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MANITOBA PUBLIC UTILITIES BOARD

Re: TO DETERMINE MAXIMUM FEES
FOR PAYDAY LOANS

Before Board Panel:

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

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
November 20th, 2007
Pages 861 to 1107

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1 --- Upon commencing at 9:06 a.m.

2

3 THE CHAIRPERSON: Okay, good morning
4 everyone. I believe when we left off Mr. Foran was about
5 to...

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: It is always the
10 simplest task which is the most difficult.

11

12 (BRIEF PAUSE)

13

14 CANADIAN PAYDAY LOANS ASSOCIATION PANEL

15

16 NORMAN BISHOP, Resumed

17 HONOURABLE STAN KEYES, Resumed

18 LAWRENCE GOULD, Resumed

19 DEAN SCHINKEL, Resumed

20

21 THE CHAIRPERSON: Okay. We will try
22 again. We will not take back the good morning, and we
23 will return to Mr. Foran.

24 I believe he was about to take Mr. Bishop
25 through some things, correct?

1

2 CONTINUED EXAMINATION-IN-CHIEF BY MR. ALLAN FORAN:

3 MR. ALLAN FORAN: Thank you, Mr.
4 Chairman, members of the panel. Good morning.

5 We have one other piece of evidence that
6 I'd like to put in as direct. And that's -- this is
7 going to come through Mr. Bishop, who's already been
8 introduced to this proceeding.

9 Immediately following Mr. Bishop's
10 presentation, we have three (3) points of clarification
11 on the Deloitte and Touche report, one (1) of which was
12 discussed with the Board Advisor, Mr. Cathcart,
13 yesterday, and one (1) other area we just want to do a
14 math -- just put a stroke through something, bring the
15 right number to the Board's attention.

16 And then we can move ahead.

17 MR. NORMAN BISHOP: Well thank you. Good
18 morning, panel.

19 I'm just going to talk briefly about other
20 jurisdictions, because under the Act, one of the items
21 the Board may consider is regulation of payday lenders
22 and payday loans in other jurisdictions. And as part of
23 my work with the CPLA, I've had the occasion to talk to
24 many other jurisdictions across Canada.

25 One of the things is it's important to

1 understand the -- the federal and provincial governments
2 have been working on this issue for a long time.

3 Throughout these hearings, you may hear
4 the term "Consumer Measures Committee," or CMC. And this
5 is a committee comprised of a representative of Industry -
6 - Industry Canada, and a representative from the
7 department in each provincial and territorial government
8 that has responsibility for this area.

9 So in Manitoba it's the Department of
10 Finance, I think. In New Brunswick it's the Department
11 of Justice. In -- the depart -- or BC it's the Solicitor
12 Generals Office. But there is a representative from each
13 province.

14 And this committee has been around for a
15 little over a decade. And it was this committee the CPLA
16 dealt with and consulted with before adopting the Code of
17 Best Business Practices.

18 And it was also the -- the committee that
19 the CPLA had consultations with on the methodology before
20 undertaking the Ernst & Young study a number of years ago
21 to look at the cost of offering a payday loan.

22 The industry started about 1995, primarily
23 in British Columbia. And it -- it grew rapidly in
24 response to consumer demand. So it -- it worked its way
25 across the country over the past ten (10) years. So

1 initially they were -- most of the outlets were in
2 British Columbia, and now it's worked across the country,
3 where most of the outlets are now in -- in Ontario.

4 But as a result of the -- the growth of
5 the -- the industry, in approximately the year 2000 the
6 CMC created a subcommittee to study this particular issue
7 of payday loans. And Manitoba has been a member of that
8 subcommittee throughout. And over that period of time,
9 they've done a great deal of work in this area.

10 In May of 2007, as you know, Bill C-26
11 became law. That was the federal amendment to Section
12 347 of the Criminal Code. And that amendment, or that --
13 that bill provided, in essence, that if a province
14 introduces regulations and sets rates, then in that
15 province, Section 347 would not apply.

16 It's a fairly unusual provision, because
17 with most provisions in the Criminal Code, they apply
18 right across the country. We will now have a situation
19 where something might be regulated in one province, and a
20 -- a criminal offense in the another -- the other. So
21 it's a -- it's a bit of an unusual legislative procedure.

22 Manitoba was the first province in Canada
23 to introduce legislation, followed quickly by Nova
24 Scotia, with the result that even before Bill 20 -- C-26
25 became law, we -- we had payday loan acts in Manitoba and

1 Nova Scotia.

2 Since then, the provinces of Saskatchewan
3 and British Columbia have introduced and passed
4 legislation. And the legislation in all four (4)
5 provinces are substantially similar.

6 And we would credit this, in a large part,
7 to the work done by the Consumer Measures Committee,
8 because the purpose of that committee, which I didn't
9 mention before, is to harmonize legislation from province
10 to province. And I think they've developed templates
11 that the provinces are now all adopting on a voluntary
12 basis.

13 The Province of New Brunswick in --
14 indicates that they intend to introduce an act, a payday
15 loan act, in the near future, probably this fall.

16 Alberta is beginning consultations, or
17 about to begin consultations, in advance of regulation.
18 That's the one (1) province that is not going to
19 introduce an act. They believe they have the -- all the
20 necessary powers under their Fair Trading Act. So
21 they're merely going to introduce regulations.

22 Ontario has indicated their intention to
23 move forward. They have just had an election, and they
24 have a new Minister. But the prior Minister intend --
25 stated his intention to introduce legislation.

1 Prince Edward Island has merely made
2 comments about introducing legislation, and -- and
3 Newfoundland hasn't taken any steps at this point.

4 With respect to setting of rates, the
5 Province of Nova Scotia has charged the Utility and
6 Review Board in that province to set rates in a process
7 that's very similar to what's going on here today.

8 That process is now underway. And I think
9 the deadline for filing evidence was last Tuesday or
10 Wednesday, and the hearings begin January 21st of next
11 year. So they're closely following behind Manitoba.

12 The Province of Saskatchewan, in that
13 province the Department of Justice has responsibility for
14 this matter. They've retained the accounting firm of
15 Meyers Norris Penny to do a cost study on the cost to
16 offer payday loans and provide advice and recommendations
17 to that province on -- on what rate caps should be.

18 And Meyers Norris Penny has taken the --
19 the questionnaire developed by Ernst & Young in the -- in
20 Ernst & Young study a number of years ago. And they're
21 circulating it to all of the lenders in that province.
22 And I -- I believe that questionnaire was circulated
23 about six (6) weeks ago. So they are well into their
24 process of getting their information back and going
25 through an analysis.

1 They have -- the governments advised us
2 that they intend to take that information and
3 recommendation, develop suggested rates, and that what
4 they will do then is circulate the suggested rate to all
5 stakeholders and then go through a stakeholder input
6 process where they -- they get input from all -- all
7 parties.

8 And then later on, they will come out with
9 a -- a decision on what the rate will be, which would be
10 sometime, perhaps, early next year.

11 The Province of New Brunswick has
12 indicated they're leaning towards setting rates by a
13 Public Utility Board process. If -- if they do, that we
14 would expect that it probably wouldn't get underway until
15 late spring of '08 or early next fall.

16 The other provinces, to our information,
17 have not concluded how they're going to set rates.
18 They're still working through the process.

19 The Province of Quebec, I -- I notice the
20 panel's had questions about Quebec before. They've not
21 moved to regulate the payday loan industry, but it's
22 interesting to note that they've been a member of the CMC
23 subcommittee on payday loans since inception.

24 And in fact, in 2004, they hosted a
25 conference of Deputy Ministers on the -- the issue of

1 consumer credit and focusing on -- or primarily on payday
2 loans. In that province, as you know, the -- there is
3 not a payday loan of industry of bricks and mortar payday
4 loan stores.

5 Quebec is -- is a little bit different.
6 Notwithstanding Section 347, which sets the maximum
7 interest rate at 60 percent, they, in fact, have a -- a
8 maximum interest rate of approximately 35 percent. And
9 they've done that through court decision under their
10 Consumer Protection Act that -- that says that you cannot
11 charge excessive rates of interest.

12 And the court has decided that 35 percent
13 is -- is the appropriate rate. However, I've -- I've met
14 with government officials in that province several times
15 and -- to discuss how consumers get credit.

16 And they -- they indicate that they have
17 an extensive pawn shop industry there. They've been
18 quite frank. They've expressed concerns about the
19 entities that control those pawn shops and have indicated
20 in the past they would not even send their inspectors
21 into those pawn shops to do inspections for fear of -- of
22 safety to them.

23 So they're -- they do have a alternate --
24 alternative source of obtaining credit, but they're not --
25 - they're a little bit concerned about that.

1 And of course, the concern with pawn shops
2 is that they're -- at the end of the day, they're not any
3 cheaper, often can be more expensive than obtaining a
4 payday loan.

5 But also, to get the funds you have to
6 provide security. It's a secured loan. If someone needs
7 three hundred dollars (\$300), they have to bring in goods
8 worth several times that value just to get the loan.

9 And while I don't have a great
10 understanding of the pawn industry, I -- I believe pawns
11 usually are for thirty (30) days, which is fine. But
12 when a consumer needs money they -- they need it for --
13 if it's for ten (10) days until their next pay day,
14 that's the period of time that they need the money.

15 That's -- so while a consumer may have the
16 credit out there for thirty (30) days, they would have to
17 come and pawn it once they have funds in their pocket,
18 which is usually, you know, ten (10) days, and they still
19 have to pay the full pawn fee.

20 In Quebec, therefore, residents have
21 access only to payday loans and also -- or pardon me.
22 They have access to pawn shops, and the other option is
23 they have access to payday loans through the Internet.

24 And I think we heard last week from Mr.
25 Sardo, who indicated that he in fact had a licensee who

1 provided payday loans through the Internet into Quebec.
2 And if you look at sites on the Internet, you will find a
3 number of them advertise providing payday loans in the
4 Province of Quebec.

5 So just based on my discussions with
6 officials in that province, I think that's part of why
7 the subcommittee -- or they are on the subcommittee and
8 they're always eager to talk to the CPLA about evolution
9 of legislation. They're very -- very interested in -- in
10 the development across Canada.

11 And I just want to make one final comment
12 about the effect of Bill C-26 and the adoption of rates
13 and regulations in -- in the province -- or the
14 provinces.

15 One other thing -- things the Board will
16 hear evidence on and consider is the existence of the
17 market and whether there's a competitive market and
18 whether there are barriers to entry.

19 And I think it's important to be aware
20 that Section 347, with the interest rate cap of 60
21 percent, from a market perspective has created a
22 distortion in the marketplace and has acted as a barrier
23 to entry to date.

24 There is, as you know, litigation against
25 various companies offering this product. And when

1 regulation and rate caps come into effect, that market
2 distortion will be removed. There will be a barrier to
3 entry that has been removed.

4 And we've seen by way of example, I think
5 one of the companies is Advance America that's leased
6 premises in the Province of Manitoba and is waiting for
7 regulation to come forward.

8 So while there is a competitive
9 marketplace right now, I think when you remove this
10 barrier to entry, you will find that it will be -- I
11 would call, kind of a distortion. You will find it will
12 be a more competitive market.

13 One other thing worth noting is just the
14 way it is written, Section 347 will not allow banks to
15 operate -- they will still be governed by Section 347 of
16 the Criminal Code as well will Internet lenders that do
17 not have a bricks and mortar location in the Province of
18 Manitoba.

19 So while one aspect of the regulations --
20 or in one aspect it will put boundaries around the
21 industry, put -- govern rates that can be charged and
22 business practices -- which is a good thing and supported
23 by the CPLA -- it will also open up the market by
24 removing some barriers to entry.

25 And just one further thought, when you

1 be made in that answer.

2

3

(BRIEF PAUSE)

4

5

MR. ALLAN FORAN: One of the areas of evidence that has been filed on behalf of the CPLA is the additional costs of regulation, insofar as it impacts the operations of payday lenders in Manitoba.

9

Specifically, in this case, it relates to the licensing fee of five thousand dollars (\$5,000), five hundred (500) -- five thousand, five hundred dollars (\$5,500) licensing fee per outlet.

13

In its calculations Deloitte and Touche has, in several instances, confirmed that this will add approximately seventy-seven (77) cents per hundred dollar (\$100) loan.

17

I believe through a transcribing error, which I have said to Mr. Schinkel I will take full responsibility for, we have noted at sixty-seven (67) cents in this answer, whereas in other Information Requests responses, it's identified at seventy-seven (77) cents.

23

Mr. Schinkel tried to reconcile the sixty-seven (67) cents and has agreed that it was something that likely my office mistranscribed.

25

1 It should be amended in the third line to
2 seventy-seven (77) cents per hundred dollar (\$100) loan
3 to make it consistent with the other answers.

4 One additional area that I'd ask Mr.
5 Schinkel to address is supplementary cost of capital as
6 contained in his report, and he'd like to flag two (2)
7 things for you.

8 MR. DEAN SCHINKEL: Thank you. If we can
9 -- first reference is under Tab 34 for the information
10 today.

11 And both of these areas is -- when
12 Deloitte was compiling our -- our responses, we picked up
13 the wrong cell from our data, so there's an incorrect
14 number.

15 So if -- under Tab 34, the fifth line from
16 the bottom, "Supplementary Capital." Right now it's
17 sixty-two thousand eight hundred and eighty-nine dollars
18 (\$8,889). That should be stroked out, and it should be
19 four hundred and twenty-one thousand seven sixty-four, 4-
20 2-1-7-6-4 (421,764).

21 The line below, which is multiplied by 14
22 percent would then change, too. Instead of eight
23 thousand eight hundred and five dollars (\$8,805), it
24 would be fifty-nine thousand zero forty-seven (59,047),
25 fifty-nine thousand and forty-seven dollars (\$59,047).

1 And with those numbers you're then able to
2 recalculate the seventy-five (75) cents per one hundred
3 (100). And the related supplementary capital --

4 MR. ALLAN FORAN: Can I just stop you
5 there, for a second, Mr. Schinkel?

6 MR. DEAN SCHINKEL: Yes.

7 MR. ALLAN FORAN: So just for
8 clarification on that Information Request and response,
9 PUB/CPLA-B-37, you've made two (2) amendments.

10 Approximately three-quarters (3/4s) of the
11 way down the page, under "Supplementary Capital," you've
12 identified that should be four hundred twenty-one
13 thousand, seven hundred and sixty-four (421,764),
14 correct?

15 MR. DEAN SCHINKEL: Correct.

16 MR. ALLAN FORAN: And just immediately
17 under that, the cost of supplementary capital then is
18 amended to fifty-nine thousand and forty-seven (59,047),
19 correct?

20 MR. DEAN SCHINKEL: Correct.

21 MR. ALLAN FORAN: And that does not
22 change anything else in the total?

23 MR. DEAN SCHINKEL: No. I should also
24 note the two (2) lines above, the four twenty-one seven
25 sixty-four (421,764) -- which are seven thousand one

1 hundred and thirteen (7,113) and fifty-five thousand
2 seven seven seven (55,777) -- those are the two (2) items
3 that total supplementary capital.

4 Those items would be adjusted too. I
5 don't have those amounts before me right now. I could
6 get those if required. Those are the two (2) amounts
7 that make up the four hundred and twenty-one thousand
8 seven sixty-four (421,764).

9 MR. ALLAN FORAN: Okay. Thank you. And
10 your second amendment?

11 MR. DEAN SCHINKEL: Under Tab 31,
12 PUB/CPLA-D30, which is the fourth page, I believe.

13

14 (BRIEF PAUSE)

15

16 MR. DEAN SCHINKEL: Thirty-one (31), yes.
17 Fourth page, and there's a schedule. The fourth line
18 from the bottom, "Supplementary Capital Costs Allocated
19 to Bad Debt," currently reads three hundred and seven
20 dollars (\$307). That should be one thousand seven
21 hundred and fifty-nine (1,759).

22 The line below, which is two hundred and
23 ninety-five thousand six hundred and seventy-four
24 (295,674) should be two hundred and ninety-seven thousand
25 one hundred and twenty-six (297,126).

1 And with those adjustments the bottom line
2 would change from four dollars and forty-nine cents
3 (\$4.49) to four dollars and fifty-one cents (\$4.51).

4 THE CHAIRPERSON: Mr. Schinkel, would
5 that not then change the schedule on PUB/CPL-B-37, which
6 you have just said it would remain the same at four
7 forty-nine (4.49)? But you just changed the four forty-
8 nine (4.49) to four fifty-one (4.51)?

9 MR. DEAN SCHINKEL: That is correct. So
10 the first item I had outlined was an item which was an
11 incorrect amount being picked up when I was filling in
12 the schedule.

13 The second line upon review last night and
14 this morning, when I looked at that number, made that
15 adjustment. It would change by two (2) cents the amount
16 in our report.

17 THE CHAIRPERSON: This will change the
18 total, would it not, by the same changes?

19 MR. DEAN SCHINKEL: It would change the
20 total by two (2) cents.

21

22 CONTINUED BY MR. ALLAN FORAN:

23 MR. ALLAN FORAN: And -- and at the sake
24 of being overly simplistic, perhaps, what this means is
25 that the -- the net result of operating costs of payday

1 lenders that do -- conduct it confidentially, the cost of
2 operation in Manitoba have gone up two (2) cents as a
3 result of what you've just indicated.

4 MR. DEAN SCHINKEL: So it would change
5 from twenty-six dollars and eighty-seven cents (\$26.87)
6 to eighty-nine (89) cents.

7

8 (BRIEF PAUSE)

9

10 MR. ALLAN FORAN: Those are the
11 amendments, and they're -- the panel's now ready for
12 cross-examination.

13 THE CHAIRPERSON: Thank you, Mr. Foran.
14 Mr. Bishop, just before Ms. Southall begins, just one
15 question.

16 You were helpfully going over some of the
17 changes that you would expect would occur in Manitoba
18 after regulation.

19 What is the effect with regulation with
20 the various class-action suits, if it can be known?

21 MR. NORMAN BISHOP: I don't know. I -- I
22 couldn't comment on that. I'm not aware -- I think
23 there's one (1) class action matter in Manitoba. But I
24 couldn't comment on what the effect would be.

25 I -- the legislation will not be

1 retroactive or is not retroactive.

2 THE CHAIRPERSON: Okay, thank you, sir.
3 Okay, Ms. Southall...?

4

5 CONTINUED CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

6 MS. ANITA SOUTHALL: I'm must going to
7 start with Mr. Bishop, too. Mr. Bishop, if you don't
8 mind, just to follow up to your testimony this morning on
9 your knowledge of Advance America's activities in
10 Manitoba.

11 You indicated that you understood that
12 they have leased premises in Manitoba and are waiting for
13 regulation to be fixed.

14 Do you know how many locations they've
15 sourced in Manitoba?

16 MR. NORMAN BISHOP: No. I've heard that
17 anecdotally, and I believe I heard four (4), but I'm not
18 sure. In fact, it might have been in the evidence of
19 Rentcash, but I'm not sure.

20 MS. ANITA SOUTHALL: So you don't have a
21 specific direct source? You haven't done the research,
22 or CPLA has not researched that?

23 MR. NORMAN BISHOP: No, that's correct.

24 MS. ANITA SOUTHALL: Has Advance America
25 approached CPLA to join the membership?

1 HONOURABLE STAN KEYES: No, it has not.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: Thank you. I --
6 I'll now move on.

7 And what I propose to do this morning is
8 conduct cross-examination of Mr. Schinkel on the Deloitte
9 report, followed by cross-examination of Dr. Gould,
10 followed by general cross-examination of CPLA.

11 And so, Mr. Schinkel, we've had an
12 opportunity to, through counsel for CPLA, to examine your
13 CV that have -- has been provided.

14 Can you tell us how many survey studies
15 for industry you've undertaken in the past?

16 MR. DEAN SCHINKEL: Survey studies
17 specific to this? I would not have completed one. We
18 sent a survey out to receive financial information.

19 MS. ANITA SOUTHALL: So this would be the
20 first?

21

22 (BRIEF PAUSE)

23

24 MR. DEAN SCHINKEL: Performed analysis --
25 where we go out and perform interviews to get

1 information, but not where we specifically send out a
2 survey -- that I can recollect, to get the financial data
3 back, as the source -- as the way to get the financial
4 data in our hands.

5 MS. ANITA SOUTHALL: And is this your
6 first study for the payday loan industry?

7 MR. DEAN SCHINKEL: Yes.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: Sir, can you confirm
12 what other engagements either yourself or Deloitte has
13 undertaken for CPLA in the past, or CPLA members in
14 Manitoba?

15 MR. DEAN SCHINKEL: I'll -- I'll answer
16 that in two (2) ways.

17 I am not aware of the Deloitte -- if
18 there's Deloitte engagements in the past for the CPLA.
19 That may be something that -- that CPLA would be able to
20 answer.

21 And also as far as members in Manitoba,
22 I'm not aware of Deloitte in Manitoba doing any
23 engagement for members.

24 We have completed, just last week, a study
25 for Nova Scotia. It was different than this one. It was

1 just more on transactional data. And I did that one for
2 the CPLA. That was the one other study.

3 MS. ANITA SOUTHALL: And do you know if
4 that transactional data study for Nova Scotia is being
5 filed with the Regulator in Nova Scotia?

6 MR. DEAN SCHINKEL: I believe that it
7 has.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: Sir, the Board did
12 pose a number of questions to CPLA inquiring on the
13 subject matter I've just questioned you on, in other
14 words, inquiring as to Deloitte's engagement for CPLA on
15 other matters -- pardon me -- and member organizations on
16 other matters.

17 Did -- were you contacted by CPLA to
18 inquire on those points before the Hearing today?

19 MR. DEAN SCHINKEL: No.

20

21 (BRIEF PAUSE)

22

23 MR. DEAN SCHINKEL: Maybe -- I'll just
24 add one point to clear -- the -- the only knowledge that
25 I do have is, and they did not contact me, is -- is

1 Deloitte has to perform before we accept an engagement --
2 we do various conflict checks.

3 An engagement partner in our Ottawa office
4 -- no, sorry, Halifax office showed up as being for the
5 CPLA, as being what we call the partner assigned to that
6 account.

7 I had a phone call with them. They were
8 not aware of any -- any assignments that we had done.
9 But that doesn't say that somewhere in the -- somewhere
10 in Deloitte in Canada that something was done. I'm just
11 not aware of any.

12 MS. ANITA SOUTHALL: Do you know the
13 nature of the work that was performed in the Halifax
14 office?

15 MR. DEAN SCHINKEL: The -- I don't
16 believe that partner had done anything. Sometimes
17 partners are just assigned over time to various
18 companies, accounts, associations. So no, I'm not.

19 MS. ANITA SOUTHALL: And with respect to
20 the member organizations of CPLA in Manitoba, would the
21 Deloitte conflict search run those names as well?

22 MR. DEAN SCHINKEL: No, we did not. We
23 didn't feel that that would be a conflict. Just from my
24 knowledge of the Winnipeg office, I'm not aware of any.

25 But again, that doesn't say that there --

1 there wasn't any assignments.

2

3

(BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: And how did you
6 secure this particular assignment? Was it a request for
7 proposals?

8 MR. DEAN SCHINKEL: No. The -- the call
9 came in to the Deloitte office, and Mr. Holmes
10 (phonetic), who is the partner that I report with, met, I
11 believe, with Mr. Bishop and Mr. Franchek (phonetic).
12 And I met with them as well.

13 And we had various discussions on the type
14 of assignment. And they gave some background on the
15 Hearing and asked if they would have -- need a report on
16 the cost of providing payday loan services.

17 They provided us with the Ernst & Young
18 report as background. And then we quoted based on our
19 engagement letter, which is -- has been given as
20 evidence.

21 MR. ALLAN FORAN: Ms. Southall, I should
22 also -- and -- and again I don't want to interrupt cross-
23 examination, but I can confirm, in fact, it was my office
24 that contacted Deloitte and Touche.

25 My office had suggested Deloitte and

1 Touche to CPLA, and my office that arranged for the
2 initial meeting directly between Deloitte Touche and
3 CPLA.

4 MS. ANITA SOUTHALL: Thank you for that.
5 And finally, just on this point, Mr. Schinkel, do you
6 know if Deloitte has performed any audits services for
7 CPLA?

8 MR. DEAN SCHINKEL: Audit service -- like
9 audit of financial statements?

10 MS. ANITA SOUTHALL: Yes.

11 MR. DEAN SCHINKEL: Not that I'm aware
12 of.

13 THE CHAIRPERSON: Just to rephrase that
14 question, for members of the CPLA.

15 MR. DEAN SCHINKEL: Again, not that I'm
16 aware of, but across Canada, due to Deloitte's size,
17 there could be -- I would say very easily -- CPLA members
18 that Deloitte may provide accounting services to. That
19 would not surprise me.

20 MS. ANITA SOUTHALL: Maybe as an
21 undertaking you could advise us of that, sir?

22 MR. DEAN SCHINKEL: I will --

23 MS. ANITA SOUTHALL: Do that follow-up.

24 MR. ALLAN FORAN: We'll need to take that
25 under advisement. I'll tell you my only concern is that

1 there is a series of responses that -- and maybe I should
2 actually turn this back to Mr. Schinkel.

3 But I'd like to remind him that Deloitte
4 and Touche, in many of its responses indicated, it was
5 not in a position, due to confidentiality, to disclose
6 information as to retainers it has or didn't have.

7 I don't -- if this is an appropriate
8 response for Deloitte Touche, please go ahead, Mr.
9 Schinkel. But I just --

10 MR. DEAN SCHINKEL: Yeah, I would not be
11 in a position to say which companies. We -- performing a
12 conflict search with every name would -- and I will
13 advise with counsel -- I mean, that would be a
14 significantly undertaking across Canada to do that.

15 So I will talk with Mr. Foran after. But
16 I would not be able to disclose names or what
17 specifically we were doing unless we had the permission
18 of that client.

19 MS. ANITA SOUTHALL: Well, you'll have to
20 give consideration to that, obviously, with counsel for
21 CPLA, and determine what you can disclose to us on that
22 subject matter.

23 THE CHAIRPERSON: But you, yourself, Mr.
24 Schinkel, are not involved with auditing any member of
25 the CPLA or any payday loan company operating in

1 Manitoba?

2 MR. DEAN SCHINKEL: No, I am not
3 involved, and I'm not aware of anyone in the Winnipeg
4 office being involved.

5
6 --- UNDERTAKING NO. 14: Mr. Dean Schinkel to
7 determine whether or not
8 Deloitte and Touche has
9 provided audit services to
10 CPLA members. (Taken under
11 advisement)

12

13 CONTINUED BY MS. ANITA SOUTHALL:

14 MS. ANITA SOUTHALL: Sir, and those
15 following, could you turn to Tab 30 please?

16 And Mr. Schinkel, this is the Deliotte
17 engagement letter addressed to Aikins, MacAulay &
18 Thorvaldson LLP dated August 23, 2007, correct?

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: And the objective is
21 set out in the first paragraph, I believe, and likely
22 elsewhere repeated.

23 But the first paragraph confirms the terms
24 of engagement of Deloitte and Touche, LLP, by Aikins,
25 MacAulay & Thorvaldson LLP, related to preparation of a

1 report for a presentation to the Public Utilities Board
2 of Manitoba by the Canadian Payday Loans Association,
3 correct?

4 MR. DEAN SCHINKEL: Yes.

5 MS. ANITA SOUTHALL: And at paragraph 2
6 of the engagement letter, there is reference to
7 Deloitte's understanding that it is Mr. Foran or Aikins
8 MacAulay's intention that the work that would be covered
9 would be covered by solicitor work product privilege and
10 other applicable privileges.

11 Do you see that?

12 MR. DEAN SCHINKEL: Correct.

13 MS. ANITA SOUTHALL: And do you know why
14 that would be the case in the context of providing this
15 report to the Board on the public record?

16 MR. DEAN SCHINKEL: This engagement
17 letter, much of it is standard Deloitte wording. And
18 that is standard wording that we would include in an
19 engagement such as this.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Okay. Sir, further
24 down the page, under the heading "Background to the
25 Engagement," do you see that paragraph?

1 MR. DEAN SCHINKEL: Yes.

2 MS. ANITA SOUTHALL: There is reference
3 to two (2) reports, the first being a report related to
4 the cost of providing payday loans services -- services,
5 pardon me in the Province of Manitoba. And that's the
6 report that's included here in this reference by or at
7 Tab 32. Correct?

8 MR. DEAN SCHINKEL: Yes.

9 MS. ANITA SOUTHALL: There is also
10 reference to the preparation of a report summarizing
11 transactional data for payday loan providers in the
12 Province of Manitoba. Is that a second report?

13 MR. DEAN SCHINKEL: No. When we
14 originally met and contemplated this letter, because we
15 were only focusing on private companies, the discussion
16 was that we would have another report that would have
17 transactional data and also include public companies.

18 But we were going to advised, after this
19 was signed, that Professor Gould was looking at public
20 companies. So that report was never issued and the work
21 was performed on it at all.

22 MS. ANITA SOUTHALL: Thank you for that
23 clarification.

24

25 (BRIEF PAUSE)

1 MS. ANITA SOUTHALL: If you could turn to
2 page 2 of the engagement letter, please. And this is
3 near the end of...

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: Sorry, just a
8 clarification, under the "Scope of Services" section and
9 specifically under "Phase I: Data Collection."

10 Near the bottom of that section, sir,
11 there -- there's confirmation that the survey on costs
12 will be sent to all payday loan organizations in Manitoba
13 other than public companies.

14 Do you see that?

15 MR. DEAN SCHINKEL: Yes.

16 MS. ANITA SOUTHALL: And that's how you
17 proceeded?

18 MR. DEAN SCHINKEL: Yes, I went to
19 private companies only.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: The public companies
24 operating in Manitoba are Rentcash and Money Mart, or
25 Money Mart being a division of Dollar Financial?

1 MR. DEAN SCHINKEL: Yeah, that's --

2 MS. ANITA SOUTHALL: Is that --

3 MR. DEAN SCHINKEL: -- that --

4 MS. ANITA SOUTHALL: -- accurate?

5 MR. DEAN SCHINKEL: -- that's my

6 understanding, yes.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Excuse me, Ms.

11 Southall. Money Mart is more than a division of Dollar

12 Financial, it is a corporated company in its own right,

13 is it not?

14

15 (BRIEF PAUSE)

16

17 MR. NORMAN BISHOP: That's correct. It's

18 a -- that's correct. To my knowledge it's a wholly owned

19 subsidiary. It's National Money Mart Company, and it's a

20 wholly owned subsidiary.

21

22 CONTINUED BY MS. ANITA SOUTHALL:

23 MS. ANITA SOUTHALL: Sir, turning to

24 page 3, for a moment, of the engagement letter, under the

25 heading "Phase IV: Preparation of Draft and Final

1 Report," in the last line of that paragraph the
2 engagement letter states:

3 "We understand that the work product
4 and files of the expert witness my be
5 subject to s discovery. However, until
6 such materials are subpoenaed, they
7 will be maintained by us as
8 confidential in accordance with the
9 terms hereof."

10 Do you see that?

11 MR. DEAN SCHINKEL: Yes.

12 MS. ANITA SOUTHALL: Is that also part of
13 your standard --

14 MR. DEAN SCHINKEL: Yes, standard --

15 MS. ANITA SOUTHALL: -- engagement
16 letter?

17 MR. DEAN SCHINKEL: Yes.

18 MS. ANITA SOUTHALL: Even though the
19 first line of the paragraph says:

20 "Subject to the ultimate terms of the
21 engagement, we understand that our work
22 product will be required for submission
23 to the Public Utilities Board of
24 Manitoba."

25 MR. DEAN SCHINKEL: So the -- the first

1 sentence, I believe, is -- was put in just saying that we
2 understand that our end report will be filed. And then I
3 think the last sentence is just -- is probably in each
4 engagement letter, or it is standard engagement letter
5 wording.

6

7

(BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: I'm just -- I just
10 want to be clear, and I'm -- I'm not suggesting that the
11 Board is going to issue a subpoena to Deloitte --

12 MR. DEAN SCHINKEL: Right.

13 MS. ANITA SOUTHALL: -- by asking the
14 question. But I -- I wanted to be clear that you -- you
15 obviously indicated to survey participants that their
16 materials would be kept strictly confidential.

17 MR. DEAN SCHINKEL: So --

18 MS. ANITA SOUTHALL: And I wanted to
19 understand that you left them with the impression that
20 under no --

21 MR. DEAN SCHINKEL: So I was going to --

22 MS. ANITA SOUTHALL: -- condition --

23 MR. DEAN SCHINKEL: -- the one --

24 MS. ANITA SOUTHALL: Sorry, could I just
25 finish that question?

1 MR. DEAN SCHINKEL: Sorry, go ahead.

2 MS. ANITA SOUTHALL: Under no condition
3 would that material be handed over to the Board, even
4 though it was being prepared for Board submission?

5 MR. DEAN SCHINKEL: So -- and that's
6 exactly correct, that I didn't anticipate that I would
7 have to have the discussions I did with the participants
8 so strongly on confidentiality. We thought there might
9 be some concerns.

10 So then it went into stating just that we
11 would not, in any case, disclose financial information in
12 such a way, from my view is, that we wouldn't be able to
13 provide a report. And if -- and we would -- if we didn't
14 get enough responses because people had concerns, you
15 know, we -- there would have been no report issued.

16 MS. ANITA SOUTHALL: So I'm just going to
17 ask you to turn back a page to page 2, under "Scope of
18 Services," and back to the data collection section of the
19 engagement letter.

20 And you indicated that Deloitte will
21 design an appropriate survey instrument with input from
22 the association, and the association would be CPLA?

23 MR. DEAN SCHINKEL: Correct.

24 MS. ANITA SOUTHALL: And we see at the
25 end of the actual report, at Tab 32, a survey instrument.

1 Is that the survey instrument that Deloitte prepared?

2 MR. DEAN SCHINKEL: Yes.

3 MS. ANITA SOUTHALL: And over what period
4 of time -- was -- was it after the engagement letter on
5 August 23rd that the survey instrument was prepared?

6 MR. DEAN SCHINKEL: Yes.

7 MS. ANITA SOUTHALL: And it was sent out
8 on August 27th, I understand?

9 MR. DEAN SCHINKEL: I would have to look
10 at the date in the letter, but I believe that's correct.

11 MS. ANITA SOUTHALL: Sure, if you want to
12 just confirm that, help yourself.

13 MR. DEAN SCHINKEL: Sure.

14 MS. ANITA SOUTHALL: It's -- the letter I
15 believe is immediately preceding the survey instrument.

16 MR. DEAN SCHINKEL: Yes, August 27th.

17

18 (BRIEF PAUSE)

19

20 MS. ANITA SOUTHALL: That -- that's
21 clearly a short period of time, Mr. Schinkel. Did -- did
22 you have an opportunity to meet, then, with CPLA after
23 the engagement letter but before the survey instrument
24 was completed?

25 MR. DEAN SCHINKEL: We would not -- I

1 believe it was a very short period of time and there were
2 some very busy hours as we were under concerns of being
3 able to get a report in on time.

4 I don't believe we met in person. We
5 would have emailed them or -- or sent them the survey to
6 get their comments.

7 And it was done over a weekend, as I had
8 stated yesterday. We had to make changes to the
9 formatting. And I remember that being done over a
10 weekend period.

11 MS. ANITA SOUTHALL: Thank you.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: I believe there was
16 also a -- a request being made of participants when the
17 survey was sent out to respond in a very short period of
18 time. Is that correct?

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: It was a few days --

21 MR. DEAN SCHINKEL: It was a very --

22 MS. ANITA SOUTHALL: -- that they were
23 being given?

24 MR. DEAN SCHINKEL: Yeah, it was three
25 (3) or four (4) days. And -- and that was conscious --

1 that decision was consciously made to try and get
2 people's attention.

3 I wasn't under the belief that I would get
4 all of the responses by then, but I wanted people to try
5 and put it to the forefront. And I had conversations and
6 followup calls after that date.

7 And people knew that, they after date,
8 could still put information in. But it was strictly due
9 to the time constraints that we did that.

10 MS. ANITA SOUTHALL: Sir, what impact
11 does the small sample size -- in other words, the five
12 (5) responses, what impact does the sample size have on
13 averaging?

14 Do -- do you know that? Could you explain
15 that?

16 MR. DEAN SCHINKEL: I'm not clear what
17 you mean by averaging. Is it --

18 MS. ANITA SOUTHALL: I -- it's my
19 understanding that if you have a small sample size when
20 you're averaging, if you have significant differences
21 between the operators, the results can be skewed in terms
22 of determining the average.

23 MR. DEAN SCHINKEL: Right.

24 MS. ANITA SOUTHALL: Depending on --
25 depending on the results you receive back.

1 MR. DEAN SCHINKEL: As we stated on our
2 report that the results may not be representative of --
3 of all providers, and -- and I believe that's the true
4 case because of the -- only five (5) responses.

5 One (1) or two (2) responses, either not
6 getting one (1) or getting one (1) more new response,
7 could change the data. So that's why we make that
8 comment.

9 MS. ANITA SOUTHALL: And, sir, just
10 picking up on the point you -- you just made. On page 2,
11 under "Scope of Services and Data Collection," you
12 indicate in the fourth paragraph down that in -- sorry,
13 in the middle of that paragraph the line starts, "The
14 data collection," do you see that, "as described above"?

15 MR. DEAN SCHINKEL: Yes.

16 MS. ANITA SOUTHALL:

17 "The data collection as described --
18 described above will not comprise a
19 statistically representative survey in
20 the absence of information about the
21 universe of payday operators.
22 Deloitte will not be able to provide
23 assurance that the data is
24 representative of the industry as a
25 whole."

1 And that -- that's what it says.

2 MR. DEAN SCHINKEL: That's the same
3 point, yes.

4 MS. ANITA SOUTHALL: That's the same
5 point.

6 MR. DEAN SCHINKEL: Yes, that's the same
7 point, yeah.

8 MS. ANITA SOUTHALL: And who are the
9 universe of payday operators? Were -- would those
10 include --

11 MR. DEAN SCHINKEL: I would say all of
12 the private companies in Manitoba. That would exclude
13 public, because our survey wasn't looking at that.

14 MS. ANITA SOUTHALL: But -- sorry, but
15 the pay -- the payday universe, so to speak, in Manitoba
16 does include the public companies, correct?

17 MR. DEAN SCHINKEL: It's not clear, I
18 don't think, by that sentence. But if I was saying
19 what's representative, I would look at the total
20 population of private companies and how many responses we
21 got back out of that population.

22 MS. ANITA SOUTHALL: So five (5) out of
23 thirteen (13) is also not representative, in terms of the
24 private companies?

25 MR. DEAN SCHINKEL: I don't think you

1 could say it was representative, no.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: Mr. Schinkel, what -
6 - what was the goal, in terms of your sample responses,
7 given what we talked about a few minutes ago in terms of
8 the short time lines?

9 Did -- did you have some idea of what a
10 cutoff would be in order to issue a report at all?

11 MR. DEAN SCHINKEL: I didn't have a
12 specific number. I knew that if it was one (1) or two
13 (2) that that would not be of use.

14 We were hoping to get as many as possible,
15 or all of them. But we felt with five (5) that it -- it
16 did provide factual data on enough operators to prep --
17 to be able to prepare a report.

18 But as I stated, we do have the sentence
19 in that it may be representative as -- as it is only five
20 (5).

21

22 (BRIEF PAUSE)

23

24 MS. ANITA SOUTHALL: You -- you commented
25 yesterday, sir, that you did review the Ernst & Young

1 report, the -- examined their methodology and applied
2 their methodology in your report.

3 I think I've got that correct?

4 MR. DEAN SCHINKEL: Correct.

5 MS. ANITA SOUTHALL: What Ernst & Young
6 did, and what you weren't instructed to do by CPLA, was
7 an analysis of first-time versus repeat customers.

8 Is that -- I don't know if I've captured
9 that correctly, but --

10 MR. DEAN SCHINKEL: Yes, and -- and also
11 I believe rollovers may have been in the Ernst & Young
12 report.

13 MS. ANITA SOUTHALL: And that wasn't part
14 of your engagement?

15 MR. DEAN SCHINKEL: No.

16 MS. ANITA SOUTHALL: Do you know why that
17 information wasn't requested? Did it -- did it come up
18 in discussion? Was there a reason why?

19 MR. DEN SCHINKEL: It did come up, and I
20 asked why. And the response was there was a concern
21 whether the private companies, smaller operators, would
22 even be able to track that data. And I -- I didn't have
23 knowledge at that time to be able to say, you know, yes
24 or no, would they have it.

25 And also just that, you know, we were

1 going to -- we were providing an average cost over all
2 types of loans. But specifically, more than that, I'm
3 not sure.

4 MS. ANITA SOUTHALL: You did indicate in
5 the design of the data collection at the -- sorry, this
6 would be the third paragraph under the heading, "Phase I:
7 Data Collection," or data collection, at page 2 -- that
8 the survey instrument will include measures to protect
9 confidentiality of respondents, such as assigning each
10 company a serial number and not having any company
11 identifier information on pages other than the cover
12 sheet.

13 That was something you were contemplating
14 at the engagement stage, I take it.

15 MR. DEAN SCHINKEL: Yeah. Due to the
16 confident -- the confidentiality concerns, we
17 contemplated that, put an engagement letter.

18 What we ended up actually doing is, as no
19 information was shared with the CPLA or anywhere outside
20 of Deloitte, we did not have a separate numbering system,
21 as we felt that it was within Deloitte.

22 We didn't have to protect them more than
23 that, as there was no sharing of data information in any
24 manner.

25 MS. ANITA SOUTHALL: Would it have been

1 possible, though, to proceed in this particular case with
2 that -- with those kinds of identifiers and share the
3 information that was ultimately sought by the Board, for
4 instance?

5 MR. DEAN SCHINKEL: No, because the --
6 the individual data would have been compromising what --
7 specifically what individuals did not want me to share.

8 So it would not have helped. And that's
9 why we didn't do it.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: So Deloitte knew
14 from the outset that it was designing a survey and
15 collecting data that wouldn't comprise a statistically
16 representative sample of the Manitoba market for private
17 companies.

18 Is that right?

19 MR. DEAN SCHINKEL: If we would have --
20 if we would have received, you know, all responses back,
21 I think then we would have been able to say.

22 So in no way with certainty did we know it
23 wouldn't be representative. But I think the thought was,
24 you know, likely we wouldn't have the statistical base to
25 be able to say that.

1 But it could have happened with enough
2 responses that, you know, you could have stood up and
3 said it was representative, if we had all the responses
4 back in.

5 MS. ANITA SOUTHALL: Well, then I'm a bit
6 confused, sir, because in the paragraph I took you to a
7 few moments ago, the plan in the engagement letter was
8 that the data collection would not comprise a
9 statistically representative survey.

10 MR. DEAN SCHINKEL: No. That -- and
11 that's correct. It -- because we were under the
12 assumption we would not get a full response back.

13 I'm just saying if we would have -- even
14 with saying that, it would have been representative.

15 MS. ANITA SOUTHALL: And the Ernst &
16 Young report that you had reviewed and that had been
17 supplied to you, my understanding is that did represent a
18 statistically -- sorry, find my words -- was
19 statistically representative of the industry in Canada?

20 MR. DEAN SCHINKEL: I don't know the
21 calculations that they had done to make that comment, but
22 they do state -- and I -- I'll paraphrase; I don't know
23 the exact wording -- that they did receive enough
24 responses back that they could -- they -- they could say
25 it was representative.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: And so CPLA,
4 nevertheless, engaged you to conduct the report, even
5 though you were operating on the assumption that it
6 wouldn't have statistical relevance.

7 Is that fair?

8 MR. DEAN SCHINKEL: By a straight reading
9 of the engagement letter, that's a fair comment. But I
10 think the hope was always to get as many responses back.
11 And if -- if there was a full response rate, we would
12 have probably been in able to say it was representative.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: Sir, at page --
17 pardon me, at Tab 35 of the materials, we've included at
18 page 22 of the Ernst & Young report and an excerpt. And
19 it's -- it's the fourth page into Tab 35, and that's the
20 Ernst & Young response rate at Section C.

21 Do you see that?

22 MR. DEAN SCHINKEL: Yes.

23 MS. ANITA SOUTHALL: So I take it you had
24 an opportunity to review this. And was -- was the
25 response rate, as part of Ernst & Young's background

1 information in the study, one of the things that would
2 have allowed you to give credence to the Ernst & Young
3 report?

4 MR. DEAN SCHINKEL: I would have read
5 this page but not focused on it, no.

6 MS. ANITA SOUTHALL: Well, I -- I suppose
7 I'm asking you to focus on it now for a moment.

8 MR. DEAN SCHINKEL: Sure.

9 MS. ANITA SOUTHALL: Based on the
10 information and -- and the representation that they got
11 from the industry, that's one of the things that ought to
12 be taken into account in terms of whether or not weight
13 can be put on the actual findings in this study.

14 Is that right?

15 MR. DEAN SCHINKEL: Sorry, can you repeat
16 that question? I just want to --

17 MS. ANITA SOUTHALL: Based on the -- on
18 the response rate and whether or not it's representative
19 of the industry, that's one of the things that would
20 allow you to test whether or not the findings made by
21 Ernst & Young could be relied upon?

22 MR. DEAN SCHINKEL: When I reviewed the
23 E&Y report, I focused on methodology and approach and was
24 trying to see if that methodology and approach was -- was
25 applicable to what was trying to be gathered to put

1 forward for this Hearing.

2 I didn't review the report to try and
3 question whether the amount of data and their conclusions
4 in the report for their purpose was correct. So I -- I
5 really took it at face value, I think, when they said
6 that they had the data to say it was representative.

7 So I didn't, sort of, look at it from that
8 perspective and try and question whether they had enough
9 or not enough responses.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: Sir, if you could go
14 back to Tab 30, which again is your engagement letter.
15 And this would be Phase II -- I'm sorry, Phase III, at
16 the top of page 3, the "Presentation of Preliminary
17 Results."

18 Do you see that?

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: And you indicated
21 you -- that Deloitte -- or Deloitte, I should say, would
22 -- indicated that it would prepare a summary presentation
23 with preliminary results of Deloitte's findings.

24 Do you see that?

25 MR. DEAN SCHINKEL: Yes. Sorry, yes.

1 MS. ANITA SOUTHALL: And did you end up
2 providing a draft report to CPLA or -- or to CPLA through
3 its counsel?

4 MR. DEAN SCHINKEL: Through counsel we
5 would have provided a draft report.

6 MS. ANITA SOUTHALL: And are there any
7 substantive differences between the draft report and the
8 final report that's been provided to the Board?

9 MR. DEAN SCHINKEL: No.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: In the next section,
14 "Phase IV: Preparation of Draft and Final Report," the
15 first line says,

16 "Upon receiving your approval and
17 comments on the preliminary results."

18 Do you see that intro?

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: What would that mean
21 within this context, in terms of CPLA's input into the
22 final report?

23 MR. DEAN SCHINKEL: So really, like, any
24 client -- and -- and what happened is we provide our
25 report. And if anyone can point out any sort of factual

1 error that was made, we would take that into
2 consideration.

3 So we provided them with the draft report.
4 I believe there was almost no comments other than sort of
5 grammatical.

6 And there was also -- the wording in the
7 one sentence change was there's wording in our engagement
8 letter that talks about providers of five (5) or fewer
9 stores, I believe. We just changed that, because what
10 we're really doing is private companies. So we changed
11 the wording to just say "private companies" to make it
12 clear.

13 MS. ANITA SOUTHALL: Okay, sir, thank you
14 for that. Could you turn to Tab 31, please?

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: And here, for the
19 record, sir, I just want to review a number of
20 Information Requests that the Board put to CPLA in
21 specific reference to the Deloitte study that's been
22 submitted to the Board.

23 And for the record, just want to confirm
24 that a number of these specific followup questions were
25 declined due to confidentiality reasons. And I -- and

1 detailed the operating costs by each
2 participant, the amounts allocated to
3 payday loans, and other supporting
4 calculations used to determine the
5 average operating cost per hundred
6 dollars (\$100), and the average
7 operating cost per hundred dollars
8 (\$100) of loan of twenty ninety-five
9 (2,095).

10 Please indicate all adjustments made
11 discretely to each for the adjustments
12 set out in Section 3.2.2."

13 That would have been the section of the
14 Deloitte report.

15 And the answer provided was that:

16 "Deloitte declines to respond to this
17 question due to confidentiality
18 reasons."

19 Do you see that?

20 MR. DEAN SCHINKEL: Yes.

21 MS. ANITA SOUTHALL: Under Section D,
22 just below, the request was made:

23 "Please file a table recalculating the
24 average operating cost per hundred
25 dollars (\$100) and the average

1 operating cost per hundred dollar
2 (\$100) loan for each participant based
3 on allocated operating costs,
4 incorporating both the payday loan and
5 cheque cashing business lines."

6 The answer was, "Declined, again due to
7 confidentiality reasons," correct?

8 MR. DEAN SCHINKEL: Correct.

9 MS. ANITA SOUTHALL: And sub (e):
10 "Please provide the breakdown of
11 revenue by business line determined for
12 each participant."

13 Again, that was declined due to
14 confidentiality?

15 MR. DEAN SCHINKEL: Correct.

16

17 (BRIEF PAUSE)

18

19 MS. ANITA SOUTHALL: I'll just turn you
20 to one more, sir, which is, I believe it's on the next
21 page that -- that -- the question at the top of the page
22 is PUB/CPLA- B-30. And sub (a) of that question was:

23 "Based on your discussions, what
24 portion of loans in default grater than
25 ninety (90) days were ultimately

1 collected?"

2 And again the answer was that for
3 confidentiality reasons that information couldn't be
4 disclosed, correct?

5 MR. DEAN SCHINKEL: Correct.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: Sir, you'll agree
10 with me that without being able to provide the supporting
11 information -- and these are an example of -- of the
12 nature of that supporting information that was requested
13 -- it would be difficult for the Board or other
14 Intervenors to test the findings in your report, and
15 specifically, the validity and reliability of your
16 calculations and results?

17 MR. DEAN SCHINKEL: I -- I don't know if
18 I will agree with that. I don't know what evidence or --
19 or background you would need.

20 In providing our responses, we were in
21 every case trying to provide as much information and be
22 as helpful as we could without breaching the
23 conversations that we had with individuals in order to
24 get the data.

25 MS. ANITA SOUTHALL: Well sir, will

1 you agree with me that providing your results without
2 providing the supporting information that leads to your
3 results requires us to rely on your analysis and your
4 calculations?

5 There's no ability, other than obtaining
6 that initial detail, to actually test that. Isn't that
7 so?

8 MR. DEAN SCHINKEL: So certain
9 information, I think, has been provided, which will
10 assist in testing, but definitely certain information
11 hasn't. So if that's an area that you were trying to
12 test further, you would not be able to.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: If we could turn to
17 Tab 32, the Deloitte report, please.

18

19 (BRIEF PAUSE)

20

21 MS. ANITA SOUTHALL: I take it, sir, that
22 you were responsible for the preparation of the report?

23 MR. DEAN SCHINKEL: Yes. With as -- with
24 assistance from others in the office, of course, but I
25 had overall responsibility for the end product.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: So again, under --
4 and I've turned right to page 1, which is the Executive
5 Summary, sir. Could you just go to that page, please?

6 And there's a restatement of the object of
7 the retainer in the first paragraph:

8 "Deloitte has been engaged by Canadian
9 Payday Loan Association to prepare a
10 report related to the cost of providing
11 payday loan services in the Province of
12 Manitoba. This report focuses on
13 private companies providing payday
14 loans in Manitoba."

15 Correct?

16 MR. DEAN SCHINKEL: Correct.

17

18 (BRIEF PAUSE)

19

20 MS. ANITA SOUTHALL: Sir, you talked
21 about a change a moment ago of wording, reference to five
22 (5) stores or less, I think. Is this --

23 MR. DEAN SCHINKEL: That -- I think that
24 would have been the --

25 MS. ANITA SOUTHALL: -- the change that

1 you would have been referring to?

2 MR. DEAN SCHINKEL: Right. Just to make
3 it clear exactly what we were doing.

4 MS. ANITA SOUTHALL: Thank you.

5

6 (BRIEF PAUSE)

7

8 MS. ANITA SOUTHALL: Now you indicate --
9 in the second paragraph, as you've indicated in your
10 previous evidence, that thirteen (13) surveys were sent
11 out to private companies in Manitoba which provide payday
12 loans to customers.

13 Do you see that reference?

14 MR. DEAN SCHINKEL: Yes.

15 MS. ANITA SOUTHALL: And I take it that
16 you were provided a list by CPLA of the thirteen (13)
17 companies?

18 MR. DEAN SCHINKEL: Yes.

19 MS. ANITA SOUTHALL: Could you turn to
20 Tab 33, please?

21

22 (BRIEF PAUSE)

23

24 MS. ANITA SOUTHALL: Tab 33 is in the
25 prefiled evidence of CPLA in this Hearing, and it's

1 identified as a "Manitoba Payday Lenders List." That's
2 the title of it, sir?

3 MR. DEAN SCHINKEL: Yes.

4 MS. ANITA SOUTHALL: Is this the list
5 that you were provided to work from?

6 MR. DEAN SCHINKEL: No. The list may
7 have been different, as we also had individual contact
8 names. So it was not -- it was not in this specific
9 format.

10 MS. ANITA SOUTHALL: Are -- are you able
11 today on the record to tell us which of these companies
12 were contacted?

13 MR. DEAN SCHINKEL: I may -- give me a
14 moment to look through it and I'll see if I can.

15

16 (BRIEF PAUSE)

17

18 MR. DEAN SCHINKEL: I think to ensure,
19 sort of, a complete and accurate answer, I'd have to look
20 back to our records just -- just to make sure, with the
21 names sort of being similar.

22 I believe this, is but I would want to
23 double check before I say with certainty.

24 MS. ANITA SOUTHALL: Thank you, if you
25 could undertake and let us know that please.

1 MR. ALLAN FORAN: We'll undertake that
2 and respond.

3

4 --- UNDERTAKING NO. 15: Mr. Dean Schinkel to review
5 the list of Manitoba payday
6 lenders to determine which
7 took part in the survey and
8 so advise.

9

10 (BRIEF PAUSE)

11

12 CONTINUED BY MS. ANITA SOUTHALL:

13 MS. ANITA SOUTHALL: Sir, why was the
14 list -- the initial list of thirteen (13) payday lenders
15 considered confidential?

16 MR. DEAN SCHINKEL: In which -- referring
17 to which question?

18 MS. ANITA SOUTHALL: Well I think we
19 asked in pre-oral hearing in the IR process which
20 companies were contacted and --

21 MR. DEAN SCHINKEL: Okay. I think I'm --
22 asking for a complete list. I may have misinterpreted
23 that to which were contacted and thinking of which
24 responded, that we were disclosing which responded,
25 because I -- I'd -- it was a complete -- we were trying

1 to get a complete list of all.

2 So that would not be confidential in which
3 it went out to, because it's suppose to be all of them.

4 MS. ANITA SOUTHALL: Okay, thank you for
5 that.

6 MR. ALLAN FORAN: Could we just have a
7 reference to that. If something needs to be amended,
8 we'll -- we'll amend it.

9 MS. ANITA SOUTHALL: The reference is
10 PUB/CPLA-B-25. And it was sub (a),

11 "Please provide a complete list of all
12 companies which were considered in the
13 survey."

14 MR. ALLAN FORAN: Okay. Okay, I can tell
15 you that I took that as being who responded.

16 MR. DEAN SCHINKEL: Right.

17 MS. ANITA SOUTHALL: Well sorry if our
18 question was unclear. But it sounds like on the record,
19 we're going to get the comprehensive list of those
20 contacted.

21 MR. ALLAN FORAN: The comprehensive list
22 of who they attempted to contact.

23 MS. ANITA SOUTHALL: Yes. Thank you.

24

25 --- UNDERTAKING NO. 16: Mr. Dean Schinkel to provide

1 a comprehensive list of
2 companies he attempted to
3 contact to participate in the
4 survey.

5
6 MS. ANITA SOUTHALL: Yes, thank you.

7
8 (BRIEF PAUSE)

9
10 MS. ANITA SOUTHALL: I note that it's
11 10:15. I do have -- I do have more cross-examination of
12 Mr. Schinkel that will take me more than ten (10) or
13 fifteen (15) minutes, I believe.

14 I'm just -- direction from the panel as to
15 whether we take a break at this point.

16 THE CHAIRPERSON: Is this a good time for
17 the break from your perspective? Okay. We will have a
18 break now. Back at 10:30, thank you.

19
20 --- Upon recessing at 10:16 a.m.

21 --- Upon resuming at 10:35 a.m.

22
23 THE CHAIRPERSON: Okay, Ms. Southall...?

24
25 CONTINUED BY MS. ANITA SOUTHALL:

1 MS. ANITA SOUTHALL: Thank you, Mr.
2 Chairman. Mr. Schinkel, if you could turn back to Tab 32
3 -- that would be page 1, the Executive Summary and the
4 Deloitte report please.

5 Sir, at the end of the second paragraph on
6 that page, there is a reference that:

7 "Deloitte received back a total of five
8 (5) surveys, representing a total of
9 7.9 million in payday loans disbursed
10 for the respondent's most recent fiscal
11 year."

12 Do you see that reference?

13 MR. DEAN SCHINKEL: Yes.

14 MS. ANITA SOUTHALL: And do you know what
15 percentage of -- of volume of payday loans that is of the
16 total thirteen (13) that you were attempting to survey?

17 MR. DEAN SCHINKEL: No -- no. I would
18 need the -- the totals for the thirteen (13) to be able
19 to know that number.

20 MS. ANITA SOUTHALL: And I take it,
21 likewise, you wouldn't know what volume the 7.9 million -
22 - what percentage that would be of total payday lending
23 in Manitoba for the period under survey?

24 MR. DEAN SCHINKEL: No.

25 MS. ANITA SOUTHALL: In the Executive

1 Summary, in the next paragraph, the last line states:

2 "In all instances..."

3 By the way, this is on review of -- of
4 data. The line states:

5 "In all instances, adjustments were
6 required to the data provided to ensure
7 the data was consistent and represented
8 the cost of providing payday loans."

9 Do you see that?

10 MR. DEAN SCHINKEL: Yes.

11 MS. ANITA SOUTHALL: When you talk about
12 adjustments being required, are these the same
13 adjustments that are actually factored into your costs
14 calculations?

15 I found an adjustment figure of five
16 hundred sixteen thousand eight hundred sixty-one dollars
17 (\$516,861).

18 Is that -- is that the same concept?

19 MR. DEAN SCHINKEL: Yes. The largest
20 being that debt cost being removed and interest. That's,
21 as was discussed yesterday, the various adjustments we
22 have to go through to make. And that's -- that's what
23 we're referring to.

24 MS. ANITA SOUTHALL: The remob --
25 removal, pardon me, of bad debt costs and interest costs,

1 they were actually factored back in, but just as separate
2 items. Correct?

3 MR. DEAN SCHINKEL: Correct.

4 MS. ANITA SOUTHALL: And I -- I -- to be
5 honest, when you were giving your evidence, I was trying
6 to note it down, but I couldn't quickly enough.

7 What other adjustments were made on your
8 analysis? I'm -- I'm talking about category of
9 adjustments.

10 MR. DEAN SCHINKEL: For the most part,
11 the largest adjustments were the bad debt and interest,
12 which had to be removed and factored in elsewhere.

13 There were very small adjustments which
14 would be related to -- there was one (1) we note in our
15 report that was a tax planning payment.

16 And you know, we always ask the question -
17 - just trying to find out if there was any anomalies in
18 looking for data, but there were not large adjustments
19 required.

20 So adjustments to the data was required,
21 but the largest by far, most significant, were for
22 interest and bad debts.

23 MS. ANITA SOUTHALL: And so I'm clear,
24 the five hundred sixteen thousand eight hundred sixty-one
25 dollars (\$516,861) of adjustments, that comprises the bad

1 debt and tax, which are removed and found under that
2 separate reporting category?

3 MR. DEAN SCHINKEL: Bad debt and
4 interest, yes. Yes.

5 MS. ANITA SOUTHALL: Interest, sorry for
6 that. Yeah, that's what I meant. So the answer is yes
7 to that?

8 MR. DEAN SCHINKEL: The bad -- right. In
9 that number.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: Sir, you've
14 indicated that on your review of the Ernst & Young
15 report, you reviewed the method and procedures used by
16 Ernst & Young, and determined they were sound.

17 Is that correct?

18 MR. DEAN SCHINKEL: Do I -- is this a
19 reference to the report?

20 MS. ANITA SOUTHALL: No, it's not. It's
21 a reference to your previous evidence.

22 MR. DEAN SCHINKEL: Right. So sound -- I
23 would say appropriate, and sound. And -- and can be used
24 for the purpose that we were preparing our report for.

25 MS. ANITA SOUTHALL: And so you adopted

1 that methodology --

2 MR. DEAN SCHINKEL: Right.

3 MS. ANITA SOUTHALL: -- is my
4 recollection?

5 MR. DEAN SCHINKEL: With -- with the
6 adjustments noted in our report, if there was any
7 differences that we had to follow.

8 MS. ANITA SOUTHALL: And so I'm just
9 going to ask you to elaborate on that part, if you
10 wouldn't mind, the -- the reference to the minor
11 adjustments.

12 MR. DEAN SCHINKEL: So that the -- the
13 Ernst & Young report calculated bad debts as those not
14 collected after nine (90) days, after they went into
15 default.

16 Our participants could not always provide
17 that data. They could provide loans that had ultimately
18 not been collected, but they had difficulty by day.

19 So our definition was loans ultimately not
20 collected, and we didn't cut it off at ninety (90) days.

21 But I would not be able to calculate the
22 difference if we had tried to do it the Ernst & Young --
23 with the ninety (90) days, as we didn't have that data.
24 But I don't believe it would be significant.

25 MS. ANITA SOUTHALL: And are there any

1 other adjustments you made that -- that you can recall at
2 present? Take -- you know, take your time.

3 MR. DEAN SCHINKEL: Okay. The one (1) is
4 as we discussed, with the first-time versus repeat
5 customers. So they went through a separate allocation.
6 We did not perform that.

7

8 (BRIEF PAUSE)

9

10 MR. DEAN SCHINKEL: And for weighted
11 average cost of capital they tried to discreetly go
12 through firm by firm it appears.

13 We, as I discussed yesterday, to be
14 consistent with them -- and because we didn't feel like
15 we could precisely estimate the cost of equity for each -
16 - we used 14 percent, which was the same as them and also
17 based on -- they had performed a sensitivity analysis
18 that we referenced.

19

20 (BRIEF PAUSE)

21

22 MR. DEAN SCHINKEL: The Ernst & Young
23 also -- we both allocate operating costs. Ours is done
24 always on a percentage of revenue between payday lending
25 and non.

1 It appears -- and I don't know, because I
2 don't have their data. It appears that they may have
3 used -- tried to use a more precise estimate at times to
4 do that.

5 I believe from my flip-through right now
6 that those are the significant differences.

7 MS. ANITA SOUTHALL: Thank you, sir. Now
8 what is the purpose of the Executive Summary as a whole,
9 Mr. Schinkel, the information we found contained on page
10 1 of the Deloitte report?

11 MR. DEAN SCHINKEL: I think no more
12 purpose than really all Deloitte reports usually have an
13 Executive Summary. If someone doesn't feel like reading
14 the entire report, we try and -- and summarize it.

15 MS. ANITA SOUTHALL: So the -- the key
16 findings ought to be contained on the Executive Summary
17 page in the event that somebody doesn't go to the effort
18 of reading the rest of the report? Is that so?

19 MR. DEAN SCHINKEL: Some of the key --
20 some of the key findings, however, I think each person
21 might have a different view of what's key.

22 So if it's an important report to someone,
23 we'd hope they'd read the entire -- entire document.

24 MS. ANITA SOUTHALL: The last paragraph
25 above the table at the bottom of the Executive Summary

1 states:

2 "These costs are combined and presented
3 as a cost per hundred dollar (\$100)
4 loan. This report estimates the cost
5 of providing a hundred dollar (\$100)
6 payday loan in Manitoba to be twenty-
7 six dollars, eight-seven cents
8 (\$26.87), which can be further
9 illustrated as follows."

10 And then there is a chart, and the chart
11 shows the breakdown of total cost, correct?

12 MR. DEAN SCHINKEL: Correct.

13 MS. ANITA SOUTHALL: There's -- there's
14 no reference in the Executive Summary, although there is
15 a reference under the next page, in "Background and
16 Purpose of Engagement" to the fact that:

17 "As not all payday lenders responded to
18 the survey, that the results may not be
19 representative of the industry as a
20 whole."

21 That -- that's not found on the Executive
22 Summary page, is it?

23 MR. DEAN SCHINKEL: No.

24 MS. ANITA SOUTHALL: Is that a key piece
25 of information that one would want to know, in terms of

1 whether or not this is a proper estimate of the cost?

2 MR. DEAN SCHINKEL: I would agree it's an
3 important piece of information.

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: And -- and just for
8 the record, if I don't remember to correct it every time,
9 I note that earlier today through Mr. Foran we've altered
10 that number of twenty-six dollars and eighty-seven cents
11 (\$26.87) by two (2) cents.

12 So it -- it would now, although the report
13 shows as twenty-six eighty-seven (26.87), in fact the
14 amount as of today was twenty-six eighty-nine?

15 MR. DEAN SCHINKEL: Yes. And if you want
16 to keep discussing with the -- so we don't, sort of, get
17 confused and lost keeping with the numbers in the report,
18 I'm fine with that.

19 And I think the two (2) cents, you know,
20 it's a change, but for the significance, so it's easier
21 to follow, I'd definitely agree with that.

22 MS. ANITA SOUTHALL: Thank you.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: Now, sir, at page 3
2 of the Deloitte report.

3

4 (BRIEF PAUSE)

5

6 MS. ANITA SOUTHALL: Under Section 3.2,
7 you've indicated that operating costs of payday loans
8 information was obtained.

9 And you've outlined there the -- the
10 actual operating cost line items associated with payday
11 lenders based on the information you gathered?

12 MR. DEAN SCHINKEL: So that would be
13 examples of cost categories. I don't think that would be
14 an absolute complete list.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: But when you were
19 following the methodology you -- and I'm -- I'm not
20 trying to, in this case, ensure that that's -- that's a
21 comprehensive list, but -- but rather simply to refer you
22 to the fact that this is the nature of the operating
23 costs information that you were gathering as part of the
24 four (4) components for the overall cost assessment,
25 correct?

1 MR. DEAN SCHINKEL: Correct.

2 MS. ANITA SOUTHALL: Could you just turn
3 -- and here I -- I am going to take you back and forth a
4 bit to Tab 34, if you don't mind. So, at Tab 34, as part
5 of an answer to PUB/CPLA-B-37, you -- you were able,
6 through CPLA, to provide us with a chart leading to your
7 -- your total cost number.

8 The first entry in the chart is total
9 operating costs of respondents, and the number there is
10 two million four eighty-one six oh four (\$2,481,604), is
11 that right?

12 MR. DEAN SCHINKEL: Yes.

13 MS. ANITA SOUTHALL: And that's the
14 aggregate -- aggregated, pardon me, operating costs of
15 the five (5) respondents in the sample survey?

16 MR. DEAN SCHINKEL: Yes.

17 MS. ANITA SOUTHALL: And you haven't
18 disclosed anywhere -- again, it's back to the
19 confidentiality issue -- the breakdown on a respondent-
20 by-respondent basis for operating costs, true?

21 MR. DEAN SCHINKEL: Correct.

22 MS. ANITA SOUTHALL: Is that true?

23 MR. DEAN SCHINKEL: Correct.

24 MS. ANITA SOUTHALL: If you could just
25 turn for a moment to Tab 35, and the first document there

1 is page 12 of the Ernst & Young report. That is the,
2 under Figure 1, that is the process that Ernst & Young
3 followed in their methodology.

4 Is that correct, sir? The process that
5 they followed?

6 MR. DEAN SCHINKEL: Yeah. Yeah, this is
7 the process they followed for their complete -- it's some
8 -- a little bit different than ours, because of some, you
9 know, the repeats and rollovers. But, yes, this is their
10 starting point.

11

12 (BRIEF PAUSE)

13

14 MS. ANITA SOUTHALL: And there is a
15 slight difference between your allocation based on
16 revenues -- in other words, the stage at which you
17 allocated, based on revenues -- versus Ernst & Young.

18 I understand, based on Figure 1 for Ernst
19 & Young, that the allocation took place after the
20 adjustments were made?

21 And if I've read your report correctly,
22 Deloitte made its allocation based on revenues for payday
23 loans at the front end and then made the adjustments
24 afterwards?

25 MR. DEAN SCHINKEL: Just again refer me

1 to the Deloitte report where it discusses that?

2

3

(BRIEF PAUSE)

4

5

MS. ANITA SOUTHALL: Sorry, I did
6 misspeak when I posed the question. It was allocating
7 operating costs, and I -- Mr. Cathcart indicates I may
8 have used the word "revenues."

9

But if you could turn to page 4 of the
10 Deloitte report, and that's Tab 32.

11

It appears that the allocation of
12 operating costs occurred first, based on percentage of
13 revenue of payday loan lending, followed by adjustments
14 to the operating costs?

15

16

(BRIEF PAUSE)

17

18

MR. DEAN SCHINKEL: I believe the way --
19 the description, the way it reads, does read allocated
20 operating costs and then pull the adjustments out.

21

The end result is the same as Ernst &
22 Young, and whereby we allocated operating costs and then
23 if interest was -- was split, we only pulled that
24 component that was related to the payday lending out.

25

So the end -- the description in here does

1 not line up with that chart, but the end result is the
2 same and the numbers that you would get.

3 MS. ANITA SOUTHALL: Okay, thank you.

4 And you anticipated my next question which was, you know,
5 Did that make any difference? So I appreciate that.

6 Sir, with respect to the adjustments that
7 were made, the -- these are private companies, as you've
8 indicated earlier.

9 Were there -- were there any adjustments
10 for inter-company charges that were required on your
11 review?

12 MR. DEAN SCHINKEL: Just -- just so where
13 I'm clear. Inter-company charges meaning -- what
14 would...

15 MS. ANITA SOUTHALL: Any -- any
16 transactions between affiliated companies, management fee
17 charges between companies.

18 MR. DEAN SCHINKEL: No, there was one (1)
19 payment for, as we call, the tax planning. And I can't -
20 - I don't know if it went straight to the shareholder or
21 straight to a holding company.

22 But that would be one instance where, but
23 there was not...

24 MS. ANITA SOUTHALL: What about franchise
25 costs? Was there -- was there anything in the private

1 company structures that you reviewed which would have
2 required adjustment for that item?

3 MR. DEAN SCHINKEL: No.

4 MR. ALLAN FORAN: And just before you
5 answer --

6 MR. DEAN SCHINKEL: Yeah.

7 MR. ALLAN FORAN: -- if there's any cause
8 of concern that that would disclose one of the
9 participants, then I'd just ask you to -- to pay some
10 attention to that.

11

12 (BRIEF PAUSE)

13

14 CONTINUED BY MS. ANITA SOUTHALL:

15 MS. ANITA SOUTHALL: So just to finish
16 off on that, Mr. Schinkel, the Ernst & Young methodology
17 would have considered affiliate company adjustments in
18 its analysis, and you took that into account. But it --
19 but aside --

20 MR. DEAN SCHINKEL: It would be --

21 MS. ANITA SOUTHALL: -- from the one (1)
22 that you've identified as a -- as a planning --

23 MR. DEAN SCHINKEL: It was considered.

24 It was a question we looked for. But just -- if we
25 consider it doesn't necessarily mean there's going to be

1 an adjustment.

2 It could either be at fair market value of
3 there is no such instance to even look at.

4 MS. ANITA SOUTHALL: Okay, thank you,
5 sir.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: Sir, if you could
10 turn to Tab 35. Again, this is an excerpt from the Ernst
11 & Young report. And it would be page reference 23, which
12 is several pages in.

13 In the Ernst & Young report, the
14 businesses surveyed included three (3) categories of
15 business: large businesses, medium-size businesses and
16 small businesses, correct?

17 MR. DEAN SCHINKEL: Correct.

18 MS. ANITA SOUTHALL: And it's fair to
19 say, based on the definitions included in the Ernst &
20 Young report -- if I could ask you to use those
21 definitions as a point of reference -- that the five (5)
22 private companies included in the survey sample in the
23 Deloitte report would all fall into the small business
24 category?

25 MR. DEAN SCHINKEL: I -- I think I'd

1 decline to answer that for confidentiality.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHWALL: Pardon me. If I
6 could just have a moment. Thank you.

7

8 (BRIEF PAUSE)

9

10 MS. ANITA SOUTHWALL: Sir -- sir, we're
11 just trying to identify whether or not that information
12 has been shared in your report.

13 If you could refer to page 11 of the
14 Deloitte report at Tab 32.

15 There is a plotting of the -- in this
16 case, it's the four (4) of the five (5) survey results.
17 And then on page 12, a plotting of -- of the five (5)
18 survey samples for operating costs per hundred dollars
19 (\$100) of loan based on volume per store.

20 Do you see those references?

21 MR. DEAN SCHINKEL: Yes.

22 MS. ANITA SOUTHWALL: So it appears that,
23 based on the definition in the Ernst & Young report for
24 small business under 2 million in payday loans, just
25 based on the plotting information you've shared, the --

1 there are -- there are no one -- sorry -- there are no
2 companies in your sample that exceed the \$2 million
3 dollars.

4 MR. DEAN SCHINKEL: Okay. So the reason
5 I declined, that's on a volume per store.

6 So for example, if someone had ten (10)
7 stores and \$10 million dollars in revenue, it would show
8 up as a million dollars on the chart, because it's on a
9 per store and not a per company basis.

10 So I'm not sure if -- and I'll flip back
11 to the Ernst & Young -- if they did it on a per -- if
12 it's on a per store basis, it's definitely under that.

13 On a -- on a per company basis, though, is
14 why I was declining.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: Sir, did -- did any
19 of the respondents fall into the large business category?

20 MR. DEAN SCHINKEL: I -- I will answer
21 that, as it -- as it still leaves two (2) categories.
22 No.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: Sir, we're trying to
2 get at this information another way.

3 Did the five (5) samples surveyed include,
4 then, medium-sized businesses and small businesses?

5 MR. DEAN SCHINKEL: I'm actually not
6 aware, because I -- I don't -- if -- I want to be careful
7 in answering this again.

8 But part of that answer I wouldn't even
9 know, because if -- if we sent a survey and didn't get a
10 response back, I wouldn't know how large they are. So
11 they could have fallen into the large business category,
12 and I wouldn't have been aware of that.

13 MS. ANITA SOUTHALL: Okay. I'll -- if --
14 if my question wasn't tight enough, I'll rephrase it.

15 In terms of the five (5) respondents to
16 the survey, do you know if it included medium-sized
17 businesses and small businesses?

18 MR. DEAN SCHINKEL: Again, I'll decline
19 to answer that.

20 MR. ALLAN FORAN: Can I just clarify?
21 You know, but you can't respond for confidentiality
22 purposes?

23 MR. DEAN SCHINKEL: Correct. I -- I
24 believe that if -- the data may lead to being able to
25 identify certain respondents.

1 MR. ALLAN FORAN: So he can provide the
2 answer based on your definition, but declines to do so as
3 it may actually then disclose the name, or particulars,
4 of one (1) of the respondents.

5

6 (BRIEF PAUSE)

7

8 MR. DEAN SCHINKEL: And just to clarify,
9 I don't know all the data, but if -- it may lead to who
10 did not respond as well, based on how a response could
11 come in.

12

13 (BRIEF PAUSE)

14

15 CONTINUED BY MS. ANITA SOUTHALL:

16 MS. ANITA SOUTHALL: Sir, could you
17 provide an explanation as -- as to how providing an
18 answer to that question in particular would be able to --

19 MR. DEAN SCHINKEL: Okay. I'll share my
20 concerns --

21 MS. ANITA SOUTHALL: -- allow the --
22 allow parties to the process and the Board to -- to
23 identify a participant?

24 MR. DEAN SCHINKEL: So my concern is is I
25 don't know the volumes and dollar amounts for all private

1 companies, but individuals may have an idea on their
2 competitors.

3 And if, for example, a response was no
4 small business -- they were all small businesses, but
5 someone fell into the medium-sized business category, it
6 may help identify that they did not respond.

7 Or if I responded one (1) medium-sized
8 business, and someone knows that there's likely only one
9 (1), they could very quickly then identify who that was.
10 That's the thought process.

11

12 (BRIEF PAUSE)

13

14 MS. ANITA SOUTHALL: Sir, if you could,
15 staying within Tab 35, if you could turn, please, to
16 page 30, the excerpt of the Ernst & Young report which
17 contains Figure 2 from that report, "Cost of Providing
18 Payday Loans Unweighted Averages."

19

20 (BRIEF PAUSE)

21

22 MR. DEAN SCHINKEL: Yes.

23 MS. ANITA SOUTHALL: And then, sir, if
24 you could compare that to the table in your Executive
25 Summary which is at page thirty -- or pardon me, Tab 32,

1 page 1.

2

3

(BRIEF PAUSE)

4

5

MS. ANITA SOUTHALL: You've had an
6 opportunity to do that, sir?

7

MR. DEAN SCHINKEL: Yes.

8

MS. ANITA SOUTHALL: Are you attempting
9 to represent the same thing graphically that the Ernst &
10 Young report represents, in terms of the unweighted
11 averages cost of providing payday loans, but in this case
12 for Manitoba?

13

MR. DEAN SCHINKEL: And -- and just one
14 point, I believe that the Figure 2 doesn't have the intro
15 to it. I believe this is where they just take the raw
16 data of all firms and -- and calculate an average.

17

If -- if that's what it is, then our graph
18 is showing the same -- the same data.

19

MS. ANITA SOUTHALL: And the graph on
20 your Executive Summary for Deloitte represents most
21 closely which column in Figure 2 of the Ernst & Young
22 report?

23

Can you -- can you make that comparison?

24

MR. DEAN SCHINKEL: You know, I can make
25 it -- it definitely would be closer to the -- the small

1 business, the far right column.

2 MS. ANITA SOUTHALL: And in Figure 2 from
3 the Ernst & Young report, the -- the cost shown of
4 providing payday loans on an unweighted average is
5 twenty-two dollars eighty-eight cents (\$22.88), correct?

6 MR. DEAN SCHINKEL: Correct.

7

8 (BRIEF PAUSE)

9

10 MS. ANITA SOUTHALL: Sir, I wonder if
11 you've had an opportunity to review Dr. Gould's
12 PowerPoint presentation that he presented to the Board
13 yesterday?

14 MR. DEAN SCHINKEL: The only familiarity
15 I have with it is through the presentation yesterday.

16

17 (BRIEF PAUSE)

18

19 MS. ANITA SOUTHALL: I'm going to show
20 you a copy of the presentation, sir.

21

22 (BRIEF PAUSE)

23

24 MS. ANITA SOUTHALL: And just a note for
25 the record on this, that this PowerPoint presentation has

1 MS. ANITA SOUTHALL: Thank you, Mr. Williams, we'll do
2 that. So, sir, I -- I wanted to take you to slide number
3 22, which is on the second-last page of the document.

4 MR. DEAN SCHINKEL: Okay.

5

6 (BRIEF PAUSE)

7

8 MS. ANITA SOUTHALL: And sir, that slide
9 includes a chart that says, "Comparison of Survey Results
10 for Small Business Size." Do you see that?

11 MR. DEAN SCHINKEL: Yes.

12 MS. ANITA SOUTHALL: So Dr. Gould has
13 made this comparison for type of cost as between the
14 Ernst & Young report and the Deloitte report. Do you see
15 that?

16 MR. DEAN SCHINKEL: Yes.

17 MS. ANITA SOUTHALL: Is that
18 interpretation a valid interpretation?

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: Given what you know
23 about your sample size, what we've just been discussing?

24 MR. DEAN SCHINKEL: So I'll -- I'll put
25 some background in how -- I think there's a number of

1 ways to interpret things.

2 But if you're just trying to compare Ernst
3 & Young smaller-type companies, Deloitte did a private
4 company, which was close to the small company range.
5 Those would be the correct columns to compare.

6 To be most comparable, the Ernst & Young
7 2288 (phonetic) and the Deloitte, that would be the most
8 reasonable comparison you could -- you could take.

9

10 (BRIEF PAUSE)

11

12 MS. ANITA SOUTHALL: So, sir, even though
13 you've indicated to us without being able to share with
14 us that your survey sample may have included medium-sized
15 businesses, nevertheless, the analysis that Dr. Gould
16 depicts at Slide 22 is an appropriate comparison?

17 MR. DEAN SCHINKEL: So knowing the sizes
18 of the Ernst & Young definition, knowing the sizes of our
19 responses, if you would have compared the medium-sized
20 business from the E&Y report to the Deloitte report, that
21 would have been farther off from the reasonable
22 comparison.

23 That would have been not comparing apples
24 to apples, as it -- clearly, we did not have -- you know,
25 and -- and I think Manitoba would not have enough in the

1 medium size to be able to compare to that column.

2 So if you're looking at which tables to
3 compare, it's those two (2).

4 MS. ANITA SOUTHALL: Thank you. We're
5 just trying to understand, Mr. Schinkel, is it a fair
6 comparison? It's Slide 22 in particular.

7 MR. DEAN SCHINKEL: I guess my hesita --
8 I just want to understand when you -- you know, when
9 you're saying fair, just exactly how you define that.

10 Is it a perfect comparison? You know, it
11 may not be, because E&Y could be at the high end of the
12 small range. We could be at that lower, vice versa. But
13 it's the best comparison with the data available.

14

15 (BRIEF PAUSE)

16

17 MS. ANITA SOUTHALL: Sir, you'll agree
18 that if you had sampled medium- and large-sized
19 businesses -- and possibly you did sample medium size for
20 Manitoba -- but if large businesses had been included,
21 you would have found that operating costs for those
22 entities would be lower, based on the knowledge we have
23 to date?

24 MR. DEAN SCHINKEL: You know, I -- I
25 don't think I'm in a position to comment on that, as I

1 did not look at public company data.

2 And so, you know, the public company data
3 was from Dr. Gould's presentation yesterday. I did not
4 look at that.

5 THE CHAIRPERSON: Mr. Schinkel, your data
6 showed that the average loans with your survey were under
7 a million dollars in a year, is that not correct? Per
8 store?

9 MR. DEAN SCHINKEL: Per store, correct.
10 Let me flip to that page.

11

12 (BRIEF PAUSE)

13

14 MR. DEAN SCHINKEL: Dollar volumes per
15 store, there is one that's greater than a million on a
16 per-store basis.

17 THE CHAIRPERSON: The average was seven
18 hundred and fifty thousand (750,000), if I recall.

19

20 (BRIEF PAUSE)

21

22 MR. DEAN SCHINKEL: Seven hundred and
23 fifteen thousand seven hundred and thirty-two (715,732).

24 THE CHAIRPERSON: So if you divide that
25 by three hundred (300) business days, you are talking an

1 average loan size of three hundred (300), you are talking
2 about eight (8) loans a day.

3 That is small, is it not?

4

5 (BRIEF PAUSE)

6

7 THE CHAIRPERSON: It is not the Royal
8 Bank, is it?

9 MR. DEAN SCHINKEL: I'm just trying to
10 make sure I get your math. No -- no, clearly not. There
11 is some very small providers included.

12

13 (BRIEF PAUSE)

14

15 CONTINUED BY MS. ANITA SOUTHALL:

16 MS. ANITA SOUTHALL: Sir, if I could take
17 you for a moment back to Tab 35 and page 30 of the Ernst
18 & Young report excerpt, Figure 2.

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: Under the unweighted
21 averages of cost of providing payday loans for large
22 business entities in the Ernst & Young report, the figure
23 they came to was sixteen dollars ninety-three cents
24 (\$16.93). Correct?

25 MR. DEAN SCHINKEL: Correct.

1 MS. ANITA SOUTHALL: Would you expect
2 there to be a different result at this point in time in
3 Manitoba if large businesses were included in the survey?

4 MR. DEAN SCHINKEL: No. I would have no
5 sense of that, because that's not something we looked at.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: Sir, could I get you
10 to turn, please, to page 5 of your report, at Tab 32.

11

12 (BRIEF PAUSE)

13

14 MS. ANITA SOUTHALL: And the discussion
15 that you have there of cost of loan capital, could you
16 just -- that's, I believe, your point three (0.3), point
17 --

18 MR. DEAN SCHINKEL: Right.

19 MS. ANITA SOUTHALL: -- sorry, three
20 point three (3.3)?

21 MR. DEAN SCHINKEL: Yes.

22 MS. ANITA SOUTHALL: Could you explain
23 what the weighted average cost of capital is? I -- I
24 think it may actually be the second paragraph of that
25 section.

1 MR. DEAN SCHINKEL: Okay. So the
2 weighted average cost of capital would represent the
3 blended return required by those who provide capital to a
4 company.

5
6 So a company can raise money through debt
7 -- example, long-term debt from a bank. And they can
8 also raise money from shareholders through -- through
9 equity.

10 In general, debt will be a cheaper
11 financing source. And equity will be more expensive,
12 because there's more risk attached to it, as for a number
13 of reasons. But they fall behind the bank in security
14 and -- and other reasons.

15 So the -- the blended return of what the
16 debt holders would require and what the equity holders
17 would require would be what the weighted average cost of
18 capital would be.

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHWALL: So -- did -- sorry,
23 did I understand you to say that debt is more costly --

24 MR. DEAN SCHINKEL: No, sorry. If I said
25 that, I apologize. I'm not sure -- debt would be a

1 cheaper financing alternative.

2

3

(BRIEF PAUSE)

4

5

MS. ANITA SOUTHALL: And I took from your
6 evidence yesterday that, based on the five (5) survey
7 samples, that the capital input for the payday loan
8 operators that you surveyed were more heavily weighted to
9 equity than debt.

10

Is that -- am I recalling that right?

11

MR. DEAN SCHINKEL: That's exactly the
12 way I would state -- more heavily weighted to equity.

13

14

(BRIEF PAUSE)

15

16

MS. ANITA SOUTHALL: Did -- did any of
17 the survey respondents have debt in their capital
18 structure that would allow them to finance loans?

19

MR. DEAN SCHINKEL: Yes, they did have.
20 There was instances of debt financing.

21

22

(BRIEF PAUSE)

23

24

MS. ANITA SOUTHALL: In terms of the
25 capital structure, are you able to comment on the

1 significance of that?

2 In other words, by proportion?

3 MR. DEAN SCHINKEL: Of the -- of the debt
4 example?

5 MS. ANITA SOUTHALL: Well, debt versus
6 equity, I think, is what we're looking for.

7 MR. DEAN SCHINKEL: Okay. There -- there
8 was -- there is an example of a -- a fairly high
9 proportion of debt. However, it was secured by personal
10 guarantee, and I believe on their house.

11 So it was debt not entirely supported by
12 the business. It was also supported by the -- the
13 shareholders backing, which it is debt, but in a way had
14 some equity-related characteristics as well.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: So that would be
19 debt with a chartered bank that would take that
20 collateral or -- or security associated with that
21 financing, correct?

22 MR. DEAN SCHINKEL: Exactly, yes.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: So in your analysis,
2 was that -- was that debt financing, or was that more
3 indicative of equity financing?

4 MR. DEAN SCHINKEL: I think --

5 MS. ANITA SOUTHALL: I think you might
6 have commented on that a moment ago, but if you could
7 just...

8 MR. DEAN SCHINKEL: The way I would
9 characterize that, I would characterize it more as equity
10 as, the pure business isn't supporting the debt.

11 But in our analysis we didn't do precisely
12 for each one. We ended up using the -- the Ernst & Young
13 average. But looking the way I would look at it, more
14 debt.

15 MS. ANITA SOUTHALL: And, sir --

16 MR. DEAN SCHINKEL: More equity, sorry.
17 Go ahead -- I said more of equity financing than debt.

18 MS. ANITA SOUTHALL: Sir, Dr. Gould
19 commented yesterday on whether equity should be based on
20 -- on an after-tax calculation. I'm not sure if you were
21 present to hear his testimony on that.

22 But you may have come across or discussed
23 that with Dr. Gould. Have --

24 MR. DEAN SCHINKEL: I haven't.

25 MS. ANITA SOUTHALL: -- have you a

1 comment on that, sir?

2 MR. DEAN SCHINKEL: I can comment on what
3 I heard or -- or thought I heard yesterday, and I can try
4 and give an explanation. And if I get it wrong, will be
5 corrected.

6 I think the explanation was that this is a
7 -- and I'm completely paraphrasing and putting my own
8 understanding in.

9 As this is a rate Hearing and if you're
10 looking at costs, if someone spends a dollar (\$1) on
11 something, they have to get a dollar (\$1) back as a rate
12 to cover that off.

13 If you're looking at giving someone a
14 dollar (\$1) equity return, because they pay taxes on
15 that, you'd actually have to pay them a dollar thirty-six
16 (\$1.36). That's not the exact math.

17 So they pay taxes on it and receive a
18 dollar (\$1) back. So I think it's actually grossing up
19 the cost of equity to factor that in, which is very
20 different than if you're doing a straight business
21 valuation, where you look at the after-tax cost of
22 equity.

23 DR. LAWRENCE GOULD: If I could just
24 clarify one thing. It would be -- you'd actually divide
25 the cost by one (1), minus the tax rate.

1 So you divide -- if you assume the tax
2 rate of 36 percent, you'd divide by point six four (.64)
3 to gross it up so that when the shareholders received it
4 and paid tax, they'd get the after-tax result.

5 And what I was trying to indicate in my
6 presentation yesterday is that the benchmark that was
7 used to develop the figure in the Ernst & Young report
8 was an after-tax figure. So it should have been grossed
9 up.

10 MS. ANITA SOUTHALL: Thank you very much,
11 Dr. Gould and Mr. Schinkel, on that. Mr. Schinkel, you
12 indicated that 14 percent was likely a conservative
13 estimate for the weighted average cost of capital,
14 correct?

15 MR. DEAN SCHINKEL: Yes.

16 MS. ANITA SOUTHALL: And just back to
17 this point on the -- on the equity financing, I believe
18 your evidence was that -- in support of that -- was that
19 there was a predominance of equity financing in the
20 capital structures of the survey respondents?

21 MR. DEAN SCHINKEL: Correct.

22 MS. ANITA SOUTHALL: Do you have any idea
23 what the capital structures are of the medium- and large-
24 size operators in Manitoba?

25 MR. DEAN SCHINKEL: No, I never

1 investigated that.

2

3

(BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: Do you -- do you
6 have any -- have you given any thought or been asked to
7 provide an opinion on if 14 percent is conservative?

8 Is there another rate of return that you
9 have in mind, given the structure of the survey
10 respondents in the Deloitte sample?

11 MR. DEAN SCHINKEL: I have not been asked
12 from anyone to give that -- my thoughts or advice on
13 that.

14 MS. ANITA SOUTHALL: Well I'm asking.

15 MR. DEAN SCHINKEL: Okay. So I'll give a
16 background on where I'm -- I'm coming up with my
17 thoughts. You know, number one I've never valued -- I
18 do business valuations. I've never valued a payday loan
19 company, so I've never looked at this specifically.

20 Where our comment comes from is in
21 valuations -- I do valuations of private companies in
22 Manitoba. If I was looking at a company that was funded
23 primarily by equity, there is no way that I would come up
24 with 14 percent.

25 I mean, often we'll use in the 20 to 25

1 stand that question down, and -- because you may have
2 already -- I believe Deloitte prepared a sensitivity
3 analysis on return.

4 Do you recall that, sir?

5 MR. DEAN SCHINKEL: There is a response
6 that deals with sensitivity analysis, correct. And it's
7 also in the Ernst & Young report, which I think would be
8 a helpful reference as well.

9 MS. ANITA SOUTHALL: Thank you. We'll --
10 we'll turn to that then if -- if we feel the need,
11 thanks.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: In -- in terms of
16 adjustments to the weighted average cost of capital and -
17 - and sort of a segue for my last question, the change in
18 the weighted average cost of capital doesn't lead to a
19 very significant impact on overall costs.

20 Is that a fair statement? Or if not,
21 could you just -- could you just elaborate on that point
22 in terms of the impact of -- of that adjustment to the
23 overall costs of loan?

24 MR. DEAN SCHINKEL: So I think the Ernst
25 & Young report, and in my comments, has used that -- does

1 not have, excuse me, have a significant impact.

2 Part of that should be qualified with, How
3 -- how do you define significance? Some people may say
4 fifty (50) cents isn't significant, some it is.

5 I think the comment is coming that in
6 comparison to operating costs and bad debt costs, it's
7 not nearly as large.

8 And when I first looking into this and
9 read E&Y report, it was, you know, it was an unusual
10 situation in -- in how this could even be, that a cost of
11 capital isn't having a large swing.

12 And it really is that because these are
13 small dollar, short loans, and the capital is used more
14 than once during the year -- because if you have a two
15 (2) week loan, you can use the same capital over and over
16 -- that that's why it doesn't have as large of impact as
17 you may first think it does.

18

19 (BRIEF PAUSE)

20

21 MS. ANITA SOUTHALL: Sir, if you could
22 turn to Tab 31 in the materials, please.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: And at Tab 31, I
2 believe it's the fourth page in, in the response to
3 PUB/CPLA-B-30, this is a reference to the Deloitte report
4 regarding bad debt costs.

5 And under Item sub (b) of that question,
6 you were able to provide us with a -- a chart of
7 information associated with the bad debt calculation,
8 correct?

9 MR. DEAN SCHINKEL: Correct.

10 MS. ANITA SOUTHALL: And you indicated
11 that in the answer, that this was based on four (4)
12 useable responses, correct?

13 MR. DEAN SCHINKEL: Correct.

14 MS. ANITA SOUTHALL: So of the five (5)
15 survey respondents -- and I know it's indicated in your
16 main report -- but you -- you had to exclude one of the
17 respondent's information because it wasn't reliable or
18 they weren't able to -- to provide you with the necessary
19 --

20 MR. DEAN SCHINKEL: The data on
21 collectibility --

22 MS. ANITA SOUTHALL: -- information?

23 MR. DEAN SCHINKEL: -- uncertainty over
24 what was collected and what wasn't. We didn't have
25 certainty over it, so therefore we excluded it.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: And the four dollars
4 and forty-nine cents (\$4.49) that was reported with a
5 slight adjustment to the value today, at the bottom of
6 that table, in the answer I was just referring to,
7 represents, I believe, about 17 percent of operating
8 costs in your analysis?

9 MR. DEAN SCHINKEL: I'm not --

10 MS. ANITA SOUTHALL: Right -- sorry, let
11 me just give you what -- what I understand it to be,
12 about 17 percent of the total cost of providing payday
13 loans per hundred (100), at twenty-six dollars and
14 eighty-seven cents (\$26.87).

15 MR. DEAN SCHINKEL: I can't do the math
16 in my head, but I'll take your word for it or I can do
17 the math.

18 MS. ANITA SOUTHALL: Well, if that's
19 wrong perhaps you could let us know through --

20 MR. DEAN SCHINKEL: So, four dollars and
21 forty-nine cents (\$49) divided by twenty-six, sixty-seven
22 (26.67), is that the math that's being --

23 MS. ANITA SOUTHALL: That's my
24 understanding, sir.

25 MR. DEAN SCHINKEL: Okay. Okay, I

1 believe Mr. Cathcart. Okay, they have the same number,
2 so I'll --

3 MS. ANITA SOUTHALL: So the answer's
4 "yes"?

5 MR. DEAN SCHINKEL: Yes.

6 MS. ANITA SOUTHALL: And can you comment
7 on how the exclusion of results of the one lender in the
8 survey affects the calculation you come to in terms of
9 this four dollars and forty-nine cent (\$4.49) value?

10 MR. DEAN SCHINKEL: I will respond; I
11 will be careful not to get into specifics to give data
12 away, but if I run the number and then there would be a
13 number in that we weren't certain of, I don't remember
14 the exact -- it almost has no change to that amount.

15 MS. ANITA SOUTHALL: So if you could just
16 turn to Tab 9 -- oh, pardon me, Tab 32, page 9. This is
17 -- again, this is the Deloitte report. At the bottom of
18 the page, sir, I believe is the information on the one
19 lender and the thirty-four thousand dollars (\$34,000) of
20 loan default.

21 Is that the reference to the excluded bad
22 debt information?

23 MR. DEAN SCHINKEL: That's getting at the
24 respondent, yes, that we do not use.

25 MS. ANITA SOUTHALL: So in your analysis,

1 sir, you removed all the data related to that one
2 respondent associated with the bad debt calculation?

3 MR. DEAN SCHINKEL: I don't have our
4 detailed calculations but, yes, removed his -- his debt
5 balance from that calculation.

6 (BRIEF PAUSE)

7

8 MS. ANITA SOUTHALL: Thank you for that,
9 sir, I was attempting to locate a reference to another
10 excerpt of the Ernst & Young study. If -- if I could
11 direct you back to -- I'm not sure even if you have
12 access to it in front of you. I need you to locate Tab 9
13 in our reference materials, so I'm going to locate that
14 for you.

15

16 (BRIEF PAUSE)

17

18 MR. DEAN SCHINKEL: Tab 9, I believe I
19 have it.

20 MS. ANITA SOUTHALL: At the very back of
21 Tab 9, there were two (2) other -- there were three (3)
22 other excerpts of the Ernst & Young study.

23 If -- if you could just attempt to locate
24 page 29 of the Ernst & Young study in that tab.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Sir, I think your
4 counsel is just going to retrieve for you a copy of the -
5 - of the actual Ernst & Young report.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: And sir, just --
10 just to take you to the right page, I believe it's page
11 29.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: And here I -- I'm
16 just directing you to Table 5(a).

17 MR. DEAN SCHINKEL: Okay.

18 MS. ANITA SOUTHALL: Do you see that?

19 MR. DEAN SCHINKEL: Yep.

20 MS. ANITA SOUTHALL: Thank you. And the
21 reason I'm directing you to the Ernst & Young report on
22 Table 5(a) is specifically to have you look at the bad
23 debt cost calculation for small businesses in -- in that
24 table.

25 Do you see that entry of four dollars

1 forty-seven cents (\$4.47)?

2 MR. DEAN SCHINKEL: Yes.

3 MS. ANITA SOUTHALL: And did you have --
4 have an opportunity to -- to compare the Ernst & Young
5 report to your ultimate findings in terms of your survey
6 sample?

7 MR. DEAN SCHINKEL: We didn't do a
8 specific comparison to try and -- and explain why there
9 was increases or decreases.

10 Our sample results -- we just compared
11 them to the overall range of responses E&Y got to make
12 sure that we didn't have something drastically higher or
13 lower than anything that had been seen in their study.

14 But we didn't do a specific explanation or
15 comparison for changes.

16 MS. ANITA SOUTHALL: And -- and finally
17 on this point, if I could ask you to turn in that same
18 tab -- or sorry, in the Ernst & Young report before you,
19 to page 31, and Table 5(b).

20 That is the table of weighted averages of
21 survey respondents for cost of providing payday loans by
22 type of cost and size of business.

23 And it indicates, on a weighted average
24 basis, bad debt cost for the small business category of
25 three dollars and eleven cents (\$3.11), correct?

1 MR. DEAN SCHINKEL: Table 5(b), three
2 eleven (3.11), correct.

3

4 (BRIEF PAUSE)

5

6 MS. ANITA SOUTHALL: And your calculation
7 was -- was a straight average. There was no attempt at
8 weighting, I take it, sir?

9 MR. DEAN SCHINKEL: Correct.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: Sir, if I could ask
14 you to turn all the way back to Tab 34, please.

15 Do you have that handy?

16 MR. DEAN SCHINKEL: Yes. Yep.

17 MS. ANITA SOUTHALL: Looking at the
18 second item in the chart, in the -- in the response to
19 this Information Request, the operating cost allocated to
20 payday lending portion of business entry is an aggregated
21 amount of \$2,136,036.

22 Correct?

23 MR. DEAN SCHINKEL: Correct.

24 MS. ANITA SOUTHALL: And that represents
25 87.28 percent of the revenues associated with a payday

1 lending for the operators in the survey sample?

2 MR. DEAN SCHINKEL: So it would represent
3 \$2,166,036 divided by two thousand, four hundred and
4 eight-one dollars (\$2,481) -- six hundred and four (604),
5 87.28 percent.

6 MS. ANITA SOUTHALL: So that's correct??

7 MR. DEAN SCHINKEL: Correct.

8 MS. ANITA SOUTHALL: The payday lending
9 revenue range in your sample, on a percentage basis based
10 on the information you were able to share with us,
11 indicated a high of 93 percent of revenues for one (1) of
12 the survey samples -- pardon me, one (1) of the
13 respondents in the survey samples and a low of 68.94
14 percent of revenue from payday -- from the payday line,
15 correct?

16 MR. DEAN SCHINKEL: Can you just refer me
17 to the --

18 MS. ANITA SOUTHALL: Sure, I'm going to
19 locate that. Just a moment.

20 MR. DEAN SCHINKEL: Okay. I believe I
21 know what you're referring to. Tab 31?

22 MS. ANITA SOUTHALL: Indeed, it is Tab
23 31, sir.

24 And it's the second page of Tab 31 in a --
25 in a table where you were able to provide percentage of

1 weightings from different --

2 MR. DEAN SCHINKEL: -- other ranges --

3 MS. ANITA SOUTHALL: -- transactions for
4 a business.

5 MR. DEAN SCHINKEL: Sixty-eight point
6 nine (68.9) to ninety-four point eight (94.8).

7

8 (BRIEF PAUSE)

9

10 MS. ANITA SOUTHALL: I stand corrected,
11 yes. Are -- are the items across the top, are those --
12 pardon me, are those the five (5) samples of operators?
13 Reference to the five (5) operators?

14 MR. DEAN SCHINKEL: Yes.

15 MS. ANITA SOUTHALL: And as you mentioned
16 a moment ago, then, the high for payday lending as a
17 volume of total business would actually be 94.88 percent
18 operator Number 4?

19 MR. DEAN SCHINKEL: Yes.

20 MS. ANITA SOUTHALL: And the low would be
21 operator Number 5 at 68.94 percent of a total revenue for
22 payday lending?

23 MR. DEAN SCHINKEL: Yes.

24

25 (BRIEF PAUSE)

1 MS. ANITA SOUTHALL: So, sir, for
2 example, operator Number 4, at 94.88 percent payday
3 lending volume of overall business, would that skew the
4 average if you're -- if you're including it in a size of
5 sample of only five (5) operators?

6 MR. DEAN SCHINKEL: I guess I'm not
7 clear. Skew the sample in which -- in which way?

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: The -- the question
12 is whether or not operator Number 4, at -- if operator
13 Number 4 is in the -- is a larger operation, is in the
14 medium-size business category, for example, at 94.8
15 percent -- pardon me, 94.88 percent of payday lending
16 volume as total volume of business, would that have the
17 potential of skewing up the overall calculation of
18 operating costs in your analysis?

19 MR. DEAN SCHINKEL: It's -- so in example
20 Number 4, 94.8 percent of the operating costs would be
21 allocated to the payday -- payday lending.

22 However, you also might make the
23 assumption, then, that they have more payday loans that
24 they give out. So you'd be dividing a higher number into
25 a higher number.

1 And so it doesn't necessarily skew the
2 results.

3 MS. ANITA SOUTHALL: We -- we don't have
4 the information to test that though, sir, do we? Based
5 on what you've shared?

6 MR. DEAN SCHINKEL: No. But it doesn't
7 necessarily mean -- the percentages here doesn't mean
8 that it necessarily skews, because that's why we
9 allocated operating costs between the service line,
10 between the different the lines of business, so that you
11 would just be trying to look at the payday lending
12 portion.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: So, sir, following
17 through on the answer you provided at Tab 34, again, that
18 table that I've been taking you through from time to time
19 in terms of -- of calculation of the overall cost per
20 hundred dollars (\$100).

21 After the -- and we talked about the
22 operating costs just a moment ago and that based on -- on
23 the payday lending portion of business, the next entry of
24 adjusted operating costs we've -- we've talked about and
25 you've highlighted in your evidence.

1 And that takes us to the net payday loan
2 operating costs of \$1,649,174, correct?

3 MR. DEAN SCHINKEL: Correct.

4 MS. ANITA SOUTHALL: And ultimately, if -
5 - if you do the further calculations, we then get to
6 operating costs per hundred dollars (\$100) of loan, which
7 you've identified as twenty dollars ninety five cents
8 (\$20.95), correct?

9 MR. DEAN SCHINKEL: Correct.

10

11 (BRIEF PAUSE)

12

13

14 MS. ANITA SOUTHALL: You've explained to
15 us the cost of loan capital amount, which -- which is
16 added to the operating cost.

17 And the cost loan capital you've
18 identified on the chart is sixty-eight (68) cents?

19 MR. DEAN SCHINKEL: Correct.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: How was the
24 supplementary capital value calculated?

25 MR. DEAN SCHINKEL: So, as explained in

1 our report, it's the -- the value of the -- and maybe I
2 can just reference that, so we can...

3 MS. ANITA SOUTHALL: Absolutely. Tab 32.

4

5 (BRIEF PAUSE)

6

7 MR. DEAN SCHINKEL: So the -- the --
8 there's two (2) components: the fixed assets component
9 and then what I would call cash on hand needed to be able
10 to provide payday loans.

11 So the fixed asset balance we allocated to
12 this supplementary capital based on the payday lending
13 revenue split, the same way we discussed before, and then
14 the cash on hand balance.

15 We discuss in here that some lenders may
16 hold large amounts of cash, redundant cash, and that we
17 would ignore that. We didn't actually have that in ours,
18 but we did address it in case that came up.

19 We then look at the greater of cash
20 allocated to payday lending, based on the percentage used
21 or one-twenty-sixth (1/26) of loans issued in the year.

22 And I -- I don't have the data in front of
23 me, but I believe it was the one-twenty-sixth (1/26) for
24 all of the majority of our respondents.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: So we get to, again,
4 back to Tab 34 and the chart. We get to cost of
5 supplementary capital at -- sorry, cost of supplementary
6 capital per hundred dollars (\$100) of loan at seventy-
7 five (75) cents, correct?

8 MR. DEAN SCHINKEL: Yes.

9 MS. ANITA SOUTHALL: And then finally,
10 add to that what we've discussed as the cost of bad
11 debts, with a -- with a slight two (2) cent adjustment
12 today, but --

13 MR. DEAN SCHINKEL: Correct.

14 MS. ANITA SOUTHALL: -- it's represented
15 in the chart as four dollars and forty-nine cents
16 (\$4.49)?

17 MR. DEAN SCHINKEL: Correct.

18 MS. ANITA SOUTHALL: And all of those
19 then added together lead to the -- the cost per hundred
20 dollars (\$100) for -- for the average loan of twenty-six
21 dollars, eighty-nine cents (\$26.89)?

22 MR. DEAN SCHINKEL: Correct.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: If I could then ask
2 you to turn to page 11 of your report, sir, at Tab 32.

3

4 (BRIEF PAUSE)

5

6 MS. ANITA SOUTHALL: Page 11 contains a
7 summary of what we've just reviewed in -- in your
8 Information Response at the top, is that right?

9 MR. DEAN SCHINKEL: Yes.

10 MS. ANITA SOUTHALL: And then the graph
11 below that indicates cost per hundred dollars (\$100) loan
12 based on dollar volume per store.

13 Do you see that graph, sir?

14 MR. DEAN SCHINKEL: Yes.

15 MS. ANITA SOUTHALL: Could you tell us
16 the actual numbers used to plot the graph for each of the
17 entries of those four (4) operators?

18 MR. DEAN SCHINKEL: Those numbers I don't
19 have before me, but I can confer with counsel in
20 undertaking.

21

22 (BRIEF PAUSE)

23

24 MR. ALLAN FORAN: Agreed.

25 MS. ANITA SOUTHALL: Okay, we would

1 appreciate that if you could provide them through counsel
2 for CPLA.

3 MR. DEAN SCHINKEL: Agreed.

4
5 --- UNDERTAKING NO. 17: Mr. Dean Schinkel to provide
6 the actual numbers used to
7 plot the graph which
8 indicates cost per hundred
9 dollars (\$100) loan based on
10 dollar volume per store.
11 (Taken under advisement)

12
13 (BRIEF PAUSE)

14
15 CONTINUED BY MS. ANITA SOUTHALL:

16 MS. ANITA SOUTHALL: And, sir, still
17 looking at the graph and the plot points, there are three
18 (3) plotted points that are at twenty-five dollars (\$25)
19 or below in terms of cost per hundred dollar (\$100) loan.

20 Do you see that?

21 MR. DEAN SCHINKEL: Yes.

22 MS. ANITA SOUTHALL: And there is one (1)
23 that appears to be -- and we'll see the actual number,
24 but for graphical purposes, appears to be at thirty
25 dollars (\$30), correct?

1 MR. DEAN SCHINKEL: Correct.

2 MS. ANITA SOUTHALL: With respect to only
3 four (4) points, does the thirty dollar (\$30) plot point
4 on an average basis bring the others up to a higher
5 amount? If -- if you're running an average on four (4)
6 numbers?

7 MR. DEAN SCHINKEL: If I -- I'll just
8 restate it a bit. If I pulled the thirty (30) out, the
9 number would come down.

10 MS. ANITA SOUTHALL: Right.

11 MR. DEAN SCHINKEL: Yes.

12 MS. ANITA SOUTHALL: That was -- that was
13 another way of putting it.

14 MR. DEAN SCHINKEL: Okay.

15 MS. ANITA SOUTHALL: Thank you. Averages
16 are -- of small samples are problematic, sir, are they
17 not for -- for that reason?

18 MR. DEAN SCHINKEL: I think it gets back
19 to our earlier discussion of representative. And if you
20 have a response that can move the numbers, you know, then
21 any response that gets added or gets deleted can change
22 the number.

23 MS. ANITA SOUTHALL: And what would the
24 median be of these plot points of these -- of these four
25 (4) items? Can you tell us that as opposed to the

1 average?

2 MR. DEAN SCHINKEL: When you say median,
3 just the -- the simple average or the -- what are you --

4 MS. ANITA SOUTHALL: I think it's the --
5 my understanding is is it's the middle --

6 MR. DEAN SCHINKEL: A middle number?

7 MS. ANITA SOUTHALL: -- the middle number
8 of the four (4).

9 MR. DEAN SCHINKEL: To give an exact, I
10 would need the exact plots again.

11 MS. ANITA SOUTHALL: Right. Could you --

12 MR. DEAN SCHINKEL: It would be -- it
13 would be around that twenty-five dollars (\$25) amount,
14 just by looking at it here.

15 MS. ANITA SOUTHALL: If -- if you could
16 undertake to provide us the median -- that -- that should
17 be obvious, I would think, from the -- from --

18 MR. DEAN SCHINKEL: Correct.

19 MS. ANITA SOUTHALL: -- obtaining the
20 exact figures for these plots?

21 MR. DEAN SCHINKEL: Correct.

22 MS. ANITA SOUTHALL: Thank you.

23

24 --- UNDERTAKING NO. 18: Mr. Dean Schinkel to provide
25 the median value for the four

1 plot points on the graph

2

3 (BRIEF PAUSE)

4

5 CONTINUED BY MS. ANITA SOUTHALL:

6 MS. ANITA SOUTHALL: Sorry, just in
7 respect of this chart, even though you've plotted four
8 (4) points, would the median be based on five (5)?

9 MR. DEAN SCHINKEL: No. And I was
10 actually just raising -- I was going to ask that how to
11 do a median on four (4) -- on four (4) points, because we
12 only have the four (4) on this graph, so...

13 MS. ANITA SOUTHALL: And why is the fifth
14 one not plotted on this graph?

15 MR. DEAN SCHINKEL: The fifth one is we
16 didn't use the -- for bad debts we didn't use the one (1)
17 respondent. So if the bad debt graph only has four (4),
18 we only wanted to show four (4) in the total on this one
19 as well.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Sorry, if I
24 understand you correctly, then for the overall costs
25 plotting of the graph on page 11 -- because bad debt

1 costs had to be excluded from one (1) entry -- you
2 thought it would not be proper to represent that plot
3 point on that graph?

4 MR. DEAN SCHINKEL: So the table on 5.1,
5 if I refer to that, operating costs uses five (5)
6 responses, bad debt four (4). So when we were doing a
7 total, as we didn't have the fifth response, we didn't
8 plot it out to be consistent.

9

10 (BRIEF PAUSE)

11

12 MS. ANITA SOUTHALL: So, sir, if we could
13 turn to the graph at the top of page 12 of the report,
14 under "Operating Costs."

15 MR. DEAN SCHINKEL: Okay.

16 MS. ANITA SOUTHALL: Again, if you could
17 undertake to provide us with the specific numbers that
18 lead to the plot points on the graph, please?

19 MR. DEAN SCHINKEL: Okay.

20

21 --- UNDERTAKING NO. 19: Mr. Dean Schinkel to provide
22 specific numbers that lead to
23 plot points on the graph at
24 the top of page 12 of the
25 report.

1 (BRIEF PAUSE)

2

3 CONTINUED BY MS. ANITA SOUTHALL:

4 MS. ANITA SOUTHALL: And -- and, sir, I
5 don't know if I asked it before I went off the record,
6 but if you could also provide us with a median for this
7 particular representation, once you have the numbers
8 available to you?

9 MR. DEAN SCHINKEL: Okay.

10

11 --- UNDERTAKING NO. 20: Mr. Dean Schinkel to provide
12 a median for plot points on
13 the graph.

14

15 (BRIEF PAUSE)

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: Now, sir, turning
19 back to the previous page, we have an average operating
20 cost per hundred dollar (\$100) loan of twenty dollars and
21 ninety-five cents (\$20.95), correct?

22 MR. DEAN SCHINKEL: Yes.

23 MS. ANITA SOUTHALL: We have, though, on
24 the graph shown with the plotting on page 12, an
25 indication that two (2) of the operators are -- one (1)

1 appears to be at fifteen dollars (\$15), one (1) appears
2 to be just over fifteen dollars (\$15).

3 Is that correct?

4 MR. DEAN SCHINKEL: Correct.

5 MS. ANITA SOUTHALL: And then looking at
6 the other three (3) points that are plotted, one (1)
7 appears to be just under twenty-five dollars (\$25), one
8 (1) just, perhaps, around the twenty-one dollar (\$21)
9 range, and then another one that appears to be twenty
10 dollars (\$20), correct?

11 MR. DEAN SCHINKEL: Correct.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: And, sir, if we
16 could look at the bad debt costs plotting at the bottom
17 of page 12. Do you see that graph, sir?

18 MR. DEAN SCHINKEL: Yes.

19 MS. ANITA SOUTHALL: And again, are there
20 four (4) plot points because of the one (1) excluded
21 operator on bad debt information?

22 MR. DEAN SCHINKEL: Correct.

23 MS. ANITA SOUTHALL: So we have here a
24 depiction, sir, of two (2) plot points at -- sorry one
25 (1) under two dollars and fifty cents (\$2.50) per hundred

1 (100), correct?

2 MR. DEAN SCHINKEL: Correct.

3 MS. ANITA SOUTHALL: One (1) apparently
4 at two dollars and fifty cents (\$2.50), at the far right
5 of the graph, correct?

6 MR. DEAN SCHINKEL: Approximately, yes.

7 MS. ANITA SOUTHALL: And then we have one
8 (1) that is between four fifty (4.50) and five fifty
9 (5.50) per hundred (100), correct?

10 MR. DEAN SCHINKEL: Correct.

11 MS. ANITA SOUTHALL: And then the
12 highest, which is to the far left, at over six dollars
13 and fifty cents (\$6.50) per hundred (100), correct?

14 MR. DEAN SCHINKEL: Correct.

15 MS. ANITA SOUTHALL: Could you provide us
16 with those plot points as well for -- for the points
17 shown on the graph?

18 MR. DEAN SCHINKEL: I'll refer to counsel
19 -- I'll refer to counsel that -- yes.

20 MS. ANITA SOUTHALL: And again, we're
21 looking for the median, if -- if you can provide us with
22 that as well? Is that possible, sir?

23 MR. DEAN SCHINKEL: So you want the --
24 just some I'm clear, the -- the median or middle number
25 out of the -- so if we plotted five (5) numbers and they

1 were one (1), two (2), three (3), four (4), five (5),
2 meaning number three (3) for the median? I just want to
3 be very clear.

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: I understand it to
8 be the middle number --

9 MR. DEAN SCHINKEL: Okay. Just -- I
10 don't believe --

11 MS. ANITA SOUTHALL: -- and not the
12 average.

13 MR. DEAN SCHINKEL: -- I don't believe I
14 could do a median on four (4) numbers, so...

15 MS. ANITA SOUTHALL: Okay. That's fine,
16 if that's your answer.

17 MR. DEAN SCHINKEL: Okay.

18 MS. ANITA SOUTHALL: Thank you.

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: While they are
23 conferring, Mr. Schinkel, just a question standing back
24 and looking at this.

25 When you are looking on page 12 of your

1 report, this one operation you have got plotted at a
2 volume of around three hundred and some thousand dollars,
3 at fifteen dollars (\$15), you are saying that that
4 operation is running on an annual basis at a total cost
5 of approximately forty-five thousand dollars (\$45,000) in
6 total?

7 With presumably salaries, rent, utilities,
8 the works?

9 MR. SCHINKEL: Yes. And that was a very,
10 very small operator.

11 THE CHAIRPERSON: Would you call it part-
12 time, or...?

13 MR. SCHINKEL: I don't know their hours
14 of operation, but you probably almost could.

15 THE CHAIRPERSON: Thank you.

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: So, Mr. Schinkel,
19 just back to the bad debt plotting at the bottom of page
20 12 on that graph.

21 Would -- would you consider the bad debt
22 plot point of over six dollars fifty cents (\$6.50) per
23 hundred (100) to be an outlier in the analysis?

24 MR. DEAN SCHINKEL: It's a difficult
25 question to answer. And I -- and I did try and have

1 discussions with them to find out. I -- the -- the one
2 issue I had is I couldn't tell the person that was six
3 fifty (6.50), You know, the other responses are two fifty
4 (2.50) or three fifty (3.50). Why are you so much
5 higher?

6 So I tried to understand it. From
7 talking, actually, to some of the ones that are lower, I
8 got the sense that it could be -- and -- and this is not
9 -- I won't say a -- in my report, are based on facts, but
10 I'll just say it's what I've heard.

11 Different credit granting policies, how
12 restrictive they are and who they're giving loans to,
13 could change that.

14 So you could look at it and say, Well
15 that's much higher. But it could also be because of the
16 -- who they're lending money to, their follow-up
17 procedures, just how -- how well they run their -- their
18 credit follow up could lead to that.

19 So it is higher, and it makes it look like
20 an outlier, but it could easily be because of their
21 business practices.

22 MS. ANITA SOUTHALL: So that figure,
23 though, that plot point certainly brings up the total
24 average cost of bad debt. Correct?

25 MR. DEAN SCHINKEL: Again, if you took

1 that out, it would come down. If you took out one (1) of
2 the low ones, it would go up.

3 MS. ANITA SOUTHALL: And just -- just
4 brought to mind another question I wanted to ask of you,
5 which is that you didn't consider the efficiencies of the
6 businesses that were surveyed, I take it?

7 MR. DEAN SCHINKEL: No, we weren't --

8 MS ANITA SOUTHALL: In other words,
9 whether or not they were operating their businesses
10 efficiently from a -- from a strictly operational point
11 of view?

12 MR. DEAN SCHINKEL: We weren't in a
13 position to -- to make an assessment of that, no.

14

15 (BRIEF PAUSE)

16

17 MS. ANITA SOUTHALL: So just to finish,
18 sir. We're looking at these graphs all the way back to
19 page 11.

20 Four (4) samples for bad debt costs, five
21 (5) samples for operating costs, again, four (4) samples
22 for the overall costs.

23 In your opinion how representative of this
24 -- is this information of the Manitoba payday lending
25 market right now?

1 MR. DEAN SCHINKEL: I can't give an
2 opinion as, you know, how representative or what the
3 actual number is.

4 I think from what our basis of our report
5 is -- and we hope that it provides, you know, factual
6 data from actual providers and can give information on
7 that to -- as for it's -- it's further information.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: So you're not able
12 to confirm it's representative? I mean, I think we
13 gather that from your earlier evidence --

14 MR. DEAN SCHINKEL: And actually --

15 MS. ANITA SOUTHALL: -- but I just want
16 to be sure.

17 MR. DEAN SCHINKEL: -- yeah. No, just as
18 our report states, that this may not be representative.

19 MS. ANITA SOUTHALL: Thank you for your
20 patience, Mr. Schinkel. Those are my questions.

21 MR. DEAN SCHINKEL: Thank you.

22 THE CHAIRPERSON: Thank you, Ms.
23 Southall. We will have our lunch break now, and when we
24 come back, we will be over to Mr. Williams.

25 Or do you have more?

1 MS. ANITA SOUTHALL: Well, I have more
2 cross-examination on the CPLA panel, Mr. Chairman.

3 THE CHAIRPERSON: Oh, right. I
4 apologize.

5 MS. ANITA SOUTHALL: That's fine.

6 THE CHAIRPERSON: I got ahead of myself.
7 Okay. We're back with Ms. Southall after lunch.

8 MS. ANITA SOUTHALL: Thank you.

9
10 --- Upon recessing at 12:00 p.m.

11 --- Upon Resuming at 1:18 p.m.

12
13 THE CHAIRPERSON: Whenever you are ready,
14 Ms. Southall.

15
16 (BRIEF PAUSE)

17
18 CONTINUED BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: Good afternoon, Dr.
20 Gould. And my next set of questions are going to be for
21 you, sir.

22 So firstly, if I could ask you to turn to
23 Tab 36 in the reference materials, which is your report,
24 as I understand it?

25 DR. LAWRENCE GOULD: Yes, I have it.

1 MS. ANITA SOUTHALL: And if you could
2 turn to Tab 4 -- pardon me, page 4 of the report you've
3 identified for us already, but I just want to -- to
4 recount for a moment the characteristics you've
5 identified for payday loans.

6 And, under that heading, the first
7 paragraph indicates, as you did yesterday, that a payday
8 loan is a small, short-term loan that is intended to
9 cover a borrower's unanticipated expenses until the next
10 payday.

11 Do you see that?

12 DR. LAWRENCE GOULD: Yes, I do.

13 MS. ANITA SOUTHALL: So you've indicated
14 two (2) particular characteristics in that it is a -- a
15 small loan amount and the typical payday loan would be
16 three hundred dollars (\$300), correct?

17 DR. LAWRENCE GOULD: Yes.

18 MS. ANITA SOUTHALL: And it's a very
19 short-term loan as well, sir, correct?

20 DR. LAWRENCE GOULD: Correct.

21 MS. ANITA SOUTHALL: You've indicated it
22 as not designed to be a revolving credit.

23 Do you see that?

24 DR. LAWRENCE GOULD: Yes.

25 MS. ANITA SOUTHALL: And what do you mean

1 by that, sir?

2 DR. LAWRENCE GOULD: I mean that it's
3 not intended to be a permanent source of financing. It's
4 to take care of events that come up, are dealt with, and
5 then repaid.

6 MS. ANITA SOUTHALL: And, sir, to the
7 extent that -- I guess I'm -- I'm trying to understand
8 "revolving" would indicate a loan that would extend over
9 a period of time, or do you mean something else by the
10 term "revolving"?

11 DR. LAWRENCE GOULD: I -- I mean that
12 it's not intended to be a permanent source of financing.

13 MS. ANITA SOUTHALL: To the extent that
14 repeat users take out frequent payday loans, would that
15 become a type of permanent credit or revolving credit?

16 DR. LAWRENCE GOULD: Well, certainly
17 under some definition it would be. If individuals use it
18 for a purpose other than it was intended, it could be
19 continually renewed.

20 MS. ANITA SOUTHALL: And I take from your
21 evidence that that's not what the product is designed
22 for? It ought not to be used that way?

23 DR. LAWRENCE GOULD: In my opinion,
24 that's correct.

25 MS. ANITA SOUTHALL: Sir, at page 5 of

1 your report, please?

2 I'm just going to locate the section I
3 want to refer you to. Yes, it's something you commented
4 on in your oral evidence. But at the second paragraph on
5 page 5, the last sentence:

6 "There is no meaning to annualizing the
7 cost of a one (1) or two (2) week loan
8 or compounding it to an annual figure
9 as an effective annual return."

10 And -- and I take it that's your position
11 based on your evidence yesterday?

12 DR. LAWRENCE GOULD: Yes, but just to be
13 specific, no meaning within the context of annualizing
14 the cost of a payday loan. There is a use for effective
15 annual return.

16 MS. ANITA SOUTHALL: Thank you for that
17 clarification. That -- that is what I was getting at,
18 sir, thank you. Nevertheless, sir, you -- you do
19 indicate that you acknowledge that this is a high cost
20 loan, this payday product type of loan, correct?

21 DR. LAWRENCE GOULD: It is.

22 MS. ANITA SOUTHALL: And I'll suggest to
23 you that an annualized interest rate indicates to the
24 borrower that this is an expensive type of loan by
25 comparison to other types of loans.

1 Do you agree?

2 DR. LAWRENCE GOULD: Well, I've tried to
3 make it clear. I don't think that that's a very good way
4 to assess the cost of the loan. I think the cost of the
5 loan can be assessed by its cost, in dollar terms,
6 compared to other loans of similar term.

7 MS. ANITA SOUTHALL: But an annual
8 percentage rate -- when you see the total cost of -- of
9 an annual percentage of rate of a payday loan as compared
10 to other types of short-term credit, that is one
11 indicator of the significant difference in the cost of
12 the payday loan compared to other short-term options.

13 Isn't that right?

14 DR. LAWRENCE GOULD: Well, I -- I've
15 already tried to explain my position on this. I -- I
16 think that when you look at the dollar cost, you can
17 compare it to the dollar cost for similar types of loans.
18 That, to me, tells you whether it's relatively expensive
19 or cheap.

20 I don't like annualizing it, and the
21 example I gave yesterday was the hotel room cost. It
22 just doesn't make any sense to me. There's no context
23 for it.

24 MS. ANITA SOUTHALL: And if a consumer
25 wanted to compare that loan cost to a line of credit

1 advance, let's say, how would they easily obtain the cost
2 of a line of credit advance from their bank or credit
3 union in terms of a specific dollar amount over a two (2)
4 week period?

5 DR. LAWRENCE GOULD: Well, they -- they
6 would be able to calculate exactly what the dollar costs
7 of that advance would be, and that could be compared to
8 the cost of the payday loan.

9 MS. ANITA SOUTHALL: So that would
10 require a calculation taking their line of credit, for
11 example, on a percentage basis and working their own
12 numbers out to get back to an absolute dollar figure over
13 a two (2) week period?

14 DR. LAWRENCE GOULD: Yes, or -- which is
15 no worse than taking the dollar figure of the payday loan
16 and trying to convert it into some sort of percentage.
17 You could do it either way, I guess.

18 MS. ANITA SOUTHALL: From a consumer
19 point of view, sir, I take it you would agree that more
20 disclosure and more information is better when the person
21 is attempting to weigh their options in terms of
22 borrowing and analyze the cost?

23 DR. LAWRENCE GOULD: I would definitely
24 agree. The more information the better.

25 MS. ANITA SOUTHALL: Could I just use

1 another example, a credit card borrowing from on -- on a
2 major credit card?

3 Again that's, I take it, normally the --
4 the loan agreement would be on an annual percentage rate
5 basis. And you then be required to do a calculation to
6 come to an absolute dollar amount for a certain value of
7 advance over a two (2) week period?

8 DR. LAWRENCE GOULD: Yes, but,
9 interestingly enough, for -- for the credit cards they --
10 they quote the rate -- they don't quote the rate on an
11 annual basis for the calculation, although they do
12 provide -- they provide a -- an annual cost. But they
13 quote it in terms of cost per month, percentage cost per
14 month.

15 MS. ANITA SOUTHALL: At page 5 of your
16 report, sir, you make reference to the mortgage example
17 in terms of the administration fee cost at the bottom of
18 the page.

19 Do you see that, sir?

20 DR. LAWRENCE GOULD: Yes, I do.

21 MS. ANITA SOUTHALL: And you agree that a
22 mortgage is not a comparable product to a payday loan
23 product, correct?

24 DR. LAWRENCE GOULD: Correct. All I was
25 doing in this paragraph was trying to illustrate the

1 effect of size.

2 MS. ANITA SOUTHALL: Right, well one
3 other thing I think you were attempting to illustrate was
4 the value of the administration fee over the cost of the
5 product for the loan, correct?

6 DR. LAWRENCE GOULD: Yes, but that's what
7 I mean by size. That because of the small payday loan
8 size, an administrative cost has a much bigger effect
9 than it would on a large mortgage in terms of percentage
10 costs.

11 MS. ANITA SOUTHALL: Right, and if
12 someone was taking out a number of payday loans in a one
13 (1) year period, they would be paying the administration
14 fee every time they went in to take out another loan.

15 Do you understand that to be the case?

16 DR. LAWRENCE GOULD: It would be -- yes.
17 It would be -- as a -- as a cost, it would be higher.

18

19 (BRIEF PAUSE)

20

21 MS. ANITA SOUTHALL: And, sir, whatever a
22 payday lender identifies as the charge for a particular
23 loan, the total cost of borrowing is what the consumer
24 needs to know in order to compare the loan product to any
25 other loan product.

1 Do you agree?

2 DR. LAWRENCE GOULD: The total cost, yes.

3 MS. ANITA SOUTHALL: So if the borrower
4 is required to pay an administration fee or a cheque
5 cashing fee or any other type of fee to obtain the payday
6 loan, that should be factored into the analysis for their
7 total cost of borrowing.

8 Do you agree?

9 DR. LAWRENCE GOULD: I would agree.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: Sir, historically,
14 annual percentage rates have been a measure of loan
15 products long before the payday lending industry started
16 in Canada.

17 Do you agree?

18 DR. LAWRENCE GOULD: Yes. Usually for
19 loans of a year or more.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Consumers understand
24 an -- annual percentage rate, generally speaking. Would
25 you agree?

1 DR. LAWRENCE GOULD: Yes.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: Dr. Gould, could you
6 turn to page 6 of your report please, sir.

7 And in your conclusions, you turn to --
8 what I understood from your oral evidence and from your
9 written report -- the focus on the problem of determining
10 the fee necessary to cover the cost of the payday loan
11 and provide a fair rate of return on capital to the
12 payday loan companies.

13 That -- that becomes the focus. After
14 examining the difficulty of the interest rate issue that
15 we've just covered, you then indicate that the focus will
16 be on determining the fee necessary to cover the cost of
17 the payday loan and provide a fair rate of return on
18 capital to the payday loan companies.

19 Correct?

20 DR. LAWRENCE GOULD: Correct. For --
21 from the per -- from my point of view in this report,
22 that's what I was trying to do.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: It may be as a
2 result of the nature of your engagement, sir, and -- and
3 if it is, you know, please indicate that.

4 But I don't see anything in your report
5 that indicates the interests or the concerns of borrowers
6 or what their place in the loan transaction is in terms
7 of the rate recommendation that you've made.

8 DR. LAWRENCE GOULD: Well, I -- I think
9 it's implicit in the statement of fair rate of return on
10 capital.

11 MS. ANITA SOUTHALL: Well, maybe you
12 could elaborate on that then, sir?

13 DR. LAWRENCE GOULD: Well, in other
14 words, it's trying to establish a rate that pro --
15 provides fair -- fair means, fair both to the borrower
16 and lender.

17 That -- that would be my definition of
18 fair.

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: Now, sir, if you
23 could turn to page 7 of your report under the heading,
24 "III: Problems in Regulating Payday Loan Fees."

25 DR. LAWRENCE GOULD: Yes.

1 MS. ANITA SOUTHALL: You close off that
2 paragraph by saying that there are differences, and --
3 and maybe you're only referring to the sentences above
4 that, but -- but you indicate:

5 "These differences indicate that
6 regulating payday lending will involve
7 difficult choices."

8 And I -- and you touched on this, I
9 believe, when you were -- in your oral evidence, and
10 certainly you've covered it in your report, I believe.
11 But I just want to be clear I understand what you mean by
12 difficult choices.

13 Is it the issue of that there are a group
14 of companies with different structures and different
15 costs of operations and that it will be difficult to set
16 a rate that considers all of those various structures?

17 DR. LAWRENCE GOULD: That's correct.
18 They have -- as a -- I was using the example of a public
19 utility, a single monopoly provider of service. Here you
20 have a group of companies, possibly different cost
21 structures, different risks, different capital
22 structures.

23 It is a difficult decision for the Board.

24 MS. ANITA SOUTHALL: And, sir, could you
25 turn to page 9 of the report, please? This would be the

1 second full paragraph on the page.

2 And the paragraph starts out,

3 "The differences with the Public
4 Utility case are apparent," --

5 DR. LAWRENCE GOULD: Yes.

6 MS. ANITA SOUTHALL: -- and then we --

7 and then you talk about -- and then you go into the fact
8 that each company may have a different cost structure.

9 The -- the next sentences and the sentence
10 after that are the ones that I want to key in on for the
11 moment:

12 "A company may choose to provide
13 service in a higher-cost location with
14 longer hours of service with short wait
15 times to high-risk borrowers. As a
16 result it will have higher costs but it
17 is not operating inefficiently."

18 Do you see that?

19 DR. LAWRENCE GOULD: Yes, I do.

20 MS. ANITA SOUTHALL: Could you explain
21 what you mean by that statement?

22 DR. LAWRENCE GOULD: I think that
23 companies can choose along different types of borrowers,
24 that they can have more stringent requirements for
25 granting a loan.

1 Some may choose to lend to only the lower-
2 risk borrowers. Others may be willing to take some cus -
3 - some people for loans that other companies would
4 reject. That may lead to higher costs.

5 I don't consider that being inefficient.
6 It means that they're providing a service to a different
7 class or borrower.

8 Similarly, providing longer hours of
9 service is a choice that can be made at a higher cost.

10 MS. ANITA SOUTHALL: And in the last line
11 of that paragraph, sir, there's the statement:

12 "Second, each company may have a
13 different fair rate of return depending
14 on its own particular risk and capital
15 structure."

16 And, sir, if you wouldn't mind elaborating
17 on what you mean in that statement?

18 DR. LAWRENCE GOULD: Again, if a company
19 chooses to make loans which are riskier than another
20 company, they would increase their risk of bad debt loss
21 and so on.

22 If they choose to borrow, as opposed to
23 use all equity, they will increase the risk as well
24 through leverage. And both of those things affect both
25 the cost of equity and the cost of debt.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: And I take it from
4 your earlier comment that in every one of those case,
5 albeit that they are different, the fair rate of return
6 on equity factors in the borrower's decision to source
7 their loan at a particular entity regardless of the -- of
8 the cost of the loan?

9 DR. LAWRENCE GOULD: I'm -- I got a
10 little lost in your question. Could you repeat that
11 again?

12 MS. ANITA SOUTHALL: Just drawing on your
13 -- your early def -- earlier definition when asked about,
14 Where does the borrower fit in the transaction?

15 And you indicated a fair rate of return
16 takes into account fairness to the --

17 DR. LAWRENCE GOULD: Oh.

18 MS. ANITA SOUTHALL: -- borrower.

19 DR. LAWRENCE GOULD: So --

20 MS. ANITA SOUTHALL: So just -- just
21 focusing back on that concept for a moment, the fact that
22 there are a variety of different cost structures and a
23 variety of different fair rates of return on capital for
24 different operators of payday lenders, regardless of --
25 of the fact that there is variability there, the -- the

1 fair rate of return in every instance will have
2 incorporated in it fairness to the borrower as well?

3 DR. LAWRENCE GOULD: Correct.

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: Is it possible for
8 you to give us a definition of "operational efficiency"
9 in this industry?

10 The things that you would look for which
11 would be hallmarks of efficiency versus some of this
12 variability we've just been discussing?

13

14 (BRIEF PAUSE)

15

16 DR. LAWRENCE GOULD: Well I -- I didn't
17 have any data on the individual company stores, so I
18 really never addressed that issue in my report.

19 I imagine -- well, I'd just be speculating
20 without any data that you could develop measures for the
21 company in terms of their lending procedures and so on.
22 But I didn't have that data.

23 MS. ANITA SOUTHALL: Are you able to
24 identify -- I'm -- I'm talking now just in principle as
25 opposed to any of the particular payday lenders operating

1 in Manitoba for instance at a higher level than that just
2 in terms of the principles of operational efficiency.

3 It may not be so easy to define them
4 without understanding the -- the industry that you're
5 talking about. I'm not sure, so that's why I'm asking
6 the question.

7 Are there hallmarks or factors that are
8 normally considered for operational efficiency of a
9 business?

10 And if so are you able to identify what
11 one would look at?

12 DR. LAWRENCE GOULD: Well, as I said, you
13 could certainly examine the lending and bad debts policy
14 for the company.

15 You could -- if you had data to -- of what
16 is efficient with respect to staff for volume of business
17 and other indicators like that.

18 MS. ANITA SOUTHALL: Thank you for that,
19 sir.

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: Sir, at page 10 of
23 your report, please? Towards the end of the paragraph
24 you make an -- and again you did comment on this in your
25 oral evidence.

1 You indicate that,

2 "unlike the corrections that may take
3 place with regulatory lag in the public
4 utility case, there is no correction
5 for the payday loan companies with a
6 cost structure above that assumed in
7 the Board's decision."

8 Do you see that point?

9 DR. LAWRENCE GOULD: Yes, I do.

10 MS. ANITA SOUTHALL: And I think you were
11 really indicating in your oral evidence, on that point,
12 that if a company cannot recover its costs and make a
13 fair return below the maximum rate that the Board would
14 ultimately set by order, you anticipate that that company
15 may exit the market.

16 Is that fair?

17 DR. LAWRENCE GOULD: That is fair, and
18 what -- what I was saying was that it wasn't apparent to
19 me, at least, that if the -- the Board is going to hold
20 hearings at intervals of, say, three (3) years that there
21 would be immediate redress for companies that fell below
22 that line.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: Thank you, Dr.
2 Gould. I just wanted to take a moment to -- to consider
3 the question I want to pose to you on consideration of
4 the Ernst & Young report.

5 You did prepare certain tables in your
6 PowerPoint presentation. And do you have a copy of that
7 available to you?

8 DR. LAWRENCE GOULD: Yes, I do.

9 MS. ANITA SOUTHALL: If you could look at
10 Slide Number 11? It's about page 6 considering, it's a
11 two (2) sided document.

12

13 (BRIEF PAUSE)

14

15 DR. LAWRENCE GOULD: I have it.

16 MS. ANITA SOUTHALL: And, sir, I just
17 want to direct your attention to the table you've
18 included at Slide 11, the Ernst & Young Cost per hundred
19 dollars of providing a payday loan by business size and
20 type of average.

21 Do you see that?

22 DR. LAWRENCE GOULD: Yes.

23 MS. ANITA SOUTHALL: And I understand it
24 to be your position that the unweighted average is the
25 proper information to extract from the Ernst & Young

1 report when comparing it to the findings in the Deloitte
2 report?

3 Is that fair?

4 DR. LAWRENCE GOULD: Yes. I -- I think
5 that the -- there are uses for different types of
6 averages. But from my point of view, the weighted
7 average really, as I said, pushes toward the very large
8 firms and is not indicative of the whole group of
9 companies.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: And the concept of
14 large firms having lower operating cost than small firms,
15 is that -- is that a function of their efficiency, Dr.
16 Gould?

17 Or is that a -- are there other factors
18 that contribute to that?

19 DR. LAWRENCE GOULD: It's certainly a --
20 it is a function of the volume of their loans. By
21 definition, they're defined as larger companies by their
22 volumes, which does affect the cost.

23 I don't know whether that could be
24 specific to efficiency or not. It is a -- a lower cost
25 because of the higher volumes.

1 MS. ANITA SOUTHALL: Does that translate,
2 Dr. Gould, into the large firms being able to offer
3 payday loans at a lower rate than smaller businesses?

4 DR. LAWRENCE GOULD: To the extent that -
5 - and -- and let me just clarify again.

6 Efficiency isn't the same as the lower
7 cost in this case, if we're doing it on a volume basis.

8 To the extent that a large firm has higher
9 volumes and can spread their fixed costs per store over a
10 -- a larger base, it will reduce the cost.

11

12 (BRIEF PAUSE)

13

14 DR. LAWRENCE GOULD: And -- and just to
15 add, I think if you -- the Ernst & Young data certainly
16 provides that by different categories. You can see the
17 costs decreasing.

18 MS. ANITA SOUTHALL: Meaning different
19 categories of business size?

20 DR. LAWRENCE GOULD: Business size by
21 volume, yes.

22

23 (BRIEF PAUSE)

24

25 MS. ANITA SOUTHALL: Dr. Gould, your rate

1 recommendation was a -- if I can use this phrase, a one
2 (1) size fits all rate, I take it.

3 Like in your commentary yesterday, you
4 weren't suggesting that there be a different rate for
5 different sizes of business operating payday lending
6 operations in Manitoba.

7 Correct?

8 DR. LAWRENCE GOULD: That's correct. My
9 understanding was the Board was going to set a rate for
10 the payday loan -- payday loans for the Province of
11 Manitoba.

12 MS. ANITA SOUTHALL: Dr. Gould, could I
13 ask you to turn to page 31 of your report, and it is
14 Table 7.

15 Do you have that in front of you, sir?

16 DR. LAWRENCE GOULD: I do.

17 MS. ANITA SOUTHALL: Dr. Gould, if we
18 draw a line across the graph, which shows various plot
19 points, if we draw a line across at the twenty dollar
20 (\$20) mark, is -- is it fair to say, based on your
21 analysis, that every operator with costs above the line
22 would not be able to have their costs and fair return
23 covered and would likely exit the market?

24 If -- if -- sorry, and my -- my
25 supposition is that twenty dollars (\$20) per hundred

1 (100) would -- would for - for example be the regulated
2 cost.

3 DR. LAWRENCE GOULD: Whether they would
4 exit the market or not is hard to say. They certainly
5 would have to reduce their costs somehow, if possible.

6 And this gets back to your earlier
7 question about efficiency, which I don't have the data
8 for. But to the extent that they could -- that they do
9 have room to tighten their belts, then they wouldn't have
10 to exit the market.

11 But as a -- a basic answer to your
12 question is if you don't allow -- if these were
13 absolutely rock-bottom costs and accurate for each
14 company and on a long-term basis, not just a -- as this
15 point, and you set a rate below that, companies would not
16 be able to survive.

17 MS. ANITA SOUTHALL: Thank you for that,
18 sir. Now I'm going to ask you to reference page 16 of
19 your report, and also then Table Number 8 of your report,
20 which is at page 32.

21 And first of all, at page 16 of your
22 report, in the last paragraph of that page -- and here
23 you were in the section of your report talking about Dr.
24 Robinson's analysis.

25 Do you recall that?

1 DR. LAWRENCE GOULD: Yes, I do.

2 MS. ANITA SOUTHALL: There is a reference
3 to the -- in the last line, the statement:

4 "Therefore he analyzes rates with loan
5 volumes of \$3 million and higher per
6 store, stating the Money Mart and the
7 Cash Store are almost at that level".

8 And I've -- I've not in -- read in the
9 wording in brackets. Is -- is that a fair representation
10 of what's in that line?

11 DR. LAWRENCE GOULD: Yes.

12 MS. ANITA SOUTHALL: Could we just turn
13 to Table 8 then for a moment.

14

15 (BRIEF PAUSE)

16

17 DR. LAWRENCE GOULD: I -- I have it.

18 MS. ANITA SOUTHALL: Thank you, Dr.

19 Gould. Did you assemble the data in Table 8?

20 DR. LAWRENCE GOULD: Yes, I did.

21 MS. ANITA SOUTHALL: And -- and I take it
22 that the table is intended to provide for consideration
23 selected financial data for 2004 to 2007 for the Canadian
24 operations of Dollar Financial Corp., which I understand
25 to be Money Mart, correct?

1 DR. LAWRENCE GOULD: Well, Money Mart is
2 a -- is a subsidiary of Dollar. So I did use Dollar
3 Financial Corp. data for the Canadian operations, Money
4 Mart.

5 I -- I only have financial data available
6 from Dollar, consolidated data. And I performed, as I
7 described, various operations to pull out the Canadian
8 operations, which we would -- you would refer to as Money
9 Mart.

10 MS. ANITA SOUTHALL: Which you understand
11 to be Money Mart. But -- but you haven't been able to
12 access Money Mart's direct reporting information --

13 DR. LAWRENCE GOULD: I just --

14 MS. ANITA SOUTHALL: -- I think that's
15 your point.

16 DR. LAWRENCE GOULD: -- I just have
17 what's in the -- in the 10K report.

18 MS. ANITA SOUTHALL: Thank you. And,
19 sir, consumer loan originations, do you see that in the
20 chart on Table 8 at the far left?

21 DR. LAWRENCE GOULD: Yes, I do.

22 MS. ANITA SOUTHALL: Do you understand
23 that to be total dollar volume of payday lending products
24 by the, what I'll -- what I will call the Money Mart
25 operations in Canada?

1 DR. LAWRENCE GOULD: Yes.

2 MS. ANITA SOUTHALL: And three (3)
3 columns to the right of that, on a per store basis
4 consumer payday loans for Money Mart on a per store basis
5 are -- \$2,919,000 in the reporting period for 2007,
6 correct?

7 DR. LAWRENCE GOULD: That's correct.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: Sir, are you able to
12 use the information in Table 8 to identify the operating
13 costs? I guess it would be -- sorry, pardon me for a
14 moment.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: Sorry about that,
19 sir. What I was wondering is based on the information
20 collected for the table, are you able to identify the
21 total cost per hundred dollars (\$100) of loan or the
22 operating costs for hundred dollars (\$100) of loan for
23 the Money Mart operations?

24 DR. LAWRENCE GOULD: No, I don't have
25 that information.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Are we able to
4 obtain an -- an estimate of the costs by taking total
5 expenses divided by loan volumes per store? Are we able
6 to -- to do an estimate on that basis for cost purposes?

7 DR. LAWRENCE GOULD: I -- I wouldn't
8 know. I think you would have to do, essentially, what
9 Deloitte did or what Ernst & Young did in terms of
10 looking at the specific breakdowns of the costs of
11 providing those loans.

12 There's an awful -- you have to understand
13 that there's a lot of difficulty in using data like this,
14 because you're dealing with the consolidated operations
15 of several different divisions.

16 You have to make a number of assumptions
17 and conversions on a gross basis, and you don't have the
18 specific numbers that they do when they go into the
19 stores and look at these exact figures.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Dr. Gould, if you
24 could just flip to Table 10 for a moment. I'm -- I'm
25 wanting you to verify whether or not the cost analysis

1 that I was just talking about for the -- the Dollar
2 Financial Canadian operations, whether that same cost
3 calculation may be viable from the Rent Cash selected
4 financial data represented in Table 10?

5 DR. LAWRENCE GOULD: I wouldn't attempt
6 to use this data to try and derive the same statistic
7 that the two (2) accounting firms did with their analysis
8 of the specific stores. To me it wouldn't be accurate.

9 MS. ANITA SOUTHALL: So you weren't asked
10 to provide in your report, then, the cost of loans per
11 hundred dollars (\$100) for these publicly traded
12 companies?

13 That -- that wasn't intended to be part of
14 your analysis?

15 DR. LAWRENCE GOULD: My analysis, as I
16 said, was to assist the Board in the determination of
17 what the overall fees could do.

18 But I didn't have access to any of the
19 companies' specific cost data. I really used the public
20 data to assess how loan volumes and profitability had
21 changed since the E&Y report had relied on those costs.

22 MS. ANITA SOUTHALL: So I think your
23 answer to my question is, is yes, you were not asked to
24 do the calculation I'm describing?

25 DR. LAWRENCE GOULD: I was not asked --

1 no, I was not asked to do that calculation.

2

3

(BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: So, Dr. Gould, I --
6 I think -- and this -- and this harkens back to your
7 comment of, I believe, a few moments ago that you're not
8 able to provide an accurate cost figure along the lines
9 of Ernst & Young or the Deloitte analysis by simply
10 accessing public data?

11 You would need access to the -- the
12 detailed data for the publicly traded companies in order
13 to -- to provide something that was accurate?

14 DR. LAWRENCE GOULD: For me to be
15 comfortable with it, that is correct.

16

17

(BRIEF PAUSE)

18

19 MS. ANITA SOUTHALL: And, Dr. Gould, I --
20 if you could look at Table 8 for a moment, just as a
21 point of reference, although I believe you've covet --
22 covered it narratively in your report.

23

24 The profitability for the Money Mart
25 operations for Dollar Financial in Canada, I -- I think
your average estimate over the last three (3) years was a

1 return of investment of 14.1 percent?

2 DR. LAWRENCE GOULD: Yes.

3 MS. ANITA SOUTHALL: And a return on
4 assets of 11.5 percent, averaged over the three (3)
5 years?

6 May -- I may be able to direct you right
7 to your report for that, just a moment.

8

9 (BRIEF PAUSE)

10

11 DR. LAWRENCE GOULD: Eleven point five
12 (11.5) percent.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: And then, sir, just
17 turning to Table 10 on that same point. And I neglected,
18 when we stopped at Table 10 previously, to ask you the
19 same question about the term "consumer loan
20 originations."

21 It means the same thing in the Rentcash
22 data that it did in the Money Mart data, I take it?

23 DR. LAWRENCE GOULD: Yes.

24 MS. ANITA SOUTHALL: So on a per store
25 basis for 2007, the indication is 1,431,000 loan volume

1 per store?

2 DR. LAWRENCE GOULD: Yes.

3 MS. ANITA SOUTHALL: And the average
4 return on assets on the Rentcash data in Table 10 over
5 the past three (3) years is 13 percent, sir? I
6 apologize, no, that's probably wrong. I'm -- I'm looking
7 at a 13 percent return on assets in 2007, 13.08 percent?

8 DR. LAWRENCE GOULD: Yes, that's right.

9 MS. ANITA SOUTHALL: The net profit
10 margin for Rentcash for 2007 is seven point (7.) --

11 DR. LAWRENCE GOULD: Seven three (73),
12 7.73 percent.

13 MS. ANITA SOUTHALL: -- 7.73 percent.
14 Thank you. And that's down from 13.7 percent in 2006,
15 correct?

16 DR. LAWRENCE GOULD: Yes.

17 MS. ANITA SOUTHALL: Do you know if that
18 change in the Rentcash statistics is as a result of their
19 elimination of rollovers in their business plan?

20 DR. LAWRENCE GOULD: It's certainly a
21 major factor.

22

23 (BRIEF PAUSE)

24

25 MS. ANITA SOUTHALL: Sir, just give me a

1 moment, please, I am going to locate the pla -- pace --
2 pardon me, place in your report I want to refer you to.

3

4

(BRIEF PAUSE)

5

6

7

8

MS. ANITA SOUTHALL: Yes, sir, if you
could look at page 20 of your report, under the heading
"The Deloitte Report 2007."

9

10

11

12

DR. LAWRENCE GOULD: Yes.

MS. ANITA SOUTHALL: You indicate at the
last line of the second paragraph on that page, and
referring to the Deloitte report here:

13

14

15

16

"It provides a current cost estimate of
twenty-six dollars eighty-seven cents
(\$26.87) for small payday loan
companies in Manitoba."

17

18

19

20

And indicates that:

"The cost of these companies have
increased since Ernst & Young report
was published."

21

22

23

24

25

Do you see that?

DR. LAWRENCE GOULD: Yes, I do.

MS. ANITA SOUTHALL: You've -- you've
heard the testimony and read the report, no doubt,
associated with the limitations that are inherent in that

1 report as to size sample.

2 And as a result of the limited number of
3 responses that came back, do you maintain that you're
4 able to rely on the Deloitte report as the basis of -- of
5 the current cost estimate of twenty-six dollars eighty-
6 seven cents (\$26.87) for small payday loan companies in
7 Manitoba as of 2007?

8 DR. LAWRENCE GOULD: I don't think I said
9 that in the paragraph that you referred to. I think what
10 I said was that that current cost estimate of twenty-six
11 eighty-seven (26.87) indicates that the costs have
12 increased. That's not the same as saying I would rely on
13 that specific figure as the cost.

14 In other words -- if I could explain. I
15 do have a concern with the -- a small sample. There's no
16 question that it would be better to have those costs for
17 the -- the entire group of companies in Manitoba. With a
18 small sample a single company can influence the result,
19 but -- and in that sense, and I think I said this later,
20 I did not use it as the basis for a recommendation.

21 However, I think that you -- some data is
22 always useful. You can look at this data and say: This
23 seems to indicate the costs have increased, decreased, or
24 remained the same.

25 And my interpretation from this is that

1 it's an indication that costs have increased, but I would
2 not rely on the specific data as an estimate of what
3 those costs are.

4 MS. ANITA SOUTHALL: Sir, is it possible
5 to use the original Ernst & Young report and do some sort
6 of inflationary calculation and productivity analysis
7 over time to bring forward the value of the cost from the
8 Ernst & Young study?

9 DR. LAWRENCE GOULD: It's -- it's
10 difficult, because as -- we -- we really don't have very
11 much information on -- on how costs have changed over
12 that period for the payday loan companies, and just
13 applying an inflation factor may not be indicative of
14 what actually happened over that period.

15 MS. ANITA SOUTHALL: Thank you.

16 Thank you, Dr. Gould. Those are my
17 questions directed to your attention.

18 DR. LAWRENCE GOULD: Thank you.

19 MS. ANITA SOUTHALL: I do have some
20 questions for the general CPLA panel, so I'll just take a
21 moment and organize myself for that, Mr. Chairman.

22 THE CHAIRPERSON: Sure. While you're
23 doing it, I've got a couple for Dr. Gould as well.

24 Dr. Gould, Mr. Bishop earlier indicated
25 that Canada's payday loan industry began, I think he said

1 in BC about 1995, and that it expanded rapidly since
2 2000. I think that is what I gathered.

3 Do you know, or can you surmise, the
4 causal factors that lead to the growth on both the supply
5 and the demand side?

6 DR. LAWRENCE GOULD: It's not something
7 that I've actually studied, but if you just want a quick
8 impression, it would be that the banks and credit unions
9 have not provided -- that they've moved away from
10 providing small amount loans into other instruments,
11 leaving that area of the market open.

12 And at the same time, certainly there have
13 been branch closures, so that there are many conveniences
14 of these payday loan companies.

15 But I have not actually undertaken a study
16 to determine what caused that.

17 THE CHAIRPERSON: Thank you. Given that
18 there are numerous firms in the market - Winnipeg in
19 particular - with different costs, rates, hours, things
20 that you were mentioning, delivery models, do you in
21 principle see a need for government regulation?

22 DR. LAWRENCE GOULD: I think that the --
23 I've taken it as a given that we're here because there is
24 concern, and that the government feels that some form of
25 regulation is beneficial, and I subscribe to that.

1 THE CHAIRPERSON: So then you think that
2 regulation can have a legitimate role in a competitive
3 market?

4 DR. LAWRENCE GOULD: Yes.

5 THE CHAIRPERSON: Dr. Gould, since there
6 is no industry database for payday loan credit
7 experience, and no trading of data -- this is our
8 understanding, anyway, to date. So if we are wrong,
9 please correct us.

10 So given there is no industry database for
11 payday loan credit experience, no trading of data between
12 the firms or between the industry and the general credit
13 market, is it not to be expected that some borrowers will
14 borrow from more than one (1) firm and amass debts to
15 payday lenders that are beyond their capacity to pay?

16 DR. LAWRENCE GOULD: I don't know whether
17 it's expected. It certainly could be possible for them
18 to do that.

19 THE CHAIRPERSON: Wouldn't the present
20 situation contribute to higher debt costs in the
21 industry, and higher costs than necessary to be recovered
22 from the borrowers themselves?

23 DR. LAWRENCE GOULD: Could you repeat
24 that again?

25 THE CHAIRPERSON: Given that some

1 borrowers do borrow from more than one (1) payday
2 lender, which we have heard of, okay, and given that
3 there is no way that one (1) payday lender could know
4 whether specifically -- other than asking the perspective
5 borrower or from past experience -- whether they have
6 other loans -- there is usually restrictions on the
7 loans, like thirty (30) or 50 percent of the next
8 paycheque to prevent excessive borrowing.

9 DR. LAWRENCE GOULD: Yes.

10 THE CHAIRPERSON: But given the lack of
11 the trading of data, okay, even to normal credit bureaus,
12 for example, would this not likely, in high probability,
13 lead to higher excess debt costs for the industry as a
14 whole?

15 And given your study, and that of Mr.
16 Schinkel's, one of the arguments is that the average cost
17 per loan needs to be recovered in a sense, okay. Does it
18 not make that cost higher?

19

20 (BRIEF PAUSE)

21

22 DR. LAWRENCE GOULD: I -- I think the
23 answer is it would make the high -- the cost higher, but
24 I don't know how pervasive a problem this is in terms of
25 how many people are really going to more than one payday

1 loan company and how much that would actually increase
2 the default risk.

3 And I guess it would have to balance out
4 what the cost of building some sort of system to provide
5 a database and whether the companies with their
6 respective competitive positions would -- would or could
7 be able to participate in that.

8 THE CHAIRPERSON: Thank you, Dr. Gould.
9 And we do not know either.

10 I take it you would acknowledge that a
11 person with a line of credit from a bank can borrow a
12 small amount for a limited period of time at a fraction
13 of the cost of a payday loan.

14 For example, for paydays perhaps one-one-
15 hundredth (1/100) the cost?

16 DR. LAWRENCE GOULD: It would be cheaper.

17 THE CHAIRPERSON: But more than cheaper,
18 like dramatically cheaper. Is that not true?

19 DR. LAWRENCE GOULD: Dramatically
20 cheaper.

21 THE CHAIRPERSON: Given that apparently
22 virtually all payday borrowers have bank accounts and
23 most are employed based on the Pollara information, why
24 would it be that a person needing short term credit for a
25 limited period of time and having a given relationship

1 with a bank not acquire a line of credit?

2 DR. LAWRENCE GOULD: Again, I haven't
3 done that type of study, but I'd -- my -- my opinion
4 would be that they have some constraint that prohibits
5 them from getting the line of credit. Because I've
6 already said I do think that it is a higher cost loan,
7 and I think people are rational and would choose a lower
8 cost if it was available.

9 THE CHAIRPERSON: And that is what we
10 have heard too, the evidence.

11 Dr. Gould, I believe it was Mr. Sorenson
12 who owns one of the payday loan firms -- and if I am
13 wrong, I stand corrected -- indicated that his firm's
14 loan volume, apparently 93 percent was from repeat
15 customers.

16 And would you consider repeat customers to
17 be truly representative of short-term credit?

18 DR. LAWRENCE GOULD: I -- I'm not sure
19 how "repeat" is defined. If they're occasional borrowers
20 who come in, repay the loan and take out another loan,
21 that's still short term. If they're continually renewing
22 their loans, continually, that turns into permanent
23 financing.

24 THE CHAIRPERSON: Thank you, sir.

25 Ms. Southall, I hope I gave you enough

1 time to prepare your next round.

2

3 CONTINUED BY MS. ANITA SOUTHALL:

4 MS. ANITA SOUTHALL: Yes, it was nice to
5 hear someone else talk for a change. I do have some
6 questions for the CPLA representatives on the panel.

7 And first if I could ask them, Mr. Keyes
8 and Mr. Bishop, and also those following to turn to what
9 I call makeshift -- shift Tab 45.

10 And these are a series of answers to
11 questions that the Board posed to CPLA and so I -- I have
12 some questions associated with that.

13 And perhaps what I'll do is -- is leave it
14 to either Mr. Keyes or Mr. Bishop to answer the questions
15 depending on who they consider to be appropriate between
16 them.

17 Is that suitable, gentlemen?

18 HONOURABLE STAN KEYES: Yes.

19 MS. ANITA SOUTHALL: Thank you.

20 HONOURABLE STAN KEYES: Thank you.

21 MS. ANITA SOUTHALL: Have you located
22 what I referred to as Tab 45 --

23 HONOURABLE STAN KEYES: I have.

24 MS. ANITA SOUTHALL: -- Mr. Keyes, Mr.
25 Bishop?

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Sorry, Mr. Bishop,
4 Mr. Keyes, do you have that available to you? Thank you.

5 HONOURABLE STAN KEYES: Yes, thank you.

6 MS. ANITA SOUTHALL: Under the very first
7 question on the first page -- it's Section A PUB/CPLA-A-
8 1, Rate of Return -- CPLA has provided a response to
9 Sections A through D at the bottom of the page. Do you
10 see that?

11 HONOURABLE STAN KEYES: Yes, we do.

12 MS. ANITA SOUTHALL: Could you just
13 explain the response that you've provided to that
14 question, please? And it -- it goes over, obviously,
15 onto page 2, but if -- if you wouldn't mind starting with
16 the paragraph at the bottom of page 1, which is a
17 reference to the Ernst & Young report, starting, "The
18 base case."

19 HONOURABLE STAN KEYES: Well, as
20 indicated in the first sentence of the response, CPLA
21 does not maintain individual members' financial
22 information. I defer to Mr. Bishop, who may want to
23 explain further.

24

25 (BRIEF PAUSE)

1 MR. NORMAN BISHOP: Well, I think what we
2 did here is we relied upon our experts. I'm a slow
3 reader and there's a lot here, but you were asking how
4 the Board might come to a rate of return and the things
5 they might consider, which we outlined the various risks
6 and made reference to the -- the Deloitte report.

7 And I would have to say that we relied on
8 Dr. Gould to a large extent to provide information in
9 that regard.

10 MS. ANITA SOUTHALL: Okay. Thank you for
11 that.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: On the second page
16 of that same answer, there is a reference to -- and the -
17 - and the Board specifically did ask you to discuss the
18 risks faced by the lender in entering into payday loans
19 and provide what would be considered a fair risk premium
20 for return on equity.

21 And at page 2 you've -- you've identified
22 categories of risk: competitive risk, economic risk,
23 regulatory risk and -- and inflation risk. Do you see
24 that? Either of you?

25 HONOURABLE STAN KEYES: Yes.

1 MS. ANITA SOUTHALL: Thank you. And that
2 -- that's in addition, I -- I believe, you're indicating
3 to the creditor portfolio risk associated with customers
4 not repaying their loans on time or at all, correct?

5 MR. NORMAN BISHOP: Correct.

6 MS. ANITA SOUTHALL: And are these risks
7 that CPLA is representing apply to all of its member
8 organizations? And you have identified the nature of
9 these risks?

10 MR. NORMAN BISHOP: Well, as Mr. Keyes
11 said, the Association doesn't repre -- represent any
12 individual lenders. So I believe with respect to the
13 answer to that question, the members were polled for --
14 for information.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: Now I hate to put
19 you on the spot with your expert sitting to your left,
20 but Question E at the bottom of that page, the question
21 the Board posed to CPLA was:

22 "If the allowed rate were based on the
23 cost of operations, should there be
24 limits set related to what operating
25 expenses should be considered and

1 limits on any specific operating cost
2 item?"

3 The answer provided is:

4 "No. In a competitive marketplace, all
5 lenders will be encouraged to lower
6 their operating costs by becoming more
7 efficient."

8 Do you see that?

9 HONOURABLE STAN KEYES: Yes, I do.

10 MS. ANITA SOUTHALL: Now Dr. Gould, as
11 you're aware, has testified that the difference in
12 operating costs is not necessarily related to efficiency,
13 correct?

14 MR. NORMAN BISHOP: Correct.

15 MS. ANITA SOUTHALL: So does it
16 necessarily follow that by simply becoming more
17 efficient, costs to borrowers for payday lenders in a
18 competitive marketplace will be driven down?

19 HONOURABLE STAN KEYES: In conversation
20 with the members of the CPLA, they had made it -- made it
21 clear that in order to compete at a rate, whatever that
22 rate should be, the lower the rate then the more belt --
23 as they explained it to me, the more rationalization and
24 the more belt tightening would have to occur by them in
25 order to remain competitive and, of course, respond to

1 all the different risks listed above.

2 MS. ANITA SOUTHALL: And Mr. Keyes, you
3 actually referred us to someone that you had permission
4 to refer to from the organization, a Mr. Forbes
5 (phonetic), I believe, who operates a payday loan company
6 in Manitoba.

7 Correct?

8 HONOURABLE STAN KEYES: That's correct.

9 MS. ANITA SOUTHALL: And he indicated to
10 you that your -- he -- he was prepared to allow you to
11 state on the record that if the recommended range by Dr.
12 Gould was twenty (20) to twenty-three dollars (\$23) per
13 hundred (100), that he would be able to continue to
14 operate within that.

15 Correct?

16 HONOURABLE STAN KEYES: Yes, that's
17 correct.

18 MR. NORMAN BISHOP: And if I could just
19 add to the comments. Dr. Gould talked about efficiencies
20 and the fact that one of the reasons two (2) lenders
21 might have different costs of operation is that those
22 lenders -- one lender accepts a different amount of risk
23 in -- in lending than another, or it might have different
24 hours of operation, or different costs to provide the
25 service.

1 And therefore, the fact that one had
2 higher costs did not necessarily mean they were
3 inefficient.

4 Now I think what we're saying in this is,
5 taking that as a given, it's important to recognize that
6 this isn't like gas, or water, or electricity. It --
7 it's not one (1) product, it -- every operator offers a
8 different product.

9 However, with respect to that product that
10 each operator chooses to offer, if there's a competitive
11 market, market forces will force that operator to be as
12 efficient as possible. So that's what we were trying to
13 state.

14 Whereas if you set the rate at one level
15 under which -- say a low level, what you would do is you
16 would cause all of the operators above it -- one of the
17 things they could do is withdraw that type of service or
18 that type of product or that group of people to whom they
19 would offer it to get to a point where they -- they would
20 be offering the product.

21 So you -- what you would be doing is you'd
22 be removing a product from the market, you wouldn't
23 necessarily be improving their efficiency.

24 HONOURABLE STAN KEYES: Including -- and
25 -- and importantly, the availability of that product to

1 anyone who required it.

2 MS. ANITA SOUTHALL: I apologize, Mr.
3 Keyes. I wasn't able to hear your last answer.

4 HONOURABLE STAN KEYES: I just mentioned
5 that also importantly it would also possibly remove the
6 opportunity for an individual who wanted that particular
7 -- want -- wants the payday loan product.

8 That individual may not be able to acquire
9 it because in the aim of being efficient, the said
10 company could decide to raise their criteria on lending
11 in order to lower the -- their default rate, for example,
12 and thereby exclude part of the market -- the customers
13 that may need the product.

14 MS. ANITA SOUTHALL: This is all -- we're
15 all talking about the same thing, which is short-term
16 payday loans. We're -- we're talking about loaning --

17 HONOURABLE STAN KEYES: Yes.

18 MS. ANITA SOUTHALL: -- money in this
19 case.

20 In terms of the payday loan product, I
21 appreciate that your member organizations offer all kinds
22 of other products.

23 But for the purposes of this hearing,
24 we're talking about short term loans associated with
25 payday payback. Correct?

1 HONOURABLE STAN KEYES: That's correct,
2 and all my answers are geared toward the payday loan
3 product.

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: It just -- it arises
8 from a comment. I'm not sure, I think it may have been
9 Mr. Bishop, but I'm not sure which of the two (2) of you
10 made it a moment ago.

11 But the reason I asked that question -- I
12 think it was Mr. Bishop, and I think he was referring to
13 a -- a Public Utility rate setting concept with
14 electricity or gas.

15 And -- and why I asked the question about
16 this being a payday loan product is, can you explain what
17 the diversity in the product is?

18 What's so different in a fourteen (14) day
19 loan for three hundred dollars (\$300) between one company
20 and the next?

21 MR. NORMAN BISHOP: I -- I think what is
22 different is hours of operation. Granted, that's not a
23 different product, it's just different availability and
24 lending criteria.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: So there would be
4 room in the individual operator's decision-making for
5 their business planning to adjust the lending criteria --
6 which is, I think, what Mr. Keyes was getting at -- or
7 adjust hours of operation?

8 Adjust other things that go to the
9 overhead costs of the operation in order to bring
10 themselves in line with a given, allowed regulatory rate
11 per order?

12 HONOURABLE STAN KEYES: Absolutely.

13 DR. LAWRENCE GOULD: Can I just add one
14 other factor in --

15 MS. ANITA SOUTHALL: Yes, Dr. Gould.

16 DR. LAWRENCE GOULD: In terms --

17 MS. ANITA SOUTHALL: Please proceed.

18 DR. LAWRENCE GOULD: -- in terms of
19 consideration. The particular location may also be a
20 different way of affecting costs for service.

21 In other words, some locations may be more
22 expensive to serve than others and that can enter into
23 it.

24

25 (BRIEF PAUSE)

1 MS. ANITA SOUTHALL: By location costs,
2 Dr. Gould, are you -- are you referring to the overhead
3 costs associated with the space being occupied by the
4 lender? Is that what --

5 DR. LAWRENCE GOULD: Well, geographic
6 areas.

7 MS. ANITA SOUTHALL: -- you're getting
8 at?

9 DR. LAWRENCE GOULD: Rental costs and
10 geographic areas.

11 MS. ANITA SOUTHALL: So, again, from a
12 business plan point of view, that's something that the
13 operator would have to take into account and determine
14 whether or not there were more cost effective ways of
15 offering the service?

16 DR. LAWRENCE GOULD: Or withdrawing the
17 service as well.

18 MS. ANITA SOUTHALL: Back to Mr. Keyes
19 and Mr. Bishop.

20 If you could, it -- it's that same set of
21 documents I was referring you to, but if you could find
22 the document, it's a few pages in, that's headed
23 "PUB/CPLA-A-4 Fee Structure."

24 HONOURABLE STAN KEYES: Yes, we have it.

25 MS. ANITA SOUTHALL: And I believe there

1 that on behalf of CPLA you've set out an answer to the
2 question which was:

3 "Please provide the various components
4 which you believe should form part of
5 the fee structure determination."

6 Do you see that?

7 HONOURABLE STAN KEYES: Yes, we do.

8 MS. ANITA SOUTHALL: I -- I don't need to
9 read into the record, I don't think, the answer because
10 it's on the record already.

11 But what I wanted to ask either one of you
12 to address is item number -- Roman numeral IV, which is a
13 reference to one of the considerations being:

14 "Insures that credit is available in
15 all areas of Manitoba and to all
16 Manitobans regardless of their credit
17 history."

18 Is it possible for one of you just to
19 elaborate on what's meant by that comment?

20 MR. NORMAN BISHOP: I think -- I think
21 that's what we were just referring to, is that a -- a fee
22 structure that is sufficiently high enough that will
23 allow some companies to make credit available to higher
24 risk individuals, recognizing that as a result they'll
25 have higher costs to provide that service.

1 And secondly, one of the factors in the
2 cost of operation is volumes of loans granted and -- from
3 an outlet. And there will be areas in downtown Montreal
4 where presumably there are large volumes of loans.

5 In rural Manitoba there may be locations
6 where there are lower volumes of loans and, therefore,
7 the costs per loan would be higher.

8 MS. ANITA SOUTHALL: Do any of CPLA
9 members operate in -- outside of Winnipeg but within
10 Manitoba? And, if so, could you identify what
11 communities they operate in.

12 HONOURABLE STAN KEYES: Yes, that's part
13 of the prefiled evidence to the Board. I believe Mr.
14 Foran can point you to the exact location, because I just
15 have the loose pages in front of me.

16 But where -- where member companies are
17 involved, of which there are five (5) companies. They
18 operate in Brandon, Portage La Prairie, Selkirk. There's
19 another member with three (3) stores: Brandon,
20 Steinbach, Winkler, and Flin Flon.

21

22 (BRIEF PAUSE)

23

24 MR. ANTOINE HACAULT: I believe one of
25 the answers can be found at RC/CPLA-14.

1 HONOURABLE STAN KEYES: But I think the
2 question was the members of the association.

3 MR. ANTOINE HACAULT: Well, it says:
4 "Five (5) CPLA -- CPLA members
5 currently have outlets in Manitoba.
6 They are as follows..."
7 It lists them and then it lists the
8 locations.

9 HONOURABLE STAN KEYES: Thank you.

10

11 (BRIEF PAUSE)

12

13 CONTINUED BY MS. ANITA SOUTHALL:

14 MS. ANITA SOUTHALL: Specifically
15 considering Money Mart -- and I have a chart at -- that
16 I've included at Tab 33 of the materials. That was part
17 of the prefiled evidence of CPLA.

18

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: I note -- sorry, I'm
23 referring to that document and note that Money Mart
24 appears to have locations in Portage La Prairie, Selkirk,
25 and Brandon as well as in Winnipeg?

1 HONOURABLE STAN KEYES: That's correct.

2

3 (BRIEF PAUSE)

4

5 HONOURABLE STAN KEYES: To be specific,
6 one (1) in Brandon, one (1) in Portage La Prairie, one
7 (1) in Selkirk, and fifteen (15) in Winnipeg.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: The reason I posed
12 the original question and asked you to elaborate was I
13 was trying to understand -- and -- and maybe what Mr.
14 Bishop had said about loan volumes -- but I wondered
15 whether or not you've got any information from your CPLA
16 membership outside of Winnipeg as to whether or not their
17 costs are higher of providing payday loans in their rural
18 or small community locations than the costs that are
19 experienced for the -- the urban operations in Winnipeg,
20 you know, on average.

21 HONOURABLE STAN KEYES: I do not have the
22 exact figures you're looking for. It would entail a -- a
23 telephone call to each member, a request to ask them to
24 provide costs of their operations.

25 And of course while I endeavour to provide

1 as much information to the Board as possible, at the same
2 time I'm restricted to whatever it is this particular
3 private enterprise is prepared to supply.

4 But we would try our best to attain that
5 information for the Board.

6 MR. ALLAN FORAN: If you just give us a
7 moment, please?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: We have some
12 recollection of somewhere in this mountainous amount of
13 material that has been gathered there is a reference to
14 this, an indication where the cost differences are not
15 that great.

16 MR. ALLAN FORAN: I believe the answer is
17 we don't have any information that suggests that there is
18 additional costs in operating outside of Winnipeg. And
19 I'll -- I'll find the specific reference in a moment.

20 MS. LUCIA STUHLREIER: If I may, I
21 believe it's at PUB/CPLA-1-A2.

22

23 (BRIEF PAUSE)

24

25 HONOURABLE STAN KEYES: As I had stated

1 earlier the answer is no, we do not have that
2 information.

3 MR. ALLAN FORAN: If I could just suggest
4 I think the answer is we don't have information that
5 suggests that costs are higher outside the City of
6 Winnipeg.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: I would think that if
11 it comes to your attention that they are, it would be a
12 good thing to let us know. It would probably be useful.

13 MR. NORMAN BISHOP: Absolutely.

14 THE CHAIRPERSON: Because otherwise our
15 assumption will be that the costs are similar whether
16 they are in Winnipeg or outside Winnipeg.

17 MR. NORMAN BISHOP: I think what we meant
18 by the response is we have no evidence that they cost
19 more. We don't necessarily have any evidence that loan
20 volumes are lower in rural areas.

21 But we would expect where you have a large
22 city and lots of people, you will -- you will have higher
23 loan volumes than, say, some small community.

24 THE CHAIRPERSON: But on the other hand,
25 there is only one location in some of the centres,

1 whereas there is a significant number here in Winnipeg.

2 MR. NORMAN BISHOP: That's correct.

3

4 --- UNDERTAKING NO. 21: CPLA will inform the Board if
5 he is able to find evidence
6 of costs being higher outside
7 Winnipeg.

8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MS. ANITA SOUTHALL:

12 MS. ANITA SOUTHALL: Thank you. If I
13 could direct your attention, please, it's -- it's that
14 same question we were looking at, PUB/CPLA-A-4, under
15 "Fee Structure," but specifically at subsection (d),
16 which happens to be at the top of the next page of that
17 tab.

18 The question was:

19 "Should limits be placed on what type
20 of fees can be charged for payday
21 loans? If so, please elaborate."

22 And the answer that's been provided is:

23 "The payday loan regulation defines the
24 cost of credit for the purposes of the
25 Board's mandate and specifically

1 includes certain types of fees. If a
2 maximum cost of credit is set, it is
3 not necessary to itemize fees within
4 that maximum."

5 I'm just trying to understand what you
6 mean by the answer, and -- and if I'm wrong in -- in
7 putting it this way, let me know.

8 Dr. Gould is recommending a range of a
9 certain value, I -- I believe, if I'm recounting it
10 right, twenty (20) to twenty-three (\$23) dollars per
11 hundred? I see Dr. Gould shake -- nodding his head in
12 affirmation.

13 HONOURABLE STAN KEYES: Excluding regula
14 -- including regulatory costs, yes. Plus regulatory
15 costs.

16 MS. ANITA SOUTHALL: And so going back to
17 -- to the answer, is -- is the answer indicating if a
18 maximum cost of credit is set in terms of a flat dollar
19 value per hundred dollars (\$100), it's not necessary to
20 itemize fees within that maximum?

21 Is -- is that the proper understanding for
22 that response?

23 MR. NORMAN BISHOP: That's correct.

24

25 (BRIEF PAUSE)

1 MS. ANITA SOUTHALL: And -- and just to
2 take you to the very next question on that document,
3 which is sub (e), the Board asked:

4 "Do you support that charges for debit
5 and credit card loading and usage
6 should be considered part of the APR?
7 Is your view different when it is an
8 option as opposed to a standard method
9 of issue?"

10 And the answer back was that:

11 "The CPLA has no mandate with respect
12 to taking a position concerning debit
13 and credit card loading and usage."

14 Do you see that?

15 MR. NORMAN BISHOP: Yes.

16 MS. ANITA SOUTHALL: And can you tell us
17 why you don't take a position on that? Were you not able
18 to get consensus in your membership?

19 MR. NORMAN BISHOP: Well, Mr. Keyes
20 polled the membership. And in Manitoba, with the five
21 (5) members, only two (2) offer a debit card. And I
22 think you'll find in -- under Tab 40, some of the
23 responses on that.

24 I believe Money Mart indicated that less
25 than 1 percent of their customers -- they offer a card,

1 but less than 1 percent of their customers choose to put
2 a payday loan on the card.

3 They also have a MasterCard, and
4 1.9 percent of their customers choose to put a loan on
5 their card. And of that, 30 percent, on average,
6 30 percent of the loan proceeds go on the card. So it's
7 -- it would be a -- an optional product. The other
8 member, I believe, indicated that --

9 HONOURABLE STAN KEYES: -- that there
10 were of five hundred (500) transactions in any given
11 month. Less than twenty-five (25) of those transactions
12 would be placed on their particular card.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: And with respect to
17 the same question, if we included cheque cashing fee as
18 part of the payday loan transaction, does the CPLA have a
19 position as to whether or not that should be considered
20 part of the APR?

21 MR. NORMAN BISHOP: Well, I think the --
22 the legislation is clear that if -- if these are costs
23 that are effectively costs of obtaining the loan, then
24 they would naturally be part of the -- the fee that's set
25 by the Board.

1 MS. ANITA SOUTHALL: I want to just pause
2 for a moment on that and talk about the example of Money
3 Mart, which is a CPLA member, and the fact -- that based
4 on my reading and review of the Money Mart material --
5 the cheque cashing fee would not come into operation
6 unless the borrower did not pay the loan amount by the
7 due date.

8 Am I right on my interpretation of that?

9 MR. NORMAN BISHOP: That's correct. The
10 way their program works is the loan is due on the day
11 before payday. The customer provides a postdated cheque
12 dated for payday. There is a fee connected with cashing
13 of the cheque. If the customer comes in on the due date,
14 the day before payday, they would pay only the interest
15 that accrues on the loan and would incur no cheque
16 cashing fee.

17 If they do not return, they just let the
18 cheque be deposited on the payday, and then there would
19 be a cheque cashing fee incurred by the -- the customer.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Mr. Bishop or Mr.
24 Keyes, what experience does Money Mart have related to
25 borrowers coming in the day before payday and paying off

1 their loans?

2 Do you -- do you have access to any data -
3 - data that would help us on that point, like what
4 percentage of people actually payoff before payday?

5 MR. NORMAN BISHOP: I think we'd have to
6 ask Money Mart for that -- that information.

7 MS. ANITA SOUTHALL: I appreciate you're
8 not here representing Money Mart, but CPLA. Nonetheless,
9 with Money Mart not participating as an Intervenor, if
10 it's possible to inquire of them as to whether or not
11 that information can be provided, I'd appreciate it.

12 MR. NORMAN BISHOP: Of course.

13

14 --- UNDERTAKING NO. 22: CPLA to inquire of Money Mart
15 as to the percentage of
16 people who actually pay off
17 loans before payday and so
18 advise.

19

20 CONTINUED BY MS. ANITA SOUTHALL:

21 MS. ANITA SOUTHALL: And -- and while I'm
22 at it on that subject matter, is it possible to inquire
23 of Money Mart as to whether or not they can provide us
24 with a -- a completed hypothetical example of a three
25 hundred dollar (\$300) loan which shows all of the costs

1 associated with a three hundred dollar (\$300) payday
2 loan?

3 MR. NORMAN BISHOP: I -- I believe that's
4 in the material already. I'm not sure, but otherwise it
5 can be provided.

6 MS. ANITA SOUTHALL: Thank you. What --
7 what I've managed to access and -- and referring back to
8 the Chair's reference to the mountainous volumes of
9 material, I've noted that the Disclosure Statement is in
10 there.

11 The one I've been able to locate is in
12 blank, and so the other piece of information that's been
13 provided is a chart of information in respect of the
14 Board's request for a table to be filled out of the costs
15 associated with payday loans.

16 But converting all of that into an
17 accurate depiction of a Money Mart three hundred dollar
18 (\$300) loan -- like a standard Money Mart loan -- on a
19 Disclosure Statement I think would be very useful. So if
20 you could undertake to inquire on that.

21 HONOURABLE STAN KEYES: We'll certainly
22 do that undertaking and also remind the Board that of the
23 invitation we stated in my opening presentation, in
24 regard to actually visiting a payday loan location to get
25 firsthand knowledge on the customer experience and the --

1 the business process within that store.

2

3 --- UNDERTAKING NO. 23: CPLA to enquire of Money Mart
4 to provide an accurate
5 depiction of a three hundred
6 dollar (\$300) Money Mart
7 loan.

8

9 CONTINUED BY MS. ANITA SOUTHALL:

10 MS. ANITA SOUTHALL: I'm going to do this
11 now in case I forget later. I -- I would like the same
12 inquiry made as to whether or not an undertaking is
13 available to provide that same three hundred (\$300)
14 dollar advance loan information for disclosure purposes
15 from the next two (2) largest CPLA members.

16 And I believe that was - give me a moment,
17 I -- I know one is Xtra Cash. I'm trying to remember the
18 name of the third. Pardon me for a moment.

19 HONOURABLE STAN KEYES: Fast Cash is the
20 next largest, and then we have a choice of three (3),
21 with one (1) location each. We -- we can attempt -- we
22 will ask them.

23 MS. ANITA SOUTHALL: Okay. Thank you
24 very much, Mr. Keyes.

25

1 --- UNDERTAKING NO. 24: CPLA will inquire as to
2 whether or not an undertaking
3 is available to provide a
4 three hundred dollar (\$300)
5 advance loan information for
6 disclosure purposes from Xtra
7 Cash and Fash Cash.
8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MS. ANITA SOUTHALL:

12 MS. ANITA SOUTHALL: Just stepping back
13 for moment to the -- to the Money Mart structure of loan
14 lending. Again, I know you're not here for Money Mart,
15 but does CPLA or -- or would you inquire of Money Mart as
16 to whether they can advise us as to their position on
17 whether those transactions are properly bound into the
18 payday loan cost of borrowing?

19 In other words, the amount is due the day
20 before payday. There's a cheque cashing fee if the
21 cheque is going to need to be used on the next day -- in
22 other words, they don't come and pay off on the day
23 before payday.

24 Is the cheque cashing fee properly bound
25 under the Manitoba legislation and regulation in the

1 maximum charge for the cost of a payday loan?

2 MR. ALLAN FORAN: Just before the -- the
3 witness's answer, is this a legal question, an
4 interpretation issue? Are you asking for a position?

5 I -- I'll tell you what my concern is, is
6 that this panel is not here on behalf of individual
7 members, but on behalf of a group of payday lenders who
8 operate in Manitoba.

9 I can certainly -- there is some leeway
10 here, I think, to make inquiries of members. In fact,
11 the Board's asked for that. We've answered some of those
12 questions. We -- we have some of those answers actually
13 on the record.

14 My concern here is questions of legality
15 and interpretation. And -- and maybe that's just the
16 only caution that I'm going to give. If there's an
17 Undertaking provided, it may have to be cloaked in some -
18 - we may have to be careful about this.

19 THE CHAIRPERSON: Okay, we are just going
20 to take our midafternoon break right now and give a
21 chance for Ms. Southall to think about this.

22

23 --- Upon recessing at 2:45 p.m.

24 --- Upon resuming at 3:00 p.m.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Thank you, Mr.
4 Chairman. I do have some more questions, and I'll do my
5 best to be prompt in getting those completed.

6 One just procedural item I wanted to note
7 was that Rentcash submitted a rate proposal document
8 yesterday that was circulated.

9 We just hadn't noted it for the record as
10 an exhibit, so it will be recorded in the exhibit list of
11 proceedings for this hearing as RC-10.

12 THE CHAIRPERSON: Very good.

13

14 --- EXHIBIT RC-10: Rentcash rate proposal
15 document

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: Thank you. If I
19 could ask the CPLA members on the panel to turn to Tab
20 39, and again I -- I know that you're not here
21 representing these specific member companies.

22 But in round two (2) Information Request
23 posed to CPLA seeking member specific information for the
24 three (3) largest operators of CPLA members in Manitoba,
25 we asked a number of questions.

1 who the shareholders of their
2 operating company are, and
3 the source of their loan
4 funds.

5

6 CONTINUED BY MS. ANITA SOUTHALL:

7 MS. ANITA SOUTHALL: Thank you. Now
8 specifically on the document I referenced at Tab 39 under
9 PUB/CPLA-2-2 -- round 2-2 -- at Section C -- Question C,
10 pardon me.

11 THE CHAIRPERSON: What page number is
12 that on, may I ask?

13 MS. ANITA SOUTHALL: I apologize, it's
14 the first page of Tab 39.

15 HONOURABLE STAN KEYES: Thank you.

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: Under subsection (c)
19 a description was asked for that outlines the loan
20 approval process followed and describe how interest rates
21 are fixed for any loans.

22 In respect of Money Mart criteria the
23 information provided was that income is not derived from
24 social assistance or child tax benefits payments.

25 Do you see that?

1 HONOURABLE STAN KEYES: Yes, I do.

2 MS. ANITA SOUTHALL: Do either of the
3 CPLA panel members know in respect of Money Mart if other
4 types of government payments are capable of supporting
5 borrowing, such as pension payments or disability
6 payments?

7 MR. NORMAN BISHOP: No. We don't know.

8 MS. ANITA SOUTHALL: Could you inquire
9 and advise, please? If -- if you're able to obtain the
10 information.

11 MR. NORMAN BISHOP: Yes.

12

13 --- UNDERTAKING NO. 26: CPLA will find out, in
14 respect to Money Mart, if
15 other types of government
16 payments are capable of
17 supporting borrowing, such as
18 pension payments or
19 disability payments.

20

21 (BRIEF PAUSE)

22

23 CONTINUED BY MS. ANITA SOUTHALL:

24 MS. ANITA SOUTHALL: And could you
25 inquire and advise in respect of those kinds of payments,

1 if they're available as a -- as a income support source
2 for borrowing, that a pay stub would not be required, but
3 rather some sort of bank statement showing income level?

4 That -- that would be a further
5 undertaking I'm asking for.

6 HONOURABLE STAN KEYES: We can endeavour
7 to inquire.

8

9 --- UNDERTAKING NO. 27: With respect to undertaking
10 No. 26, for CPLA to inquire
11 as to whether or not a bank
12 statement is sufficient in
13 respect of those kinds of
14 payments

15

16 (BRIEF PAUSE)

17

18 CONTINUED BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: Mr. Foran, have you
20 put Mr. Bishop's CV on the record? You did provide me
21 with a copy I know, but I just didn't know whether or not
22 it made it onto the actual record of proceedings.

23 MR. ALLAN FORAN: It may not actually be
24 on the record but we can mark that as an exhibit.

25 MS. ANITA SOUTHALL: Okay. We will

1 locate the exhibit number and get back to you on that.

2 MR. ALLAN FORAN: Thank you.

3

4 CONTINUED BY MS. ANITA SOUTHALL:

5 MS. ANITA SOUTHALL: Could I ask you to
6 turn to Tab 40, please, the next tab of documents in our
7 reference binder?

8 And this is a reference to PUB/CPLA-II-2-
9 4. Specifically if I could direct you -- again, this was
10 member-specific information that -- that the Board was
11 looking for information from the three (3) largest CPLA
12 members who operate in Manitoba.

13 And on the second page, under Item C,
14 there is a request to indicate the annual percentage rate
15 currently charged for a typical payday loan. Do you see
16 that?

17 HONOURABLE STAN KEYES: Yes, we do.

18 MS. ANITA SOUTHALL: And Money Mart has
19 answered for that member-specific inquiry that the charge
20 is 46.44 percent for all payday loans. Do you see that?

21 HONOURABLE STAN KEYES: Yes, we do.

22 MS. ANITA SOUTHALL: And fast -- the Fast
23 Cash Company has answered that service fees plus interest
24 on a fifteen (15) day loan convert to an overall APR of
25 485.10 percent. Do you see that?

1 HONOURABLE STAN KEYES: Yes.

2 MS. ANITA SOUTHALL: Did Money Mart
3 misunderstand the question? Does anybody know that --
4 what they were attempting to answer in terms of the APR
5 percentage for borrowing?

6 I -- I guess that would be an undertaking,
7 because no one's here from Money Mart but...

8 MR. ALLAN FORAN: Perhaps putting the
9 cart before the horse. Could we start with the
10 difficulty with the answer and then perhaps we can make
11 an inquiry of Money Mart as to whether there is a
12 misunderstanding or perhaps it's Fast Cash?

13 MS. ANITA SOUTHALL: Fair enough, Mr.
14 Foran. Is -- do you have an understanding of what the
15 members were attempting to depict in response to that
16 answer?

17 HONOURABLE STAN KEYES: I'm sorry. Could
18 I have that question again?

19 MS. ANITA SOUTHALL: Do you have an
20 understanding as to what these member organizations were
21 attempting to depict in answering the question that was
22 posed?

23 HONOURABLE STAN KEYES: No, I don't.

24 MS. ANITA SOUTHALL: Could -- could you
25 make that inquiry, please?

1 HONOURABLE STAN KEYES: Yes, we will.

2

3 --- UNDERTAKING NO. 28: CPLA to determine as to what
4 these member organizations
5 were attempting to depict in
6 answering the question that
7 was posed in reference to
8 PUB/CPLA-II-2-4, item (c).

9

10 (BRIEF PAUSE)

11

12 CONTINUED BY MS. ANITA SOUTHALL:

13 MS. ANITA SOUTHALL: Could I ask you to
14 turn to Tab 43, please?

15 And Tab 43 has as its heading -- it's
16 second round Information Request response, and it was
17 posed by PUB to CPLA, round 2-6. And under Item B, the
18 Board asked the question of CPLA:

19 "Please explain what structure of
20 layered loan rate would be sufficient
21 to take into account payday lenders'
22 operating expenses."

23 And in the second paragraph, in the middle
24 of the second paragraph there is a statement:

25 "The CPLA has filed evidence on lenders'

1 operating costs to assist the Board in
2 determining the rate."

3 Do you see that?

4 HONOURABLE STAN KEYES: Yes, I do.

5 MS. ANITA SOUTHALL: Would that be the
6 Deloitte Report that's being referred to in that
7 paragraph?

8 MR. NORMAN BISHOP: I believe so.

9 MS. ANITA SOUTHALL: And would it be Dr.
10 Gould's report to the extent that there is some data
11 contained in Dr. Gould's tables for the Dollar Financial
12 Canadian operations, what we've been calling "Money Mart"
13 operations?

14 MR. NORMAN BISHOP: I believe so. I -- I
15 don't believe there's any other evidence that would be
16 out there that we would be referring to by that sentence.

17 MS. ANITA SOUTHALL: And we heard Dr.
18 Gould indicate that with respect to the Money Mart
19 operations there isn't sufficient public information on
20 file for him to give an accurate -- accurate operating
21 cost assessment for those operations, correct?

22 HONOURABLE STAN KEYES: We take Dr. Gould
23 at his word.

24

25

(BRIEF PAUSE)

1 MS. ANITA SOUTHALL: Could you turn to
2 Tab 44, please? I want to again review -- and I
3 appreciate your assistance in doing this -- the member-
4 specific information that was obtained on the second
5 round of questioning of CPLA, for the -- the three (3)
6 largest member lenders.

7 And just before I -- I ask the particular
8 question with respect to the information shared by Money
9 Mart and the Fast Cash company, does Xtra Cash intend to
10 provide any specific information in respect to the
11 questions that were posed?

12 Maybe Mr. Foran has some idea, or I mean -
13 - I mean I'm not -- I'm not trying to preempt the CPLA
14 members on the panel, but I -- we don't have any
15 information, although presumably, questions were posed to
16 Xtra Cash.

17 MR. ALLAN FORAN: To -- to quote a line
18 from The Incredibles, "You -- you caught me monologuing."
19 What was the question?

20 MS. ANITA SOUTHALL: Mr. Foran, I was
21 inquiring as to, when we originally posed round 2
22 questions on member-specific information for CPLA, we had
23 asked them to be directed to the three (3) largest
24 operators.

25 Xtra Cash, I believe, was identified as

1 one of the operators, but Xtra Cash's evidence is -- is
2 known by its absence.

3 HONOURABLE STAN KEYES: Yes, I --

4 MS. ANITA SOUTHALL: So I -- I'm
5 wondering, presumably, it was asked for. But I -- I just
6 wondered if it -- if it's delayed, if we would be seeing
7 any -- any further information from Xtra Cash?

8 MR. ALLAN FORAN: Xtra Cash was asked for
9 the information. My understanding is that the principal
10 of Xtra Cash was away on holidays. No information is
11 received by my office or CPLA.

12 I confess that we have spent some time
13 preparing for this Hearing and have not got back to that
14 point. So we can make an inquiry to find out if they've
15 completed this.

16 MS. ANITA SOUTHALL: Thank you very much,
17 I appreciate that.

18

19 --- UNDERTAKING NO. 29: CPLA to make an inquiry to
20 find out if any further
21 member-specific information
22 will be forthcoming from Xtra
23 Cash.

24

25 CONTINUED BY MS. ANITA SOUTHALL:

1 MS. ANITA SOUTHALL: If I could then turn
2 to the specific information associated with this last
3 reference point on extensions.

4 The Money Mart specific information
5 provided is that Money Mart never extends loans beyond
6 their due date, is that correct?

7 Is that -- is that accurate as far as the
8 panel members --

9 HONOURABLE STAN KEYES: Yes, it --

10 MS. ANITA SOUTHALL: -- are aware?

11 HONOURABLE STAN KEYES: Yes, it is.

12 MS. ANITA SOUTHALL: And again, and I
13 apologize, but curiosity gets the better of me in this
14 case.

15 Given that the due date of the loan for a
16 Money Mart operation is the day before payday, do they
17 look at the processing of the cheque cashing fee on the
18 next day as an extension or a default?

19 We -- we're just trying to understand the
20 nature of that operation.

21 MR. NORMAN BISHOP: No. They -- they
22 characterize it as a convenience option so the customer
23 does not have to return and repay in cash.

24 So with a loan that's due to the due date
25 of the loan, which is the day before payday, they

1 calculate the interest at 44.64 percent.

2 If they deposit the cheque, then it -- it
3 is deposited a day later, on the payday. So the loan, in
4 fact, is outstanding for an extra day. So the cheque
5 includes the cheque cashing fee and the interest for one
6 (1) day. So there's one (1) day's additional interest.

7 So they do not characterize that as a
8 default.

9 MS. ANITA SOUTHALL: And it's not
10 characterized -- well, it wouldn't be an extension, I
11 take it, because extension would require some additional
12 fee in order to carry it beyond its due date?

13 Is -- is that a fair statement?

14 MR. NORMAN BISHOP: That's correct. And
15 I -- I would add, just in case there's any
16 misunderstanding, the cheque is a cheque cashing fee.

17 In the event that the cheque was deposited
18 on the due date, which is the normal situation for most
19 payday loans, with payday loan companies, and it was
20 returned for nonsufficient funds, then there would be a -
21 - an NSF fee, is my understanding.

22 However, that's -- that would be a rare
23 occurrence.

24 MS. ANITA SOUTHALL: Could you undertake
25 to inquire of Money Mart whether or not they're able to

1 provide the actual percentage of cheques that are found
2 to be in default as a result of deposit on payday?

3 HONOURABLE STAN KEYES: We will certainly
4 ask the question.

5 MS. ANITA SOUTHALL: Thank you.

6
7 --- UNDERTAKING NO. 30: CPLA will inquire of Money
8 Mart whether or not they're
9 able to provide the actual
10 percentage of cheques that
11 are found to be in default as
12 a result of deposit on
13 payday.

14
15 MS. SUSAN PROVEN: While they're taking a
16 few minutes, I just really can't understand if it's a
17 payday loan why you don't have a cheque dated for payday.
18 I still haven't got that clear.

19 MR. NORMAN BISHOP: I believe the cheque
20 is dated for payday, and it's deposited on payday. It's
21 just that the customer has the option of coming in the
22 day before payday and repaying it in cash and getting
23 their cheque back, in which case they don't pay any fees
24 whatsoever. They simply pay interest.

25 MS. SUSAN PROVEN: And we're still left

1 wondering how often that happens.

2 MR. NORMAN BISHOP: Yes, I believe that's
3 an undertaking.

4 MS. SUSAN PROVEN: Okay, thanks.

5

6 (BRIEF PAUSE)

7

8 CONTINUED BY MS. ANITA SOUTHALL:

9 MS. ANITA SOUTHALL: This may be a
10 question that would be applicable to all of the -- the
11 member-specific entities we were asking about, but or --
12 or if -- if you can answer it that would be helpful.

13 Is a loan -- a payday loan typically due
14 at a certain time on the day it is due? In other words,
15 if the -- is -- is it date stamped? Or is there a
16 requirement that it be paid back by 5 p.m. on the day
17 it's due?

18 And here I'm asking the question in terms
19 of the -- the typical -- the average operator, like the
20 majority of operators in Manitoba.

21 Would -- would it become due at a specific
22 time on a specific day?

23 HONOURABLE STAN KEYES: There are twenty-
24 three (23) companies in the CPLA. I can't say for
25 certain what each one of those companies how -- how I

1 could answer that question for you for each one of the
2 twenty-three (23) companies.

3 MS. ANITA SOUTHALL: I'll go back then
4 and ask my undertaking with respect to the three (3)
5 largest operators, if -- if we could have an -- an answer
6 to that member-specific question from them on inquiry.

7 HONOURABLE STAN KEYES: We'll undertake
8 that. Thank you.

9

10 --- UNDERTAKING NO. 31: CPLA will inquire of three
11 (3) largest operators whether
12 a loan becomes due at a
13 specific time on a specific
14 day.

15

16 (BRIEF PAUSE)

17

18 CONTINUED BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: Sorry we -- we are
20 struggling with the material that's been filed in terms
21 of understanding how this works.

22 I -- I am going to go back to the Money
23 Mart example and ask if -- if you can explain -- if a
24 customer comes in on the due date, are they -- must they
25 pay in cash?

1 Or are they able to provide another cheque
2 to pay off that amount?

3 MR. NORMAN BISHOP: I -- I believe they
4 have to pay in cash. The -- they have already left a
5 cheque with the -- with the company.

6

7 (BRIEF PAUSE)

8

9 MS. ANITA SOUTHALL: I -- I just want to
10 ask in terms of the -- the specific information provided
11 by the Fast Cash company. And again, this is the top of
12 the page we were looking at for the response to PUB/CPLA
13 2-7, and it was in respect of loan extensions
14 specifically.

15 The answer that's been provided or
16 supplied by the Fast Cash company on inquiry appears to
17 make reference to late fees. I just wasn't sure whether
18 or not -- and the reason I'm ask -- or the question I'm
19 asking is, did the Fast Cash Company intend to be
20 answering a question associated with extensions or with
21 default in respect of this answer?

22 Is there -- is there any way to discern
23 that?

24 MR. ALLAN FORAN: No, you'd have to ask
25 them actually. They -- I can -- my recollection is that

1 this was verbatim as received by my office.

2 And when I say, "verbatim," perhaps a
3 better description is this is what they sent in writing
4 to us to answer the PUB's question, and I don't think
5 it's been edited.

6 MS. ANITA SOUTHALL: Thank you. If -- if
7 there is a way to make clear if the Fast Cash Company is
8 talking about their default charges when somebody doesn't
9 pay or if -- if the clarification is that it's an
10 extension or rollover option for them, to be honest the
11 answer leaves that, I think, unclear.

12 So if it's possible to find that out,
13 please, Mr. Foran?

14 MR. ALLAN FORAN: We'll attempt.

15 MS. ANITA SOUTHALL: Thank you.

16

17 --- UNDERTAKING NO. 32: CPLA will find out if the
18 Fast Cash Company is talking
19 about their default charges
20 when somebody doesn't pay or
21 if the clarification is that
22 it's an extension or rollover
23 option for them.

24

25

(BRIEF PAUSE)

1 CONTINUED BY MS. ANITA SOUTHALL:

2 MS. ANITA SOUTHALL: If I could -- if I
3 could ask the CPLA panel members then to turn to Item B
4 on that page the Board inquired:

5 "Please provide a suggested interest
6 rate, administrative fee, or other fee
7 which should be utilized if a loan is
8 extended beyond the due date."

9 Is it the -- going back to the CPLA
10 Voluntary Code of Best Practices, is it the position of
11 CPLA that no fees are charged for extensions, that no
12 rollovers are allowed?

13 And if I'm equating rollovers to
14 extensions improperly, feel free to correct me.

15 HONOURABLE STAN KEYES: To the best of my
16 understanding first and foremost as part of the Code of
17 Best Business Practices, Number 1 on the eighteen (18)
18 point code is no rollovers.

19 So there is no rollover. There -- there
20 can be no charge for a rollover if a rollover isn't
21 permitted in the first place. An extension, to my way of
22 thinking, is -- can be defined as a rollover. An
23 extension and a rollover are -- are the same thing.

24 And so when someone comes and takes out a
25 payday loan and they are unable to pay it on their

1 payday, by their payday, then that loan goes into default
2 and then the default -- default charges kick in. I hope
3 that explains it.

4 MS. ANITA SOUTHALL: Yes, thank you, Mr.
5 Keyes.

6 And the reason I've asked the question --
7 and we do go on to ask about remedies in the next
8 question for loans not paid on the due date.

9 But I wondered if CPLA could elaborate
10 then on the response to the question associated with the
11 fees that should be utilized if a loan is extended beyond
12 the due date.

13 In other words, does CPLA take a position
14 on what should be charged for extensions in Manitoba?

15 MR. NORMAN BISHOP: Well, I guess the --
16 what we're trying to say in this is that the legislation
17 says that there will be extensions and -- but an
18 extension is obviously contingent upon both the lender
19 and the borrower agreeing to extend the loan.

20 If that's going to happen, obviously the -
21 - the lender has to agree as opposed to saying, Your
22 loan's in default, and we're going to collect on it and
23 deem it in default.

24 If they're going to say, We agree to
25 extend, then I think it's probably in both parties'

1 interest if there's an incentive to extend, if -- if
2 there was, for example, a prohibition on ever getting any
3 return on your -- your money.

4 If you extend the loan, then a few
5 borrowers or a few lenders would choose to extend. So
6 what is the right return or appropriate return where a
7 lender will agree to extend the loan and yet it's not an
8 excessive fee?

9 So I guess the Association kind of bounced
10 it back to the -- the panel and said interest should
11 apply, because if the loan is going to be outstanding a
12 week, a month, two (2) months, obviously there should be
13 interest accruing on it. And there should be some sort
14 of a fee that would be enough to provide incentive to the
15 lender to do it, but -- but not an excessive amount.

16 And we didn't venture on what that amount
17 should be.

18 MS. ANITA SOUTHALL: Sir, you made
19 reference to how you came to the determination. You
20 bounced it back to the panel, I think you indicated. I'm
21 not sure what you meant.

22 Maybe you have an advisory group in the
23 CPLA, or...

24 MR. NORMAN BISHOP: No -- no what we were
25 saying is if you were looking for us to recommend a

1 specific fee that could be charged for an extension, we
2 didn't volunteer one. We just provided some principles
3 for consideration.

4 In other words, we may not have been very
5 helpful with the answer to that question.

6 MS. ANITA SOUTHALL: You've not gotten
7 any further in your considerations on that point? The --
8 your position is -- is no further defined today?

9 HONOURABLE STAN KEYES: No, we have not.

10 MR. NORMAN BISHOP: But I do think --
11 just -- just to add. I -- I do think that it is
12 important that there be some incentive there. Otherwise,
13 lenders will say, We won't extend the loan. And that
14 would, you know, create negative consequences.

15 MS. ANITA SOUTHALL: Could you -- could
16 you then explain to us if CPLA is advancing a position
17 for the Board's consideration on the amounts that should
18 be chargeable or the maximum amounts that should be
19 chargeable on default?

20 MR. NORMAN BISHOP: Yes, I believe we
21 indicate that interest should accrue at the rates that
22 are currently permitted and that the maximum of all
23 default charges -- inclusive of NSF fees, administration
24 fees, and -- and related fees -- not exceed forty dollars
25 (\$40).

1 HONOURABLE STAN KEYES: And, this was
2 part of my presentation.

3 MS. ANITA SOUTHALL: I understand from
4 the -- the prefiling of evidence by CPLA that forty
5 dollars (\$40) is the NSF charge that everyone in -- in
6 the Association adheres to?

7 HONOURABLE STAN KEYES: A maximum of
8 forty dollars (\$40).

9 MR. NORMAN BISHOP: Just by way of
10 information, what the Association does is they look at
11 what the top five (5) banks charge for an NSF fee and
12 have agreed that it would not be greater than anything
13 the top five (5) banks charge.

14 And I believe it's the CIBC charges forty
15 dollars (\$40), and that is the highest one. And so
16 that's the highest one -- the maximum set by the CPLA.

17 MS. ANITA SOUTHALL: Thank you, and my --
18 my followup question to that is specifically -- it's not
19 -- if that's the rationale, then it's got nothing to do
20 with the actual costs associated with the -- the cheque
21 being treated as NSF, I take it?

22 MR. NORMAN BISHOP: No.

23 THE CHAIRPERSON: Wouldn't the lender
24 incur the costs when the bank returns the cheque?

25 MR. NORMAN BISHOP: Yes, they'll incur a

1 cost to them for the cheque being returned. And there --
2 there's also significant administration and accounting
3 fees for following up on collection.

4 And I believe Rentcash, in their evidence
5 -- rebuttal evidence, filed -- filed some information on
6 what costs would be when -- when a default occurs. So I
7 think it's fair to say forty dollars (\$40) is -- barely
8 covers the cost or doesn't cover the cost.

9 MS. ANITA SOUTHALL: Thank you, and my
10 last question, you'll be happy to hear, involves evidence
11 we heard from -- from Mr. Steve Sardo of Cash-X.

12 You may recall that, if you were present
13 or -- or if you've read the transcripts, he was once a
14 CPLA member. And he advised the panel in his testimony
15 that he had raised with the CPLA during his membership
16 period the creation of a creditor database.

17 He wasn't suggesting that it ought to be a
18 state database as -- as in Florida, although he did cite
19 Florida as an example of -- of a location that had a
20 creditor database.

21 Has CPLA -- is he accurate? Has CPLA
22 considered or had brought forward the concept of a -- of
23 a creditor database for the organization?

24 HONOURABLE STAN KEYES: Yes, there was a
25 discussion amongst members at a membership meeting about

1 the idea of a database. It was solely put forward by Mr.
2 Sardo at that particular meeting, and the membership
3 decided that, for a number of reasons, a data -- a
4 database would not be appropriate.

5 MS. ANITA SOUTHALL: And are you able to
6 share what the reasons are?

7 HONOURABLE STAN KEYES: Certainly. There
8 -- yeah, one that strikes me right off the bat -- and I'm
9 going to ask my colleague, Mr. Bishop, to comment, as
10 well, but that -- I think the one that struck me the most
11 was that a database is -- is really a -- a lender's tool,
12 not a borrower's tool.

13 So, given that the mandate of the CPLA is
14 to -- is to most certainly create the -- the legislation
15 and regulation that protect a consumer and, at the same
16 time, in balance to allow for a viable and competitive
17 industry, the database just -- just didn't fit.

18 Mr. Bishop...?

19 MR. NORMAN BISHOP: Yeah, I -- I think
20 Mr. Sardo was interested in owning and operating a
21 database. But that's a complex of issue with a number of
22 difficulties with it, whether it's a public or private
23 situation.

24 And I don't know that it -- in -- in
25 members that I've spoken to, it -- it has the same effect

1 that he would indicate that it would.

2 I think, when he was talking last week, he
3 talked about, well, the two (2) large members, in fact,
4 have databases of their own and that it gives them
5 advantage, because a borrower can default on a loan at
6 one store and then goes to another store. And they know
7 that -- that he's -- he's defaulted on his loan.

8 I think when you think about it, most
9 borrowers are smart enough that if they've defaulted at a
10 loan at the Cash Store or Money Mart, they're not going
11 to go to another Cash Store or Money Mart and -- and take
12 out another loan.

13 It -- it really doesn't make that much
14 difference. The -- and Mr. Sardo talked about how, I
15 think, he said 90 percent of his customers are repeat
16 customers.

17 He, in fact, knows his customers, and --
18 and so if he's having a default with one of his
19 customers, he will certainly know that.

20 And he did talk for some time about his
21 criteria -- which he's building a model of -- and all of
22 the information you get off a bank statement. So, for
23 example, you would see on a bank statement NSF's, pre-
24 authorized debits for other loans.

25 So that's largely the same information you

1 would get from a database. At the end of the day, as he
2 said -- I think he said, whether to -- who to lend to is
3 a matter of an art and science.

4 And I think different lenders take
5 different risks knowing full well that they are risky
6 without information that a database would particularly
7 give them. On the other hand, there are -- there are
8 risks for databases or a downside.

9 One of them has been expressed in -- in a
10 number of studies done by PIAC, the Public Interest
11 Advocacy Centre, and that has to do with credit building.

12 When you are a -- a borrower that doesn't
13 have great credit and then you use a registry that would
14 require -- this would be like Equi -- Equifax, where
15 you're -- you're filing evidence of a borrower's habits
16 with respect to payday loans, once you default on payday
17 loans, it -- it creates a real difficulty with credit
18 repair.

19 And in addition, there's a number of costs
20 with the system.

21 And the other thing is that the industry
22 is -- is -- found from consumers and from the polling
23 that's done, that people like the privacy of the -- of
24 the product as opposed to having their information filed
25 in a registry system.

1 So there -- there is a lot of issues on
2 both sides. I know the Consumer Measures Committee has -
3 - has looked at this and discussed this. And to my
4 knowledge, none of the provinces have -- have chosen to
5 implement a database at this -- this time.

6 But there all sorts of issues surrounding,
7 not -- not the least of which is dealing with
8 confidential information and the filing of it.

9 So it's -- it is something that is -- if
10 this is a very new industry this would be a very big
11 issue to deal with at this point in time.

12 So I think it's fair to say that Mr. Sardo
13 raised the issue, but it -- it wasn't a matter of a great
14 deal of discussion with the CPLA, and it's not really
15 something the CPLA would deal with in any event.

16 MS. SUSAN PROVEN: Could I -- could I
17 interject by asking, you said it -- your mandate within
18 the CPLA was to protect borrowers? Did I hear you right
19 -- that was the most important thing?

20 HONOURABLE STAN KEYES: The -- as the
21 CPLA has -- has said time and time again our mandate --
22 part of our mandate -- there are many aspects to the
23 mandate, but what I consider to be, as President, the
24 most important part of our mandate is to -- is to ensure
25 that the consumer is protected.

1 And that is in balance with a viable and
2 competitive industry. And that's why the CPLA has always
3 encouraged and -- and asked for legislation and
4 regulations, and -- and that's why the CPLA has not
5 fought it, but embraced it and -- and pushed for it.

6 MS. SUSAN PROVEN: I just think that such
7 a registry or such a database would also protect your
8 lenders, would it not? Because it would hopefully alert
9 them to the level of risk that they're taking on in that.

10 If they could go into the database and see
11 that someone was actually incurring loans at four (4)
12 different locations, you know, that would -- it would
13 certainly alert me, if I was a lender, that maybe there
14 was a higher risk.

15 Also, would it not lower your default
16 costs if you could protect yourselves from people that
17 were, as Mr. Sardo said, about to blow up? I think he
18 used that expression.

19 In terms of consumers, I -- you know, I
20 think consumers -- I know with the drug situation in the
21 pharmaceutical business -- although, of course, that's a
22 little different -- you still have an alert if someone is
23 getting extra drugs at several different drugstores.

24 Like, it just seems to me it's part of
25 protecting consumers. I see it as consumer protection.

1 HONOURABLE STAN KEYES: Mr. Bishop, do
2 you want to expand on your answer? I think you did
3 address a couple of those points that Ms. Proven has
4 asked about.

5 MR. NORMAN BISHOP: Well, I -- I guess a
6 database may or may not help in those aspects, or how
7 much it would assist in lowering default rates is hard to
8 say. It's something that would have to be looked at very
9 carefully.

10 In terms of consumer protection, the CPLA
11 has dealt with the -- all the credit counsellors across
12 the country, put in brochures. It has taken a number of
13 initiatives like that.

14 But at the end of the day, one of the
15 things the Pollara study found was that the amount of
16 debt that consumers take and -- and consumer education is
17 I think the CPLA feels is -- is an important way to
18 proceed, because it's one thing to say if -- if an
19 association took the position, Well, we're going to
20 prohibit our members from lending to anybody who's had so
21 many loans in -- in a period of time.

22 Well, that's all well and good, but if
23 that debt is the tip of the iceberg -- as Mr. Silver said
24 last week when he was before you -- it's doing nothing to
25 address the overall debt situation.

1 And I think consumer education is -- is an
2 important way to go, because if -- I'm not saying one
3 should keep lending to a customer over and over. But if
4 you deny them credit, they're going to find credit
5 elsewhere.

6 But you're not going to be dealing with
7 the overall credit problem that a consumer might have.
8 So I would say that -- that would be the position of the
9 CPLA.

10 HONOURABLE STAN KEYES: And you can
11 imagine, just this one, we've only spent the last twenty
12 (20) minutes talking about a database.

13 But you can imagine if -- if one were to
14 delve into all the issues about a database, I daresay we
15 might be here longer discussing database than what we
16 would be in discussing what the rates should be all in
17 for a loan of one hundred dollars (\$100).

18 But it's an important issue, and I agree
19 with Ms. Proven. Some of it seems very logical, but once
20 all the facts come forward, once there's a better
21 understanding of the issue, then that balance goes from,
22 you know, what we think is -- is a positive initiative by
23 the industry to somewhere in the balance, and then once
24 all the information is put forward, then the balance tips
25 against the idea of a database.

1 But we are quite prepared to answer any
2 and all questions when it comes to the database and how
3 our members feel about the database and, as Norm has
4 touched on, whether it's the criteria of an individual
5 company, the fact that they are lending money. And
6 because they are lending money, they certainly want to
7 have that money back.

8 So they're going to be very judicious in
9 ensuring that, you know, when they set their criteria
10 against an individual who borrows the money, they're
11 looking at the criteria in order to assume that they are
12 going to get repayment of that loan, of that capital.

13 So, given all the issues that Mr. Bishop
14 has brought forward and -- and just this brief
15 discussion, you can see how -- how complicated -- and we
16 haven't even touched on the -- the confidentials -- the
17 confidentiality, the Privacy Act, and how all that
18 applies under Canadian law toward -- toward a database.

19 MS. SUSAN PROVEN: And what about in
20 Florida, where they did do the database? Did they have
21 those issues?

22 HONOURABLE STAN KEYES: I have no
23 knowledge of -- of the discussion that was taking place
24 in Florida. I have no knowledge of what the -- the laws
25 are on privacy in the United States and, in particular,

1 the state of Florida.

2 MR. NORMAN BISHOP: Maybe if I could just
3 put some context into it is, I guess we're responding to
4 a question that the Association really hasn't thought
5 much about or spent a lot of time thinking about it.

6 It hasn't been an issue. So it's not like
7 we have a lot of developed for formed views on the issue.

8

9 CONTINUED BY MS. ANITA SOUTHALL:

10 MS. ANITA SOUTHALL: So just following up
11 on -- on that, if I could for a moment, CPLA doesn't have
12 a view on whether this type of database would benefit
13 Manitobans in -- in this payday loans area?

14 MR. NORMAN BISHOP: I think it would be
15 fair to say, no. I believe there'd be a lot more
16 research required on the area.

17 MS. ANITA SOUTHALL: But this isn't a
18 priority for CPLA. It's not in your agenda, it's not in
19 the five (5) year plan for consideration in terms of
20 funding or development?

21 MR. NORMAN BISHOP: I think our priority
22 is dealing with the hearings right now. It's kept us
23 very busy for some time.

24 MS. ANITA SOUTHALL: Can you tell me if
25 part of the reason why Money Mart's costs are lower,

1 apparently, and they're able to charge lower rates has
2 anything to do with their database?

3 MR. ALLAN FORAN: Is this a question of
4 CPLA as to whether CPLA has that information, or is this
5 a request or inquiry --

6 MS. ANITA SOUTHALL: Yeah, I -- I know
7 Mr. Bishop is aware of Money Mart's structure, so I -- if
8 he can answer it, fine. If you want to consider it as an
9 Undertaking that's fine too.

10 MR. ALLAN FORAN: My preference would be
11 as an Undertaking, only because I'm here representing
12 CPLA, and as with some other questions, there will have
13 to be inquiries made of Money Mart.

14 MS. ANITA SOUTHALL: That's fine, if you
15 are prepared to undertake to make that inquiry. Thank
16 you.

17 MR. ALLAN FORAN: We will.

18

19 --- UNDERTAKING NO. 33: CPLA to inquire to Money Mart
20 as to whether part of the
21 reason why their costs are
22 lower and they are able to
23 charge lower rates has
24 anything to do with their
25 database.

1 MS. ANITA SOUTHALL: Thank you, Mr.
2 Chairman, those are my questions of the CPLA panel.

3 THE CHAIRPERSON: Thank you.

4 Now, I believe when we start up again, we
5 will be going to Mr. Williams for the Coalition. But
6 before that, in following up the suggestion that was made
7 to us at one point in time that we make evident issues of
8 interest as we proceed along here, we have a question
9 that we would like to pose of the panel.

10 We heard from Mr. Taylor, of Assistive
11 Financial, which is apparently an insurance broker and
12 facilitator. I think he portrayed himself as the creator
13 of a product of an insurance nature.

14 Assistive purportedly links an insurance
15 company with a lender and then the lender offers as a
16 voluntary product -- life, disability, and if I recall
17 properly, critical injuries insurance -- to accepted
18 borrowers of an accepting lender. Obviously, a lender
19 would have to agree to offer this product.

20 Well, on first blush in preliminary, not
21 giving any judgment out on this matter, while the premium
22 appears to be relatively modest on an individual basis in
23 total - given a high percentage of borrowers apparently
24 take the insurance - the proceeds appear to be
25 significant.

1 I will come to a question.

2 And, of course, that is for a lender that
3 agrees to offer the product to the borrowers.

4 As we understood Mr. Taylor, he indicated
5 that the proceeds of the insurance premium, less
6 45 percent as a commission to the lender, is forwarded to
7 the insurance company. And then the insurance company
8 apparently provides 5 percent to Assistive Financial.

9 I do not know whether it is forty-five
10 (45) plus five (5) or five (5) of the fifty-five (55). I
11 did not quite follow that part of it.

12 So that would leave 50 percent, let us
13 say, with the insurance company to meet claims, costs,
14 operating costs, premiums, other taxes, and the reserves
15 that are required of insurance companies, particularly of
16 life companies.

17 And you may know this Board regulates a
18 large insurer, so we have some appreciation of the
19 practices of insurance companies and the involvement of
20 actuaries, and the development of reserves, and things of
21 that nature.

22 So the question that comes is that it
23 raised the question in our mind as to what was basically
24 left for claims in a sense.

25 And Mr. Taylor left the impression that

1 the arrangement was described was commonplace to the
2 industry with respect to the 45 percent retention, if you
3 like, and the 5 percent.

4 And to be direct and honest, we're having
5 some difficulty ascertaining a view as to the overall
6 economic benefit to borrowers given the situation that
7 I've described. You may recall that Mr. Taylor, in his
8 testimony, was unaware of the loss ratios experienced by
9 the insurance company. He indicated some adjustment
10 process, but when asked directly what were the loss
11 ratios, he did not know.

12 Just a general question, and there is no
13 conclusion in our minds on this matter, but if you can
14 assist us in some way in coming to an appreciation of the
15 overall benefit distribution of the insurance product
16 that Mr. Taylor was outlining for loans of a duration of
17 say three (3) to fourteen (14) days, it would be greatly
18 appreciated.

19 Do you have any initial comment?

20 HONOURABLE STAN KEYES: I do have a
21 comment. I'm not sure if I can be very assistive to you
22 in -- in my answer, because the five (5) members of the
23 Canadian Payday Loan Association operating in Manitoba,
24 none of them provide insurance -- none.

25 And in conversations I've had with members

1 on many different and a variety of subjects the members
2 of the Payday Loan Association in Manitoba when as an
3 aside asked why don't you provide insurance their answer
4 is that it does not provide value to the customer in our
5 opinion. And that is why they do -- they do not provide
6 the product for the customer.

7 Beyond that, any questions specific to the
8 insurance would probably be best asked of Mr. Taylor or,
9 may I respectfully suggest, any company that does offer
10 that particular product.

11 THE CHAIRPERSON: Okay, well, we will
12 leave the matter as it stands right now, but thank you
13 for your response.

14 I think, Ms. Southall, given the hour and
15 the time it would probably be better if Mr. Williams had
16 a fresh start in the morning.

17 How are you with that, Mr. Williams?

18 MR. BYRON WILLIAMS: Speaking personally,
19 I'm -- I'm fine with that. The -- the only challenge I
20 foresee, and we've had some discussions about that, is
21 Dr. Gould's availability.

22 I can -- I -- I will be a while, and I
23 think Mr. Hacault will be a -- a while as well. If we
24 are -- certainly I -- I think I, you know, we could work
25 more efficiently tomorrow, but I don't know if the Board

1 would consider starting a bit earlier to -- to make sure
2 that we can get Dr. Gould out of here at a reasonable
3 time or not.

4 THE CHAIRPERSON: Well, I imagine we
5 could shorten the lunchbreak and cut back on this and
6 that. I don't know, we might as well be...

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Yes, I suppose. I
11 suppose we could come in at 8:30, if it met with
12 everyone's approval.

13 MR. ALLAN FORAN: The -- the real
14 difficulty and the challenge -- and I shouldn't be
15 presumptive. I -- I think I did a -- a negative
16 headshake. Dr. Gould is actually -- is physically not
17 available after 11 a.m. tomorrow.

18 He's -- he's really it's a 11 a.m., and
19 Dr. Gould, I think, is gone. And the difficulty is
20 several fold. Dr. Gould is a full-time university
21 professor. He actually is involved in another matter as
22 well, and I -- I'm gonna speak for Dr. Gould for a
23 moment. He's just physically not available after 11:00
24 a.m. tomorrow in Winnipeg.

25 THE CHAIRPERSON: Well, I think along

1 with his, you know, more than adequate background for the
2 questions being put to him, he has probably gained a bit
3 from the last period of time listening to this discussion
4 going on too.

5 So it would be a great loss to the hearing
6 process if the Intervenors yet to follow did not have a
7 full opportunity to examine Dr. Gould.

8 So if we cannot complete him by tomorrow,
9 we will have to find another time, plain and simple. We
10 are not going to shorten Mr. Williams' or Mr. Hacault's
11 opportunity. Do you have any other time, say Christmas
12 Day, or...?

13

14 (BRIEF PAUSE)

15

16 DR. LAWRENCE GOULD: I'd be available on
17 Christmas Day, yes.

18 THE CHAIRPERSON: You might be the only
19 one, Mr. Gould. Can you give us some idea how long you
20 would think you are going to have with your
21 cross-examination?

22 MR. BYRON WILLIAMS: I'm going to follow
23 the Bob Peters' rule, because I -- I think I estimate --

24 THE CHAIRPERSON: Well, you are both
25 famous for it.

1 MR. BYRON WILLIAMS: -- so I -- I have
2 caution, Mr. Chairman. The -- I have -- in terms of Dr.
3 Gould, I have shifted my cross so that cross-examination
4 for Deloitte and some of the CPLA can appear afterwards.

5 But there is some that necessarily
6 involves a bit of posing questions to all three (3)
7 witnesses, so I'm going to guess at least an hour and a
8 half.

9 And I think that that is an optimistic
10 estimate. So I -- I would say somewhere between an hour
11 and half and two (2) hours. I may be able to shorten it
12 up tonight, but I'm in that --

13 THE CHAIRPERSON: Well, there is no way
14 that Mr. Hacault is going to be able to finish his before
15 Mr. Gould has to leave tomorrow at 11:00, so we are going
16 to have to figure out some other arrangement. But we
17 might as well get a start tomorrow.

18 As for continuing, I do not know about the
19 rest of you, but there is an awful lot to digest in one
20 day. And probably the same with the rest of you, we have
21 other projects on the go, too.

22 So I think we will wind it up at 4:00, and
23 we will come back at 9:00 and see where we get. And we
24 will make arrangements with Mr. Gould so that you have a
25 good opportunity -- yes, sir.

1 MR. ANTOINE HACAULT: Mr. Chairman, the
2 only matter we've discussed in addition to Dr. Gould --
3 and we had tried as counsel to see if we could arrange
4 that -- it had been hoped I would be able to start first-
5 thing tomorrow morning with Dr. Gould -- that hasn't
6 worked that way -- is that Rentcash has had its CEO, Gord
7 Reykdal, and Nancy Bland come in, of course, on the basis
8 of the scheduling, which has been set, which would have
9 them do their direct presentation tomorrow afternoon.

10 And we would be very appreciative if that
11 could be kept in mind in any discussions we have because
12 them having travelled here to do that.

13 THE CHAIRPERSON: No, we understand that.
14 We intend to keep to that schedule. How much time do you
15 think you will be spending with this panel?

16 MR. ANTOINE HACAULT: I believe the panel
17 would be, I'm guessing, about three (3) hours. I'm
18 looking how much Anita progressed in -- in practically a
19 full day with the panel. And there's issues that she has
20 dealt with, but most of the issues that she has raised
21 aren't issues which I had raised or was going to
22 question, so...

23 THE CHAIRPERSON: No, it is significant
24 evidence. We will have to make arrangements. So we will
25 adjourn -- Mr. Williams...?

1 MR. BYRON WILLIAMS: And just after
2 hearing My Friend's estimate, I just want to be, lest I'm
3 accused of the Bob Peters' rule breaking, with the hour
4 and a half to two (2), I was talking about Dr. -- the --
5 the first part in -- in terms of Dr. Gould and as part of
6 the CPLA.

7 THE CHAIRPERSON: Well, like the rest of
8 you, this is our first proceeding of this kind, too, so
9 we will have to make allowances and we will find a way in
10 time. So we will adjourn tonight and we will see you
11 tomorrow morning at 9:00. Thank you.

12 MS. ANITA SOUTHALL: Sorry, I -- I needed
13 to indicate one thing for the record, and I wanted to
14 wait until those exchanges were completed. The -- the
15 Board made reference to Assistive Financial, the
16 insurance company as Progressive Insurance Solutions.

17 So if we could just note for the record
18 that that insurance product was being spoken to by Mr.
19 Kent Taylor of Progressive. Thank you.

20 THE CHAIRPERSON: I apologize.

21 MS. ANITA SOUTHALL: Oh, no problem.

22 MR. ANTOINE HACAULT: The only other
23 matter, Mr. Chairman, that I raise at this time, is so
24 far everybody that's proceeded, we seem to have got
25 through on the projected time and perhaps a bit quicker.

1 Now, it seems that the estimates for the -
2 - I'm going say the bigger pieces of evidence in this
3 Hearing, there appears to be an underestimate of time.

4 And I'm really concerned, at this point,
5 that the time we've got set aside to complete all of the
6 other examinations is going to be a challenge to meet
7 unless we can deal with things in a different way than
8 they've been dealt with so far.

9 That's -- we'll discuss it as counsel to
10 see if we can try and deal with it, but...

11 THE CHAIRPERSON: Perhaps after we
12 adjourn you could meet with the other counsels and have a
13 general discussion.

14 MS. ANITA SOUTHALL: I'll do that. Thank
15 you, Mr. Chairman.

16 THE CHAIRPERSON: Okay. We will adjourn.
17 We will see you tomorrow morning.

18 MS. ANITA SOUTHALL: Thank you.

19
20 --- Upon adjourning at 3:55 p.m.

21 Certified Correct,

22

23

24 _____
Wendy Warnock, Ms.

25