility necessarily in your home or be able to  
7 afford high-speed internet in your home, that kind of  
8 thing?

9                   DR. JERRY BUCKLAND: Yes, so I think in  
10 some ways the -- the financial literacy or capability is  
11 looking more at kind of the individual's behaviour and  
12 how they respond to the -- the setting that they face.

13                   And then this other question of access to  
14 technology is sort of: Well, what is the set -- the  
15 context in which they operate? So sort of a demand and  
16 supply is one way to look at it. And so I think it's a  
17 very helpful way to look at it.

18                   The -- there are -- from my experience  
19 nonprofits that work at trying to provide training and  
20 access to various technologies to access banking  
21 services. So for instance, the -- there's an  
22 organization in the North End that provides Internet acc  
23 -- I think there's a couple that I know of in the North  
24 End that provide Internet access so that people can  
25 access their -- their bank accounts online.

1                   And Dr. Robinson referred to St.  
2 Christopher House in -- in Toronto would be another  
3 organization that would be seeking to provide those kind  
4 of resources.

5                   But those are, in a sense, voluntary  
6 organizations, nonprofits. They don't have kind of a  
7 universal mandate. So one may or may not choose to be a  
8 member or participate in those programs.

9                   It really takes the initiative and the  
10 knowledge of the -- of the person to be aware that those  
11 opportunities are there and then to take the initiative.  
12 So I'm not aware of any universal provision of training  
13 or access to those resources. It's more sporadic, seems  
14 to be more coming from the nonprofits sector.

15                   DR. CHRIS ROBINSON: Of course, my  
16 experience is more in Ontario. The first problem on  
17 access is the lack of access to the Internet itself,  
18 whether or not you've got a computer and knowledge,  
19 outside of the cities.

20                   So that even getting down to size of  
21 cities of even fifty thousand (50,000) or something,  
22 there are cities that do not have high-speed access or  
23 don't have it widely available.

24                   The access to the technology itself,  
25 however, is generally mandated. And it's generally



1 mandated through the education systems across Canada.  
2 The -- the universities, colleges, high schools, and  
3 libraries have such enormous banks of computers which are  
4 readily available and accessible for very long hours.

5                   So that -- I mean I have direct experience  
6 with this in quite a few ways. And in fact, when I go  
7 abroad, I just go into the nearest Internet café and talk  
8 to my family.

9                   In terms of getting the knowledge to use  
10 that as opposed to getting the knowledge to deal with the  
11 financial system, I'm perhaps more sanguine about that  
12 than -- than you are, because it primarily is coming  
13 through the younger generation. So the dinosaurs like me  
14 are not particularly expert, although I work with a sixty  
15 (60) year old colleague who is more like a twelve (12)  
16 year old on the Internet.

17                   However, the vast majority of young people  
18 have a very strong cultural drive to access and learn the  
19 Internet. So that my twelve (12) year old is doing  
20 things that I don't know how to do and can find out,  
21 unfortunately, all kinds of things that I'd rather he  
22 didn't know. Now of course I would prefer him to be  
23 learning how to be banking but, the -- so that there is  
24 that reality.

25                   So, yes, there is a problem here. And,

1 again, I indicated of course that immigrants to the  
2 country, you know, adult immigrants, might have more of a  
3 difficulty.

4                   But I don't see that as a long barrier  
5 except in the rural communities where they can't get  
6 enough Internet access anywhere. And so the -- and it's  
7 not the financial literacy groups that can do that. It's  
8 going to have to be I would think, the library systems,  
9 because they have the first need of it.

10                   Those of us who are my age have -- are  
11 still trying to cope with the fact that our librarians  
12 don't do anything with books anymore, that they do  
13 everything on the Net and that they are -- not just at  
14 the university, right at the public school level. Go in  
15 ask your -- your kid's librarian about something, and  
16 they pull stuff off from places that you never imagined  
17 possible. And they don't go and look at a book at all.  
18 So I think that the -- that sort of thing.

19                   However, delivering the financial literacy  
20 on top of that is then something that can be added. And  
21 of course, the Internet is always a chancy place.

22                   MS. ANITA SOUTHALL: Thank you, Mr.  
23 Chairman, those are my questions.

24                   THE CHAIRPERSON: Okay, I think we will  
25 adjourn for the week and hope to see you all back --

1 yes...?

2 MR. ANTOINE HACAULT: Mr. Chair, there  
3 might be one question that I could refer to this panel  
4 out of Coalition-38, which might provide a little bit of  
5 information on whether or not this thousand dollar  
6 (\$1,000) estimate is a sound one while we still have that  
7 fresh in our mind.

8 THE CHAIRPERSON: That is fine. Sure.

9

10 CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

11 MR. ANTOINE HACAULT: Could I direct Mr.  
12 Simpson to page 13 of Coalition-38, which is the first  
13 set of documents, "Payday Loan Sample Canada," and the  
14 third question, which is shown at the top of page 13?

15 DR. WAYNE SIMPSON: Yes, I have it.

16 MR. ANTOINE HACAULT: Have you found  
17 that?

18 DR. WAYNE SIMPSON: I've actually looked  
19 at it for the same purposes, I think, already, so go  
20 ahead.

21 MR. ANTOINE HACAULT: So that am I right  
22 in reading this table, which is the table under Question  
23 3, which asks the following question:

24 "Which of the following describes how  
25 often you have used the services of

1 cash -- a cash or cheque cashing outlet  
2 or a payday loan company?"

3 There were 42.7 percent of the people who  
4 responded that they did not even use it once a year.

5 Is that a correct reading of that table?

6 DR. WAYNE SIMPSON: That's right. Less  
7 than once a year is about -- is 42.7 percent, that's  
8 correct.

9 MR. ANTOINE HACAULT: So that we have a  
10 little bit under half of the users of this product that  
11 don't even use it once a year according to this survey?

12 DR. WAYNE SIMPSON: That's -- that's  
13 correct, yes.

14 MR. ANTOINE HACAULT: Okay. And then if  
15 we go and build on that, that's where you had corrected  
16 my number, because I had taken the "don't know" and  
17 "refused."

18 If we add the people who use the product  
19 once or twice a year, we get another 22.3 percent of the  
20 users of this product that may use it once or twice a  
21 year.

22 Is that correct?

23 DR. WAYNE SIMPSON: Yes.

24 MR. ANTOINE HACAULT: I'm reading that  
25 table correctly? So that the vast majority, if we're

1 talking 65 percent, of the users of this service are very  
2 infrequent users of this service.

3 Is that correct?

4 DR. WAYNE SIMPSON: Yes. Can -- can I  
5 complete that? I think what -- what is required here,  
6 and I'd have to do a more careful calculation, would be  
7 to calculate what would be a -- a rough, weighted average  
8 of the -- of the figures in -- in Question 3 to obtain  
9 what -- what I would call the average number of loans per  
10 year for a payday loan user.

11 And if -- if we're going to undertake this  
12 exercise, I would think I would want to do that.

13 My rough calculation is it's in the range  
14 of four (4) to five (5) a year. So -- but I -- I would --  
15 - I would undertake to make a more accurate calculation.  
16 There will obviously be some -- it'll be rough and ready  
17 but I think we'll make the obvious assumptions about what  
18 some of these categories are -- are implying.

19 MR. ANTOINE HACAULT: So that I guess  
20 it's a little bit like the household income. We're  
21 focussing on a small group of the larger group, because  
22 otherwise that's what makes it weight toward four (4) or  
23 five (5) times a year, because we've got two-thirds  
24 (2/3s) of the people that use it very infrequently.

25 So it's only in adding the very small

1 groups, the 10 percent group that use it more than once a  
2 month, that we can bring those figures up and that you  
3 get the averages that you're talking about.

4 But this is the minority of the users of  
5 this service. Isn't that correct?

6 DR. WAYNE SIMPSON: Less than 50 percent  
7 according to this, yes.

8 THE CHAIRPERSON: You might also find  
9 some inform in the 10-K of Advance America. I think you  
10 can derive exactly the average number of loans per  
11 customer from that material, if I'm correct.

12 MR. BYRON WILLIAMS: We'll undertake to -  
13 - to put that all into the mix.

14 MR. ANTOINE HACAULT: I would probably  
15 have some questions on that, too, because there was some  
16 evidence led, I believe, in this Hearing that when you  
17 just survey the people who come in on a regular basis,  
18 you get a skewed number.

19 Whereas a survey such as this one wouldn't  
20 give you a skewed answer.

21 THE CHAIRPERSON: I'm sure we'll have an  
22 opportunity when they respond to the undertaking.

23 Okay. That said, I think that we have had  
24 a long week in a number of different ways. So I think we  
25 will adjourn and look forward to seeing you all when Ms.

1 Southall is able to arrive at the remaining days of our  
2 schedule. Thank you.

3 MS. ANITA SOUTHALL: Thank you very much.

4

5 --- Upon Adjourning at 2:51 p.m.

6

7

8 Certified Correct,

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Sean Coleman

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