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
November 14th, 2007
Pages 221 to 410

APPEARANCES

Anita Southall	)Board Counsel
Leo Sorenson (Np)	)Sorenson's Loans Till)Payday
Antoine Hacault Michael Thompson Mona Pollitt-Smith	)Rentcash Inc.
Allan Foran Lucia Stuhldreier	)Canadian Payday Loan)Association
Byron Williams	)CAC/MSOS
Nathan Slee (Np)	)310-Loan
Robert Dawson	) Assistive Financial) Corporation
Steve Sardo	) Cash X
Kent Taylor (Np)	) Progressive Insurance

) Solutions

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--- Upon commencing at 10:35 a.m.

THE CHAIRPERSON: Okay everyone. If we can call the meeting to order, we'll get underway again. With respect to presenters there was a Mr. Wayne Vantassel who was slated to come yesterday who indicated that he wasn't able to but he would like if his presentation that's been made in written form entered into the record, and apparently it was entered into the record yesterday but now we'll formally indicate that we'll put it on the record.

And, Ms. Southall, I believe that his -- basically two (2) page letter has been circulated to all the parties, is that correct?

MS. ANITA SOUTHALL: Yes, Mr. Chair, that's my understanding. I believe the Board secretary circulated that this morning.

THE CHAIRPERSON: Okay. If anyone's missing it, just ask Mr. Gaudreau and he'll get you a copy.

EVIDENCE OF ASSISTIVE FINANCIAL:

RANDY SCHIFFNER, RESUMED

THE CHAIRPERSON: Okay. We'll return to the cross-examination of Assistive's witness, Mr. Schiffner. I'm bad on pronunciations. I assure you I know who you are. Okay.

Now, Board counsel had completed, and the next one up was going to be Mr. Steve Sardo for Cash X, but we don't believe he's here yet, so we'll move on to Mr. Foran for CPLA.

Mr. Foran, do you have any questions for the witness?

MR. ALLAN FORAN: Thank you, Mr. Chairman. Yes. Good morning, members of the panel. I do have a few questions for --

THE CHAIRPERSON: Excuse me one second. Mr. Dawson...?

MR. ROBERT DAWSON: I had made an arrangement with Board counsel.

By way of clarification, there was a question yesterday that Board counsel had asked about how money moves from the trust account to debit cards, and we're now in a position to provide an absolute confirmed answer on that, so I'll let Mr. Schiffner explain how money moves from the Assistive trust account to a len -- a borrower's debit card.

MR. RANDY SCHIFFNER: I phoned the bank

and confirmed it does go from the trust to a clearing account, and then to the debit card.

MS. ANITA SOUTHALL: Thank you. I appreciate that clarification, sir.

Mr. Chair, then, I think we're free to proceed to Mr. Foran's cross-examination.

THE CHAIRPERSON: You're clear to go.

CROSS-EXAMINATION BY MR. ALLAN FORAN:

MR. ALLAN FORAN: Thank you. Good morning. Good morning, Mr. Schiffner, Mr. Dawson.

In your evidence, Mr. Schiffner, you described a payday loan transaction, and how it looks from a lender's perspective. Correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And the description you provided was a description that is specific to the broker model in which Assistive Financial participates. Correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And you're not suggesting that all payday lenders follow that model? There may be other models that are followed from a lender's perspective as well?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: One (1) of the things I believe you described was the required rates that you needed to return to the investor pool.

And as I understood your evidence, your investor pool requires at a minimum, 19 percent return. Is that correct?

MR. RANDY SCHIFFNER: That's the average.

MR. ALLAN FORAN: That's the average. So it -- it might be a bit higher; it might be a bit lower.

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: But you're satisfied that if there is not a 19 percent return, you're not going to be able to raise funds to allow Assistive to lend to the broker?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: You further indicated that one (1) of the reasons that you needed that kind of a return is because of the risky nature of payday loans. That's correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And your experience has been that, in fact, the payday lending business is very risky. Correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And the requirement to

pay 19 percent to investors is an indication of the degree of risk that is involved in this -- in this industry. Correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: One (1) of the other things you indicated was that you had a policy, a ninety (90) day write-off policy. Do I have that correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And as a result of that ninety (90) day policy, in effect you have made the assessment from your model that if loans are not paid within ninety (90) days, they're not going to be paid at all.

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And the ninety (90) day time frame from your experience, is that -- is that a -- and I understand you -- you have been involved in the banking industry. Is that a -- a remarkably short period of time?

MR. RANDY SCHIFFNER: In this industry, no.

MR. ALLAN FORAN: So in the payday lending industry, ninety (90) days really is the maximum at which you expect that principal, interest, and fees to be returned.

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: I'm speculating that there's fees associated with collecting unpaid accounts. Correct?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And just by virtue of the fact that you're lending small sums, is it practicable to pursue to any extent those individuals that do not repay within the ninety (90) days?

MR. RANDY SCHIFFNER: Only through third party collection agencies.

MR. ALLAN FORAN: And essentially do you understand those third party collection agencies are not proceeding to Court, but rather are taking primary steps, such as telephone calls and letter writing?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: And is it your experience that proceeding to Court is cost prohibitive due to the legal costs involved; filing fees and lawyers?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: So essentially if a payday loan is unpaid within ninety (90) days, for all practical purposes, it's not recoverable unless by voluntary payment from the borrower?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: One (1) of the areas of your evidence, Mr. Schiffner, related to the security involved and in this case the lack of security and I'm speaking in the legal terms now that a lender can obtain from a borrower.

And in your experience from the banking industry, have you found that that is different for this industry than the banking industry?

MR. RANDY SCHIFFNER: Absolutely.

MR. ALLAN FORAN: And in the banking industry primarily the lender has the opportunity to receive some form of security in return for advancing credited funds?

MR. RANDY SCHIFFNER: Correct.

MR. ALLAN FORAN: But that's not really an option in this industry, is it?

MR. RANDY SCHIFFNER: No.

MR. ALLAN FORAN: And in your assessment does that make the payday lending industry more risky than a banking venture?

MR. RANDY SCHIFFNER: Absolutely.

(BRIEF PAUSE)

MR. ALLAN FORAN: Just bear with me for

one second please.

(BRIEF PAUSE)

MR. ALLAN FORAN: I have no further questions. Thank you. Thank you, Mr. Schiffner.

THE CHAIRPERSON: Thank you, Mr. Foran. Next will be the Coalition, Mr. Williams.

CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Thank you, Mr. Chairman and good morning Members of the Board. Back again just looking over my shoulder is Ms. Hunter who was apparently -- I mistakenly promised her another view of Mr. Sorenson today so she came back looking forward to hearing him speak. But she'll have to put up with me.

I will be referring to the -- the generous book of documents that the Board counsel provided. So -- and I appreciate that. It's kept our photocopying costs down. So, Mr. Schiffner, if you have that at hand that would be helpful.

And, Mr. Schiffner, I've advised you off-line that I'm going to be flipping around a little bit so you'll -- you'll bear with me as we -- we work through a few questions.

Just -- just in terms of your resume and I note that you discussed with Ms. Southall that you worked in a Schedule 'A' bank at some point in your career. Would I be right in suggesting that that was the CIBC, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And you finished up with the CIBC in 1999, would that be correct, sir?

MR. RANDY SCHIFFNER: I believe so.

MR. BYRON WILLIAMS: Okay, thanks. And you started with Assistive Financial in about 2002, is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And in terms of Assistive, the one payday lending firm that you -- you do business with as I understand in terms of lending -- as a lender is Rentcash, is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And I'd also be correct in suggesting you've never worked with a credit union, would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: I wonder if you could turn with me to Tab 4 of the book of documents which is actually -- which is actually titled Attachment

'D' which I believe contains a sample loan application form of Rentcash. Do you have that, Mr. Schiffner?

MR. RANDY SCHIFFNER: I do.

MR. BYRON WILLIAMS: And I'm going to ask you to turn to -- to page 2 of that. So the page behind the loan application form, so in the top left-hand corner you'll see what appears to be a -- a loan for a period of three (3) days. Do you see that, sir?

MR. RANDY SCHIFFNER: I do.

MR. BYRON WILLIAMS: And I -- I just want to make sure that I and my clients understand how you fit into this -- this picture.

So I'm going to ask you to assume for a moment that I'm coming in to Rentcash asking to borrow -- I'm looking for an advance it looks like of a hundred and sixty-seven dollars ($167). And -- and it looks -- and it looks as -- as we go down to line 'F' that the total amount to be paid by the borrower is something like two hundred and fifteen dollars ($215) is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And my math is not always that great but the difference between the -- the sum advanced and the -- the sum paid back would appear to be about forty-eight dollars ($48) being the difference between two hundred and fifteen dollars ($215) and a hundred and sixty-seven (167). Would that be about right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And that would be for a period of, I guess, a loan for a period of three (3) days. Would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: So of that forty-eight dollars ($48) if -- if I as a borrower -- borrower are trying to figure out where you fit into that picture, I would go into one -- the B Line, I'm assuming, and -- and see interest at 59 percent per annum.

Is that right, sir?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: So of that forty-eight dollars ($48) the amount that you would be recovering from this three (3) day loan, would be one dollar and -- and one cent ($1.01). Is that right?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Okay, so that -- that helps my clients to understand where you -- where you fit within the picture. Now the other revenue that you, I'm gonna suggest to you that you might derive from the forty-eight dollars ($48) that I pay in, would be in the form of voluntary retention payments that might be paid to you by Rentcash. Would that be fair, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And just so my clients understand how repent -- retention payments work at least at a very high level, and I'm -- I'm reluctant to go much farther than that, but I wonder if you could turn to Tab 2 of the Board book of documents being the response and page 13 specifically which is the response to PUB first round B7.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: We'll just give the Board a couple of seconds to -- to -- I'm getting nodding heads now, I -- I believe we've -- we've all arrived at that page.

Mr. Schiffner, in terms of -- I'm gonna read this in -- in to you and you can just confirm if I've read it correctly, and then I want follow up a couple of questions on this if I might. The question was to describe the retention payments received from brokers. And as I understand it brokers pay a monthly retainer to the company which is calculated as follows so that minimum returns are assured at the end of each month.

"The total interest collected is

calculated and loans outstanding for
more than ninety (90) days are written
off. Where there is a shortfall, the
broker in its discretion may choose on
a voluntary and discretionary basis to
pay the difference in the form of a
retention payment to Assistive
Financial Corp."

Now, first of all, did I read that correctly?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And eloquently or do you have some criticism of how I read it, sir?

MR. RANDY SCHIFFNER: You -- you did very well.

MR. BYRON WILLIAMS: Thank you, I've been working on that. Just a couple of the terms or the -- the language that you use in this response. I want to make sure that I understand. On line 2 of the response you'll see, so that minimum returns are assured.

And I wonder if you can indicate to me what you mean by "minimum returns."

MR. RANDY SCHIFFNER: The agreed upon return that we have agreed with the broker that we require to make this a business.

MR. BYRON WILLIAMS: And does that figure in the public domain?

MR. RANDY SCHIFFNER: No.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: So that will close off that line of inquiry fairly quickly. Go in to line 4 there's a reference to a shortfall, and I wonder if you can indicate me -- indicate to me what you mean by shortfall.

And specifically just so I'm clear, are you referring to a shortfall in principal, a shortfall in interest, a shortfall in both? If you could help me with that, sir.

MR. RANDY SCHIFFNER: It's a shortfall in both. What we do is the interest collected, if it isn't enough to give us the required return the retention payments kick in whether it's on principal and/or on interest. We always have to keep our principal whole to make sure that this fund is around to fund the payday loans.

MR. BYRON WILLIAMS: And just so I understand in terms of these retention payments, it could cover some interest if you're not meeting your minimum re -- return. Is that -- that right, sir?

Even -- well, let me try this another way. Let's say if there's -- if there is -- there's no defaults, but you haven't loaned out your portfolio to the maximum for the period of that month, would that be a situation where there was only a shortfall in interest, sir?

MR. RANDY SCHIFFNER: If we had no defaults, we would have enough interest in the fund to cover the cost of the fund.

MR. BYRON WILLIAMS: Now just, I'm going to move off this subject. I -- I may come back to it in a -- in a few moments, but in your evidence, and I can provide you a reference if you require it, but in your evidence, you suggest that for -- most payday loan borrowers would not qualify for such credit as credit cards or/and lines of credit, do you -- do you recall making that statement at some point in your evidence, sir?

MR. RANDY SCHIFFNER: I do.

MR. BYRON WILLIAMS: And that's -- that's your position that most payday loan borrowers would not qualify for such credit as credit cards and lines of credit?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And I wonder if you

can start with, just in terms of that phrase, where's -- what's the source of -- of your -- your -- that statement, what's that based upon, sir?

MR. RANDY SCHIFFNER: Almost six (6) years of history.

MR. BYRON WILLIAMS: And that's six (6) years of history with -- with payday lender borrowers who are dealing with Rentcash, would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And so, your experience with the borrowers who seek to -- to borrow from Rent -- the Rentcash family, is that most of them are unable to, oh, excuse me, most of them would not qualify for credit cards or lines of credit, is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Now, by most, most could be fifty point -- point one (50.1) or it -- most could be sixty (60) or seventy (70). Can you give me some sense of what you mean by "most," sir?

MR. RANDY SCHIFFNER: It would be over fifty (50).

MR. BYRON WILLIAMS: You're very careful, aren't you. And in terms of, just so I understand the source of your knowledge, that would be based upon your -

- your review of applications that come before you, would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: So for over 50 percent of the borrowers for Rentcash, they would be unable, in your view, to access alternative sources of short-term loans or short-term money such as credit cards and lines of credit, would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: I wonder if you can turn to Tab 1 of your evidence, page 5, and specifically paragraph 20, please.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: The -- Mr. Schiffner, in -- in this paragraph, and I'm not going to bore or torture you with any of my less than eloquent reading on this one, but you're referring to a -- to the shareholders and investors in -- in your firm, Assistive Financial Corp., in this paragraph, is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Now I want to turn -- and would I be right in suggesting to you that the -- the primary shareholder of -- of AFC or Assistive

Financial Corp. with 40 percent is one Randy Schiffner, would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And in terms of the other 60 percent, would I be right in suggesting to you that those are held by investors for who -- to whom debentures are issued, is -- am I correct in that understanding, sir?

MR. RANDY SCHIFFNER: Not necessarily, some are shareholders and some have both and some just have equity.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: So just so I -- I'm clear for the -- the remaining 60 percent...let me try this another way: For investors, some investors in -- in your firm are shareholders, correct?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Some investors just hold equity and are not shareholders?

MR. RANDY SCHIFFNER: Well a shareholder is the equity.

MR. BYRON WILLIAMS: Okay, excuse me. Let me try this again and I'll -- I'll try and work at this a different way.

When you say that there's -- their investors are issued debentures and their -- they make outright secured loans to the company, what are these loans secured with?

MR. RANDY SCHIFFNER: Debentures.

MR. BYRON WILLIAMS: Understand where you're going now. So in terms of the difference between investors and shareholders, investors are just the holders of debentures?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: For you in terms of Assistive and you went through a little bit of -- of this both in your direct -- I mean, in your written evidence as well as in your testimony yesterday, but other than bad debts and interest paid to debenture holders, what other operating expenses do you have? I wonder if you could indicate that, sir.

MR. RANDY SCHIFFNER: Flying out here to visit with you.

MR. BYRON WILLIAMS: For which I'm honoured. Is that the only one, sir?

MR. RANDY SCHIFFNER: That's correct. No, we -- we have legal, accounting, it's set up like a business. I mean and the only minimals there are is in salaries because it's only me.

So we keep that piece of it very low but everything else, it's got to be run like a business. We pay taxes, huge taxes.

MR. BYRON WILLIAMS: And certainly I'm glad to hear that. In -- in terms of -- you mentioned a salary and so would it be correct to say that you receive a salary from Assistive?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: And we won't go into the -- the details of that but would it be fair to say that you're the only person in Assistive that receives a salary or are there others?

MR. RANDY SCHIFFNER: On occasion there's others if I need part-time.

MR. BYRON WILLIAMS: In terms of your salary expenses, you're -- you're the big one though; would that be fair, sir?

MR. RANDY SCHIFFNER: That would be correct.

MR. BYRON WILLIAMS: Do you or any person who is not at arm's length from you own any of the debentures of Assistive?

MR. RANDY SCHIFFNER: No.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And so, Mr. Schiffner, I'm going to give you a chance to -- to explain something. I always regret when I -- when -- often regret when I do this, but just so I understand.

Generally, when I've looked at the regulatory field the general assumption is that the cost of -- actually, you know, I'm going to move on to another question instead.

I'm going to move you to paragraph 11, Tab 1 of your evidence.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: In this paragraph, sir, you're talking about the -- the criteria or -- for loan applications. And I'm going to refer you to the -- the line 3, the second sentence of this paragraph.

> "Without consulting Assistive Financial Corp. in every- [hyphen] or indeed most applications, Rentcash Inc. uses that criteria to approve or reject the loan request."

First of all, sir, I'm not going to ask

you, but I read that correctly, correct?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Now I just want to follow up on that point for -- for a minute. You say that Rentcash does not consult with Assistive in every or indeed most applications.

Are there ever occasions where Rentcash would consult with Assistive in terms of a loan request?

MR. RANDY SCHIFFNER: Yes.

MR. BYRON WILLIAMS: And what would those be, sir?

MR. RANDY SCHIFFNER: If it's over the dollar amount --

MR. BYRON WILLIAMS: Okay.

MR. RANDY SCHIFFNER: -- that I've prescribed.

MR. BYRON WILLIAMS: How frequent would that be, sir?

MR. RANDY SCHIFFNER: Very seldom.

MR. BYRON WILLIAMS: Would that be the only occasion when you -- when you have a consultation with Rentcash if it's over the dollar amount prescribed?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And when you say 'very seldom' would that be once a week or less?

MR. RANDY SCHIFFNER: I would say probably three (3) times in the last three (3) years.

MR. BYRON WILLIAMS: So in terms of the cost of processing loans and from your -- from your prospective, once you set up the criteria for Assistive Financial Corp., the -- the costs are relatively small.

(BRIEF PAUSE)

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Just to explore the relationship of -- of yourself with Rentcash for -- for a couple -- for a couple minutes.

To your knowledge, do any executives, directors, or shareholders of Rentcash own shares or have any financial interest in Assistive?

MR. RANDY SCHIFFNER: No.

MR. BYRON WILLIAMS: And to your knowledge, do any executives, directors, or shareholders of Assistive own shares or have any financial interest in Rentcash or its subsidiaries?

MR. RANDY SCHIFFNER: No.

MR. BYRON WILLIAMS: You're making my job very easy, sir. Just to follow this up. One (1) more question.

Does Assistive make any payments to executives, directors, shareholders, or employees of Rentcash or its subsi -- subsidiaries?

MR. RANDY SCHIFFNER: No.

MR. BYRON WILLIAMS: That was easy. Moving on to paragraph 22.

In this paragraph, sir, you're talking about rollovers, and I'll give you a second just to read that paragraph, and the Board as well, because I'm going to go through it for a few minutes.

(BRIEF PAUSE)

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Just to start with, and thank you for your quick reading. Near the bottom of the -- the page 5. So the -- at the bottom of -- about four (4) -- five (5) lines down on this paragraph, sir.

There's a sentence saying that:

"Regular rollovers effectively save an impecunious borrower from having to repay any money toward a loan."

And I'm going to assume that I've read that correctly, and move right to the -- just in terms of that sentence, what did you mean by "regular rollover"?

MR. RANDY SCHIFFNER: In other words they would just pay the interest and renew the loan at the due date.

MR. BYRON WILLIAMS: And based on your six (6) years with -- with the firm, prior to the ban on rollovers by Rentcash, was that a fairly regular practice?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And as I understand it, moving down two (2) lines, one (1) short term effect -- by short term, I mean for a year or two (2), and maybe you'll disagree with me that -- with that, but of the discontinuance of the rollover loans in 2005, was an increase in defaults in terms of the loans that Assistive had made via Rentcash brokers. Is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And that was something you expected to happen over the -- the short term as people adjusted to the -- to the change in practice. Is that right, sir?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: But at the end of the day, your evidence, as I understand it, is that you see the ban on rollovers as a -- at the end of the day as being a sound business practice. Is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And could you explain why for a second?

MR. RANDY SCHIFFNER: Because what it does is it doesn't allow them to continue to revolve in the same debt. They have to pay it off before they qualify for a new loan.

MR. BYRON WILLIAMS: So while a short term impact of the ban on roller -- rollovers might be an -- an increase in -- in defaults, over the longer term, you would expect that it -- it would improve the -- the status of the Corporation, and result -- and there would be lower defaults in the future. Would that be fair?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And I wonder if you'd agree with me, based upon your cursory review of the last two (2) quarterly reports of Rentcash, that there does seem to be some reduction in the -- in the amount of defaults as -- as portrayed in retention payments, for example?

MR. RANDY SCHIFFNER: That is correct.

MR. BYRON WILLIAMS: So there's some -- some positive signs that things are levelling out as -- as a result of this change?

MR. RANDY SCHIFFNER: Absolutely.

MR. BYRON WILLIAMS: In terms of burying costs incurred with defaults, and you had a good discussion of this with Ms. Southall, so I just don't -- I don't want to go too far into it, but am I right in suggesting to you that the expense incurred by Assistive in terms of collecting upon defaults, just collecting, kicks in after ninety (90) days?

MR. RANDY SCHIFFNER: Right.

MR. BYRON WILLIAMS: Is that right, sir?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: And from kind of a -- up to ninety (90) days that expense is borne by Rentcash?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Now, at Tab 2 of your -- of -- of the book of documents kindly provided by Board Counsel, at page 6, I'll direct you to the response to PUB-1-A2(k).

And sir, as I understand the thrusts of your response to this -- to this Information Request, the message sent is that Assistive imposes criteria in terms of -- by which its -- a pool of capital can be accessed and that where a business departs from those criteria for whatever reason, money withdrawn from the pool outside of those criteria becomes a liability of the business and not of Assistive, is that the case, sir?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: And just reviewing the annual reports of Rentcash, would I be right in suggesting to you that -- that this doesn't happen that often?

MR. RANDY SCHIFFNER: It doesn't.

MR. BYRON WILLIAMS: Does it happen at all?

MR. RANDY SCHIFFNER: On occasion, but very seldom.

MR. BYRON WILLIAMS: So, with -- within the past year, for example, what would very seldom be?

MR. RANDY SCHIFFNER: I can recall one (1) and it was a fraud that was done by an employee of Rentcash and that went directly back to Rentcash.

MR. BYRON WILLIAMS: So this would be a very minimal experience?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: Staying in the -- the -- at Tab 2 but moving to page 2, sir, and the response of Assistive Financial to First Round Interrogatory A-1(b), I'm treading where Ms. Southall treaded yesterday with some trepidation but there's a statement in this response:

"Given that 35 of the 59 percent reflects interest that will never be paid or collected, the effective interest rate that Assistive Financial Corp. collects is approximately 24 percent."

And my ques -- did I read that correctly, first of all, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And my question to you is: I wonder if you can give me some insight into how you calculated that 35 out of 59?

MR. RANDY SCHIFFNER: Off of those financial statements over the past three (3) years.

MR. BYRON WILLIAMS: The methodol -- instead of the numbers, sir, can you give me a description of what you did in calculating that?

MR. RANDY SCHIFFNER: Interest earned on the principal amount outstanding, and that's where you get your 35 percent; then you pay out your investors at 19, off the 35, which brings you down to your net.

And you have got to remember not the full amount is out at all times.

MR. BYRON WILLIAMS: So as I understand what makes up the 35, or the interest earned, there's two

(2) factors that would -- that would diminish how much interest you're earning: One would be the fact that payday loans sometimes fall into default, is that right, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: The other would be that the entire pool of money available for a loan is never all borrowed at once; would that be right, sir?

MR. RANDY SCHIFFNER: Correct.

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Schiffner, just so I'm following it. So you're suggesting then these debentures that you issue to the investors, they don't necessarily provide you with the full value.

Do they provide it as you make calls on them; is that how it works?

MR. RANDY SCHIFFNER: Once I give them a debenture it stays in that pool. Even though we may not have the full pool out, I still am paying them on that money, because it's as -- as I've taken the investment in. And I only take it as required.

THE CHAIRPERSON: So if someone, the investor, pays you a hundred dollars ($100), if they pay you the hundred whether or not Rentcash has lent out that hundred dollars ($100) on your behalf?

MR. RANDY SCHIFFNER: I'm responsible for the interest at that -- once I take it into the pool. That's correct.

THE CHAIRPERSON: Thank you.

(BRIEF PAUSE)

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Mr. Schiffner, without inviting too much of a debate, would it be fair to suggest to you that if you are offering advice to the Province of Manitoba, you would prefer that the -- the market set rates for payday loan borrowers rather than the Public Utilities Board. Would that be fair?

MR. RANDY SCHIFFNER: That's correct.

MR. BYRON WILLIAMS: Now, one of the -- in your evidence and this at tab 1, paragraph 27(c), tab 1, so that's from the evidence filed on September 17th, paragraph 27, so it's of the evidence, Mr. Dawson, page 7.

Mr. Schiffner, in your -- in your evidence you're talking about ways or risks that you perceive from a significant regulatory change and one I'd like you to explain to me a little bit more is sub (c),

"the Board could introduce changes that have the effect of increasing the likely risks rate of default thus increasing the level of risk and potentially discouraging the participation of investors."

And, I wonder if you could explain to me what you mean by that, sir.

MR. RANDY SCHIFFNER: If the fee is too low and there's no participation on the retention payments, we would have to lower the investor's return. And they, in turn, may as well go and invest their money in first mortgages or whatever, because I'd rather have a first mortgage as security than a three hundred and seventy-nine dollar ($379) payday loan; that's the reality of the finance business.

MR. BYRON WILLIAMS: I may have misunderstood. Either you may have misunderstood the question or I may have misunderstood the answer.

How would that have the effect of increasing the likely rate of default? Just so -- I'm referring to your answer sub (c), sir.

(BRIEF PAUSE)

MR. RANDY SCHIFFNER: If the rates were lowered and the interest rates were lowered, we might get more of the lower level clientele which would increase the defaults, because then the marketplace would really probably turn into a bit of a disaster because everyone would be fighting for more of the market to sustain their operations.

MR. BYRON WILLIAMS: By low -- lower level of individual, you're referring to higher credit risk, sir?

MR. RANDY SCHIFFNER: Correct.

MR. BYRON WILLIAMS: And wouldn't that be screened out by your loan criteria?

MR. RANDY SCHIFFNER: We may have to adjust if we want our money out working.

MR. BYRON WILLIAMS: I'll reflect upon that for a moment, and I -- I may come back to it.

I wonder if you'd agree with me that the fact that one borrower may default on a loan does not make it more likely that another unrelated borrower would default.

Would you agree with that, sir?

MR. RANDY SCHIFFNER: It's a pretty -- that's a tough one to really say. I mean, depending on the customer I guess.

MR. BYRON WILLIAMS: Well let me try it in another way. Two (2) totally unrelated customers come into the store. The fact that one (1) -- there's -- there's no correlation between the risk that you assume with one (1) customer and the risk that you would assume with another one, is there, sir?

MR. RANDY SCHIFFNER: We assume the same risk.

MR. BYRON WILLIAMS: But it's not additive?

MR. RANDY SCHIFFNER: What do you mean by that?

MR. BYRON WILLIAMS: We'll move on.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: In your discussion with Ms. Southall yesterday you talked about repeat customers not having to requalify, is that right, sir?

MR. RANDY SCHIFFNER: Correct. All they have to do is reconfirm their employment.

MR. BYRON WILLIAMS: Is it fair to say that for repeat customers the risk of default, in your experience, is lower?

MR. RANDY SCHIFFNER: Not necessarily. A lot of repeat customers default on their second or third loans.

MR. BYRON WILLIAMS: So have you attempted to quantify the risk with repeat customers versus first time customers, sir?

MR. RANDY SCHIFFNER: I don't have that number.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Mr. Schiffner, from my perspective you can make your plane.

Mr. Chairman, those are all the questions of the Coalition.

THE CHAIRPERSON: Thank you, Mr. Williams. Before moving on to Mr. Hacault just to see if he has any questions, I have one that relates to Mr. Williams' area that he didn't return to. But just to make sure we have an understanding.

I think I understand you to say that, let's just pose it as a business concept. You've received this hundred dollars ($100) from the investors in the form of a debenture, so you've got to put the money to work.

So -- because you've got to pay them the 19 percent. So if -- if you were having difficulty getting the money out, potentially you could reduce the stringency of your criteria --

MR. RANDY SCHIFFNER: Correct.

THE CHAIRPERSON: -- as long as it had an incremental return to you that didn't turn negative. That's what you're trying to say, wasn't it?

MR. RANDY SCHIFFNER: Correct.

MS. SUSAN PROVEN: I had a question. I wondered when you talked about the reduction in defaults after the no rollover policy.

You didn't really quantify that. Like, what kind of a reduction are you talking about?

MR. RANDY SCHIFFNER: I guess how we have kind of monitored that was on the retention payments. If you go to Rentcash's financial statements, you can see the retention payments over the last, I think three (3) quarters have started to edge down.

So that is their part of the participation. Mine kind of stays status because I take up to that maximum and then anything else above that has to go back into the retention payment. So my -- my default rate remains status.

MS. SUSAN PROVEN: So -- in other words

it's not a percentage. You -- you can't -- I mean it's just dollars that give you the indication of a decrease?

MR. RANDY SCHIFFNER: Well on the Rentcash financial statement we could work it out as a percentage but I don't have that available to me right now but I could -- I mean, on the financial statements we could work that out real quick.

MS. SUSAN PROVEN: Thank you.

THE CHAIRPERSON: Okay. Mr. Hacault, do you have any questions for Rentcash?

MR. ANTOINE HACAULT: Initially I didn't think, but I do have one (1) or two (2).

CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Mr. Schiffner, I believe you explained yesterday, and again in your evidence today, that other investors have options in security mortgages at rates which are very close to what you're offering them in the debentures for Assistive.

Could you elaborate further on that? I'm having trouble understanding how there's a market for first mortgages at, I think you said 16 to 18 percent.

MR. RANDY SCHIFFNER: If you look in the Calgary Herald almost on every day, the commercial market right now is offering 16 to 18 to 20. I've even seen some at 20. I've actually been involved in some at 20.

What it primarily is is for Canmore, building towers downtown where the banks won't get involved until at least the structure is -- is up and running.

MR. ANTOINE HACAULT: Sir, I understand your question with respect to Calgary, but what about Manitoba? Have you ever sought anybody in Manitoba to provide funds in this area?

MR. RANDY SCHIFFNER: Yes, I have.

MR. ANTOINE HACAULT: And, were you successful in doing that?

MR. RANDY SCHIFFNER: No, I wasn't.

MR. ANTOINE HACAULT: And do you have any understanding as to why that potential investor would of refused to invest in your payday loan product at a rate of 19 percent?

MR. RANDY SCHIFFNER: They -- they loved the concept, but until a regulatory is in place, they didn't want to have their name attached to the industry.

MR. ANTOINE HACAULT: Would you say it's a pretty competitive area in trying to get funds for this industry then, sir?

MR. RANDY SCHIFFNER: It's a very tough area. And, you have to be very selective on the investor that you go after, because they got to understand the risk.

MR. ANTOINE HACAULT: And when you say they "have to understand the risk," what type of risk do these people perceive the product to give?

MR. RANDY SCHIFFNER: Well, a lot of these guys now have been in the fund for five (5) years so they've enjoyed the -- the returns and now they're the ones that are virtually funding the growth.

MR. ANTOINE HACAULT: My, sir, I don't think you understood my question as with respect to new clients, what's the reaction? You've talked about one client in Manitoba, what's the reaction of clients from whom you're trying to get funds -- new funds to add to your capital?

MR. RANDY SCHIFFNER: Well, what I'm trying to do at the present time is get the Schedule A Banks involved so that we can lower our cost of capital so that we can give a better return to our shareholders, because they put up the equity, and we've got to get a return for them.

So if we can lower our costs, and give the shareholders a return on their equity, that's what I'm attempting to do. And -- and if we regulate the business properly, then I think the Schedule A Banks through vehicles like our -- ourselves will get involved.

MR. ANTOINE HACAULT: Thank you, sir. Those are all my questions.

THE CHAIRPERSON: Following that line, are your debentures permissible for RSP purposes?

MR. RANDY SCHIFFNER: No.

THE CHAIRPERSON: Okay, thank you, Mr. Schiffner.

MS. ANITA SOUTHALL: Could I just clarify one thing, Mr. Chair? Sorry, to interrupt.

THE CHAIRPERSON: Please.

MS. ANITA SOUTHALL: I'm just wondered if Mr. Schiffner was prepared to provide that present -- percentage, pardon me, that panel member Proven was inquiring on. There was an indication that that would be a fairly easy calculation to provide.

(BRIEF PAUSE)

MR. RANDY SCHIFFNER: We'll provide that as an undertaking.

MS. ANITA SOUTHALL: Thank you very much, sir.

--- UNDERTAKING NO. 1: For Assistive Financial to

provide the percentage as
discussed in Ms. Proven's
questioning

THE CHAIRPERSON: Thank you, sir. Thank you, Mr. Dawson. I appreciate your testimony, Mr. Schiffner. I think, I -- I'm not aware of Mr. Sardo whether he's present yet or not. It would appear he is not. Mr. Sorenson's clearly not here, and Mr. Slee has indicated that he will not be cross-examining you.

So at this stage I think that you've completed your task. Thank you, sir. And as we do not have Mr. Sardo, I think we're going to adjourn early for lunch and hopefully he will be back by -- by 1:00. Otherwise we'll have to make some adjustments in our -- our schedule.

Does that meet reason from your perspective, Ms. Southall?

MS. ANITA SOUTHALL: Yes, I -- I can just confirm for the sake of all parties who are in attendance and ready to proceed that Mr. Sardo indicated he would be present at the commencement of the hearing this morning given the schedule. I am not certain if -- sorry, Board secretary's approaching me, so just give me a moment.

The update is that the plane has landed.

He's coming in from Ontario. So, but an -- an early lunch is obviously still appropriate, Mr. Chair, and then we'll proceed with Mr. Sardo immediately upon our return this afternoon.

THE CHAIRPERSON: Very good, we'll see you all back at 1:00, thank you. Thank you again, Mr. Schiffner.

--- Upon recessing at 11:25 a.m.
--- Upon resuming at 1:06 p.m.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay, welcome back everyone. Just a short delay.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay, welcome back everyone. Mr. Sardo, I presume.

MR. STEVE SARDO: Correct.

THE CHAIRPERSON: Very good, welcome.

MR. STEVE SARDO: Thank you.

THE CHAIRPERSON: Okay, next up on the agenda is Mr. Sardo, providing originally direct evidence with respect to Cash X. Ms. Southall, do you want to provide us any form of introduction or?

MS. ANITA SOUTHALL: Thank you, Mr. Chair. Mr. Sardo is prepared to introduce the business of Cash X, and give us a little bit of a -- an introductory comment by way of direct evidence that he's prepared for. And then I will conduct cross-examination on the materials filed, and we will go through that same approach whereby the other interveners have an opportunity as well.

THE CHAIRPERSON: Very good. Okay, Mr. Gaudreau, could you swear in Mr. Sardo.

EVIDENCE OF CASH X:

STEVE SARDO, Sworn

THE CHAIRPERSON: Thank you, sir. Okay, you can proceed.

MR. STEVE SARDO: Okay, well, I guess first of all I'd like to give a little bit of a background about myself and my -- both my academic and my business experience.

I have an MBA in finance and in marketing. I graduated in 1986 from McMaster University. I've virtually spent my entire career in financial services, insurance, income tax, tax rebate discounting, and now the payday loan industry.

I was formerly the CEO of Liberty Tax Service, a fairly known entity in Manitoba which was the second largest tax rebate discounter in Canada and today still is the second largest tax rebate discounter.

I'm -- I'm the owner of Cash X which is a franchise or a licensor and a developer of software for the payday loan industry in both the United States and Canada. I operated two (2) physical store locations in Winnipeg from 2001 to 2004 and subsequently closed both of them.

And I continue today to operate an internet lending business and sell software to people that want to get into the payday loan industry in either the United States or Canada.

So I guess what I want to do is I want to talk a little bit about what I foresee the purpose of this hearing to be and some of the issues that are at -- at play here and then go on to discuss how my experience, and my education, and other things have come to bear on, you know, what my opinions are.

I would say, first of all, that the proponents for regulation make a number of claims against the payday loan industry. And those claims include the following: that payday loans prey on or exploit the poor; that the business is not risky; that the product is misused to the detriment of consumers; that the rates of interest are usurious; that the product leads to chronic borrowing.

There are assumptions that there is excess capacity in the marketplace in Manitoba. That mar -- Manitoba is still growing and that costs will come down over time. There's a further assumption that credit unions will fill the gap of small lenders who may exit if rates are capped and they can no longer compete.

I guess I hope to examine all of these different issues one by one and begin to place my experience, and my judgment on each and every one of them. So the first statement that I want to examine is that payday loans exploit or prey on consumers.

First of all, payday loans compete with the inform -- with the informal small loan market which generally lies beneath pawn shops or unsecured loans from family, friends, or acquaintances. The informal sector which is the family, friends, and acquaintances are not governed by any laws, contract law, or enforceable property rights making those markets subject to abuse between borrowers and lenders.

Payday lending then has come to fill a

niche in the marketplace between the informal lender and the consumer finance industry, but it's a much more flexible product than what you might find at a bank or a credit union.

There are a number of studies in the United States and -- and corresponding studies here in Canada. I'm not sure if anyone has referenced to this point the Elliehausen and Lawrence study of 2001 of payday loan consumers, where they found 59 percent identified the most important reason for choosing a payday loan was quick, easy process, fast approval, and less paper work.

That is confirmed by the Pollara study that was presented by the CPLA, where again 51 percent say that it's quick and easy and that it's convenient and its locations.

Alternatives for the product when a customer seeks a cash shortfall is to seek a -- a loan from family or friends. But often those borrowers prefer to obtain the cash from a payday lender because they don't want to reveal their financial situation to a family or friend or they may prefer the anonymity of a payday loan from a family or friend or they may have exhausted those alternatives.

The choice of taking out a payday loan is, indeed, going without some other option. And what I mean by that is that a consumer could write a bad cheque, incur a forty dollar ($40) NSF charge with the bank. They could, maybe, dip into an overdraft protection which would -- would cause a number of fees, potentially, in their account.

Interestingly enough, overdraft protection is not seen as a credit product. The banks do not account for it on a -- on an interest basis, nor do they account for it on an APR basis.

However, it could easily be seen that a hundred dollars ($100) of overdraft that costs ten dollars ($10) and must be repaid within a week or two (2) weeks could be 260 to 520 percent APR.

These are some of the things that -- that seem to bother me particularly, when payday loans gets exploited and banks seem to remain unscathed.

In many cases consumers need access to cash to pay for things like automobile repairs. For some pay -- for some payday loan customers, this may be the choice of fixing their car and being able to maintain a job or not fixing their car and not getting to work and not being able to maintain a job.

What a lot of this information tells me is that for a number of these consumers, this is a very rational decision that they're making.

This is not necessarily a person that has said, I have no choice, I must get this payday loan. It is so expensive, and I'm crying about it.

In fact I think a lot of these people are saying, If I don't fix my car, I lose my job. And if I pay thirty dollars ($30) for a hundred dollar ($100) loan to fix my car or sixty dollars ($60) on a two hundred dollar ($200) loan to fix my car, then in fact I'm saving a lot, because I need to keep my job and nobody else is going to give me that loan.

There's other potential reasons why a person might get a payday loan. The person might, for example, feel that they can't make certain bills in a month, for example, their hydro bill or their telephone bill.

And in the event that those -- those services become cancelled, they may incur a reconnect fee or they will incur a reconnect fee that could be quite substantial.

In fact I did a quick query on the Internet of what it would cost me to reconnect the phone and I used to have Tembo, which is a reconnect service here in Manitoba, as one of my suppliers when I operated here. And it costs about eighty dollars ($80) to reconnect a phone.

So if I had to borrow a hundred dollars ($100) to save an eighty dollar ($80) fee, again, that might be a rational decision for me to make as a consumer strapped for cash.

The other one would be the re-connection of my hydro. I -- I did another quick query on the Internet to find out what it would cost me to reconnect my hydro if I was with Manitoba Hydro.

And if it was during business hours, it would be fifty dollars ($50). And if it was after business hours, it would be sixty-five dollars ($65).

And again, a hundred dollar ($100) loan might save me a fifty (50) or a sixty-five dollar ($65) reconnect fee. And these are all real concerns for these people. You know, they have a number of these issues because of their financial situations.

And -- and I do not believe that these people are -- are purely being exploited nor I -- I believe these people are rational in their decision making, in terms of getting these loans, in many cases.

I'm going to read you a quote from a professor from Indiana University. And this one is another one that I think tells a little bit of a story about the rational behaviour of the person getting the loan.

"Economic values are subject. In the case of payday lending time preferences, a form of valuation between present and future good, are also subjective.

Those with relatively high time preferences are going to be willing to pay more in the future to obtain goods or cash in the present than those with relatively low time preferences, all else being equal.

In this sense, then, there is no such thing as excessively high finance charge. It is entirely subjective to each voluntary participant in the transaction."

Now what that really means is that somebody's willing to pay more for money today than they are to get it later.

And as CEO of Liberty Tax Service, I would know that very well, because our customers paid an extremely high premium to get a tax refund the same day that they could easily have gotten in fourteen (14) days from the government if they had electronically filed their returns.

But that happens to be about a $400 million a year business in Canada, of which we did $60 million worth of cheques every year. And a lot of those customers were here in Manitoba, and they do take advantage of that service.

The APR in that service could easily be argued as -- well, was regulated by the government, because it was well over 60 percent many years ago. And you know, again this is not a dissimilar client base.

In fact, the demographic of the tax rebate discounter is far lower income than the demographic of the payday loan customer.

So again, I think this evidence shows to me that the consumer here in -- with -- with respect to this product, is making a rational decision based on a number of factors.

There's another study by Morgan and Hanson in 2005 that define predatory lending as welfare-reducing provision of credit undertaken by borrowers who are deluded or deceived about their further income prospects.

That is, predatory lending is said to occur when borrowers are encouraged by lenders to over borrow relative to their future income levels and their ability to repay.

These -- these two (2) professors studied this theory and tested it in a -- a number of states where they were nonregulated payday lending states, heavily regulated payday lending states, and states with low payday regulation.

Contrary to conventional wisdom among critics of payday lending, they did not find that pred -- that payday lending is predatory, and I will quote them:

> "Our findings seem most inconsistent with the hypothesis of predatory lending in states with higher payday limits and easier foreclosure. We do find that households with uncertain income in payday states have higher debt, but not higher delinquency -- just the opposite. In fact, households with cer -- with uncertain income who live in states with unlimited payday loans tend to have slightly lower delinquency rates, and they are less likely to report being credit constrained."

The next -- the next major item, besides predatory, is that the payday loan customer is poor. The income study that was done by Pollara that was presented by the CPLA clearly indicates that the income levels are consistent with the level of -- of other Manitobans.

Overall household income reported the payday loan customer tends to be either on par or ahead of the general Manitoba population. Notably, only 13 percent of payday loan customers reported household income of less than twenty-five thousand (25,000), compared to 28 percent of the general Manitoban population. I'm sure you've all read the survey.

I think you -- you -- if you look at Simpson's data, and Simpson's income data that he presented, there can be an additional rationalization for why that presentation shows lower income relative to people that don't take payday loans.

I think there's a flaw in that argument. And the flaw in that argument is quite simple, that in general the payday loan customer is a younger consumer.

If you take a look at the Money Mart 2006 financial year end report, they will quote their customer base as being somewhere between 25 and 44 years of age. If you have a younger consumer, as can be said for -- and I'm going to quote:

> "However, our typical Canadian consumer is 25 years of age, 25 to 44. The payday loan market is dominated by

younger consumers, and the use of this type of service tends to decline with age. However, the same can be said of any other type of consumer loan product, so it is not clear that age is able to distinguish payday loan customers from customers of other retail lending services.

Home montage loans, vehicle loans, and loans on appliances, or any other personal property are likely to be more common among young and middle-aged family, and tend to decline with age as income rises and the need for debt declines."

So again, we could take a study of people that bought -- took a payday loan against people that didn't take a payday loan, but if you don't overlay that with the -- with the ages of the individuals, it's highly skewed.

What if all -- what if the people that didn't take any payday loans are all 60 and 50, and -- and the people that did take the payday loans are 23 and 31. And -- and by pure nature, they will have lower incomes, because they haven't reached that stage of their life yet where they -- where they have less debt, and -- and they have higher incomes.

So again, I think that it's critical for the Board to examine these -- these points in their entirety and to look beyond -- you know, anybody can put forward a bunch of statistics to say their point, and -- and as I see it, everybody's case is to defend a certain point, including mine.

But I -- but I think that if you have the full, you know, gamut of information and you assess it entirely, you can see that some of this logic is -- is flawed.

Educational attainment, again the Pollara study said that 46 percent of the people surveyed had some college education. There was a similar study done in the US that only 36 percent of -- of the population had a college education, which would say that the Canadian populace is by far more educated than the US populace with respect to this product.

You know, I would argue that -- with respect to this explo -- exploitation and definitions used by Robinson and -- and some of the others in -- in the hearings to date. I -- I just can't it -- it -- buy into this definition of exploitation.

And you know, there are other industries that if you were to use their definitions of exploitation, would -- would clearly fall into the same manner.

And -- and I -- and the best ones that I can think of are the ATM fees that banks charge, or the NSF charges that banks charge, or the use of credit cards, or any of these products that are skewed towards people that are in -- in a lower financial income bracket.

So I -- I don't believe, when you look at all of the evidence, that -- is the customer uneducated? No, I don't believe that. Is the customer poor? No, I don't believe that either. And -- and I think that the customer does, in fact, in many cases make a rational decision on why to do this.

Now the next point that has been brought up by many people and -- and certainly contentious to me -- is that the payday loan industry is not risky. I -- and the definitions of risk is defined by Professor Robinson, if I recall, one of them was the dispersion in default rates, the risk of attaining enough customers to survive, or the risk that one loan would bankrupt the company.

Now I can't think of any institution, any bank, or credit union that would take on one loan that would potentially bankrupt its company. And I certainly, if I was a CEO of a company and I took on a -- a loan that could potentially put my business out of business, I think I could easily be fired for that one judge -- judgment. And it really makes no sense.

And the dispersion of the actual defaulted rate itself has really nothing to do with this. If -- if you -- if you want to look at default -- if you want to look at risk and -- and as it relates to financial services, risk is -- is related to the risk of default.

And clearly credit cards have higher interest rates than secured loans, not because of the dispersion of the risk, but because the chance that one -- and not because one customer will bankrupt the bank. It's because the risk of paying back that debt is higher than the risk of a secured loan.

A second mortgage takes on a much higher rate of interest than does a first mortgage. Again, the rate of default is the reason why the rate is higher.

You know, you can even look to the insurance industry for -- for the assessment of risk. Why is it that a young male driver with one speeding ticket pays tremendously more than a middle aged female that's never had a speeding ticket? That's because the risk of that person getting into an accident is higher, and that is what that is based on.

And, if you look at tax rebate discounting, again, a perfect example of a product that basically, as far as I know, has the highest effective APR of any financial product that you would find in this province.

But the reason for that is, again, the risk of default on that particular product or -- is surprisingly, given that it's a -- a government of Canada receivable that the person is lending against -- is in fact quite high.

So I think that the default risk, you know, of -- the risk for payday loans is higher than credit cards, it's higher than second mortgages, it's even higher than tax rebate discounting.

And I think that if anyone is going to invest in this industry and is going to maintain operations in this province, that they're gonna be required to get a return for that risk. And if they do not, they will pull out their operations. And that -- that, I think, is just simple economics.

If I look at my operations that I ran here, and I'm not -- and I'm not gonna stand here and say that I ran the most efficient and the best operations. I -- I didn't.

But subsequent to the closure of those stores, I've been in the business now for six (6) years, and I've -- I've got franchisees that operate standalone store locations. I've got -- I've seen call centre, Internet. I've seen it all.

But never have I seen 1.6 percent of loans as the default rate. And I -- and there's some rationale for that, and I'm gonna get to that a little bit later.

But all I can tell you is that my experience in talking with colleagues, in operating stores, and franchise locations is that the default risk of this particular product is much, much higher than the numbers that you are being presented.

You know, there's some other issues here with respect to why payday loans are particularly risky in Manitoba. And one (1) of those is the fact that the small claims court will not accept any claims against debtors in this province for a judgment in -- in the event that they -- they default.

You know, I had a -- a twenty (20) year veteran collection agency person working full-time for me when I was here in Manitoba. And I -- he couldn't even collect enough debt to cover his wage on a -- on a monthly basis. What I paid him is what he collected until I had to -- until I finally had to let him go, and he had twenty (20) years of experience.

And in the end I was forced to close both of my physical locations. And that's partly one (1) of the reasons why I came. I currently don't have an office, or a physical presence, or any employees in Manitoba. But I have an experience that cost me hundreds of thousands of dollars.

And I felt that, you know, it was important for me to come and say, number 1, this is a risky business; number 2, the people do need the service; and that, you know, it's not that simple.

And it -- it's not that easy to go open stores. If it was that easy to open stores, you wouldn't see some of the things that -- that have happened in the past. But let me continue.

There's -- there's the other big argument which gets put forward day-in and day-out that the interest is usurious. Well, by pure definition of mathematics and percentages, yes, it is usurious if you want to use those definitions.

But those definitions, including the annual percentage rate, were never designed for short-term loans of small amounts for small periods of time.

And I think that's just a, you know, a ridiculous statement and -- and the EAR percentage that

I've seen in documents, touting million percent interest. And hopefully the Board can see past the fact that a million percent interest is a ridiculous number. It has no bearing whatsoever on this product whatso -- you know what I mean?

If it was a million percent interest and it was a true, you know, value of -- of what this really was, this would not be going on.

You know, in the -- you know, if you start this -- take it down to its lowest level. I'm going to lend you ten ($10) dollars for a week, and I -- you're going to pay me back twelve ($12) dollars. And you're going to -- I'm going to charge you 560 percent or 1,040 percent interest.

But I -- in the end you paid me two ($2) dollars, you know, or ten (10) cents for it, you know. I could take it down to whatever number you want.

But the reality of it is that mathematics quickly determines that a small number, over a short period of time, becomes a massive percentage. So the percentage in and of itself is -- is a useless measure.

From an economic perspective, the viewpoint of -- of usuriousness is flawed for several reasons. High price of a -- of a good or service in an of itself does not mean that markets have failed and that harm has been done.

High prices may be a symptom of monopoly in rare instances, but certainly does not seem to be the case in the payday loan industry, where the ease of entrance into the market and the proliferation of competition has gone on for the past decade or more.

Prices in competitive markets, including small loan markets, are set by prevailing supply and demand conditions. Given the strong and increasing demand for small loans -- for reasons that we've discussed earlier -- combined with tremendous growth of the outlets, there would certainly not seem to be a failure in competition. And I agree with that for more than that reason, but I'll continue with that a little bit later.

Second, in terms of usuriousness, obviously I stated earlier, the higher the risk demands a higher return.

Lastly, in the -- the costs of doing the business, the fixed labour costs and the capital costs associated with offering and underwriting a small loan is similar to offering or underwriting a large loan.

And the reason that the -- the large banks and credit unions don't want to get into this business is because I can sit at my desk for fifteen (15) minutes or twenty (20) minutes and underwrite a hundred thousand ($100,000) dollar mortgage and make thousands of dollars over the term of that mortgage, or I can sit at my desk for the same fifteen (15) minutes, underwrite a payday loan, and make thirty ($30) dollars.

And you cannot pay that person or their overheads or their paper or their underwriting department and their computer systems and their bank charges and all the other issues that they have for that thirty ($30) dollars. But you sure can if they -- if they -- the customer pays you thousands of dollars over the term of that mortgage.

So by the very nature of the product, quite apart from the risk associated with it, small balance, short-term payday loans must charge a higher rate of return in order to induce profit-seeking people to -- to be in this business.

And -- and what you gotta remember is that, you know, you've got some pretty big players here in this -- in this province that are in the business today, and they're doing -- some of them are doing pretty well.

But what if one (1) stroke of the pen, you could wipe out half those people or all those people? And believe me, when it comes to entrepreneurs or when it comes to publicly traded companies, if the profit motive is not there, believe me, they will close their doors, because they have shareholders to report to.

I mean, I sat in those board rooms, and I know what it's like. And if the returns are not there, companies will pack their doors and go somewhere else, or they will get into another business, because if the -- if the profit motive is not there, then there's no sense in being in the business. They'll -- they'll do second mortgages at 14 or 15 percent and make just as much money.

The product leads to chronic borrowing, another objection to payday loans is it -- it leads to chronic borrowing. I think what we need to remember is that correlation does not mean causation. And payday loans do appeal to a clientele that are finac -- are facing financial difficulties independent of the payday loan itself. Some of them have a -- fail to establish credit, have poor credit histories, pay their bills slowly -- excuse me -- bounce cheques, frequently change jobs.

But in short, it is true that some payday loan customers are the type of people are -- are going to need cash from time to time or will -- will borrow when given the opportunity. But because the payday loan institution provides them with that opportunity, does not mean that they are the cause of it.

I -- I also agree with -- with some of the things that, you know -- so far I'm being fairly negative on -- on some of these things, but I do agree with some of the things that have been brought forward.

And -- and I do agree it's not in the interest of -- of the consumer to permit excessive rollovers of -- of loans. I -- I think that, you know, we must be reminded that the consumer, you know, is acting rationally. And I truly believe that with an exception of, maybe, a very small group.

But you also have to remember that the lender is acting rationally. And the lender will not continue to lend to a person who he doesn't believe is going to pay him back. And if he does, he's going to be out of business.

And so on both sides of this equation, there's a rational decision-making process being made: the consumer rationally deciding that, I'm going to take this hundred dollar ($100) loan instead of paying the eighty dollar ($80) reconnect fee for my -- for my phone, and the lender rationally saying, No, I'm not going to give you another loan today, because you have five (5) loans outstanding with other payday lenders. And if I give you a loan today, I'm going to lose my hundred dollars ($100). And those two (2) rational things do go on in the marketplace.

There is an argument that there's imperfect competition and that that, as a result, causes payday loan customers harm.

I don't buy that argument. In the Province of Manitoba, you do happen to have two (2) large companies that represent a significant market share. But I can point to dozens of industries where there's two (2) market leaders: Coke and Pepsi, Gillette and Schick, Loblaws and Safeway.

There's many, many markets where that's true. And in fact, even in this province the -- the top five (5) banks dominate the number of locations in -- in terms of, you know, banking and -- and credit unions in this province.

And I guarantee you they dominate the number of customers in this province. And that's no different in my mind in terms of imperfect competition.

In terms of the argument that this industry's growing so rapidly that the cost structure will go down, that -- where we can all afford to have this lower rate or low rate, whatever -- whatever way you want to perceive it, that argument is -- is shot out the door by at least one (1) graph that I'll reference in terms of the growth of number of stores in Manitoba.

And I can't remember which article it's in, but in Manitoba between the years of 2000 and 2003, the growth of payday loan stores is seven-fold. Between the years of 2003 and 2007, the growth is 11 percent.

Eleven percent in four (4) years and seven hundred percent in four (4) years. Well, you don't have to be a mathematical genius to see what's happened to the growth curve of the -- of the industry in Manitoba. It's completely curved over.

I -- I don't know this but, I mean, maybe -- maybe Stan knows it. I don't know if -- if Money Mart's opened a store in Manitoba in the last four (4) years. I -- I -- they may have opened one (1) or two (2), but they certainly haven't opened a lot, I don't think.

The -- the point of the matter is here that there is no excessive growth. This industry is going and -- and moving towards maturity. And I don't buy into the argument that this industry is expanding rapidly.

I mean, I sell franchises as part of what I do for a living. When people call me and say they want to open a store, there isn't too many cities in this entire country that I would absolutely -- that I would recommend them opening.

Ninety-nine (99) times out of a hundred (100) I tell them, Keep your money in your pocket. Don't open a store. You're not going to make it. There's too much competition. The costs are too high.

And I stand to make money by them buying a franchise from me. But I can't, in the goodness of my own, you know, ethics tell somebody to open -- if somebody were to tell me they were going to open a store in Winnipeg today, I'd say, You're crazy. You're an absolute idiot, because you cannot compete with these guys. And -- and there's -- there's not enough growth for you to get the business.

So I just don't buy the imperfect competition argument. And if you -- if you look at -- even the tax rebate discount is another perfect example. H&R Block buy far dominates. They have 75 percent market share in the tax rebate discounting industry.

If that's true, then absolutely it's way more of an imperfect business than is payday lending, because no company dominates 75 percent of the market in this industry.

And Liberty Tax was number 2, and we basically shored up the rest of the volume, which left, maybe, 5 percent left for all the independents, which is not true in this industry.

If you even argue that there are -- that there is imperfect competition, again, there's many industries that have it and that are completely unregulated.

There's -- the study that I referred to earlier by Hanson and Morgan in 2005, they found that more payday lenders and pawn shops per capita correlate with lower payday loan rates and fees, suggesting that competition is welfare enhancing in these markets.

Another point that I would make in -- in terms of competition is that, clearly, the market leader in this industry at the moment is Money Mart. Money Mart also clearly has the lowest fees.

Now that may be causational, or it may be correlational. But no matter how you slice it, the person with the lowest fees has the most business. So you could still use that as part of your argument to say that the free market is working, that the -- somebody's come in at -- at a very low price, and they have maintained and -- and built the biggest market share in the entire country, not just in Manitoba.

Now in terms of credit unions as alternatives, I think no matter what legislation you come up with and what you pass that I don't -- I do not believe that the credit unions will materialize as a force in this industry. And nor do I believe if they do materialize as a force, they will present a viable alternative for our -- our potential customers.

Number 1. Credit unions do not have locations in all of the key areas where the service is needed.

Number 2. It's unlikely that they're going to stay open the hours that are going to be required and the days that are going to be required -- Sundays, 24/7, what have you.

Nor will they have the -- the security that's required in a lot of the areas that are bad parts of town, where they need bulletproof glass or, you know, extra security guards, or -- or issues like that.

They do not cover the majority of the underbanked population in Manitoba, number 3.

And -- and there's an argument that I've read in -- in the proceedings so far about this -- this issue about banks or credit unions being able to hold the customers funds in -- as a methodology of reducing their bad debt.

Two (2) points to that, first one, if you follow the same people's argument, bad debt is not the issue in this industry. However, I -- I tend to disagree with that somewhat.

But number 2, if by chance I'm banking with a credit union and I have my direct deposit in their account -- oh, and by the way it will only work if I'm direct deposit, because if I have a cheque, I don't have to go to the bank to cash it. I can go to the Money Mart and cash it instead of paying them back their loan, and they still won't get paid back.

But if I do have direct deposit, and I am with the credit union, and I find that after my first payday loan when I -- when I really wasn't planning on paying them back that they actually put a freeze on my funds and got their money anyway, I'm quickly going to go into my employer and say, Would you, by the way, transfer my paycheque to the Royal Bank starting next week, because I really don't want them holding my funds anymore, because that's not why I took out the loan with them, so that they would have this hold over me.

One (1) of the reasons why the type of consumer that we deal with doesn't deal with the banks, they don't like the bureaucracy. They don't like the rules. They don't like the hours. They don't like any of these issues.

So when you bring in this argument that

the credit union is going to come in and be the panacea to help all these poor people, there are many, many issues at play here that I think have not been examined, and I do not believe that they will be.

Rate regulation based on the cost of providing loans, again, for what it's worth, I'm a free market person. I don't believe that the cost of providing this loan is particularly the relevant thing that we should be looking at.

And I think that the other major problem that we have with the evidence that's been put before the Board to date is that the evidence that has been assessed for the purpose of costing is primarily, if not exclusively, Money Mart evidence.

And the problem with that is that Money Mart evidence is skewed by a number of major factors.

Number 1. They're not a standalone payday lender.

Number 2. They -- they are extremely mature in -- in the number of stores and the customer base.

And this is true for any financial product. If I have a portfolio of loans that is one (1) year old and I have a portfolio of loans that's ten (10) years old, I can bet you that the experience and the loss ratio on that ten (10) year old portfolio is much better than the one (1) year old portfolio for a number of reasons.

That's true in insurance. That will be true in lending. And it will be true in the case of Money Mart, because Money Mart has a very mature customer base.

In fact, when I was at Liberty Tax I spent quite a bit of time and -- and had many meetings with them and -- and was a -- one of the reasons I got into this business was really because of them.

But about four (4) years ago they mentioned to me they had about a million customers on their database. Now, I would venture to guess that four (4) years later, they've got more than a million customers on their database. Maybe it's a million-five, maybe it's two. Unfortunately, we're not privy to that number. None of us are here.

But what I can tell you is that the number of bad loan customers in the entire country would be not much greater than the number of customers on their database. They virtually have, if not every single bad loan customer, a huge percentage of every customer that's borrowed and gone bad.

So that advantage, in conjunction with a mature customer base, in conjunction with the fact that they have a -- a cheque cashing product that allows them, if a customer were to go over -- let's say I were to take a loan at a Money Mart in -- in Victoria, and I didn't pay that loan back.

Then I move to Winnipeg, and I get my paycheque, and I walk into a Money Mart in Winnipeg. Money Mart instantly can then look at that database and say, Mm-hm, you owe us, you know, three hundred and seventy-two dollars ($372) from Victoria. And thank you very much for your paycheque, and here's the difference.

I can't do that. And even if I could do that, I'm not sure you should be able to do that. But what I'm trying to point out in this equation is that you cannot use Money Mart's data as a proxy for what the cost structure of this industry is.

It's -- it's -- it's highly skewed by their mix of business. It's skewed by the length of time they've been in business. It's skewed by their bad loan database. It's skewed by so many pieces of information that it -- it forces you to say, Wow, what -- look -- look at how unrisky this business is.

Believe me, if I could open five (5) stores in Winnipeg tomorrow and have a 1.6 loan loss percentage, Sid Franchuk (phonetic) at the back of the room would not be a happy guy, because I would open them. But I can't. And not many other people can either at this stage of the game.

So using that information -- similar to using the single-store model that Robinson presents, that single-store model is extremely flawed for the same purpose. The only data he has to use to -- to bring this forward -- is Money Mart data.

I -- I don't think we have good data on Rentcash. I -- I mean they have -- they have financial statements. They're a publically traded company. But I don't think to the same degree you can calculate the cost the way that -- that they've been calculated on Money Mart's data.

It would be valuable to see it, because it's my impression and my opinion that the rent costs -- cost structure is extremely higher than Money Mart, the profitability is extremely lower, and that they could not sustain a substantial reduction in the rate in this province, or anywhere else. And not just to say they couldn't. Many other people could not.

So if you look at some of these recommendations that are coming down the pipe here, and at the end of this proceeding, what -- what do we see? We see at the -- Robinson recommending at the low end ten dollars ($10) plus 5 percent plus 60 percent annualized interest.

I'll just give you the Cash X perspective. Close all the doors. Everybody's gone, including Money Mart, okay?

You've -- you've eliminated the industry at that price, without a doubt in my mind. And if they stay, they definitely close stores. They don't keep them all open.

Okay, so let's look at the other extreme, twenty dollars ($20) a hundred (100). Sounds like a really good deal. Most people should survive. But what happens is, all you've done now is you've taken the low-cost competitor -- which is Money Mart at thirteen dollars ($13) a hundred (100) -- and said, Here's a licence to charge twenty (20).

And -- and you've also taken all of the other guys that can't survive the twenty (20), and eliminated them out of the market. So now you're left with a few little players, a big, huge Money Mart that takes a massive increase, and now the population of Manitoba gets charged more by a decision that you guys are attempting to make to presumably have them charged less.

I don't have all the answers for you --

for you in -- in this -- in this equation. You have a very difficult decision to make here in terms of how you do this.

But you must think about the impact of one (1) competitor that, basically -- and I -- I could be wrong, you know. I -- I go with a little bit of my basic common sense on some of these things. And I -- I would -- I would say, and I think Robinson has said, that clearly Money Mart controls more than 50 percent of the business in Manitoba. If somebody wants to dispute that or argue with that, I would say it's more like, maybe, sixty (60).

But lets say it's fifty (50). If for -- by chance you allow them to raise their rate from thirteen (13) to twenty (20), you've given them a more than 50 percent increase for half the population. That's an overall increase of 25 percent.

Even if you reduce the other guys down from twenty-five (25) to twenty (20) -- some of them kick out, some of the drop out -- you've only reduced twelve and a half (12 1/2) at the other end.

You've effectively increased the rate for every Manitoban by 12 1/2 percent. By trying to do something right, you may do something very wrong.

My conclusion is, I -- again, I don't find any evidence that this product is particularly predatory. Nor do I find that the consumer is particularly undereducated or poor or any of those factors. There is a segment that -- that is poor. I'm not going to debate that.

I don't find in any way, shape, or form that this business is not risky. The lending in this business is extremely risky, unless you have some -- some serious things in place, which the majority of the players in this industry do not have.

I don't think the rates are usurious for simple mathematics.

I -- I think the rate regulation based on cost is -- is problematic, again, especially if you're using the low-cost provider as -- as your measure of cost.

And I don't think there's any hope in heck that the credit unions and the banks are going to fill this void. They are not going to do this. They'll -- they'll -- if they even do try it, they'll try it for a few weeks or a month, and they'll quickly close down and say, Oh my God, what the heck was that?

Because this business does not fit in with their, you know, modus operandi, with their -- with their structure, with their methodologies, or any of the things that they do.

I'm going to read you one (1) -- one (1) more quote, and then I'm going to give you what I think might make some sense in terms of some other ways that you might want to look at this thing.

"In sum then, justification for further rate regulation or banning of payday lending cannot be supported on economic grounds.

Indeed to the contrary -- to the contrary, as economics -- as economists well understand heavy regulation stifles entry into these markets and thus retains the very competitive forces that serve to bring prices and rates down naturally.

Hanson and Morgan find that more payday lenders and pawn shops per capita correlate with lower payday loan rates, suggesting that competition is welfare enhancing.

Additionally, legislated price ceilings and caps are a prescription for disaster in any market, because to the extent that they are binding, they distort prices and throw supply and demand into permanent disequilibrium. To put it technically, state regulations that hold finance charges on payday loans below the market clearing level will lead inevitably to excess demand over supply, creating shortages in the small loan market and preventing marginal borrowers from obtaining credit in emergency circumstances.

Unfortunately, Indiana has some experience with this type of scenario. In 2001 the State Attorney General in the Indiana Supreme Court required payday loans firms to limit finance charges to no more than 72 percent APR to conform to Indiana's loan sharking statute.

Subsequent to that date, the number of licensed payday loan outlets in the State of Indiana dropped precipitously, according to the DFI, reducing competition in the small loan and pawn markets in 2001 and 2002.

In 2002 the state lature -- legislature revised the laws governing small loans and raised the finance charge ceiling to its current level, as expressed in Indiana Code 24-5 [whatever it is] leading to a revival in competition in the payday lending.

Rather than preventing or discouraging the proliferation of payday loan outlets, policy makers should instead make law that encourages an open and a level playing field in the small loan market, permitting competition to put downward pressure on rates and fees."

So in conclusion, I have -- I have a thought -- and again, it's just a thought -- because I do believe that you run the serious risk with this one (1) competitor that has such a large market share and -- and is currently the low-price provider.

If there is a huge concern for the poor and if there is an argument that the poor are being preyed upon in this industry, then I recommend that we -- that -- and this is not what I recommended before, but this is what I think now -- is that there should be a, potentially, a two (2) tiered system whereby people that make under a certain amount of income per year are provided with a very attractive, low payday loan rate.

And that -- that number, I mean in Manitoba males -- 39 percent of males make less than nineteen thousand dollars ($19,000) a year. You could draw it at fifteen (15), you could draw it at nineteen (19), you could draw it wherever you like.

But if you want to really protect the poor, protect the poor by how much they earn and say that those low- earning people should get a better price and leave the rest of the market to itself to fight it out.

And -- and what you've done effectively, then, is really protect the person that you're trying to protect, because if you look at it the way that I think you might be looking at it, and you simply allow for a higher rate for the low-cost competitor and a lower rate for the remaining competitors, you've really done disservice to the industry, you've done disservice to the customer, and I -- I really think it's a potential disaster.

I think the other thing you should consider in this equation is in terms of your enforcement, whichever way you decide to go, is that you may want to have some kind of approved software vendors that, basically, have a product that says, Our product complies with the laws of Manitoba.

And these are the people that are using it. And so rather than you having to worry about whether they're complying by sending out and enforcing with all kinds of bodies and people and administration costs, you could basically say, We will take bids on providers, and we will allow multiple software providers. And if your software complies with the state -- or the provincial laws of Manitoba, and you are a preferred vendor, then you must use software that is -- that is, you know, authorized by the PUB or whoever.

And -- and that may, you know, simply be in the case of a Money Mart they're -- they're going to -- they're, you know, they're obviously going to use their own software. So they're going to -- but they're going to comply, and you'll know about it.

And software's a -- is a great way to comply. Now, yes, it could be changed, but there are ways to enforce it at -- at the level of what the customer is using. And certainly for the majority of the small companies, they are -- they need software to run this business. And if that software is compliant, then they will be compliant.

And I guess, you know, the last thing you can -- you know, like I said, there's two (2) things you can do. You can -- you can move this price down and -- and effectively, I think it cause a lot of problems, because it -- it's a broad sweeping assessment across the whole market.

Or you could leave it alone and let everybody fight it out. I know you're not going to do that, and -- and I'm not sure you should do that either. But effectively, that's my testimony, and I know it's not exactly what I presented to date in -- in these binders that people are going to cross-examine me on.

But I spent the last number of days prior to coming here thinking about what I wanted to say, and I've said what I want to say.

THE CHAIRPERSON: Thank you, sir. Okay we will move on now to the cross-examination phase. And we begin with Ms. Southall for the Board.

MR. STEVE SARDO: If you could just let me get a little bit of water before I do that.

THE CHAIRPERSON: Sounds like a good idea.

(BRIEF PAUSE)

THE CHAIRPERSON: We will give you ten minutes to drink your water, how is that?

--- Upon recessing at 1:54 p.m.
--- Upon resuming at 2:01 p.m.

THE CHAIRPERSON: Okay, Ms. Southall, we got a heavy agenda, so we might as well carry on. I am sure Mr. Williams will be back momentarily.

MS. ANITA SOUTH ALL: Thank you, Mr. Chairman.

CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Mr. Sardo, I just want to start with a brief examination of a couple of pages from the Ernst and Young report which has been filed with the Board in this proceeding by CPLA --

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: -- in -- in their evidence, and I asked you, just prior to the commencement of this afternoon's proceedings to insert that behind Tab 9.

MR. STEVE SARDO: Yeah.

MS. ANITA SOUTHALL: And for others who are following the proceedings, that would then be the insert that I handed out to be inserted also at the back of Tab 9.

And, sir, if you could look at the first page of that excerpt, which would be page 29 of the Ernst and Young report.

MR. STEVE SARDO: Yeah.

MS. ANITA SOUTHALL: Do you see that?

MR. STEVE SARDO: Yeah, I do.

MS. ANITA SOUTHALL: Could you look at Table 5A?

MR. STEVE SARDO: Yes, I am looking at it.

MS. ANITA SOUTHALL: Thank you. And the calculation that Mr. Cathcart, who is -- who is assisting the Board as an accounting advisor, has provided to me indicates that the operating cost in the first column for the average of all firms totals, excluding bad debt cost, totals sixteen dollars thirty-one ($16.31) cents.

Do you see that?

MR. STEVE SARDO: Yeah.

MS. ANITA SOUTHALL: And is that the number you used in your report, is that how you derived--

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- at the number?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: Or, sorry, in your evidence --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- I guess --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- is the proper way to put it.

MR. STEVE SARDO: Yes. Yes.

MS. ANITA SOUTHALL: Mr. Sardo, the -- the reporter is indicating that if you could let me finish the question --

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: -- and then you could provide the answer, she'll be able to track it for the transcript.

MR. STEVE SARDO: Okie-dokie.

MS. ANITA SOUTHALL: Thank you. The sixteen dollars and thirty-one ($16.31) cents, sir, that I just made reference to, that in Table 5A is an unweighted average of survey respondents, correct?

MR. STEVE SARDO: I didn't write the study, so I am not positive what the weighting is. I -- it says it's an average.

MS. ANITA SOUTHALL: Well, at the top, in the heading of the --

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: -- table, it says, "Unweighted averages of survey respondents."

MR. STEVE SARDO: Okay, so then, yes, I agree with you.

MS. ANITA SOUTHALL: And sir, if you could turn to the last page of the excerpt, it would be page 31, do you see that?

MR. STEVE SARDO: Yes, I do.

MS. ANITA SOUTHALL: There is another table, it's called Table 5B, and it's a weighted average of survey respondents. Again, this is the Ernst and Young survey, and the calculation of the same costs on a weighted average basis for all items of cost, excluding bad debt, is eleven dollars sixty-seven ($11.67) cents.

Do you see that?

MR. STEVE SARDO: Yes, I do.

MS. ANITA SOUTHALL: In -- in your view, should the Board be looking at a -- an unweighted average, in other words, the sixteen dollars and thirty-one ($16.31) cents for these costs or the weighted average?

And if you could take a moment and just explain the -- the one that you believe is supported and why.

MR. STEVE SARDO: Okay. Well certainly I -- I do not support a weighted average. Again, the weighting, if I'm not mistaken, would be highly skewed by a number of -- small number of -- of competitors as opposed to business. I think one of the things -- and just let me digress for one second.

The industry, as I know it, is thirteen hundred and fifty (1,350) locations, four hundred and eighty (480) companies, three (3) companies making up, I don't know, 70 percent of the business or 80 percent of the business, something to that effect.

But on a -- on a volume basis it's -- it's, you know, the most of it is based in a -- a few number of companies. But on a pure business basis it's many, many companies. You know, very -- it's a mom and pop industry with the exception of two (2) or three (3) people.

And so I -- I think it's -- it's highly irresponsible to -- to take this weighted average. And I'm not convinced that the unweighted average is the right number either, only because I didn't examine the number of participants in the Ernst and Young report.

I'm not sure it's reflective of the four hundred and eighty (480) companies in the industry. I would -- does anybody know how many companies participated in that survey? I -- I don't know the number.

But I will -- I'll bet you on a company

basis it was not representative. So, if you have a -- it's lesser of evils you go on weighted.

MS. ANITA SOUTHALL: Thank you, sir, your comments a couple of moments ago about the number of companies operating was that were -- were you indicating a number that you know to be a number operating in Canada as a whole?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: All right. And, Manitoba as compared to Canada, did you happen to look at those numbers?

MR. STEVE SARDO: You know, I -- I cannot say with all honesty that I have those numbers at my fingertips. But I -- I would say one (1) other comment about this.

Since you're the first province to regulate, many will look to what you have done as an example, and you are setting the first example for the country. And so that may not be in your objective, but, you know, be -- be sure that that is part of what you're doing, whether you want to do it or not.

MS. ANITA SOUTHALL: Sir, do you happen to know if there are any franchisees operating in Manitoba for any of the payday lending companies?

MR. STEVE SARDO: For any payday lending

company? I do not. I do not know that.

MS. ANITA SOUTHALL: Mr. Sardo, I'm -- I'm going to ask you to turn to your direct evidence, which is Tab 9 of the materials I've put before you.

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: And we're going to go right back to the start of your initial evidence. So this would be page 1 of the materials at Tab 9.

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And, sir, you identified for the purpose of your analysis when you started -- and I appreciate you've shown up today and -- and shared a few other things with the Board.

But in order for us to know that we understand what you submitted, I'm going to go through a number of these things, so if you bear with me, please.

First of all you identified three (3) methods of analysis for pricing. Do you recall that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And they were market pricing, cost plus pricing, and pricing based on risk --

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: -- correct?

MR. STEVE SARDO: Correct, sorry.

MS. ANITA SOUTHALL: Under the heading

Market Pricing on page 1 you have made the statement in your initial evidence, "Once a market becomes controlled these options disappear." And you're referring to choices available for a consumer in the competitive market, correct?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: Can you just explain what you mean by that statement?

MR. STEVE SARDO: Sure, no problem. What I'm -- what I'm referring to there is very simple. And again, this is all, you know, pure economic reality, which is that for every dollar that I invest in a payday loan business, I expect to get a certain return.

So if someone comes along and says that -- let's say my return is 20 percent on my investment for argument sake. And at my current pricing, I'm charging thirty dollars ($30) a hundred (100), again for argument's -- for argument sake.

If all of a sudden someone comes along and says I can only charge twenty dollars ($20) per hundred (100), decreasing my revenue line by 33 percent and effectively either making me in a loss position or unable to continue to operate, then I will quickly determine which of the customers that I am serving today can I make money on and which can I not.

Certainly there'll be fewer customers I can make money on at a lower price, because I can't take the risk of those additional customers with a higher potential for default.

So where I might have originally said a guy -- I'd allow a guy with three (3) NSF checks on his bank statement, now I may not allow any, or I may only allow one (1).

And that may disperse who knows what percentage of customers that I can no longer lend to and still put, you know, hope to make a profit. And so that's what I meant by that comment.

MS. ANITA SOUTHALL: Thank you, and I take it you're making the same comment later in the same paragraph, where you indicate if rate regulation does reduce profitability, underwriting will be adjusted to eliminate the more risky clients, leaving these people the only option of black market loan sharks and all the -- all, pardon me, and the all of the problems with pushing the business underground.

Is -- is that same concept?

MR. STEVE SARDO: It's the same concept, yes.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: I'm going to move on now, sir, to the cost plus pricing. And I appreciate, again, that this is not something that you're advocating to the Board, but it is an analysis that you've provided for us to consider.

Again, we're still on page 1 here, at Tab 9. And there's a reference to studies being produced to determine the cost of payday loans. There were you referring to the Ernst and Young report or any other reports that you could identify?

MR. STEVE SARDO: I'm referring predominantly, well, to the Ernst and Young report. I don't have any other reports that I'm privy to on a cost basis.

MS. ANITA SOUTHALL: One (1) additional report that's put -- pardon me, been put before the Board in this hearing process is the Deloitte study that CPLA has introduced.

Did -- did you have an opportunity to see that report?

MR. STEVE SARDO: I've seen information regarding it. I haven't studied it closely. My first blush opinion is that there's not, again, not enough participants. I -- I want to -- I -- again, can I digress for one (1) second, or no? If not, it's okay.

MS. ANITA SOUTHALL: Does it have to do with that report?

MR. STEVE SARDO: Well, now you made me lose my train of thought. So, okay, go -- continue on.

THE CHAIRPERSON: No, no, digress, go ahead.

MR. STEVE SARDO: Well, no, what -- what I was going to say, I -- I do think that one of the things that this proceeding is missing is information. And it's lacking information on the proper costing of a payday loan, because the data that you've been provided is either not representative or too small or potentially flawed.

I -- I think the proceeding is missing enough financial data on the profitability of -- of payday loan operations in Manitoba. I don't think that you have any, or if you have, not much.

You have one (1) publicly traded company or two (2). And, yes, they may represent significant, you know, numbers of customers. But again, I don't think they represent the marketplace.

And I think, you know, unfortunately, I know it's not easy to get all the data before you make a -- a decision, but I do think this is a very important decision because of all the issues that I mentioned in my other statements and that maybe, if somebody wants to be operating in this province, they may need to be forthright about all of the data that you need to make a proper decision. And that may take more time.

But I -- I would be very nervous about making some of the decisions you're forced to make with the limited amount of data and the potential problems with the data that you have. That's all I'm saying.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Okay, thank you.

And -- and if -- and just -- just to close off my last comment on the Deloitte report, I've -- I won't have any more questions of you of that if you haven't had an opportunity to really examine it.

MR. STEVE SARDO: I didn't examine it enough to -- to comment on it, I have to be honest.

MS. ANITA SOUTHALL: Sir, again, under the first paragraph in cost pricing on page 1 of your evidence, you have reference to -- and again, you -- you commented on this a moment ago in response to one of my questions, but you indicate with the sentence in the middle of the first paragraph, beginning:

> "With the top three (3) representing almost eight hundred fifty (850)

locations, the industry remains a group
of mom and pop operators. Ninety-
nine percent of the companies are not
large."

Do you see that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And, again, would that be a statistic you derived from somewhere? Did you do your own research, or...?

MR. STEVE SARDO: Well, I can give you a -- a quick and dirty on that. The thirteen fifty (1,350) is a -- is a number that's been bantered around quite a bit. But I went and bought a list of payday loan companies in Canada from a -- a reputable info -- infoCANADA or whatever. It's a company you buy a list from.

In my former life I used to buy lists for purposes. One of the purposes was for me to mail out some information about my software to see if anybody might be interested in purchasing it.

So in that list, when I pared it down to the individual number of companies, there were four hundred and eighty (480) companies. There were, in fact, thirteen hundred and fifty (1,350) locations, because some companies have lots of locations.

But basically, you know, of the four hundred an eighty (480) companies that operate, there are only three (3) large companies and four hundred and seventy-seven (477) small companies.

So effectively, yes, you could argue that, you know, it's an oligopoly, it's in perfect competition, there's two (2) large players. All those things are very true.

But, you know, Canada is made up of small businesses that hire and -- and make this country what it is. And this industry is no different. It's a pile of mom and pops.

And, you know, kudos to Rentcash to realize that and come in and be the number 2 player, just like I did when I was at Liberty Tax. We did the same thing. When there's an opportunity, people come in.

But this is still a mom and pop industry, with the exception of two (2) companies. That's all I'm commenting.

MS. ANITA SOUTHALL: Sir, is that list available for production to us?

MR. STEVE SARDO: I can -- I can try to dig it up for you and get it for you. I -- I have no problem with that. You know --anyway, I don't want to digress any more.

MS. ANITA SOUTHALL: And -- and what year would that data be, do you know?

MR. STEVE SARDO: Well it's -- it's -- I received the data within the last year. But how current the data is that they provided me, I can't comment. It's what they had.

MS. ANITA SOUTHALL: Thank you, sir. If -- if you could undertake, if you're willing --

MR. STEVE SARDO: No. I'm sure more than willing I -- I --

MS. ANITA SOUTHALL: -- to share that with the Board --

MR. STEVE SARDO: -- it might be a little bit of work but I -- you know, because it's an old file, but I'll dig -- I'll try to dig it up for you.

MS. ANITA SOUTHALL: Thank you.

--- UNDERTAKING NO. 2: Cash X to provide Board with a list of payday loan companies operating in Canada

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: I -- I'm going to ask you now, Mr. Sardo, to go down to the next section on page 1 of your evidence, which talks about your own operations in Manitoba, beginning in 2003. Do you see that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And if you -- sort of jumping to the conclusion, as opposed to going through all of your numbers --

MR. STEVE SARDO: Yeah.

MS. ANITA SOUTHALL: -- if you could go on to page 2, you've indicated that you had operations loss of twenty-seven dollars eighty-five cents ($27.85) per loan in 2003.

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And that's because your revenue per loan was ninety-seven dollars eighty-four cents ($97.84), correct?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And your operations cost per loan was one hundred twenty-five dollars sixty-nine cents ($125.69)?

MR. STEVE SARDO: Also correct.

MS. ANITA SOUTHALL: If we could jump, just for a moment, to page 3 of your evidence, sir. In 2004 you, as I understand it, rationalized your costs and earned a modest profit of seven dollars ($7) per loan. Is that right?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And, sir, what factors do you attribute to the loss in 2003?

MR. STEVE SARDO: Could I answer it and say what I attributed to the profit in 2004?

MS. ANITA SOUTHALL: Sure.

MR. STEVE SARDO: I closed my stores in Winnipeg.

MS. ANITA SOUTHALL: So you were operating in 2004 elsewhere in addition to Manitoba?

MR. STEVE SARDO: I was -- I was operating over the phone predominantly. Let me explain to you what I did do.

I had two (2) stores in Winnipeg, one (1) on Portage and one (1) in City Place Mall, neither one (1) of which ever made me any money, and it's here nor there.

But what I came quickly to realize, not unlike what's been presented to some degree, well, you know, there's a lot of costs. And so I -- I wasn't seemingly able to reduce the bad debt dramatically. I didn't have any tools that were going to allow me to do that.

So I said, Well, what other major costs can I assess and reduce? And those were overheads.

So as my leases came up, I said, Is there a way that I can give these people money without having a physical store, without having physical presence, without having employees and the bank charges and, you know, phones and, you know, paper? And I mean, some of it I couldn't reduce, obviously.

But I managed to close all the physical locations, I gave all of my customers that were with me at the time stored-value cards, similar to the Rentcash card and I allowed them to do the business over the phone.

And by reducing all those overheads, I managed to eke out a profit. And, you know, as, you know, necessity is the mother of invention, I mean I had no choice other than go out of business and lose my total investment. So that's what I did.

MS. ANITA SOUTHALL: And then after 2004 into the present time, how -- how have you operated? I think you indicated in your evidence you're an Internet loan provider?

MR. STEVE SARDO: I -- I operate very similar to 310-LOAN. Nathan and I are -- are friendly competitors. We -- we do very similar things. We operate over the phone and over the Internet. That's what we choose to do.

MS. ANITA SOUTHALL: And I -- I take it that if Manitoba borrowers wanted to borrow from Cash X over the Internet that that's available to Manitoba borrowers.

MR. STEVE SARDO: It's available to everyone except in the Province of Quebec.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sir, I now want to review some of the figures that you've reported, because in our preparations we have a little bit of difficulty reconciling some of the numbers.

So if you could help out and -- and just clarify some points, in terms of your reporting, that will be of assistance.

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: First of all, if we could look at Tab 12 please?

MR. STEVE SARDO: Tab 12, okay.

MS. ANITA SOUTHALL: Have you found that, sir?

MR. STEVE SARDO: Yes, I have it.

MS. ANITA SOUTHALL: And here we have your responses to our Public Utilities Board second round

Information Requests or Interrogatories.

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And in that followup series of questions you responded -- again, here we would be talking about the first entry on the first page of this document -- that you had two thousand one hundred forty-eight (2,148) loans given out in 2003, if I'm reading the number correctly.

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: The average loan was a hundred and ninety-five dollars ($195).

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: When -- when we did the multiplication on that, we found revenues were at $210,160.

MR. STEVE SARDO: That's the average loan. That has nothing to do with revenue.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sorry, if you could just give me a moment, sir.

MR. STEVE SARDO: Yeah, no problem.

(BRIEF PAUSE)

MR. STEVE SARDO: Could I get up and get another glass of water?

MS. ANITA SOUTHALL: Yes, by all means.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Thank you, sir, for your patience on that. Just -- just to sort out the calculation and how we got to our revenue number using this information. And I'm sorry, I didn't -- I didn't in -- mean to mislead you.

Bt in fact, the calculation we did to examine it was your 2003 a total loans of two thousand one hundred forty-eight dollars ($2,148), which we looked at a moment ago, that's the loan number --

MR. STEVE SARDO: That's the number of loans --

MS. ANITA SOUTHALL: Correct?

MR. STEVE SARDO: -- yes.

MS. ANITA SOUTHALL: And -- sorry, and then back to Tab number 9, where you reference that the average revenue per loan was ninety-seven dollars eighty-four cents ($97.84).

MR. STEVE SARDO: Oh, okay, okay.

MS. ANITA SOUTHALL: Sorry about that.

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: So when we did that calculation, we got to $210,160.

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: And then if you could look at Tab 10 for a moment, please. And -- and here's what I'm trying to -- to understand, sir. On the first page of the answers provided to coalition's questions, Interrogatories round 1, under item Coalition-Cash X-1-1(b), there was an indication that revenue for 2003 was $115,000.

MR. STEVE SARDO: Okay, let -- let me explain to you something about the way that revenue is calculated. There's two (2) ways to calculate revenue. One (1) is paid revenue and one (1) is all revenue.

My business I calculate revenue two (2) different ways; paid revenue is -- is the Ernst and Young methodology of calculating revenue, which only accounts for revenue associated with loans which are paid.

There are two (2) ways that you can do this. You can say that you calculate only the paid revenue, and then your bad debt would become the unpaid principal. So I gave you a loan for a hundred dollars ($100), you paid me back one thirty (130), there's thirty dollars ($30) of revenue. Now if, on the other hand, you didn't pay back me at all, there's a hundred dollar ($100) debt remaining.

There's another way to look at it that -- that says we calculate all revenue and then we -- but the bad debt is not the hundred dollars ($100) of principal. It's the entire receivable, which is a hundred and thirty dollars ($130).

So in the end -- and I could go through an elaborate calculation to show you this -- the gross profit and the net income becomes exactly the same. But the calculation of revenue is -- is a difference in opinion on accounting. So you could account for it two (2) different ways.

MS. ANITA SOUTHALL: And so is that the explanation of the difference between the number that you provided to Coalition and the number that we get on the calculation I provided a few moments ago?

MR. STEVE SARDO: In order to be 100 percent sure of the answer to your question, I would have to go back, because I -- in -- in my process, I -- I've used a number of different documents to produce evidence.

Some of it is my financial statements -- well, which I, you know, used to create my tax returns and things of that nature. And another set of evidence, when you get down to asking me specific loan numbers and things of that nature, I'm forced to query my database and -- and ask my programmer to say, Okay, how many loans were in the Province of Manitoba, for example, in 2002, or, How many loans were in whatever?

So, it's possible that either those numbers don't reconcile for the reason I mentioned earlier, because of the definition -- the accounting definition -- or it's possible that there's an error. And I'm not positive which, because I can't say at this moment.

I can tell you that I'm pretty confident that the hundred and fifteen thousand dollar ($115,000) number was the revenue from my financial statements.

However, the number here, I do know that my programmer was -- I asked him to pull those numbers off the database. They did not come from my financial statements. My financial statements don't show me how many loans I did. They just say how much revenue I did.

MS. ANITA SOUTHALL: Thank you, sir.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And, sir, just as a follow up on -- on that last explanation and the discussion we were just having a moment ago, if you could turn -- because you're -- you're at Tab 10, I believe, at the moment. If you could turn to the next page --

MR. STEVE SARDO: Yep.

MS. ANITA SOUTHALL: -- the answer to Coalition's question 1-2 at Item A.

MR. STEVE SARDO: I'm not at 10, sorry. I was at 12.

MS. ANITA SOUTHALL: Oh, pardon me, I --

MR. STEVE SARDO: It's okay.

MS. ANITA SOUTHALL: -- if you could turn to Tab 10 then.

MR. STEVE SARDO: 10 --

MS. ANITA SOUTHALL: Second page.

MR. STEVE SARDO: Second page, okay.

MS. ANITA SOUTHALL: And then the answer you provided to the Coalition 1-2 --

MR. STEVE SARDO: Yep.

MS. ANITA SOUTHALL: -- under Item A.

MR. STEVE SARDO: Yep.

MS. ANITA SOUTHALL: Bad debt losses for 2003, and the answer that we're provided -- pardon me, the answer that you provided for Cash X was that the loss in 2003 was a hundred and twenty-three thousand, seven hundred ninety-three dollars ($123,793).

Do you see that?

MR. STEVE SARDO: Yes, I do.

MS. ANITA SOUTHALL: So a moment ago, when you were describing the two (2) ways of reporting revenue, would -- would we take the hundred and fifteen thousand dollars ($115,000) of revenue paid off of the gross revenue of two hundred and ten (210) and -- and calculate that to be a ninety-five thousand dollar ($95,000) bad debt lost?

MR. STEVE SARDO: I'm not sure I understand. If you could repeat that?

MS. ANITA SOUTHALL: Right. You reported -- when I -- when I did the first multiplication and --

MR. STEVE SARDO: Mm-hm.

MS. ANITA SOUTHALL: -- and brought to your attention, that got us around two hundred and ten thousand dollars ($210,000). And then we looked at the Coalition answer for a hundred and fifteen thousand dollars ($115,000) of revenue.

One of the explanations that you -- you gave us was that -- that the -- the bad debt may be factored in, in one case and not in the other. It may be reported differently.

MR. STEVE SARDO: It may be reported differently, yes.

MS. ANITA SOUTHALL: And -- and I'm

wondering if -- if we look at those two (2) kinds of revenue reporting, is it possible to calculate the -- the one (1) off of the other and show a ninety-five thousand dollar ($95,000) bad debt in those revenue reportings?

MR. STEVE SARDO: I don't think that that would be correct the way you're -- you're assessing that. What I don't mind doing for you, and -- and you've already asked me to do one (1) thing, which is to get that InfoCANADA list.

But if you want me to clarify this for you, I can -- we can spend a little bit of time and go back. What I -- let me explain to you again, you know -- you know because I'm a small company, I don't do things, you know -- I've come to the realization I should be reporting my revenue on a go- forward basis based on paid revenue and unpaid principal.

But I can quickly -- I could quickly show you that whether you do it that way or the way I just mentioned, your net income is exactly the same. What does happen though, if you do it the -- the other way, which is to report all revenue regardless of whether the loan is paid, and all receivables including all the interest and fees and everything, is that the numbers change over time, all the time.

So today's revenue on that account could be X, tomorrow there's some additional interest, tomorrow night it's more. But in addition, the receivables increased as well.

So it's a moving target, and therefore it's a difficult number to measure from the standpoint of what you're attempting to do. Okay? It would be much cleaner and -- and I've come to realize this, that -- that you really should, proper accounting.

If I was a big company or I was, you know, a -- a publicly traded company, I don't think I'd get away with doing it the way I was doing it. You wouldn't -- you wouldn't necessarily have to report only paid revenue, because, truly, if the loan wasn't paid, how did you record any revenue from it?

So I've overestimated revenue in -- in essence is what -- is what that really comes down to.

MS. ANITA SOUTHALL: Well, if you could undertake just to provide a reconciliation and explain those numbers --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- to us, --

MR. STEVE SARDO: Yeah, let me just --

MS. ANITA SOUTHALL: -- more, you know, with the kind of detail that allows us to be able to follow through consistently. It's really the consistent reporting in these various schedules you provided --

MR. STEVE SARDO: Right. I totally appreciate that.

MS. ANITA SOUTHALL: -- that we're trying to understand.

MR. STEVE SARDO: I appreciate that. So let me just write down in the notes here, if you give me one (1) second.

MS. ANITA SOUTHALL: Thank you.

MR. STEVE SARDO: And, if you -- so, you want to reconcile the -- specifically '03, '04. Is there any other years you want to reconcile?

MS. ANITA SOUTHALL: No, just those two (2) years are fine.

MR. STEVE SARDO: Just '03 and '04?

MS. ANITA SOUTHALL: Please.

MR. STEVE SARDO: And you want to reconcile the revenue and the bad debt only?

MS. ANITA SOUTHALL: That's right, how they were calculated --

MR. STEVE SARDO: Okay. No --

MS. ANITA SOUTHALL: -- and determined.

MR. STEVE SARDO: No problem. You know, the other thing is, and -- and I can check this myself -- but, you know, it's -- it's a question of also when you write something off.

And it may be entirely possible that, you know, my accountant said to me, Okay, well, you tell me at this point, what's your receivable? And he said, Whoa, you got to write off, you know, X, which, you know, could have flown through in that accounting year, based on his -- his assessment.

So, I mean, I will do my best to reconcile it and I'll give you all the information that I can. I mean, what I can assure you is that I lost serious amounts of money in '03. I know that by how much cash I was out.

--- UNDERTAKING NO. 3: Cash X to provide Board a reconciliation between the two (2) types of revenue reporting for 2003 and 2004

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: We're -- we're trying to be respectful of what may be your confidential commercial information.

MR. STEVE SARDO: Yeah. Yeah.

MS. ANITA SOUTHALL: On the other hand, if you have something that's extraordinary in a given year that -- you know, to use one (1) of the words we've been using earlier today, "excuse the numbers," --

MR. STEVE SARDO: Yeah. Yeah.

MS. ANITA SOUTHALL: -- I -- I think if -- if you could indicate at least the nature of what might have made it unusual --

MR. STEVE SARDO: Yeah. I will -- I will definitely undertake --

MS. ANITA SOUTHALL: -- that would be helpful.

MR. STEVE SARDO: -- to reconcile it and create -- and, and, you know, you know, point out if there are any potential, you know, one (1) time charges or anything that's in there that might skew the numbers in any way.

MS. ANITA SOUTHALL: Could you explain to us the structure of your current operations, Mr. Sardo, for -- you operate under the business name Cash X?

MR. STEVE SARDO: Yes. My -- it's a complicated structure, if you want to know the truth of it, because my business has totally evolved.

I mean, I started out with this wonderful thought that I was going to open up all kinds of payday loan stores and be a franchisor and have bricks and mortar and a great brand name, and all these wonderful things, which, you know -- either for lack of my own business savvy or whatever it might be -- didn't materialize.

So, over time I slowly and -- and methodically changed my business a lot. I -- I -- if a person called me today, I -- I might sell them a franchise but, as I said to you earlier, I really don't see the market today for opening new stores in any province or any city. That's just my personal opinion, so I probably wouldn't do too much of that.

I do license my software to people if they want to, you know, use it to run a payday loan business, either in Canada or in the United States, to run it as a store or as an Internet or as a call centre.

You know, one (1) of the things that this business has, you know, forced me to do, is to understand all of the different potential business models that exist to do this business, because if I had stuck simply to being a store operator and a franchiser, I wouldn't be here. I would have lost hundreds of thousands of dollars and, you know, had my tail between my legs.

But I managed to survive on the basis that I was able to cut my costs. So for the -- predominantly what I do today is I license my software. That's really what I do.

MS. ANITA SOUTHALL: What percentage of your revenue would actually be payday lending through your online presence?

MR. STEVE SARDO: My -- actually, my percentage of revenue for payday lending right now is -- actually it should -- it's in those numbers, hang on one second. It's actually over -- it's about 60 percent. But I do make a significant amount of money from the other as well.

MS. ANITA SOUTHALL: And do you have any operating franchise -- franchisees, pardon me, in Canada right now?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: In Manitoba?

MR. STEVE SARDO: No.

MS. ANITA SOUTHALL: How do you fund your payday lending?

MR. STEVE SARDO: My personal loans? The loans that -- that Cash X makes, or...?

MS. ANITA SOUTHALL: Yes, please.

MR. STEVE SARDO: From my own resources.

MS. ANITA SOUTHALL: So -- so those are just owner operated funds that you lend out?

MR. STEVE SARDO: That's correct.

MS. ANITA SOUTHALL: And do you borrow

that money from banks or other institutions in order to be able to lend it out?

MR. STEVE SARDO: Fortunately for me at the moment, I'm not required to borrow. I have cash. But I certainly did borrow in the beginning.

MS. ANITA SOUTHALL: Are you -- are you incorporated, sir?

MR. STEVE SARDO: Yes, yes, I am.

MS. ANITA SOUTHALL: And -- but it's a private corporation, I take it?

MR. STEVE SARDO: Yes, it's a private company.

MS. ANITA SOUTHALL: And where is your head office, in Ontario?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And are you registered to do business across the country. Like, have you extra-provincially registered?

MR. STEVE SARDO: I have some extra provincial registrations.

MS. ANITA SOUTHALL: Are you registered in Manitoba?

MR. STEVE SARDO: I'm a federally -- I'm federally -- federally incorporated company.

MS. ANITA SOUTHALL: And -- and are you

extra-provincially registrad -- registered, pardon me, in Manitoba?

MR. STEVE SARDO: No, I'm not.

MS. ANITA SOUTHALL: Sorry, one (1) more thing on that line. Are you the sole shareholder and director --

MR. STEVE SARDO: Yes, I am.

MS. ANITA SOUTHALL: -- of your company?

MR. STEVE SARDO: Yes, I am.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sir, could you turn back to Tab 9 of the book, please?

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: And, sir, here, if you could please look at the third page at Tab 9. You've provided a default rate over a period of years for your business operations, I take it?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: So that would be the red line at about the centre of the page, correct?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: Could you tell us how that default rate is calculated? You're providing a percentage, and if you could just explain how you derived that percentage?

MR. STEVE SARDO: It's a percentage of unpaid loans.

MS. ANITA SOUTHALL: So could you just -- if you don't mind for me, just --

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: -- for my sake, oversimplify it.

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: I just pick 2001 as an example --

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: -- and -- and you're showing 6.67 percent, and that ratio is what?

MR. STEVE SARDO: So if there was a -- if there was a hundred (100) loans given out in 2001, six point six (6.6) loans did not pay back.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: So it's a percentage of number of loans in that particular year, and not --

MR. STEVE SARDO: That's correct.

MS. ANITA SOUTHALL: -- and not the total volume?

MR. STEVE SARDO: No, it's not based on volume. It's based on loans.

MS. ANITA SOUTHALL: Sir, could I ask you turn back to Tab 12, please?

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: And on the first page of Tab 12 -- this goes back to your second round answers to questions posed by the Board to you. And under the table that's about a third of the way down the page in 2003 -- sorry, you've represented figures for 2003 to 2007, correct?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And here again, I'm just trying to understand the information --

MR. STEVE SARDO: This one (1) is based on --

MS. ANITA SOUTHALL: -- that you're sharing.

MR. STEVE SARDO: -- this one (1) is based on volume. This one (1) is based on volume.

MS. ANITA SOUTHALL: Okay. So -- so could you just take us through, for example, the 2003 figures and explain what they represent?

MR. STEVE SARDO: Okay. First let me

say, it's what I understand them to represent, simply because they were provided to me by my programmer once I asked him what you were asking for.

But my understanding of what they represent is two thousand, one hundred and forty-eight (2,148) loans at an average loan value of a hundred and ninety-five dollar ($195), for a total amount lent out of four hundred and eighteen thousand, eight hundred and sixty dollars ($418,860), of which the total amount uncollected is 20 percent.

And when I say "total amount uncollected," again, I'm referring to that total receivable, not the unpaid principal. The total receivable, including all interest, all charges that increases everyday on and on and on, and the total uncollectible principal is the principal of -- amount of loans on that basis that were uncollectible.

MS. ANITA SOUTHALL: Thank you.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sir, I'm -- I'm going to bounce you back to Tab 9, if you don't mind.

MR. STEVE SARDO: No.

MS. ANITA SOUTHALL: And here, if we

could go back to page 3 again, And below the -- the red line and at the near the centre of the page, you've created another chart for the Board's consideration, identified as Bad Debt as a Percentage of Revenue?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: Can -- can you explain what you're intending to depict in that chart?

MR. STEVE SARDO: Yeah, sure. It's my opinion that bad debt, as a percentage of revenue, is a very important measure. In fact, I think it's a much more important measure than bad debt as a percentage of total expenses because, for every dollar of revenue which is determined by the rate that you charge, what is the amount that is not going to come back to you?

It's -- in fact bad debt, in this industry, is equivalent to cost of goods sold in a manufacturing facility or in a retail store. So if I'm going to buy a pair of shoes for fifty dollars ($50) and retail them for a hundred dollars ($100), my cost of goods sold is fifty (50) cent -- 50 percent. No different than if I make thirty dollars ($30) of revenue on a hundred dollar ($100) loan, and fifteen dollars ($15) of that goes out in bad debt, my bad debt is 50 percent. That's what I'm reporting.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And -- and just a -- a point of clarification on that, and using your example, the fifteen dollars ($15) would include -- out of thirty (30), let's say the fifteen dollars ($15) would include the principal, the fee that would have been charged that's uncollected, the interest, as you indicated a few minutes ago, that sort of rolls on.

Just in the hypothetical you were using, Mr. Sardo, a moment ago that, you know, if -- if it represents 50 percent of the revenue. In other words, fifteen dollars ($15) would represent 50 percent of the revenue of thirty dollars ($30), and in the fifteen dollars ($15) you've lost the principal, you've lost your fee that you were charging on the loan transaction, you've lost the interest component.

Is that correct?

MR. STEVE SARDO: In this case, I believe you are correct.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sir, again, to assist us in understanding the table, the -- the rates that you show in the green portion of the chart --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- on page 3 --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- where we have 15 percent and then below that, 17.5 percent, and on the way to the bottom at 30 percent --

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: -- do you see that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: What -- what are you intending to depict by that?

MR. STEVE SARDO: I'm -- I'm intending to predict -- depict the rate per hundred -- fifteen (15) per hundred (100) up to thirty (30) per hundred (100).

MS. ANITA SOUTHALL: That would be charged to a borrower?

MR. STEVE SARDO: To be charged to the borrower, that's correct.

MS. ANITA SOUTHALL: Thank you.

MR. STEVE SARDO: So at -- and -- and one (1) more thing -- if you want me to do this, I'll undertake to do it because it would be useful to you and it's very simple -- is to explain to you the difference in calculating all revenue versus paid revenue only.

And I can do it in a very simple example of, like, ten (10) loans on a little I -- I normally do it on a handkerchief, but I'll do it for you and provide it back to you so you can quickly understand what the differences are and everybody else will get it that way as well.

MS. ANITA SOUTHALL: That's fine. Mr. Cathcart says he prefers a sheet of paper.

MR. STEVE SARDO: That's fine.

MS. ANITA SOUTHALL: So, thank you. In all sincerity, thank you for undertaking to do that. I -- I think that would be helpful to us.

MR. STEVE SARDO: It's -- you'll see in the end that the -- the net -- the net result is -- is exactly the same. The percentage does change.

--- UNDERTAKING NO. 4: Cash X to provide Board a calculation showing difference in calculating all revenue versus paid revenue only

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Sir, if you could turn then to page 4 of Tab 9.

MR. STEVE SARDO: Oh, page 4, sorry. Yes.

MS. ANITA SOUTHALL: You've then done some additional analysis that I -- I want to talk with you about for a moment and have you explain. And here, at the top of page 4, we have three (3), sort of, distinct tables. The first one in -- indicated as bad debt as a dollar ($1) per hundred (100).

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And -- and what is that depicting? Is that -- is that your experience over the years of operations?

MR. STEVE SARDO: If -- if you refer back to page 3 it's just --

MS. ANITA SOUTHALL: Yes.

MR. STEVE SARDO: -- it's simply converting the default rate to a dollar ($1) per hundred (100) as opposed to a percentage.

MS. ANITA SOUTHALL: And that would be for Cash X's operations?

MR. STEVE SARDO: Right. Yes, absolutely.

MS. ANITA SOUTHALL: And then the next entry or the next table below that is total cost per hundred (100). Do you see that?

MR. STEVE SARDO: I do.

MS. ANITA SOUTHALL: Could you tell us how you obtained that number?

MR. STEVE SARDO: I believe I add sixteen dollars and thirty-one cents ($16.31).

MS. ANITA SOUTHALL: Okay. And that would be the Ernst and Young unweighted average cost, correct?

MR. STEVE SARDO: Absolutely correct.

MS. ANITA SOUTHALL: And then could you explain -- we go down to the next table, which shows profit margin. And again, to the far left we have starting at a 15 percent number and then down to 30 percent.

Could you explain how your previous tables at the top of page 4 factor into that next larger table please?

MR. STEVE SARDO: Sure. All I'm saying there is that if your cost per hundred (100) is twenty-two ninety-eight (22.98) and you want to make a 15 percent profit margin, you must charge twenty-seven dollars and four cents ($27.04).

If on the other hand, you want to make a 30 percent profit margin, you must charge thirty-two dollars and eighty-three cents ($32.83).

MS. ANITA SOUTHALL: From the information, sir, that you provided to us with respect to your 2003 and 2004 operations in Manitoba, just -- just to go back to the
-- the let me call it the hypothetical or theoretical Ernst and Young number.

MR. STEVE SARDO: Mm-hm.

MS. ANITA SOUTHALL: Your costs were significantly higher than the thirt -- 16.31, correct?

MR. STEVE SARDO: Dramatically higher, yes.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sorry, if I could have just a moment.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: So, sir, just at the conclusion of the table on page 4, that being the suggested rate per hundred dollars ($100) for various profit margin levels, you -- you've made a statement based on this that can easily be argued for a rate or approximately -- it may mean of approximately twenty-eight dollars ($28) per hundred (100), which is less than a 15 percent profit margin at almost all levels of default. Do you see that?

MR. STEVE SARDO: I do.

MS. ANITA SOUTHALL: What's your position with respect to that statement today? In other words if -- if the Board was going to look at this model of pricing for the -- for the sake of argument, is twenty-eight dollars ($28) per hundred (100) appropriate given the analysis that you've provided?

MR. STEVE SARDO: Well I'll give you my opinion on what I, you know -- as I said to you, when I started doing the work on this and where I sit today on the issue are not exactly the same place, because obviously I've been -- well there's tons of information that's come forward. And I, you know, have taken that into account in my own assessments.

What I -- as -- as I said in my remarks today, I believe that -- I really believe that the proper way to deal with this thing is to protect the poor by giving them a special rate, if you want to call it that, and then at the other end of the spectrum I -- I really like to be honest with you, rather than saying my number -- which I can support my number -- but that's not really what I think you should do.

What I -- what I'd rather see you do at the -- at the high end, if you want to limit the price at all, is -- is take -- and I can't remember whose analysis it was. But you take a standard normal curve, and you take out the -- the bottom 5 percent of -- of rates at the -- at the top end of the curve, and you say, Look, you guys can't charge that much.

That -- that is obviously an anomaly. Those rates are too high and the rest of the normal curve stays in -- intact so -- so people above a certain income -- the majority of the market stays intact and those people -- the gougers if you want to call them, they'll get taken care of by the -- being eliminated off the end of the normal curve.

The remainder of the -- of the people that make over a certain amount of income will fall into the pre-market if you want to call it that.

And at the low end of the spectrum, the people that are poor and -- and potentially, if you want to call them that, exposed -- they'll be protected by a lower rate. That's actually where I stand right now.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Mr. Sardo, just in

terms of where you've come to today in your -- in your thought process over the last few days, do you actually have an idea as to what you would consider to be appropriate in terms of the discount rate for --

MR. STEVE SARDO: For the poor?

MS. ANITA SOUTH ALL: For the poor.

MR. STEVE SARDO: No, I -- I have to be honest with you. I think that needs a little bit of work, you know, and -- and there's two (2) issues there.

Number one (1), what is the cut-off point? And obviously that's somewhat arbitrary -- but you know, I mean, the -- the reality is that the income earners in Manitoba are relatively low. So, you know, I don't know what that number is. I'm thinking fifteen (15) to nine (9) -- fifteen to twenty thousand (15,000 to 20,000), somewhere in that number.

You know, I don't know like I -- I think one of the things that you can look at that you -- that you've already done in this province, if I'm not mistaken, is the regulation for cheque cashing with respect to government cheques.

And the theory is, obviously, that people that get government cheques are on low income, and they shouldn't pay so much for cheque cashing as other people do.

And so I'm saying, effectively, why don't you look at the average income of those people and say, well those same people get payday loans. They should be protected in the same way you protected the -- the cheque cashers. And you know, it's a very simple and probably a very palatable explanation to the marketplace.

MS. ANITA SOUTHALL: Thank you, sir.

THE CHAIRPERSON: Ms. Southall, I think we'll just take a very short break, give Mr. Sardo a chance to refresh his water too.

MR. STEVE SARDO: Thank you.

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

--- Upon Recessing at 2:52 p.m.

--- Upon Resuming at 3:04 p.m.

THE CHAIRPERSON: Mr. Sardo's being a good sport, so let's see if we can bring it in tonight.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Just continuing with my questioning, Mr. Sardo, if you could turn to -- and you might actually be at page 5. I don't know where we left off, but Tab 9, page 5 please.

The first paragraph of narrative on page 5 indicates at least one of the things you were sharing with us in your -- in your first filing of evidence was that -- that the rate cannot be set at a flat fee per hundred dollars ($100) for a few reasons.

And one (1) of the reasons you indicate is longer loans, i.e. one (1) month versus two (2) weeks must have added cost for interest. Do you see that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: Can you explain, sorry, Mr. Sardo -- can you explain why you're advancing that position?

MR. STEVE SARDO: Oh, sure. Well, I -- I still maintain that, you know, a loan, regardless of the length of time, there's a -- there's a charge for the time that you're giving it out.

You mean, I know it's a short loan, but no matter how you slice it, it doesn't cost me any more to give out a loan to you for two (2) weeks than it, you know, than it does for a month. But my money is out longer, so my cash flow is -- is not rolling as quickly.

And therefore, it takes me more money to -- if all my clients decided tomorrow to turn to one (1) month loans, I'd have to go to the bank and get more money.

So in -- in effect, you should be compensated for that. That's all.

MS. ANITA SOUTHALL: Just -- just on-- on this particular model and leaving aside what your -- your sort of general thoughts or recommendations today before the Board, do you have a view as to an appropriate interest rate to be applied in -- in the payday loan scenario for these short-term loans?

MR. STEVE SARDO: Well, certainly, again, I -- I think -- I don't have the exact number, that's for sure. But I know that 59 percent or 60 percent a year is just not a number that's worth even talking about because, you know, it's a dollar and quarter ($1.25) a week, or a buck a week or whatever it is, and it just -- it doesn't do anything. It's, you know, it's -- it's like the one guy said, it doesn't pay for the -- the bathroom tissue.

So you -- you need some mu -- much greater number, you know, whatever that number might be. And I -- I you know -- I can't really even comment.

I think at the end of the day there should be some interest component for time, and I think that, you know, it's going to be up to you guys. I don't want to comment because I -- I don't think I'm educated enough at this point to really come up with that number. It's like throwing a dart at the wall.

MS. ANITA SOUTHALL: Okay. Thank you. The other comment you make in the same paragraph, sir, is the statement, "In addition, higher-value loans should probably enjoy a better rate," and you have in brackets, "common practice in many US states."

Do you see that point?

MR. STEVE SARDO: I definitely see it.

MS. ANITA SOUTH ALL: Could you just explain or elaborate on that, please?

MR. STEVE SARDO: Yes, sure. It is quite common in the US to have a higher-valued loan at a lower percentage. In fact, if I'm not mistaken, I -- I believe that Money Mart charges less on higher-valued loans. I'd have to check the numbers, but I do believe they do that.

And the -- the rationale for that is two (2) folds. One (1), and -- and, I know that I haven't been able to back up my second fold, but I'll give you my first one (1) anyway. First one (1) is that, when you come into my office and I underwrite you for a hundred ($100) dollar loan, it takes the same amount of time and the same amount of cost, barring the bad debt, as the five hundred ($500) loan takes.

So, yes, there's a smaller cost but the bad debt, even -- even in my worst-case scenario, in my bad debt, it's still not -- there's still many, many other costs that are going to go into this, two-thirds (2/3) at that worst. Okay, that -- so -- so the fixed costs stays the same, regardless of the value of the loan. That's one (1) argument.

And the other argument, which I -- I hope to be able to provide to the Board before I'm done, and my -- my programmer had done an analysis which I was -- I didn't want to present, because I'm not confident in the numbers until I get him to rejig it a little bit.

But I do believe I can prove that the customer -- that the more times the customer borrows, the lower the bad debt. I can -- I can -- I'm almost con -- 100 percent confident I can prove that, which is -- which is part of the rationale why I had said earlier -- and many people argued with me -- that people don't lend more to a customer that's borrowed many times.

Well, they may not, but I think they're crazy, because the risk of the guy coming in and borrowing you-- from you me the very first time is much greater than after he's paid you back two (2) or three (3) times.

And I -- and I can prove that, I'm -- with thousands of loans that I can -- that I hope to be able to provide information on, because I believe that to be true, which would then go to the theory that you're going to lend more as the guy goes -- as he builds up a, you know, a rapport with you and a -- and a stability with you, and a -- and a history with you is no different than a good customer who gets, you know, some kind of a benefit from any shopkeeper, you know, because he's a good customer.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Mr. Sardo, what process do you -- or processes, if you're able to share them with us -- and again if -- if it's encroaching on your confidential business practices, let us know.

But what processes have -- have you used to attempt to control bad debt in your operations?

MR. STEVE SARDO: Not enough. That's all I can tell you. You know, we try as -- as hard as we can. But, you know, the default rate just, you know, I mean, I -- I think I read somewhere in the materials that were presented that -- God, I think somebody said that 88 percent of people pay on time, and of the remaining 12 percent, the -- the overdue accounts were -- 70 percent of them were collected. That's my recollection of what I read.

That is certainly not what I see. And maybe because I've moved away from the store model my bad debt is higher, and I would probably venture to say that that's true. Since I've closed locations and I'm doing it remotely, there's no question there's a bit bigger risk and so, therefore, my bad debt, based on that, would be higher.

But even having said that, I, you know, I just like to go to Sid's office there and recruit all his people and stick them in the corner somewhere and get him to reduce my bad debt down to 1.6 percent of volume, because I'd be a very happy guy, because that's not what I see for me. It's not what I see for my franchisees. And it's not what I see for colleagues of mine in the industry. So kudos to the people that can do it at that -- at that rate.

MS. ANITA SOUTHALL: Sir, I -- I believe if I'm correct, at some point in your evidence you gave us an indication of 11 percent of your customers are new customers and 89 percent are repeat customers?

MR. STEVE SARDO: That sounds accurate.

MS. ANITA SOUTHALL: And I take it from your comments a few moments ago that for the 89 percent who then borrow from you a number of times, the risk goes down, in terms of the bad debt loss, for that grouping, correct?

MR. STEVE SARDO: Well, that, you be careful about that statement, because repeat customers could include a person that borrowed twice, could also include a person that borrowed eighty (80) times. For the guy that borrowed eighty (80) times, yes; for the guy that borrowed twice, no.

MS. ANITA SOUTHALL: Okay, thank you for that clarification.

Could you just explain, sir, at the bottom of page 5, you've got a bit of a table that shows value. I'm sorry, this would be Tab 9, page 5.

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: There appears to be a table with two (2) columns at the bottom: Value of Loan, and then Bad Debt?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And it doesn't -- I suppose it doesn't exactly line up, but it does appear that if you go from the zero (0) to two hundred dollar ($200) value of loans down to a five hundred (500) plus dollar value of loans that there -- there is a fairly significant decrease in the default rate, is that accurate?

MR. STEVE SARDO: That's accurate from

the evidence that I have in my computer system. Now, you know, I like to be -- I'm a straight shooter, so I'm going to tell you all -- you know, if -- if there's a potential for my data to be flawed then, you know, I'm -- I'm fully prepared to explain that as well.

And -- and the -- the potential flaw in this data is that I do not lend a lot. I will not let a customer come in the door and lend him five hundred dollars ($500) on the first loan, whereas many of my competitors will. So that automatically makes my first-time loans small, which then could be that the -- that could be the reason that they're first-time customers versus the size of the loan.

So again, you know, I'm -- I'm just pointing that out to you because if -- like I say, if my data is flawed, I'm happy to admit it.

MS. ANITA SOUTHALL: No, I -- I appreciate that. I -- I wasn't trying to suggest it was flawed.

MR. STEVE SARDO: No, I know --

MS. ANITA SOUTHALL: I was trying to understand where you think those -- those changes in the -- in the loss rates come from, and it sounds like that may be one (1) explanation.

MR. STEVE SARDO: In all honesty, I think it's more relevant to the number of loans than it is to the amount of the loan. You know, if I did all five hundred dollar ($500) loans, then the customer that borrowed from me more times would have a lower default rate, and they'd all be the same value of loan.

It just so happens that I believe, and -- and statistics prove to me that the first time customers are more risky, so I want to lend them less and hopefully I -- you know, that's my decision making.

MS. ANITA SOUTHALL: Sir, could you just turn to page 6 at Tab 9, please?

MR. STEVE SARDO: Page 6, yeah.

MS. ANITA SOUTHALL: There are two (2) numbered items near the top of the page. In the second numbered item, you've made a statement,

> "US rates are lower than would be needed in Canada because of three (3) major things the Canadian industry lacks."

Do you see that?

MR. STEVE SARDO: I do.

MS. ANITA SOUTHALL: First, you identify as Item A, a national bad debt customer data base, and make the statement, "Lenders have this in many US states." Do -- have you done any -- any investigation?

Can you elaborate on that at all?

MR. STEVE SARDO: Oh, absolutely. Well, there's -- there's three (3) major services available in the United States that are not available in Canada. They've attempted to come into Canada -- and I'll explain why they're not here in a minute -- Teletrack, DP Bureau, and there's a new one that just came out called Data X (phonetic).

And, you know, I think we're a little tighter on the -- the freedom of our information than the Americans are, but the -- the amount of data that's available to anybody that wants to investigate a customer for this business is tremendous.

And -- and I'll go into -- into detail a little bit about it. I can tell on a report that this customer bank account has more than one (1) social security number associated with it, how many social security numbers it has against it.

It will even give me information such as what they call a warm address, means he lives -- his address is a prison or a -- something like it will tell me whether his phone is a landline, a beeper, a cell phone.

It'll tell me whether his bank account is an ATM, is it a prepaid Mastercard or real -- a real bank account, whether I can debit that bank account.

It'll give me a score as to whether or not that bank account is a good account to take money from or not. It'll tell me whether he's defaulted on any cheques against the -- any of the top thirty (30) retailers in the United States.

I mean, I could go on, but that -- isn't that enough information? I mean, so when I go to make a credit decision for one dollar ($1), I can get that, and I can get it from multiple sources, not one (1). We don't have that. And if -- if you don't believe that reduces your risk in lending, I think you -- you know, you should rethink it.

MS. ANITA SOUTHALL: So just -- just to follow up on that, I -- I think you referenced these two (2) US -- Teletrack and DP Bureau?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And those would be two (2) sources of the kind of information you were just commenting on, is that right?

MR. STEVE SARDO: Correct. Correct.

MS. ANITA SOUTHALL: And let's go back to your business operations here with Cash X, and -- and your online payday loan operations. What kind of information do you use as a proxy for access to that more detailed information?

MR. STEVE SARDO: Well, there is no -- there is no particular proxy, as you're obviously aware. We get a customer's bank statement, void cheque, ID. You know, anything you can do face-to-face in today's society, you can do online or you -- or by fax. So we effectively get the same information that a -- a store would get face-to-face, and we use that.

And in -- in some ways that information -- and again, I -- I like to be fair with my presentation about what I believe.

In some ways that information for an online lender is better than some of these reports, because, you know, if I get a bank statement, I can see for sure the guy's on direct deposit. I can see for sure when he gets paid or she gets paid.

Whereas, with the report from the DP Bureau I don't know for sure whether that customer is on direct deposit. I don't know for sure how much they make. I do know that they may or may not have bad credit, and I could go to Equifax and try to get that same report.

But Equifax is not a subprime credit rating service, and it's six dollars ($6) per hit as opposed to one dollar ($1). So it wouldn't solve my problem even if I wanted to use that as a proxy.

MS. ANITA SOUTHALL: If you -- in your operations if you receive a bank statement and someone -- first of all, I -- I take it you'd be able to tell or what -- it would become apparent to you on your experience whether or not someone has other payday loans outstanding on that statement?

MR. STEVE SARDO: Well, often you're going to see a -- an electronic funds debit from Money Mart, Rentcash, 310-LOAN, blah, blah, blah. That's -- that's the only way you can tell.

Obviously ,if the person -- and unfortunately, you can't tell if a person has multip -- a person could theoretically have multiple debits to their account from a variety of payday lenders.

In addition to that they could cash their cheque or not cash their cheque, but go to the bank, withdraw substantial sum -- sum of money on the day they get paid, and then repay cash loans at many of the brick and mortar stores, which you wouldn't know 'cause you wouldn't see that on their bank statement.

MS. ANITA SOUTHALL: But at the very least the statement, based on what you've just described, would indicate a debit by Money Mart or a debit by 310-LOAN or some sort of payment associated with --

MR. STEVE SARDO: It might. That is the way that you -- it's the only way you can use that information to determine the number of payday loans. That's all you can do.

MS. ANITA SOUTHALL: And in your current operations with Cash X are you prepared to loan to people who have payday loans outstanding with other lenders?

MR. STEVE SARDO: Yes, it depends.

MS. ANITA SOUTHALL: So is there a maximum number you're prepared to consider as viable or no?

MR. STEVE SARDO: That's a really tough question. It's a great question, but it's a tough question. I, you know -- my opinion, you know, sitting from the capitalist chair here, if you want to start putting names on it.

I believe it's not the number of loans the person has outstanding, although at a certain number, you know, you know the guy's going to blow up.

But I believe it's more important how much money is the customer have to pay back to other people. If he's paying thirty dollars ($30) to 310-LOAN, and he's making a thousand dollars ($1,000), and he's paying thirty dollars ($30) to Money Money Money (phonetic) for -- you know, he's got sixty dollars ($60) coming out in payday loans on a thousand dollars ($1,000) of income, I have no problem lending that person.

That isn't -- that's not relevant to me. He could have a car loan of five hundred dollars ($500) that would be more worrisome to me than the two (2) thirty dollar ($30) payments. So I'm more concerned about how much money's coming out of his account than how many payday loans, per se. It's, you know, it's mathematics. It has nothing do with it, really.

I mean, although at some point you see five (5) loans, even if you see five (5) loans of thirty dollars ($30), you then say to yourself, Okay, why does this person need five (5) payday loans? I know he's only paying a hundred and fifty dollars ($150) in payments, but you begin to think that the bankruptcy report is coming.

So there is a cutoff and, you know, it's -- it's a, you know, it's not a science. When I train people how to do this, I -- it's a combination of a science and an art, because you cannot, I don't think, put forth one (1) specific, automated set of criteria, although they do it in the US to say yes or no.

MS. ANITA SOUTHALL: Thank you for that, Mr. Sardo. Could I ask you to turn to -- to Tab 11, please.

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: And Tab 11 contains Cash X's first round responses to PUB's questions in this process. And if you could look down, this is question 1 on page 1 under Rate of Return, Item E.

MR. STEVE SARDO: Yep.

MS. ANITA SOUTHALL: You make the statement, sir, that in about the third line, in terms of costing analysis, for private corporations there would need to be a normalizing of expenses.

And then you give specific indications of items that would need to be normalized in the analysis, reducing things such as entertainment, travel, owners' compensation, et cetera. Do you see that?

MR. STEVE SARDO: I do.

MS. ANITA SOUTHALL: Could you just explain what you mean by that term "normalizing of expenses"?

MR. STEVE SARDO: Sure, very often if I have a -- a small private company, I'm gonna put my car through there or, you know, some of my car expenses. I'm gonna put some dinners through there with clients. I'm going to pay myself to effectively eliminate profit from my company so that I don't have to pay corporate taxes.

And often what you find, if you're going to sell a private company, that the buyer will get an accountant to go in and normalize the expenses and say, Well if I took over this company tomorrow, and I took out, you know, Steve's gym membership and his expensive dinners, here's how much profit would I really make and what my return would really be.

So naturally -- and this is one of the issues I think that you have in trying to assess this industry as well -- is that, you know, you potentially do have a lot of mom and pops that, you know, our -- accounting methods are not a 100 percent, and there will be some expenses that need to be normalized.

MS. ANITA SOUTHALL: Still at Tab 11, sir.

MR. STEVE SARDO: Yeah.

MS. ANITA SOUTHALL: If you could go to page 2, and it's the bottom of the page. If I'm reading this right, it would still be question 1, but it would be Item J.

MR. STEVE SARDO: I see it.

MS. ANITA SOUTHALL: Where -- where the Board posed the question,

"Please calculate your projected rate of return under the following scenarios."

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And so for -- for A

through D, at seventeen dollars ($17) per hundred (100) down to twenty-seven dollars ($27) per hundred (100), you've reported for us -- I -- I assume this is on your current operations, what your rate of return would be?

MR. STEVE SARDO: Yes, if you note, though, on the other side of the -- the next page I -- I noted that I was putting return on sales. And I know that you probably wanted return on equity.

And I made a -- a second submission for the potential problem with using return on equity. You know, in my particular case, because I lost quite a bit of money in the early going of my corporation, I had little or no equity.

So if you come off a number of bad years and then have one (1) year of profitability, you could theoretically have infinite return. So again, mathematics can be a very, you know, slippery slope if you don't know to -- to use it.

So I did not report it on a return-on-equity basis. However, I believe Nathan Slee provided a spreadsheet to a number of people saying what the return on equity would be, and it was very nice of him to do so.

And I did complete that. So I could, you know, again undertake to provide you with an actual return on equity for those years if that's what you wanted.

MS. ANITA SOUTHALL: Yes, that would be helpful if you're prepared to do that.

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: On the public record.

MR. STEVE SARDO: I better not give myself too much work here. I'm -- All right, I'll see what I can do.

MS. ANITA SOUTHALL: Thank you.

--- UNDERTAKING NO. 5: Cash X to provide Board with an actual return on equity

MR. STEVE SARDO: Needless to say, having said that -- that wherever there's a negative it's a negative return. It -- it doesn't matter.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Yes, thank you for that. Still at Tab 11, sir, if you could turn to page 3, please.

MR. STEVE SARDO: Okay.

MS. ANITA SOUTHALL: And at Item D on page 3, the Board's asked that you outline the loan approval process and describe how interest rates are fixed for any loans. Do you see that under Item D?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And you've indicated to us how the approval process is done through Cash X. Is that -- is that your current process, sir?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: Could you all -- could you explain to us what the underwriting score is that you've identified as part of your loan approval process?

MR. STEVE SARDO: Sure, we don't really use it that much. I'm still working on making it more meaningful.

But what it is is a series of credit-related pieces of information with respect to the client. In many ways I'm trying to proxy what I could get from the US that I can't get here, but -- so if I count the number of NSFs on a bank statement, you know, three (3) might be a, you know, a score of zero (0), and zero (0) might be a score of three (3).

And -- and then if I count the number of stop payments, you know, four (4) might be a decline and three (3) might be a, you know, whatever.

So I -- I came up with some arbitrary scales which actually were not entirely arbitrary. They were based on clients that I approved and -- and paid me and clients that I didn't or -- or disapproved or -- or clients that didn't pay me.

And I looked at those pieces of information and said, Well this data leads to more defaults than this data does.

And so I tried to create a score that said, Well if you score, you know, 50 percent, maybe I'll give you a loan. But if you score any less than 50 percent, meaning you have too many NSFs, too many stop payments, not enough income, whatever those thing -- too many payday loans, whatever those combination of things are, then I won't give you a loan.

And so, and -- and, you know, I'll be honest with you. You know, the one (1) approach you could take to this -- and it might take a lot of time, but you could treat this exactly like insurance.

There is no question that this could be actuarially defined, that profiles could be made up to say that this profile determines this rate and that profile determines a different rate, just like the male driver and the woman with the -- you know, the sedan, and the guy with the sports car, and the guy with the drunk driving charge.

I mean, it's no different, really, when you start to -- you know, I've been in insurance, and I've been in financial services. It's underwriting. Underwriting says what are the risk factors, and as a result, what is the rate that you need to charge? So that's all I'm trying to get at there.

MS. ANITA SOUTHALL: And your interest rate currently -- still at Item D -- you've indicated interest is based on 59 percent per year, --

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: -- is that right?

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: And then at the end of the -- the last line of that response:

> "Plus installment charges 10 percent per month prorated over thirty (30) days."

Do you see that?

MR. STEVE SARDO: Correct, yes.

MS. ANITA SOUTHALL: What's the difference between the 59 percent interest component and the 10 percent installment rate per month?

MR. STEVE SARDO: The 59 percent is on overdue accounts. The -- the other components determine the charge for the loan period.

MS. ANITA SOUTHALL: I'm sorry, I couldn't -- I didn't hear that. I apologize. Could you just repeat that?

MR. STEVE SARDO: Yeah. There -- there is two (2) things. They're two (2) separate things. One (1) is what the person would pay for the period in which they take out the loan, which is comprised of a twenty-five dollar ($25) flat fee and a 10 percent charge prorated over thirty (30) days.

And the second component is a 59 percent annualized interest if the person doesn't pay on time.

MS. ANITA SOUTHALL: So you would end up having, over the period of thirty (30) days, a total amount that was due, which included the principal amount plus the -- plus the twenty-five dollar ($25) per hunder -- per hundred (100) flat fee?

MR. STEVE SARDO: Simple answer is thirty five dollars ($35) on a hundred (100) --

MS. ANITA SOUTHALL: On a hundred (100), okay.

MR. STEVE SARDO: -- on -- on thirty (30) days -- thirty dollars ($30) on a hundred (100) for -- for two (2) weeks.

MS. ANITA SOUTHALL: And then, if that amount isn't paid on the due date, that's when the 59 percent interest kicks in?

MR. STEVE SARDO: 59 percent annualized interest, which, you know, works out to whatever dollar.

MS. ANITA SOUTHALL: On the full amount though, at that point?

MR. STEVE SARDO: On the -- yes -- on the total receivable.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And does the 59 percent, Mr. Sardo, start from the original date of the loan amount, or does the 59 percent only apply as at the date of default going forward?

MR. STEVE SARDO: It applies on the -- the day af -- the day after the loan -- actually it applies five (5) days after the loan is due.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Sir, just -- just for our own clarification, is there any kind of default charge, other than the 59 percent interest that becomes due five (5) days after the due date, if it remains unpaid?

MR. STEVE SARDO: Only NSF, if there's a cheque that was bounced.

MS. ANITA SOUTHALL: And is there a

specific charge for that for Cash X?

MR. STEVE SARDO: Thirty-seven fifty (37.50).

MS. ANITA SOUTHALL: How would people repay you on the due date? What's the normal mechanism for repayment for your business?

MR. STEVE SARDO: For the Internet, or are you talking about for the -- the stores or --

MS. ANITA SOUTHALL: No, sorry, for your business, Cash X? I -- I take it, it's -- it's online --

MR. STEVE SARDO: Yeah, it's electronic funds trans --

MS. ANITA SOUTHALL: -- lending?

MR. STEVE SARDO: -- electronic funds transfer.

MS. ANITA SOUTHALL: Back to Cash X?

MR. STEVE SARDO: Yes. Pre -- preauthorized debit.

MS. ANITA SOUTHALL: Thank you. Sir, could you just take us through your chart of fees?

MR. STEVE SARDO: Sure. Which -- what tab is that?

MS. ANITA SOUTHALL: It will be at Tab 11, page 8.

MR. STEVE SARDO: Okay. First, let me

explain to you what this is, what you're looking at. When I designed the software system for Cash X, I designed a system to accommodate all of the United States, all of the States' rules and rates that -- at the time when we designed it we could, within this model, accommodate any state, no matter how complicated it was or how simple it was.

So, there are a -- there's -- there's so many different rules in the US. Some have an installment charge, some have an acquisition charge, which is, you know, what I've made up and used.

And many also have what's called the "plus system" and the "minus system." The plus system is you borrow a hundred (100), you pay back a hundred and twenty (120). The minus system is you borrow a hundred (100), you get an eighty ($80) dollar cheque, you pay back a hundred (100).

So we built all those into this -- this module -- this rating module -- that we have in the -- in the software system.

So it -- it -- what it shows in the acquisition charge is that up to a thousand ($1,000) dollars -- and really, I should probably check that, 'cause theoretically, I could be charging zero (0) over a thousand ($1,000) dollar loan.

Hopefully I'm not making any of those loans right now, because my computer programmer would charge zero (0). But, theoretically, up to a thousand ($1,000) dollars, I'm charging twenty-five ($25) dollars per hundred plus the 10 percent per month.

It's -- it's prorated on the installment fee, so if it's one (1) day, it's one-thirtieth (1/30); if it's two (2) days, it's two-thirtieths (2/30), et cetera, et cetera.

The base contract, there's nothing. The minimum contract, there's nothing. The maximum contract term as is -- is regulated in many states and may be regulated here -- is thirty-one (31) days.

It could be forty-five (45), it could be sixty (60), it could -- you know, whatever the -- the governments decide is the maximum contract term. You would put it in there, and you couldn't get a loan for any more than that.

Another reason why I said earlier this is -- this is -- this is -- when you have a system like this, this very much regulates what can and cannot be done, because once you put those numbers in there, if they're read-only and the customer can't change them, then he can't do anything about it. Then you must only give loans for thirty-one (31) days. He can't give loans of more than fifteen hundred ($1,500) dollars.

We do some other things that -- for our clients, which we believe benefits our clients, which is we allow them to set the maximum first contract. So they could say that on the first loan, they're only willing to lend a hundred ($100) dollars, or they could say, I want to lend a -- fifteen hundred (1,500), I -- I don't care.

But the point is that that gives them the flexibility to, you know, when they have staff to control, that they don't want these big loans going out in the beginning. We also have the capability of setting it so that the next loan -- the subsequent loans -- can increase by a certain amount or -- or could be infinite.

But, some person might say, Well, look, if he pays me a hundred (100), I will then lend him two hundred (200). Someone might say that that's, you know, a logical thing to do. If it's true that over time the customer becomes more profitable, I want to go up an increment. So you could set those increments in here as well.

And we -- the rollover feature is there because in many US states, as I'm sure you are aware, there are rollovers allowed. And, so, to accommodate those states, we have a rollover feature that says you can roll over zero (0), you can roll over one (1), you can roll over two (2), you can roll over three (3), and the computer would keep track of that. And then it would stop those rollovers at whatever point it was at.

And then the maximum net pay is the percentage of -- of their pay, which is in the computer system, that determines what -- the amount that we can lend against. So, in our case, it's 50 percent.

And the very last thing is the fee that's applied. And, in this case, as I said, it's a plus system, not a minus system.

MS. ANITA SOUTHALL: Could -- could I just take you one more step beyond what you've answered in the chart and just --

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: -- ask you to clarify, in your case, for Cash X, then for -- and you've given us the APR in the -- in the interest rate charge, for example, --

MR. STEVE SARDO: Right.

MS. ANITA SOUTHALL: -- but, could you just tell us -- give us an example of the -- or not give us an example, but tell us the actual cost for Cash X for a three hundred ($300) dollar loan?

MR. STEVE SARDO: For how long?

MS. ANITA SOUTHALL: For fourteen (14)

days.

MR. STEVE SARDO: Okay. So it's seventy-five ($75) dollars plus fifteen (15), so it's ninety ($90) dollars.

MS. ANITA SOUTHALL: Okay. And that's inclusive of all the -- all of your internal costs --

MR. STEVE SARDO: That's -- those --

MS. ANITA SOUTHALL: -- that you would charge to the --

MR. STEVE SARDO: That's --

MS. ANITA SOUTHALL: -- borrower?

MR. STEVE SARDO: That's all the charges. That's the way the system, the -- the, you know. The beauty, as I say, of this system, for me, anyways, is that I can set a rate and -- and if you guys come up, I doubt there's many rates you could dream up of that I couldn't quickly plug into my program and it would work tomorrow, because if -- if you've seen Texas or some of these other states, you'd -- you'd pull your hair out.

MS. ANITA SOUTHALL: And the options for -- for Cash X, the options for providing the money to the customer, can you direct deposit into their account?

MR. STEVE SARDO: Absolutely.

MS. ANITA SOUTHALL: And is there a cost for that?

MR. STEVE SARDO: No.

MS. ANITA SOUTHALL: No -- no separate cost --

MR. STEVE SARDO: No. No.

MS. ANITA SOUTHALL: -- I suppose is what I'm asking.

MR. STEVE SARDO: There's a cost to me. There's no cost to the customer.

MS. ANITA SOUTHALL: And if they wish to have a debit card, there's a dollar twenty-five ($1.25) per loan loading fee? Is that right?

MR. STEVE SARDO: The dollar twenty-five ($1.25) loading fee is a Direct Cash cost. That's what they charge. So we do not charge the customer. That's a Direct Cash cost. Direct Cash is the company we get the cards from. They charge to load the card.

MS. ANITA SOUTHALL: And do you have the percentage of -- do you know the percentage in your business of people who would take the direct deposit into their account versus taking the debit card?

MR. STEVE SARDO: Not off by -- not off my heart, but as we speak, it's probably now 90 percent electronic funds transfer and 10 percent card.

The cost of the cards went to six dollars ($6) a card, and I was mailing out a lot of cards. They were coming back, bad addresses, people moved, people lost them. The fees are high to the customer, and, in the end of the day, if I sent a file to a customer's account before 2:00 in the afternoon, he gets it the same day anyway.

So it -- it's become, for me, a nonbeneficial product.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Does Cash X offer the insurance product?

MR. STEVE SARDO: No.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Could -- could you turn to Tab 12 --

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: -- please. And here, again, this was your responses to the Board's second round of questions. And at about the centre of the page, we asked you to describe the current practice of Cash X respecting extensions?

MR. STEVE SARDO: Yup.

MS. ANITA SOUTHALL: And you've indicated that you offer customers a payment plan with a minimum fifty dollars ($50) pay period payment. And you add simple interest at 59 percent, --

MR. STEVE SARDO: Correct.

MS. ANITA SOUTHALL: -- do you see that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: Could you just -- if you don't mind, just explain --

MR. STEVE SARDO: How that works?

MS. ANITA SOUTHALL: -- how that works?

MR. STEVE SARDO: Sure.

MS. ANITA SOUTHALL: Thank you.

MR. STEVE SARDO: Sure, no problem. Well, in fact, like, I'm trying to build, like, the most automated system in the world, because I really, you know, believe that I can reduce my costs even further than they are today in terms of labour.

But -- so if a customer defaults on a payment, they get an email, and in that email it gives them an option to set up a payment plan. So they can click on it, they can go in, and they can set up a payment plan. I will not accept less than fifty dollar ($50) payment.

But they can set up a payment plan of fifty dollars ($50), up to and including the full amount of their loan to be paid at -- you know, on paydays -- for subsequent paydays, until that loan is paid off. But there will be additional interest added on a, you know, annualized 59 percent basis.

The problem that I see with that -- and even my own system, I need to tweak it, because if the customer has the option of a payment, and that -- let's say that became pervasively known.

Certainly every customer would default on payday, and say, Oh, great, now I've got a loan that I can pay back over, you know, six (6) paydays instead of one (1) payday. And, you know, poor Steve is going to be out all kinds of money, and the whole business is going to go down the toilet.

So, you just have -- you know, again, I -- I caution you guys in your role as, you know, trying to adjudicate this thing and, not being industry people, I know it must be difficult, because there are nuances here and there are little things that, you know, might think, Oh, well, we should just do that. That sounds like a great idea. And all of a sudden, you know, the whole -- the whole industry's going to go up in arms and go, Whoa, wait a minute, what about this?

And I -- and I don't know that we've even crossed all those bridges yet. So, you know, rate is one (1) thing, but when you start getting into payment plans and this and that and all the other nuances, you know, you really have to think it through.

MS. ANITA SOUTHALL: Could I take you to the second last paragraph on that same page at Tab 12? Again, this was question on -- by the Board:

"Please elaborate on the fees that are charged for allowing the customer to pay fees instead of paying off the entire loan and the total costs ultimately the customer must pay for an extension of a typical loan for three (3) extensions."

And the answer you provided is:

"Industry practice would be to charge the same fees for each pay," pardon me, "the same fees each pay period for an extension."

Could you just give an example of what you mean by that?

MR. STEVE SARDO: Sure. That -- that's a -- what I mean by that is a -- a typical rollover in the true definition of what I con -- consider to be a rollover. And when I say, "it's industry practice," maybe I'm -- you know, I'm stretching the truth a little bit there.

I know for a fact that Rentcash doesn't do it, and I don't do it, and 310 doesn't do it, and Money Mart doesn't do it. But I would venture to say that a -- a very high percentage of the remaining mom and pops of the four hundred and seventy-seven (477) companies out there do do it.

So when I say, "industry practice," again I look at the industry, you know, from my perspective as a group of companies, not as a -- not as a marketshare, not as a number of locations.

I look at it as how many companies are operating in this industry and what do the companies do, you know. Granted, you know, three (3) companies make up a big percentage, so you can look at it differently if you like. But that was my -- that was what I was referring to.

MS. ANITA SOUTHALL: And then your next statement:

> "I would suggest that extension should be allowed at a reduced rate from the standard fee for up to three (3) pay periods."

Did you have in mind your concept of going on to the payment plan, or is that a separate principal?

MR. STEVE SARDO: This is actually a separate principal, because in -- in essence, to offer a person a payment plan at default right away, even the way I offer it, you know, is a great -- in my opinion, it's a great deal for the customer, not such a great deal for me or the industry, per se.

So I -- on the one hand, I feel that, you know, just carte blanche rollovers is not a good thing for the industry. Number one (1), you know, people will blow up and number two (2), it -- it cost the customer -- at that point, then I can start to, you know, sympathize with the, you know, the high-rate scenario argument.

But at the other side of the equation the -- maybe there should be a way to extend the loan for additional periods, not at the full amount of the fee, and not at 59 percent annual interest either. At some mediocre in between, 'cause you're now giving that customer some additional benefit that, you know, he's definitely -- or she -- is benefiting from.

And I don't know what the right number is there. I mean, again, this is where you get into, you know, if you have to decide these decisions, you know, I say, God -- I mean, even if I was sitting on the Board, and I think everybody in this room that's in the industry was sitting on the Board, we'd all argue about that question, because who knows what the right number is?

MS. ANITA SOUTHALL: So you don't have an opinion on that? Like when you're saying --

MR. STEVE SARDO: I can't.

MS. ANITA SOUTHALL: -- not 59 percent, are you thinking 30 percent?

MR. STEVE SARDO: Oh, no, no, it has to be way higher is what I'm saying.

MS. ANITA SOUTHALL: Higher?

MR. STEVE SARDO: Yeah. And what I'm saying is if -- if it was a hundred dollar ($100) loan and you wanted to extend it for three (3) periods -- the way the US handles it is they do one of two (2) things. Either A, there's no extension, end of story. Or B, you can you can have one (1), you can two (2), you can have three (3).

No matter how you slice it, having some number of extensions I -- I believe actually does benefit the customer. And -- and if you want to know the truth of it, you know, you would be better off to allow two (2) or three (3) small rollovers at half the regulated rate than to outlaw them altogether. And I think customers would benefit, and I think the industry might benefit too.

Something, you know, again that's just throwing a dart at the wall, but -- but they're, you know, the rollovers are out there for a reason in the US. Because a guy gets in trouble, or a girl gets in trouble, or a customer can't pay, and now they're sitting with a three hundred dollar ($300) debt that they're, you know, they're being taken to court. They're being garnished. They're being, you know, badgered by a collection agency.

The alternative might be to say, Okay, no, you can't pay the three hundred (300). Your normal fee per -- per week is ninety (90), or sixty (60), or whatever that number is. We'll do it -- we'll give you three (3) weeks at twenty (20) and then you got to pay it all off. But now the person's only got to pay twenty dollars ($20) for three (3) weeks, they got a chance to get their life back in order to pay you back.

MS. ANITA SOUTHALL: Just staying on this -- on this rollover extensions concepts -- concept for a moment. Part of -- of what you've provided to the Board in -- in the second round responses -- it's also at Tab 12 -- is this chart of State Laws Governing Payday Advances updated to September 2005.

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: Do -- do you remember that?

MR. STEVE SARDO: Yes.

MS. ANITA SOUTHALL: And for the State of

Missouri it appears to be reported and -- and, by the way, sorry, this is at Tab 12. It would be the last two (2) pages of Tab 12.

MR. STEVE SARDO: Yeah, I have it.

MS. ANITA SOUTHALL: So on the second page for the State of Missouri, the permitted fees indicate total fees, including rollovers, cannot exceed 75 percent of the initial loan amount. Do you see that?

MR. STEVE SARDO: I do.

MS. ANITA SOUTHALL: I -- I don't know to the extent -- I mean, I know and -- and the Board appreciates you providing this chart. I don't know to what extent you've had an opportunity to consider these various amounts, but do you have a view on whether or not that would be a fair way of limiting the cost of rollovers?

MR. STEVE SARDO: That sounds like an interesting approach, and obviously it's -- it's been enacted into law at least one (1) place that we know of here in North America.

So I would caution you again on -- the one thing I really want to caution you on is, you know, we can all come up with a number of different ways to regulate the -- the rate. And at the end of the day, it's a number.

But I -- I think one (1) of the things I meant to say in my presentation, which I'll say now, is that, for me, I have to be honest with you. I don't believe you can come up with a system that I can't accommodate almost overnight. But I'm not so sure that's true for the other four hundred and eighty (480) companies out there.

I think a lot of them would have serious difficulty in reprogramming and retooling to make some complicated rating system that will work.

You know, some of these people have big IT departments with old computer systems and, you know, you're going to tell them that they got to have a maximum 75 percent including rollovers.

And they're gonna sit in their board room and go, Holy mackerel, that's -- that's, you know, fourteen (14) weeks of programming. I got to hire five (5) new guys, and I can't implement it tomorrow. So if you pass it within thirty (30) days, I'm -- I'm out of business.

So you really got to think about that. I think if you come up with something, it's got to be real simple.

MS. ANITA SOUTHALL: Sir, you've provided, or you've made reference today with respect to concerns about the costs or the considerations of banking costs, NSF fees, overdraft fees, the like.

MR. STEVE SARDO: Right.

MS. ANITA SOUTHALL: And you've provided examples of that in your material. And I think the material is instructive in that respect, and I didn't intend to go through the examples you've provided, because I think those are -- are easy to follow.

But I did wonder whether or not you were able to source any factual information in Manitoba with respect to banks or credit unions in these costs that you're able to provide to the Board?

MR. STEVE SARDO: Well, I think that the -- any of the top five (5) banks have identical costs for NSF charges across the country. I think that's pretty -- pretty well known. And I would -- I -- my anecdotal information is that the credit unions' NSF charges are lower. I think that's pretty much true.

So, you know, if -- if CIBC is charging forty (40) and TD is charging thirty-five (35), I would suspect that you might find the credit union is charging twenty (20) or twenty-five (25).

Although, I will tell you something that I found with a credit union example. Toronto Dominion, if a customer goes overdrafted -- and this is a -- not -- not entirely well-known piece of information, but most banks have what's called "shadow overdraft limit," which allows you to go overdraft in your account for a part of the day as long as you bring yourself back into a positive balance by, say, 1:00 in the afternoon.

So, you might be -- and they might give you up to five hundred ($500) dollars. But when you do go into it -- and this is not a overdraft that you've applied for, that you have listed anywhere. But when you do go into your overdraft, they charge a fee for that, just like they charge a fee for everything else. So with TD, that's five ($5) dollars.

Well, I had a client that fell into that exact same situation with a credit union, and they charged her twenty-five ($25) dollars. It wasn't an NSF. It was just an overdraft fee.

And so, you know, where they may charge less in one case, they may charge more in another case. And you know -- the problem that I find with -- with the banking industry -- I'm a bit of a basher because I -- I compete, I guess, in some weird sense -- is that you can't compare fees across a bank.

You try to figure out, you know, with this plan how many cheques and how many ATM -- you know, there's -- you could stand on your head. You'll never be able to figure out why one guy charges what he does or what the better deal is. And that's the way they want it. Anyway...

MS. ANITA SOUTHALL: Mr. Sardo, thank you for your patience and your attention to my questions. Those are my questions for you.

MR. STEVE SARDO: Okay.

THE CHAIRPERSON: Thank you, Ms. Southall. I think we have a few questions. I will just start off with one (1).

Mr. Sardo, you provided an opinion that if the Board sets maximums below the revenue requirement of the payday lenders, they would leave the province.

That is your view, is it not?

MR. STEVE SARDO: Absolutely.

THE CHAIRPERSON: If the Board were to do that, nonetheless, and the payday lenders did leave, the borrows that now access payday lenders would be left to what I believe you described as family, friends and acquaintances.

Is that your view?

MR. STEVE SARDO: That's a great question. I -- I'm not sure what they would do. They might be left to those choices or underground or maybe some of them will squeak out some overdraft protection if they can. And, you know, I -- we're all operating here from human -- human nature. So it won't be quite as -- as dramatic as that.

What I -- what I think you'll find is that what's happened in the States. For example, when rate regulation came in initially, there were tons of law breakers, if you want to call it that.

I -- I know, because I've -- I've dealt with so many people in the US over the last five (5) years, that when Texas first -- Texas still has a loophole. The regulated rate is somewhere around 10 percent, but there is something called the Credit Service Organization.

So, if you go to a third party and they arrange the money for you, they can charge a fee. So you charge the ten (10) and they charge twenty (20), everybody splits and, you know, they -- they were selling phone cards and, you know, just doing all these things.

What will initially happen is people will break your laws, and then you'll be forced to try to regulate, you know, enforce those laws more. So you'll have administration -- administrative costs.

And once you've finally got the dust settling, which might take two (2) or three (3) years, you will then be left with, you know, a very small number of players, if any.

And then the people will fall to who knows what -- friends, family, acquaintances and loan sharks.

THE CHAIRPERSON: I thought your acquaintances was a broad category, so...

MR. STEVE SARDO: Oh. I don't know -- I know what you mean by...

THE CHAIRPERSON: Do we actually have that situation now in Quebec?

MR. STEVE SARDO: I don't believe we have that in Quebec, to be honest with you. And that, I don't know why.

THE CHAIRPERSON: You cannot offer any insight as to what is going on in that Province then?

MR. STEVE SARDO: Well, act -- actually I can. That's an interesting question. I have a licensee that's in Quebec that does Internet lending. And him and his partner have had enormous trouble getting a simple bank account to do payday lending in Quebec.

And the banks in Quebec virtually will not almost give anyone a bank account if they know that the purpose is payday lending.

And most people are fairly honest about why they're opening a bank account. And when it's called "Quick Cash," it's not too hard for them to figure out what the business is doing, or the fact that it needs an electronic funds transfer account, which not all businesses need.

So I think that the government there is -- the banks are enforcing the ability to prevent what the law is -- is, you know, prescribing.

THE CHAIRPERSON: What I was wondering about, the borrowers that would normally be -- if you liked the borrowers or the payday lenders, what's happening with their case in Quebec?

MR. STEVE SARDO: And that I can't answer. I honestly do not know.

THE CHAIRPERSON: Well thank you, Mr. Sardo, you've been quite helpful. Do you have a --

MS. SUSAN PROVEN: I had a question. You mentioned the APR in Indiana, and you said at first it was 72 percent. But you did mention that it had been adjusted. And I was wondering what it's adjusted to.

MR. STEVE SARDO: It's in -- it's actually in somebody else's document. I think somebody asked if we should use a -- a three (3) tiered system like Indiana, and I think it's fifteen (15), thirteen (13) and ten (10) or something like that.

MS. SUSAN PROVEN: Depending on the size of the loan?

MR. STEVE SARDO: Depending on the size of the loan. But before I go on that, I mean, we did cross -- Anita did ask me a question that, when I referenced the -- the DP Bureau and the Teletrack information. But there -- but there are -- there's -- there's other layers besides that, and there's seven (7) states in the United States now that have a state database.

And I don't advocate this in any way, shape or form. I think there's a lot of flaws in this. But Florida is the cheapest payday loan in North American -- ten dollars ($10) a hundred (100).

And I don't think there's anybody in this room that could do it for ten dollars ($10) a hundred (100). But their bad debt as a percentage of revenue is also only 20 percent, as a percentage of revenue, and so you -- so that's a huge -- very, very small default rate.

The reason that default rate is so low is because every single loan goes into that state database and no person can take more than one (1) loan, which means that they can never have more than one (1) outstanding loan. They cannot borrow again until they've paid back.

So, what you really need to balance in this equation -- which I've tried to say many, many times -- is if you take away from the industry, in terms of rate, which you may need to do, what can you give back to the industry to collect the money, so that they've got a carrot and a stick.

And if you take away something from them, that's fine. And if you've managed them to reduce their bad debt as a result or -- or somehow reduce their administration or some other thing, the industry will be happy to keep investing, because they'll still make profits.

But the industry feels that we're going to be taking away at the top, and we're going to be given nothing. So naturally, the bottom is going to fall apart.

And so, if you can balance it, it would be wonderful. Whether you can I -- I don't know the answer.

MS. SUSAN PROVEN: My second question is on a different note, and that is the software. You said you were a software developer?

MR. STEVE SARDO: Correct.

MS. SUSAN PROVEN: And I just wondered if there's some possibility that this industry could have the kind of coordination, in terms of a computer network, that we sometimes see in the pharmaceutical industry, where, you know, a drugstore -- if you go in to get drugs, they've got you on record.

And so, you know, we know that you've gotten a certain amount of drug from one drugstore, so you can't go to another drugstore.

Like, is that ever going to be possible for --

MR. STEVE SARDO: Oh, it's very possible. I could bring you a guy from Texas or -- I can't remember where they're from, because I -- I was going to bring them initially. I could bring you a company that will put it together. They won't charge you a dime to do it.

And in -- in the course of six (6), eight (8) months, put together a complete state -- you know, a Manitoba database.

But I'm not sure that that's the right answer. You see, following the US is -- is problematic for Canadians. We like to always think, Oh they did it first, they know everything, we should just do what they do.

And that's not always true. You're somewhat, I believe, on the right track, in terms of sharing data. I wouldn't use the US -- what I call the "state model," where everybody's got to put every single loan, and you can only get one (1) loan.

I think all of us would be up in arms in this room if that was what happened. I know that -- I know that, because I've talked to many of my colleagues. They don't like that idea.

On the other hand, having a -- a database available that we could all tap into -- that -- that wouldn't necessarily be so restricted, but would allow me to see instantly, Wow this guy's got five (5) loans out at -- at the Cash Store, Money Mart, Sorenson's, and Paymax. I'm not lending this guy. I'm going to blow my brains out.

And I'm protecting him at the same time. That, I think, is valuable.

MS. SUSAN PROVEN: That's what I was referring to. I was referring to a concerted effort on the part of the industry to share data that would protect them as well as consumers.

MR. STEVE SARDO: And -- and my final comment on that, and again, I -- I don't like to bash anybody or criticize anyone, but Teletrack came to Canada. And in order for Teletrack to be successful in Canada, they require the participation of at least one (1) company. And we all know which company that is. Without Money Mart's data, there's no bad loan database for Canada of any meaningful size.

So they came to Money Mart and said, Will you contribute your bad loans? And, you know, Money Mart said, No we won't.

Now, you know what? I respect Money Mart for that. If I had all the data, would I give it up? I mean, when I was in the tax industry, I called on H&R Block and said, You know what? We have a bunch of customers that we want to know whether we should give them refunds against their welfare.

And H&R Block knows whether they should give them refunds against their welfare, but H&R Block wasn't going to give me that data, and no government was going to force them to give it to me either. And it's virtually the exact same argument.

Now, we -- in -- when I was at Liberty, all we said was, No problem. I'll lend to them the first year and whatever my losses are -- but after year one (1), I know the answer to that question. Same is not quite true in this industry.

You would -- you would need to get Money Mart's buy-in, you would al -- probably you would need to get Money Mart's buy-in and Rentcash's buy-in. The minute you get those two (2) guys to buy-in, all the other four hundred and eighty (480) companies sign on with, you know, their tails wagging and grins from ear to ear because they get all the data.

And -- and so it -- would it be the hard hand of government that would force that. That's the only way that would happen.

THE CHAIRPERSON: Thank you, Mr. Sardo. Hopefully, you are staying overnight?

MR. STEVE SARDO: I am.

THE CHAIRPERSON: There are some others that have some questions for you in the morning. So we will see everyone back at nine o'clock. We stand adjourned.

MR. STEVE SARDO: Okie Dokie.

(WITNESS RETIRES)

--- Upon adjourning at 4:00 p.m.

Certified correct,

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Wendy Warnock, Ms.