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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 21st, 2007
Pages 1108 to 1373

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1 --- Upon commencing at 9:04 a.m.

2

3 THE CHAIRPERSON: Well despite the
4 weather, everyone seems to have arrived, and most
5 importantly of all, the panel and Mr. Williams.

6 MS. ANITA SOUTHALL: Could I just
7 interrupt that for one moment, Mr. Chairman? And I
8 wanted to note an exhibit on the record before we lost
9 track of it.

10 THE CHAIRPERSON: Please.

11 MS. ANITA SOUTHALL: Thank you. Good
12 morning.

13 This would be the CV of Norman J. K.
14 Bishop, one of the panel members for CPLA. And it's
15 being marked in the Hearing process as Exhibit number
16 CPLA-7, for the record. Thank you.

17

18 --- EXHIBIT NO. CPLA-7: CV of Norman J. K. Bishop

19

20 THE CHAIRPERSON: We have it. Anything
21 else?

22 MS. ANITA SOUTHALL: No, Mr. Chairman.
23 Thank you very much.

24 THE CHAIRPERSON: Thank you.

25 Okay, Mr. Williams, you can begin your

1 cross-examination of the panel.

2

3 CANADIAN PAYDAY LOANS ASSOCIATION PANEL

4

5 NORMAN BISHOP, Resumed

6 HONOURABLE STAN KEYES, Resumed

7 LAWRENCE GOULD, Resumed

8 DEAN SCHINKEL, Resumed

9

10 CONTINUED CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

11 MR. BYRON WILLIAMS: Good morning, Mr.
12 Chairman and members of the Board, as well as the CPLA
13 panel.

14 I'll note the time is 9:05, and the fact
15 that we're starting a couple minutes late is my
16 responsibility, for which I apologize to the Board. The
17 -- the commute from St. Patel (Phonetic) to North Cabano
18 got a little cumbersome in the snow.

19

20 (BRIEF PAUSE)

21

22 MR. BYRON WILLIAMS: Mr. Schinkel, I'm
23 not going to have a lot of questions for you today, so I
24 thought -- I didn't want to hurt your feelings. So I
25 thought I might start out with asking you a question or

1 two. And certainly, if I have neglected to ask you some
2 questions, you can certainly whisper in my ear on the
3 break, and I'll -- I'll see if I can come up with some
4 more.

5 But I want to go back a little bit to your
6 discussion with Ms. Southall yesterday. And -- now would
7 I be right just -- just in starting off to suggest to you
8 that -- going to the Ernst & Young report, rather than
9 the Deloitte report for one second, would I be right to
10 suggest to you that Ernst & Young defined large firms as
11 those with more than \$20 million annually in payday
12 loans?

13 Is that right, sir?

14 MR. DEAN SCHINKEL: Just so I'm -- ensure
15 I'm correct, could you refer to -- me to the page in the
16 report?

17 MR. BYRON WILLIAMS: Probably page 23.

18 MR. DEAN SCHINKEL: Yes. They define it
19 as those over 20 million in payday loan transactions.

20 MR. BYRON WILLIAMS: And medium-sized
21 businesses were defined as those between two (2) and 20
22 million in payday loan transactions within a year.

23 Is that right, sir?

24 MR. DEAN SCHINKEL: Correct.

25 MR. BYRON WILLIAMS: And small businesses

1 were defined as those with less than \$2 million. Is that
2 right, sir?

3 MR. DEAN SCHINKEL: Correct.

4 MR. BYRON WILLIAMS: Now, and I may have
5 misheard, so I want -- I want to make sure that I do get
6 this correct.

7 In your discussions with Ms. Southall
8 yesterday -- and I'm moving to the Deloitte sample now --
9 you were able to say that there were no large firms
10 within the meaning of Ernst & Young within the Deloitte
11 sample.

12 Is that right, sir?

13 MR. DEAN SCHINKEL: The Deloitte report
14 does not have any large firms per the Ernst & Young
15 definition.

16 MR. BYRON WILLIAMS: Am I also correct in
17 suggesting to you, you were not prepared to say -- for
18 reasons of confidentiality, which I understand -- that
19 you were not able to say whether all the firms within the
20 Deloitte sample were small.

21 Is that right, sir?

22 MR. DEAN SCHINKEL: For confidentiality
23 reasons, correct.

24 MR. BYRON WILLIAMS: So you weren't able
25 to say whether there were some medium or not within the

1 Deloitte sample. Is that right?

2 MR. DEAN SCHINKEL: For confidentiality
3 reasons again, yes.

4

5 (BRIEF PAUSE)

6

7 MR. BYRON WILLIAMS: Now, Ms. Southall
8 had a bit of a discussion with you about one of the
9 slides presented in Dr. Gould's PowerPoint presentation
10 of -- if memory serves me right. It seems so long ago,
11 but I think Monday. Slide 22, I wonder if you could turn
12 there for just one second.

13

14 (BRIEF PAUSE)

15

16 MR. BYRON WILLIAMS: Do you have that,
17 Mr. Schinkel, or...

18 MR. DEAN SCHINKEL: Just looking for it.

19

20 (BRIEF PAUSE)

21

22 MR. DEAN SCHINKEL: Slide 22, "Comparison
23 of Survey Results for Small Business Size"?

24 MR. BYRON WILLIAMS: Yes, that's right,
25 and -- and as I recall, and you'll correct me if I'm

1 wrong, you had a bit of a discussion with Ms. Southall
2 about the comparability of the E&Y report information
3 with the Deloitte report.

4 Do you recall that conversation, sir?

5 MR. DEAN SCHINKEL: Yes.

6 MR. BYRON WILLIAMS: Now I -- I want you
7 to keep your finger on that -- that table, but I -- I
8 want to move to the subject of fruit for just one second,
9 if you would. I'm a little hungry this morning, so I
10 thought I'd start out with some fruit.

11 I want you to assume, just for language
12 purposes, that any small payday lender we're -- we're
13 gonna define as an apple. Do you have that Mr. Schinkel?

14 Small payday lenders are apples. Is that
15 right, sir?

16 MR. DEAN SCHINKEL: Yes.

17 MR. BYRON WILLIAMS: You're prepared to
18 assume that? Thank you. And let's assume that any
19 medium-size payday lender is a -- a banana. Okay?

20 You're prepared to assume that, Mr.
21 Schinkel?

22 MR. DEAN SCHINKEL: Yes.

23 MR. BYRON WILLIAMS: If I look at the E&Y
24 column in this table, it's your understanding that all
25 the -- all the firms in that table are apples. Is that

1 right, sir?

2 We're looking at -- is that right, sir?

3 The --

4 MR. DEAN SCHINKEL: Correct. Correct.

5 MR. BYRON WILLIAMS: And if I look at the
6 Deloitte column, you're not in a position to say whether
7 they're all apples or whether there's some bananas in
8 there as well.

9 Is that fair, due to confidentiality
10 reasons?

11 MR. DEAN SCHINKEL: Correct.

12 MR. BYRON WILLIAMS: So, and this is a
13 simple point, but if I was looking to make an apple-to-
14 apple comparison, I'd have to be a little cautious,
15 because there may be some bananas in the Deloitte sample
16 as well.

17 MR. DEAN SCHINKEL: Correct, and what I
18 was trying to get across is for confidentiality reasons I
19 couldn't disclose it.

20 But to try and be helpful, if I imagine
21 when I go shopping for my kids and I go to IGA, they eat
22 a lot of apples but not many bananas. So in my shopping
23 cart there would be much more apples there and possibly a
24 few bananas, but definitely much closer to the apples in
25 E&Y.

1 MR. BYRON WILLIAMS: So it's closer, but
2 we're not comparing apples to apples. Is that fair, sir?

3 MR. DEAN SCHINKEL: The closest
4 comparison and the most correct is comparing the -- the
5 way it was done on Slide 22 would have been incorrect to
6 take the medium-size column from Ernst & Young. That
7 clearly would not have been a -- a clear comparison.

8 But as you said there may some bananas in
9 the mix.

10 MR. BYRON WILLIAMS: Okay, and just so
11 I'm clear maybe, my question was imprecise, we're not
12 comparing apples to apples in that -- in this table?

13 MR. DEAN SCHINKEL: You are correct.
14 There's a possibility there may be slight differences.

15

16 (BRIEF PAUSE)

17

18 MR. BYRON WILLIAMS: Now I'm going to --
19 and turn to the Ernst & Young report, and I want to just
20 make sure that we have some definitions that are in
21 common between all of us. I'm going to -- and this is
22 both for Dr. Gould -- Gould and for the CPLA members.
23 Mr. Schinkel, I will come back to you a little bit later
24 so -- so don't worry.

25 But I'm going to refer you to page 4 of

1 the Ernst & Young report and the definitions of rewrites,
2 and rollovers, etcetera.

3

4 (BRIEF PAUSE)

5

6 MR. BYRON WILLIAMS: Just wait for Mr.
7 Keyes to get that document. I'm referring to the Ernst &
8 Young report in it's entirety, which was the prefilled
9 evidence of the CPLA filed on September 17th. So it's in
10 -- in that bundle.

11

12 (BRIEF PAUSE)

13

14 MR. BYRON WILLIAMS: And I -- I suspect
15 Ms. Southall was trying to save trees, so it's -- it's
16 probably not in the -- the package -- Ernst & Young, the
17 entire report.

18

19 (BRIEF PAUSE)

20

21 HONOURABLE STAN KEYES: And what page was
22 that again, Mr. Williams?

23 MR. BYRON WILLIAMS: Page 4.

24 HONOURABLE STAN KEYES: Thanks.

25

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: Now I want to direct
4 your attention, and I -- I'm gonna start with Mr. -- the
5 -- the CPLA witnesses, and I'll turn Dr. Gould in a
6 second.

7 I just want to make sure our definitions -
8 - we'll use a consistent definition between all of us.
9 Direct your attention to the fourth paragraph, and Ernst
10 and yun -- excuse me, Ernst & Young says:

11 "If the borrower is unable to make
12 arrangements for the payment or does
13 not wish to settle the debt when it is
14 due, many loan providers allow the loan
15 to be [in quotation marks] "rolled
16 over" (or [in brackets] extended for an
17 additional fee). In some cases a new
18 loan will be created to settle the
19 previous loan outstanding. This is
20 called a rewrite in the industry.
21 Rollovers, extensions, and rewrites are
22 treated as being equivalent in this
23 study."

24 And just for -- for so I understand, is
25 that an acceptable treatment of rollovers, extensions and

1 rewrites from the purpose of the CPLA?

2 MR. NORMAN BISHOP: Yes.

3 MR. BYRON WILLIAMS: And, Dr. Gould, does
4 that work for you as well? If I use those terms later
5 on, you'll understand what I'm talking about?

6 DR. LAWRENCE GOULD: Could you -- could
7 you repeat the definition that you're going to use today?

8 MR. BYRON WILLIAMS: I -- I'm just
9 referring you to the -- I'll let -- because I -- I don't
10 want to put it back -- reread it, but I'll let you refer
11 to the fourth paragraph.

12

13 (BRIEF PAUSE)

14

15 DR. LAWRENCE GOULD: Yes.

16 MR. BYRON WILLIAMS: Now my understanding
17 is, and I -- I believe it's Number 1 in terms of the CPLA
18 policy, that rollovers are -- are not allowed by the
19 CPLA, is that right?

20 HONOURABLE STAN KEYES: That's correct.

21 MR. BYRON WILLIAMS: That's a voluntary
22 decision reached by your -- your members, and it's
23 necessary to make that decision to be a member of the
24 CPLA?

25 HONOURABLE STAN KEYES: That's correct.

1 MR. BYRON WILLIAMS: Can you tell me when
2 the no-rollover policy came into effect?

3 HONOURABLE STAN KEYES: 2006.

4 MR. BYRON WILLIAMS: Now going down one
5 (1) paragraph, there's a definition -- I'm going to call
6 it a definition of -- of -- by Ernst & Young of repeat
7 loans, and they say that:

8 "Repeat loans, for the purposes of this
9 study, are new loans made to the
10 customers who have previously borrowed
11 from that particular lender."

12 And it goes on to say:

13 "Some lenders do not permit rollover
14 extensions or rewrites. In these cases
15 a customer must pay off a payday loan
16 before getting a new loan.
17 These transactions are treated as new
18 loans to repeat customers and not as
19 rollovers, because the customer must
20 actually have the cash to pay off the
21 first loan."

22 Now for the purposes of the CPLA, is that
23 an appropriate definition of repeats? Does that work?

24 HONOURABLE STAN KEYES: Yes.

25 MR. BYRON WILLIAMS: And, Dr. --

1 HONOURABLE STAN KEYES: Yes, it is.

2 MR. BYRON WILLIAMS: And, Dr. Gould, does
3 that work for you as well?

4 DR. LAWRENCE GOULD: Yes.

5 MR. BYRON WILLIAMS: Can you tell me --
6 and -- and, Mr. Bishop, you might be able to help me with
7 this. Was -- was Money Mart still doing rollovers in
8 2006?

9 Or had they discontinued that practice
10 earlier?

11 MR. NORMAN BISHOP: I don't believe Money
12 Mart ever -- ever did rollovers.

13 MR. BYRON WILLIAMS: So at the time the
14 Ernst & Young study was -- was taken, Money Mart would
15 not have been doing rollovers. Is that fair, sir?

16 MR. NORMAN BISHOP: Not to my knowledge.
17 Now -- now once again, I'm not giving evidence for Money
18 Mart. But just to my knowledge, no.

19 MR. BYRON WILLIAMS: And I -- I
20 appreciate the assistance, because it does expedite
21 matters. And -- and if you -- if it comes to your
22 attention that that's not correct, you'll -- you
23 certainly are welcome to -- to come back and confirm
24 that.

25 And Dr. Gould, I'm going to bounce back

1 and forth between you and the CPLA for a few minutes
2 here. But would I be right in suggesting to you -- and
3 I'm not asking for any elaboration.

4 But your recommendation in terms of a -- a
5 maximum fee is in the range of twenty (20) to twenty-
6 three dollars (\$23) plus regulatory costs per one hundred
7 (100).

8 Is that right, sir?

9 DR. LAWRENCE GOULD: That's correct.

10 MR. BYRON WILLIAMS: And is that for a
11 two (2) week loan? Or is that how you visualize that,
12 sir?

13 DR. LAWRENCE GOULD: I -- I visualize it
14 as a two (2) week loan.

15 MR. BYRON WILLIAMS: Thank --

16 DR. LAWRENCE GOULD: I think the -- the
17 difference between one (1) week, two (2) weeks and three
18 (3) weeks is probably immaterial.

19 MR. BYRON WILLIAMS: So it's -- for your
20 purposes, it's okay if I use two (2) weeks for example?

21 DR. LAWRENCE GOULD: Yes.

22 MR. BYRON WILLIAMS: Okay, thank you.

23 Now if I wanted to translate those numbers to a five
24 hundred dollar (\$500) loan, leaving aside regulatory
25 costs -- which I'm going just do for the purposes of our

1 discussion -- we're looking at a fee of one hundred (100)
2 to one hundred and fifteen dollars (\$115) is what you're
3 recommending.

4 Is that right, sir, for five hundred
5 (500)?

6 DR. LAWRENCE GOULD: Yes, I think the
7 recommendations were all -- I -- I mean, I used three
8 hundred dollars (\$300) in all examples as an average size
9 loan. But if there were a five hundred dollar (\$500)
10 loan, yes.

11 MR. BYRON WILLIAMS: And as I understand
12 your recommendation, the costs per hundred (\$100) do not
13 rise nor do they decrease with the size of the loan? Is
14 that right, sir?

15 DR. LAWRENCE GOULD: In terms of the
16 recommendation, that's correct.

17 MR. BYRON WILLIAMS: And also, in terms
18 of first loans versus repeat loans, the fee would be the
19 same. Would that be right, Dr. Gould?

20 DR. LAWRENCE GOULD: Yes.

21 MR. BYRON WILLIAMS: And just to make
22 sure I -- I've got it clear, because there has a lot of
23 evidence. If I came in to take out a payday loan from --
24 let's assume that the -- the max -- the maximum ceiling
25 is set at twenty-three dollars (\$23), if you would --

1 would.

2 If I came to take out a loan on October
3 1st, and I was a first-time custer -- customer, and I
4 took out a loan for five hundred dollars (\$500), assuming
5 a rate of twenty-three (23) on a hundred (100), I would
6 be paying a hundred and fifteen dollars (\$115) as a fee.

7 Would that be right, sir?

8 DR. LAWRENCE GOULD: Yes.

9 MR. BYRON WILLIAMS: And so if I paid off
10 that loan on my next payday -- let's assume it's October
11 15th -- and I wanted to take out another loan for another
12 two (2) week period, the fee would be an additional one
13 hundred and fifteen dollars (\$115).

14 Is that right, sir?

15 DR. LAWRENCE GOULD: Yes.

16 MR. BYRON WILLIAMS: I'll need this later
17 on, so if I can just get your indulgence. If I was
18 looking at borrowing a hundred and twenty dollars (\$120),
19 would -- and the maximum or the -- the fee -- the fee
20 ceiling was set at twenty-three (23) over a hundred
21 (100), would I be right in suggesting to you, subject to
22 check, that I'd be paying about twenty-seven dollars and
23 sixty cents (\$27.60)?

24

25 (BRIEF PAUSE)

1 DR. LAWRENCE GOULD: Sorry, how much did
2 you --

3 MR. BYRON WILLIAMS: Twenty three (23)
4 times a hundred and twenty (120), sir.

5
6 (BRIEF PAUSE)

7
8 DR. LAWRENCE GOULD: Did you be -- how
9 much did you say you'd be paying?

10 MR. BYRON WILLIAMS: Well, I -- I
11 apologize for that. I was -- a hundred and twenty
12 dollars (\$120), and I was assuming the -- the fee -- it
13 was twenty-three dollars (\$23).

14 DR. LAWRENCE GOULD: And what was your
15 conclusion?

16 MR. BYRON WILLIAMS: Twenty-seven dollars
17 and sixty cents (\$27.60), sir.

18 DR. LAWRENCE GOULD: Yes.

19 MR. BYRON WILLIAMS: We're -- our
20 calculators are working.

21 DR. LAWRENCE GOULD: Yeah, I just
22 didn't --

23 MR. BYRON WILLIAMS: Yeah.

24 DR. LAWRENCE GOULD: -- hear --

25 MR. BYRON WILLIAMS: Yeah.

1 DR. LAWRENCE GOULD: -- what you had
2 said.

3 MR. BYRON WILLIAMS: And I apologize, if
4 I'm speaking too quickly just slow me down. Am I right--

5 DR. LAWRENCE GOULD: It's changing the
6 amounts that's a little confusing.

7 MR. BYRON WILLIAMS: Okay. Well, perhaps
8 we're both confused, and maybe that's not such a bad
9 thing.

10 Dr. Gould, am I right in suggesting that
11 you have not made any fee recommendation in terms of
12 rollovers, extensions, and rewrites?

13 Is that right, sir?

14 DR. LAWRENCE GOULD: That's correct.

15 MR. BYRON WILLIAMS: Do you have any
16 thoughts on the matter?

17 DR. LAWRENCE GOULD: It -- it wasn't part
18 of my report at all, so I didn't go into it.

19 MR. BYRON WILLIAMS: You weren't retained
20 to do that?

21 DR. LAWRENCE GOULD: I was just asked to
22 look at the maximum fees.

23

24 (BRIEF PAUSE)

25

1 MR. BYRON WILLIAMS: Now, Mr. Keyes and
2 Mr. Bishop, I'm -- I'm over back to you for a -- a few
3 seconds. And I'm going to talk to you about maximum fees
4 for first and repeat loans in a second.

5 But I want to direct you to a discussion
6 and -- and to an interrogatory that was referenced with
7 Ms. Southall yesterday. And that's PUB/CPLA-A-A6, so
8 that's the one regarding rollovers. And I'm not sure if
9 Ms. Southall -- if that's in the book of documents or --
10 or not. PUB-A-6 -- PUB/CPLA-A-6.

11 MR. NORMAN BISHOP: Yeah, I believe it is
12 at Tab 44.

13 MR. BYRON WILLIAMS: Tab 44.

14

15 (BRIEF PAUSE)

16

17 MR. BYRON WILLIAMS: Now, Mr. Bishop, I -
18 - I believe it was you discussing with Ms. Southall, but
19 if it's Mr. Keyes you'll, of course, step in and tag-team
20 me.

21 As I understand, the -- the advice of the
22 CPLA, in terms of rollovers, is -- is that if -- if both
23 parties won't extend the loan, the Board take -- you take
24 the position that the Board should set a rate that is
25 lower than the fee to grant the loan in the first

1 instance so as to take into account the cost of the
2 lender of extending the loan including any cost of
3 capital.

4 Is that right?

5 MR. NORMAN BISHOP: That's correct.

6 MR. BYRON WILLIAMS: There may be too
7 many -- oh, my mic's on, okay.

8 Could you give me some insight into the --
9 the thinking or the analysis of the CPLA in recommending
10 a lower fee for rollovers? I'm presuming it's on the
11 basis of cost causality.

12 But perhaps you could elaborate on that a
13 bit, Mr. Bishop, not in terms of the actual number but
14 the reasoning -- the behind the CPLA position.

15

16 (BRIEF PAUSE)

17

18 MR. NORMAN BISHOP: Well, the -- a payday
19 loan is a short-term loan. If -- and the CPLA chose as
20 part of its Code of Best Business Practices to prohibit
21 rollovers on that basis.

22 If -- if the fee for extending the loan
23 was the same as the fee for obtaining the loan, that
24 would -- would be, in essence, a -- a rollover at a full
25 fee, which would make it an opportunity for the lender to

1 roll the same loan over and over again.

2 MR. BYRON WILLIAMS: Is -- is also part
3 of the decision the fact that rollovers are -- are less
4 extensive -- expensive than -- than first loans for the -
5 - to offer?

6 Would that be also part of your reasoning?

7

8 (BRIEF PAUSE)

9

10 HONOURABLE STAN KEYES: This is probably
11 more a direct question to a lender, and the CPLA is not a
12 lender.

13 MR. BYRON WILLIAMS: That's fine, and --
14 I'll just -- I want to follow this through just for one
15 second more, and we won't get into cost causality, then.

16 Does the CPLA, as an organization -- and
17 my clients are struggling with this issue, so that's why
18 I'm -- I'm seeking your advice.

19 Do you see any social policy con -- issues
20 relating to making rollovers less expensive than the --
21 than the first loan?

22 Any concerns with that at all?

23 HONOURABLE STAN KEYES: That's a
24 discussion I'd probably have to have with my membership
25 before I could fairly comment on behalf of the CPLA.

1 MR. BYRON WILLIAMS: Now, the current
2 position of the CPLA is -- is not to allow rollovers. I
3 want you to assume with me that the Public Utilities
4 Board, in its wisdom, sets a rate for rollovers, a --
5 presumably a just and reasonable one.

6 Is there -- given that a regulator has --
7 has chosen to -- assume making that assumption, to set a
8 just and reasonable rate for rollovers, if it does that,
9 in your view, would that make the CPLA ban on rollovers
10 out of date?

11 Just see -- do you anticipate that
12 possibility?

13 HONOURABLE STAN KEYES: Well most
14 certainly any regulatory requirement dictated by the
15 Manitoba Public Utilities Board is going to take
16 precedence within our -- for -- for our membership and
17 how it applies to our membership, which, in your
18 definition, could make a particular position as part of
19 the Code of Best Business Practices null and void.

20 MR. NORMAN BISHOP: If I could just add
21 to that. The CPLA came together in the absence of any
22 regulation by any government and -- and created a code
23 that businesses in the industry felt was appropriate.

24 After many years, governments are finally
25 moving forward with legislation to protect consumers.

1 And -- and bearing in mind, the -- the members of the
2 CPLA are for pri -- for-profit businesses.

3 The Association hasn't spent a lot of time
4 talking about what a postregulatory role it would have.
5 Certainly, it will happen first in Manitoba, and then it
6 will happen in other provinces.

7 But we -- I think it's fair to say --
8 haven't thought that through.

9 MR. BYRON WILLIAMS: As I understand your
10 evidence, and if I've misstated it, you'll correct me,
11 the -- the ban on rollovers came and took place at a time
12 when there was an absence of action in this field.

13 Once regulators start to fill -- fill the
14 -- that void, it is possible that the CPLA may re --
15 revisit this issue?

16 HONOURABLE STAN KEYES: That's a fair
17 assumption.

18 MR. BYRON WILLIAMS: And would it --
19 would I -- would I push that one step farther and say
20 it's likely that you'll revisit this assumption?

21 It's an important issue to reconsider?

22 HONOURABLE STAN KEYES: That's a fair
23 assumption.

24 And just to expand somewhat on your
25 question, my answer, and then Mr. Bishop's pick-up,

1 members of the CPLA, the -- the -- back then twenty-five
2 (25) companies that were part of the Canadian Payday Loan
3 Association did have a social responsibility that they
4 felt was important, that was lacking because of the lack
5 of regulation, and thereby created the Code of Best
6 Business Practices that, for all intents and purposes, on
7 many different fronts, protect the consumer.

8 And it's to the credit of these members
9 who -- who adopted the Code of Best Business Practices at
10 -- for their businesses, now today see it reflected in --
11 in four (4) different pieces of legislation that have
12 been passed across the country.

13 MR. BYRON WILLIAMS: Okay, thank you for
14 that, Mr. Keyes.

15 And, Dr. Gould, don't feel neglected, I'm
16 going to be coming -- coming to you in -- in just a
17 couple of seconds. There's a few questions I just want
18 to follow from Ms. Southall's discussion with the CPLA
19 panel and Ms. Proven's discussion of -- as well towards
20 the end of the day that I just want to follow up with
21 before I forget.

22 Mr. Bishop, you recall towards the end of
23 yesterday that you had a discussion with My Learned
24 Friend, Ms. South -- Southall, excuse me, about Money
25 Mart fees.

1 Do you recall that discussion generally?

2 MR. NORMAN BISHOP: Yes.

3 MR. BYRON WILLIAMS: And you talked about
4 Money Mart loans being due the day -- the day before
5 payday. Is that correct, sir?

6 MR. NORMAN BISHOP: That's correct.

7 MR. BYRON WILLIAMS: And as you explained
8 it, or at least as -- as the Money Mart brochure does as
9 well, as I understand it, customers may elect to repay in
10 cash on the due date of the loan -- being the day before
11 payday -- and obtain return of the cheque or may elect
12 the convenience option of having Money Mart deposit the
13 postdated cheque on payday, and customers will incur the
14 cheque cashing fee.

15 Do I have that right, process-wise, sir?

16 MR. NORMAN BISHOP: I believe that's what
17 it says.

18 MR. BYRON WILLIAMS: And that's your
19 understanding as well?

20 MR. NORMAN BISHOP: Correct.

21 MR. BYRON WILLIAMS: And as I understand
22 it, cheque party fees can either be fees of second-party
23 cheques of two forty-nine (2.49) per item plus 2.99
24 percent of the face amount of the cheque?

25 That's one option, is that right, sir?

1 MR. NORMAN BISHOP: I'm not familiar --
2 exactly what their cheque cashing fees are.

3 MR. BYRON WILLIAMS: But you'll -- at a
4 high level there's a -- there's a second-party cheque and
5 also a first-party cheque?

6 You recall that, in terms of cheque
7 cashing fees?

8 MR. NORMAN BISHOP: Yes.

9 MR. BYRON WILLIAMS: And there's a
10 difference in the rate? You'll recall that as well?

11 MR. NORMAN BISHOP: Correct.

12 MR. BYRON WILLIAMS: With the first-party
13 cheques being substantially higher in terms of the
14 percent on the face amount charged. Is that right?

15 MR. NORMAN BISHOP: I believe that's the
16 case.

17 MR. BYRON WILLIAMS: Now just going to
18 your discussion with Ms. Proven of yesterday, Mr. -- Mr.
19 Bishop, in terms of the CPLA position -- which I think
20 you expressed eloquently -- your position is that those
21 cheque cashing fees are optional.

22 Is that right, sir?

23 MR. NORMAN BISHOP: I don't believe a
24 position was expressed with respect to that. I believe
25 there was a question about what was Money Mart's

1 position, and -- and counsel took an undertaking on that.

2 MR. BYRON WILLIAMS: Okay, well maybe I
3 misunderstood. I -- I thought you indicated that your --
4 your view was, or the CPLA's view was, that optional
5 cheque cashing fees were not part of the calculation of
6 the maximum ceiling for payday loans.

7 Do you recall stating that?

8 MR. NORMAN BISHOP: Were you talking in -
9 - in respect of this regulation -- or legislation that's
10 coming in?

11 MR. BYRON WILLIAMS: Yes.

12 MR. NORMAN BISHOP: I -- I don't believe
13 we took a position on that. I think that -- that's up to
14 the government to decide.

15 MR. BYRON WILLIAMS: Okay. So I must
16 have misunderstood you. So you have no advice to offer
17 to the -- to the Board on whether those should belong
18 within the maximum ceiling?

19 I'm referring to the cheque cashing fees
20 we were just discussing.

21 MR. NORMAN BISHOP: You're talking about
22 Money Mart's in particular?

23 MR. BYRON WILLIAMS: Yes.

24 MR. NORMAN BISHOP: Because I think in
25 Manitoba there's any number of payday lenders with any

1 number of different programs. And at the time that
2 regulation comes forward, those programs may change.

3 So, no, I don't think it's for the
4 Association to express an opinion on any one or all of
5 the different programs.

6

7 (BRIEF PAUSE)

8

9 MR. BYRON WILLIAMS: I wonder, and this
10 may be by way of undertaking after discussion with
11 counsel. There's two (2) pieces of information I'd be
12 very appreciative if I could obtain from Money Mart, if
13 you would. And again, Mr. -- Mr. Foran can offer his
14 advice to the Board.

15 The -- the first, I'm -- I'm going to pose
16 it as a hypothetical. Assuming that I'm going in to
17 borrow one hundred and twenty dollars (\$120) from Money
18 Mart, and assuming as well that the -- the fee -- the
19 Board's ceiling on cheque cashing fees is 23 percent.

20 So I'm going to present to you -- what I'm
21 trying to get at from Money Mart is how they calculate
22 the fee on first-party cheques.

23 So, assuming that I have a -- an original
24 loan of one hundred and twenty dollars (\$120); a fee of
25 twenty-seven sixty (27.60) being -- being twenty (20) --

1 being the fee due on the day before payday; a -- a fee of
2 two dollars and forty-nine cents (\$2.49) being the per
3 item fee for cheque cashing; what would be, in -- in
4 terms of the calculation of the ultimate amount owing,
5 what will that be calculated on?

6 And just -- and Mr. Foran, I'll give this
7 to you in writing. But will it be calculated on the
8 hundred and twenty (120); on the hundred and twenty (120)
9 plus the twenty-seven sixty (27.60); or on the hundred
10 and twenty (120), plus the twenty-seven sixty (27.60),
11 plus the two forty-nine (249)?

12 MR. ALLAN FORAN: Again, just for the
13 purposes of the record, I don't represent Money Mart.
14 The panel is not here on behalf of any specific company,
15 although Money Mart is a member of CPLA. So I'll take
16 that under advisement.

17

18 --- UNDERTAKING NO. 34: CPLA to inquire of Money Mart
19 as to how it calculates the
20 fee on first-party cheques
21 for a one hundred and twenty
22 dollar (\$120) loan. (Taken
23 under advisement)

24

25 MR. BYRON WILLIAMS: And one other

1 question that I'd -- I'd ask you to take under
2 advisement, if -- if Money Mart would consider providing
3 to the Coalition the cost of a twelve (12) day loan for
4 two hundred and fifty dollars (\$250).

5 MR. ALLAN FORAN: Same response.

6

7 --- UNDERTAKING NO. 35: CPLA to inquire of Money Mart
8 to provide to the Coalition
9 the cost of a twelve (12) day
10 loan for two hundred and
11 fifty dollars (\$250). (Taken
12 under advisement)

13

14 (BRIEF PAUSE)

15

16 MR. BYRON WILLIAMS: And if it will
17 assist the legal counsel, I'll make sure that I provide
18 that to them in writing over the break.

19 MR. ALLAN FORAN: Thank you.

20

21 CONTINUED BY MR. BYRON WILLIAMS:

22 MR. BYRON WILLIAMS: Dr. Gould, just a --
23 just a question referring you to Table 8 of -- of your
24 evidence, which was filed on -- and it's a quick question
25 so I -- I hate to send you there, but I will.

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: Dr. Gould --

4 DR. LAWRENCE GOULD: Yes.

5 MR. BYRON WILLIAMS: -- Gould, you have
6 heard just a very brief discussion in terms of cheque
7 cashing fees and default fees that -- that Money Mart may
8 -- may offer, not just today but yesterday as well.

9 If I looked at your table, could -- could
10 you tell me whether cheque cashing fees would be captured
11 in the line "Consumer Lending Net" or whether -- or
12 whether they would be captured in the line "Cheque
13 Cashing"?

14 I'm talking about cheque cashing fees in
15 association with -- with what I just discussed with Mr.
16 Bishop, namely the -- the loan being due the day before
17 payday and that if one chooses to pay it on payday, there
18 are additional charges, including cheque cashing fees.

19 Do you understand my question, Dr. Gould?

20 DR. LAWRENCE GOULD: Yes. I would -- my
21 assumption was that it would be captured in the "Cheque
22 Cashing" line.

23 MR. BYRON WILLIAMS: And if -- if any
24 information comes to you to suggest otherwise, would you
25 undertake to provide -- provide that to the Coalition,

1 Dr. Gould?

2

3

(BRIEF PAUSE)

4

5

DR. LAWRENCE GOULD: I'm not sure how I would get that information if it's not in the financial statements. If -- if you -- through -- get it through your request through Money Mart, that's possible. I'm not sure how I could get it. I'll --

10

MR. BYRON WILLIAMS: Okay.

11

DR. LAWRENCE GOULD: -- other than what I see in the financial statements.

13

MR. BYRON WILLIAMS: Okay, well, thank you for that, Dr. Gould. And, Mr. Foran, perhaps you would also undertake to discuss that with Money Mart.

16

MR. ALLAN FORAN: I'll take it under advisement.

18

19

--- UNDERTAKING NUMBER 36: CPLA to inquire of Money Mart as to whether cheque cashing fees would be captured in the line "Consumer Lending Net" or whether they would be captured in the line "Cheque Cashing." (Taken under

20

21

22

23

24

25

1 advisement)

2

3 CONTINUED BY MR. BYRON WILLIAMS:

4 MR. BYRON WILLIAMS: And a similar
5 question is to Dr. Gould, but it may go ultimately to
6 Money Mart.

7 In terms of default fees, is it your
8 expectation that they would appear under the -- under the
9 line "Customer Lending Net" or that they would appear
10 under "Other"?

11 Do you -- do you have any thoughts on
12 that, Dr. Gould? And again, I'm speaking specifically in
13 terms of payday loans.

14 DR. LAWRENCE GOULD: Again -- again, I
15 think the consumer lending net would be net of defaults,
16 loan defaults.

17 MR. BYRON WILLIAMS: And -- and just
18 because -- you can see the blank look in my face, Dr.
19 Gould, does that mean it would be in that line or not?
20 It would not be.

21 DR. LAWRENCE GOULD: Sorry, which --

22 MR. BYRON WILLIAMS: I was speaking of
23 loan default. So your -- your expectation was that it
24 would not be --

25 DR. LAWRENCE GOULD: The -- the consumer

1 lending is net --

2 MR. BYRON WILLIAMS: Yes.

3 DR. LAWRENCE GOULD: -- of defaults. It
4 would be in that line.

5 MR. BYRON WILLIAMS: Okay, it would be,
6 okay. And, Mr. Foran, again if you would undertake to
7 canvass with Money Mart whether they'd be prepared to --
8 to share that information with the Coalition, that would
9 be appreciated.

10 MR. ALLAN FORAN: Again, I'll take that
11 under advisement, discuss it with CPLA, and respond.

12

13 --- UNDERTAKING NO 37: CPLA to inquire of Money Mart
14 in terms of default fees if
15 they would appear under the
16 line "Customer Lending Net"
17 or that they would appear
18 under "Other." (Taken under
19 advisement)

20

21 (BRIEF PAUSE)

22

23 CONTINUED BY MR. BYRON WILLIAMS:

24 MR. BYRON WILLIAMS: I'd ask the -- the
25 CPLA panel to -- or Mr. Bishop and Mr. Keyes to -- to

1 turn to a press release that was attached at the back of
2 the September 17th evidence submission of the CPLA.

3 It's titled "Canadian Payday Loan
4 Association Calls on Governments to Set Maximum Fee at
5 Twenty Dollars (\$20) per Hundred." I don't believe
6 that's in the -- in any of Ms. Southall's supplemental
7 book of documents.

8 So do you have that, Mr. Keyes, or would
9 you be able to -- to obtain it?

10 HONOURABLE STAN KEYES: I'll attempt to
11 obtain it right now.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: Mr. Williams, could
16 you give us a specific reference in that binder, please?

17 MR. BYRON WILLIAMS: My understand is
18 it's Appendix K, Part I. It's a two (2) day -- two (2)
19 page press release.

20 MS. ANITA SOUTHALL: Thank you.

21 HONOURABLE STAN KEYES: I have it, Mr.
22 Williams.

23

24 CONTINUED BY MR. BYRON WILLIAMS:

25 MR. BYRON WILLIAMS: Now the -- the title

1 of this is "Canadian Payday Loan Association Calls on
2 Government to Set Maximum Fee at Twenty Dollars (\$20) per
3 Hundred (100)."

4 Is that right, sir?

5 HONOURABLE STAN KEYES: That's correct.

6 MR. BYRON WILLIAMS: And what date and
7 what year was this issued? I -- I believe it's 2007, but
8 if you could help me with that, sir.

9 HONOURABLE STAN KEYES: I believe it was
10 January 11th or 17th. But it was January 2000 -- this
11 year.

12 MR. BYRON WILLIAMS: January of 2007.
13 And, Dr. Gould, if you could shut off your mic just for a
14 second, then I'll be able to make sure I can use my mic.

15 Now, Mr. Keyes, I don't want to get into
16 the specifics of whether the maximum should be twenty
17 (20) or twenty-three (23). I'm a little more interested
18 in some of the philosophy underlying the -- the CPLA's
19 thinking on this -- this document.

20 And I want to direct your attention to the
21 second bullet, which appears about halfway down this --
22 this page, which says:

23 "A rate that is sufficient..."

24 Basically, you indicate that there are
25 several important factors carefully weighed in developing

1 this maximum fee position. And the second bullet, if
2 I've read it correctly to you, is:

3 "A rate that is sufficiently low to
4 ensure consumers are not being gouged
5 and are paying a reasonable price for a
6 needed service."

7 Did I -- I read that phrase to you
8 correctly, sir?

9 HONOURABLE STAN KEYES: Yes, you did.

10 MR. BYRON WILLIAMS: And that's one of
11 the factors that the CPLA took into account?

12 HONOURABLE STAN KEYES: Yes, they did

13 MR. BYRON WILLIAMS: Now I just want to
14 walk you through that for a second. Is it the position
15 or understanding of the CPLA that consu -- some consumers
16 are currently being gouged?

17 Is that the implication of this statement?

18 HONOURABLE STAN KEYES: There are
19 companies that are not -- certainly not members of the
20 Canadian Payday Loan Association that -- that offer a
21 payday loan product.

22 And in the opinion of some of my members,
23 these particular companies, to the best of their
24 knowledge, charge excessive fees for the product.

25

1 (BRIEF PAUSE)

2

3 MR. BYRON WILLIAMS: And just -- I'm
4 going to come back to the language you used in one
5 second. But in terms of the -- and the -- the
6 consequence from the -- the Association's understanding
7 is that, in your view, the actions of certain companies
8 by charging excessive fees is resulting in some consumers
9 being gouged.

10 Is that right, sir?

11 HONOURABLE STAN KEYES: That's a correct
12 assumption.

13 MR. BYRON WILLIAMS: Can you give me an
14 idea of -- of the -- the -- what your members have
15 advised you they consider to be excessive fees or the
16 evidence that they rely upon?

17 HONOURABLE STAN KEYES: They didn't speak
18 specifically to numbers. If I can put the whole thing in
19 context for you, I think you began your question to me on
20 -- on the context.

21 The context of -- which preceded the
22 release of this news release in January '07 -- is one
23 that saw Federal legislation, specifically Bill C-26,
24 going through the process. It had not been passed by the
25 Parliament of Canada as yet.

1 And our membership was aware that
2 following the passage of Bill C-26, which -- which we
3 were very hopeful would pass and as a result did pass,
4 that they wanted to establish -- they -- they understood
5 that there would be a followup on Bill C-26 by different
6 provinces across the country, who would then be charged
7 with the responsibility of creating legislation for --
8 for consumer protection and regulation, which would
9 likely set a cap on fees and charges.

10 To -- to separate themselves -- as a
11 collective, as members of the Canadian Payday Loan
12 Association -- they wanted to continue to establish
13 credibility with all those different governments across
14 Canada -- provincial governments -- to -- to let them
15 know that they thought, in their opinion, a decision
16 could be made on a price per one hundred dollars (\$100)
17 lent -- which, by the way, in itself is helpful because
18 they thought it'd be the most transparent and accountable
19 way for a consumer to take out a loan with no confusion,
20 no interest rates that, you know, I daresay most people
21 can't really figure out or come, you know, calculate on
22 their own.

23 And they wanted to establish this
24 credibility with the -- the -- not just the politicians
25 but also the public servants who would be dealing with

1 the issue of rates. And that's where the twenty dollar
2 (\$20) per figure -- twenty dollar (\$20) per hundred (100)
3 figure was established by them in -- in a meeting of the
4 Association members.

5 MR. BYRON WILLIAMS: And I -- I
6 appreciate that context. Just going back to -- to my
7 question, you've used the language "excessive prices
8 being charged."

9 Are you able to give some insight from the
10 -- from the CPLA in terms of what, in the judgment of
11 your members, were excessive prices resul -- resulting in
12 consumers being gouged?

13 HONOURABLE STAN KEYES: The discussion
14 that took place amongst our membership -- obviously, the
15 different members had different opinions on what an
16 excessive fee was.

17 It wasn't so much a discussion on what
18 they consider to be excessive but what they consider to
19 be a fair price to charge the consumer. And they
20 resolved that that would be twenty dollars (\$20).

21 MR. BYRON WILLIAMS: So -- and just so I
22 understand the -- the judgment of the Coalition in
23 January 2007, leaving aside factors like regulatory
24 costs, was that twenty (20) was a -- a fair price?

25 HONOURABLE STAN KEYES: Not the

1 Coalition, but the CPLA.

2 MR. BYRON WILLIAMS: Excuse me, yeah.
3 Yeah, you're -- you're probably right on that one as
4 well.

5 HONOURABLE STAN KEYES: All right then.
6 We're agreed on twenty (20).

7 MR. BYRON WILLIAMS: Sorry, I misspoke.
8 I meant the CPLA.

9 HONOURABLE STAN KEYES: Yes, that's
10 right.

11

12 (BRIEF PAUSE)

13

14 MR. BYRON WILLIAMS: Now, going down --
15 so by definition, would a price, let's say, of twenty-
16 four (24), twenty-five (25) be unreasonable in the
17 judgment of CPLA at that point in time, January of 2007?

18 HONOURABLE STAN KEYES: I couldn't say
19 for sure, because there wasn't really a discussion of,
20 Okay, let's lay down our business plans on the table, and
21 let's make a decision on, you know, what figure is
22 considered to be excessive.

23 MR. BYRON WILLIAMS: Now this was back in
24 January 2007. Is the CPLA still of the view that
25 consumers are being gouged by certain of the industry

1 players?

2 HONOURABLE STAN KEYES: Yes, it is.

3 MR. BYRON WILLIAMS: And presumably the -
4 - the CPLA is -- I'm going to direct you to page 2 of the
5 press release and to the first full paragraph.

6 And you had a bit of this discussion with
7 Ms. Southall yesterday, but I'll just walk back on --
8 walk back through it for a second. And I'm quoting a --
9 an esteemed individual here, I believe his name is Keyes.

10 "Keyes acknowledged that even at twenty
11 dollars (\$20) per hundred (100), many
12 smaller industry players will face
13 difficulties making ends meet.

14 But even the smallest member of the
15 CPLA agreed that by tightening their
16 belts and rationalizing some services,
17 they would be able to viably operate at
18 the proposed level."

19 Did I read that correctly, Mr. Keyes?

20 HONOURABLE STAN KEYES: Yes, you did.

21 MR. BYRON WILLIAMS: And that -- that was
22 the --

23 HONOURABLE STAN KEYES: Thank you for the
24 compliment.

25 MR. BYRON WILLIAMS: -- position. Yes.

1 That was the position of the CPLA?

2 HONOURABLE STAN KEYES: Yes, it is.

3 MR. BYRON WILLIAMS: Now again, both
4 yourself and Mr. Bishop had a bit of a discussion with My
5 Friend, Ms. Southall, yesterday about rationalizing some
6 services. I'm interested in the language "tightening
7 their belts."

8 And -- and can you elaborate upon your
9 under -- understanding of the what the CPLA members meant
10 collectively, in terms of tightening their belts, at --
11 at the time of the making of this statement?

12 HONOURABLE STAN KEYES: No, I cannot.
13 They put forward the language of belt tightening and
14 rationalization from their perspective. And, of course,
15 the CPLA isn't aware of what their business plans are or
16 in what particular area they're particular business could
17 belt tighten, etcetera.

18 Those are the details that are the
19 responsibility, of course, of -- of the lender. And it's
20 not part of my mandate to know their business plan or how
21 their business operates.

22 MR. BYRON WILLIAMS: That's fair, and --
23 and I guess I'll go at this just a -- a slightly
24 different way.

25 My clients participate in many regulatory

1 proceedings, utilities. And my clients often use
2 language like "tightening the belt," which I'm going to
3 suggest to you means that there will be an endeavour to
4 become more efficient, to achieve greater productivity
5 per expenditure of -- of labour.

6 Is that a -- a definition that you're
7 comfortable with, sir?

8 HONOURABLE STAN KEYES: Again, I can't
9 speak for a lender, but it does seem reasonable.

10 MR. BYRON WILLIAMS: So you're the person
11 who's being -- acknowledging the -- the language of the
12 CPLA. So that's not in -- the idea of belt tightening is
13 a way of increasing efficiency is not inconsistent with
14 how you interpret the words belt tightening?

15 HONOURABLE STAN KEYES: I would agree
16 with that.

17

18 (BRIEF PAUSE)

19

20 MR. BYRON WILLIAMS: This is going back
21 in -- in time, but at the time of Ernst & Young, was
22 Rentcash part of the -- the predecessor of the CPLA?

23 Are you able to advise me of that?

24 HONOURABLE STAN KEYES: I'll ask my
25 colleague Norm to fill us in on that one. I...

1 MR. NORMAN BISHOP: Yes, they were.

2 MR. BYRON WILLIAMS: I'm going to turn
3 you back to Ernst & Young, page 5. And it's still with
4 the -- the CPLA panel.

5

6 (BRIEF PAUSE)

7

8 HONOURABLE STAN KEYES: I'm sorry,
9 page...?

10 MR. BYRON WILLIAMS: Page 5 of Ernst &
11 Young.

12 HONOURABLE STAN KEYES: We have it.

13 MR. BYRON WILLIAMS: There is a -- there
14 is a comment at the bottom of page 5 of this -- this
15 document:

16 "And while it was beyond of the scope
17 of this study to analyze the econo --
18 economics of each of the models
19 discussed above, it is likely that the
20 broker and the insurance models may
21 have been adopted mainly to minimize
22 the risk of the operator being charged
23 for violating the 60 percent limit on
24 interest under the Criminal Code of
25 Canada."

1 First of all, did I read that correctly?

2 HONOURABLE STAN KEYES: Yes, you did.

3 MR. BYRON WILLIAMS: Does the CPLA accept
4 this statement of -- of Ernst & Young? Is this a
5 statement they're comfortable with?

6 MR. NORMAN BISHOP: I -- I guess that's a
7 statement of Ernst & Young, and they provided the report.

8 MR. BYRON WILLIAMS: Does the CPLA have
9 any comments about the relative efficiency of the broker
10 or insurance models?

11 HONOURABLE STAN KEYES: No, we do not.

12

13 (BRIEF PAUSE)

14

15 MR. BYRON WILLIAMS: Dr. Gould, I'm going
16 to -- again I'm jumping around a little bit. I -- I have
17 -- and I will be for the foreseeable future.

18 But just at -- I'd like you, if you would,
19 to turn to page 12 of your evidence, as well as to page
20 27. Just have both pages in mind. And this is the
21 evidence of Dr. Gould, filed on September 17th.

22

23 (BRIEF PAUSE)

24

25 MR. BYRON WILLIAMS: I believe it's Tab

1 36 in the book of documents kindly provided by Ms.
2 Southall.

3 DR. LAWRENCE GOULD: I have both those
4 pages.

5 MR. BYRON WILLIAMS: Thank you, and I --
6 I appreciate that, Dr. Gould.

7 The first point is really a rather tedious
8 point of clarification, so I'll apologize for that. But
9 if I go first to Table 3, I see that you've set out
10 sample characteristics of the Ernst & Young survey.

11 Is that right, sir?

12 DR. LAWRENCE GOULD: Give me a minute.
13 If I just said page 12 and 17, I didn't have --

14 MR. BYRON WILLIAMS: I misspoke obvi --
15 yeah, it's page 12 and page 27, sir.

16

17 (BRIEF PAUSE)

18

19 DR. LAWRENCE GOULD: Yes. Go -- what was
20 the question?

21 MR. BYRON WILLIAMS: I can't recall that
22 question, but I'll dig up a new one.

23 DR. LAWRENCE GOULD: Something about the
24 table.

25 MR. BYRON WILLIAMS: Yes.

1 DR. LAWRENCE GOULD: Yeah.

2 MR. BYRON WILLIAMS: This is just a -- a
3 statement of the sample characteristics of the E&Y
4 survey. That -- at broad strokes, that's what this is,
5 sir?

6 DR. LAWRENCE GOULD: That's correct.

7 MR. BYRON WILLIAMS: For example, if I --
8 I look at the -- the large firms, you're indicating in
9 this table in the -- in the second line, that there's
10 five (5) companies with a volume per store of 1.854
11 million.

12 Is that right, sir?

13 DR. LAWRENCE GOULD: Average volume per
14 store, yes.

15 MR. BYRON WILLIAMS: And going down to
16 the total, which is the bottom line, I see nineteen (19)
17 companies with an average volume per store of 1.7
18 million.

19 Is that right, sir?

20 DR. LAWRENCE GOULD: One point seven five
21 (1.75).

22 MR. BYRON WILLIAMS: Excuse me. I
23 misspoke. 1.75 million. That's correct?

24 DR. LAWRENCE GOULD: Yes.

25 MR. BYRON WILLIAMS: I just want to

1 direct your attention -- again this is just a small point
2 of clarification -- at the top of page 12 of your
3 evidence.

4 In the version I have, you indicate, for
5 example, the 1.7 million volume of payday loans per store
6 is based on the average of five (5) companies. Do you
7 see that, sir?

8

9 (BRIEF PAUSE)

10

11 MR. BYRON WILLIAMS: Should that just be
12 corrected --

13 DR. LAWRENCE GOULD: I was going to --
14 yeah. I see it, and I'm trying to see whether it makes
15 any sense or not. Give me a minute.

16

17 (BRIEF PAUSE)

18

19 DR. LAWRENCE GOULD: Yes, that should be
20 corrected.

21 MR. BYRON WILLIAMS: And again, just a
22 typographical error. It should state 1.854 million. Is
23 that right, sir?

24 DR. LAWRENCE GOULD: That's correct.

25 MR. BYRON WILLIAMS: Okay.

1 DR. LAWRENCE GOULD: Thank you for
2 pointing that out.

3 MR. BYRON WILLIAMS: Yeah. No problem.

4 In -- in terms of -- moving, perhaps, to --
5 - to less minor issues. Through your many years of
6 experience in the regulatory field, you've come across
7 the words "just and reasonable" from time to time.

8 Have you, Dr. Gould?

9 DR. LAWRENCE GOULD: Yes, I have.

10 MR. BYRON WILLIAMS: And in the
11 regulatory sense, I wonder if you could offer to me a --
12 a working definition that -- that you employ for just and
13 reasonable?

14 DR. LAWRENCE GOULD: The definition that
15 -- that I would employ is to look at the rates of return
16 earned by industries of comparable risk used to calculate
17 a weighted average cost of capital.

18 And under that theory, a firm can invest --
19 - earn this fair rate of return, the cost of capital,
20 without any detriment to its shareholders.

21 That satisfies the criteria of maximizing
22 share price of behalf of the investors and gives a return
23 that is commensurate with the risk.

24 Returns in excess of that would obviously
25 bene -- be beneficial to the shareholder, but within a

1 con -- a context of a regulatory setting would cause
2 excess charges to the consumers.

3 And regulating a monopoly, there has to be
4 some balance between the shareholders and the consumers.

5 MR. BYRON WILLIAMS: And you did discuss
6 this with Ms. Southall yesterday. And -- and just
7 shorthand, I appreciate the definition. I'm going to
8 come back to it in just one second.

9 Under your definition, if a company is
10 earning a fair rate of return, the consumer's being
11 treated fairly.

12 That's how you understand just and reasonable?

13 DR. LAWRENCE GOULD: Well that would be
14 my understanding, yes.

15 MR. BYRON WILLIAMS: I want to go and --
16 just in terms of your experience in regulatory matters,
17 would you agree that the idea of just and reasonable,
18 certainly, it involves a balance between consumers and
19 the industry? You'll agree with that, first of all,
20 right?

21 There's a balance between the -- the firm
22 and the consumer. You're trying to strike a just and
23 reasonable or fair balance. Is that right, sir?

24 DR. LAWRENCE GOULD: Yes.

25 MR. BYRON WILLIAMS: I wonder if you'll -

1 - and that's between consumers collectively and -- and
2 the -- and the firm or firms.

3 I wonder if you'd also agree that the
4 concept of a just and reasonable rate speaks to fairness
5 between different classes of consumers?

6

7 (BRIEF PAUSE)

8

9 DR. LAWRENCE GOULD: I'm not sure what
10 you mean by different classes. If you could elaborate on
11 that a little or...

12 MR. BYRON WILLIAMS: Well, let me try it
13 another way. As consumers -- we'll use Manitoba Hydro
14 for an example. You could set a rate that achieved a
15 fair return for Manitoba Hydro -- well let's use Centra,
16 because it's on rate base rate of return. At least I
17 think it still is.

18 You could set a -- I -- I see the Chairman
19 nodding, so I think I'm okay on that. For Centra you
20 could set a rate based on rate base rate of return, which
21 would be fair to the corporation, would give them a -- a
22 competitive return.

23 And you could charge the same rate to
24 every consumer. Do you understand my point now, sir?

25 DR. LAWRENCE GOULD: I do. And there has

1 to be some balance among the different consumer groups --
2 consumer classes in your terminology.

3 MR. BYRON WILLIAMS: And the reason there
4 has to be balance is that different types or classes of
5 consumers may bring different costs to the system. You'd
6 agree with that?

7 DR. LAWRENCE GOULD: Yes.

8 MR. BYRON WILLIAMS: And so it'd be -- it
9 might be unfair or unreasonable to ask one class of
10 consumers to subsidize the costs of another?

11 DR. LAWRENCE GOULD: Yes.

12 MR. BYRON WILLIAMS: And where I'm going
13 with this -- and we'll get -- we'll -- we'll discuss this
14 a bit later on in -- our discussion, hopefully, today.

15 In your rate design, would I be correct in
16 suggesting to you that you were focused primarily on the
17 balance between the industry and consumers rather than
18 looking as well at -- at fairness among different
19 consumers who -- who might bring different costs to bear?

20 DR. LAWRENCE GOULD: I -- I think that's
21 a fair statement.

22

23 (BRIEF PAUSE)

24

25 MR. BYRON WILLIAMS: And I appreciate

1 that Dr. Gould. In -- in your discussion with Ms.
2 Southall yesterday, and I believe you also said in your -
3 - your evidence, in -- and it might be at page 9.

4 I'm just turning there to -- yes, it is.
5 Page 9, just above the conclusions for that section.

6 And -- and let me back up a second, at the
7 risk of being even more tedious. First of all, you --
8 the central point you made with Ms. Southall yesterday,
9 that was if a company is earning a fair rate of return,
10 generally the consumer is being treated fairly.

11 That's your understanding?

12 DR. LAWRENCE GOULD: Yes.

13 MR. BYRON WILLIAMS: And you also speak
14 on page 9 of each company may have a different fair rate
15 of return. Is that correct, sir?

16 DR. LAWRENCE GOULD: That's correct.

17

18 (BRIEF PAUSE)

19

20 DR. LAWRENCE GOULD: If I could just
21 elaborate. Fair, in this context for a firm, depends on
22 the characteristics I explained before in terms of risk,
23 capital structure and the like.

24 MR. BYRON WILLIAMS: And I want to just
25 walk through the -- the implications of that statement if

1 -- if I might.

2 I want you to assume a universe with two
3 (2) payday lending companies. And if you want a pen to -
4 - to follow with me, it won't be that burdensome, but
5 just if -- if you want.

6 Let's say given Company A, to earn a fair
7 return, it needs to -- to sell its product -- its payday
8 lending product at sixteen dollars (\$16) per hundred
9 (100).

10 You're prepared to make that assumption,
11 Dr. Gould?

12 DR. LAWRENCE GOULD: Yes.

13 MR. BYRON WILLIAMS: And Company B, to
14 earn a fair rate of return, it has to sell its payday
15 lending product at twenty-two (\$22) dollars per hundred
16 (100).

17 You're prepared to make that assumption as
18 well?

19 DR. LAWRENCE GOULD: Yes.

20 MR. BYRON WILLIAMS: And let's say that
21 the regulator, in its wisdom, sets a maximum ceiling at
22 twenty-two (\$22) dollars per hundred.

23 You're prepared to make that assumption,
24 sir?

25 DR. LAWRENCE GOULD: Yes.

1 extent, that the customer purchasing from the -- from the
2 Company would be paying a rate under your definition in
3 excess of a just and reasonable rate?

4 DR. LAWRENCE GOULD: They would be paying
5 a rate in excess of a fair rate of return for that degree
6 of risk and capital --

7 MR. BYRON WILLIAMS: Okay.

8 DR. LAWRENCE GOULD: -- structure, yes.

9 MR. BYRON WILLIAMS: And I -- and I
10 accept your -- the caveat that you've -- you've put on
11 it.

12 Are you aware that in some American
13 marketplaces there's -- there's evidence -- and -- and
14 it's on the record in this Hearing -- suggesting that --
15 that companies have moved towards the max?

16 Are you -- have you reviewed that evidence
17 or are you aware --

18 DR. LAWRENCE GOULD: I -- no.

19 MR. BYRON WILLIAMS: Okay. If you had --
20 well that's a bit speculative. I'm -- I'll come back to
21 that.

22 Let me just move my example a little
23 closer. And let's say -- because I just want to
24 understand how your -- your definitions work, sir.

25 Let's say that the regulator, instead of

1 setting a maximum of -- of twenty-two (\$22) dollars set a
2 maximum at -- at twenty (\$20) dollars.

3 Under your working definition, for Company
4 B, those -- that -- the rate that it would be allowed to
5 charge would be unjust and unreasonable?

6 Would it, sir, because it's only allowed
7 to charge twenty -- twenty (\$20) dollars when its costs
8 are twenty-two (22)?

9 DR. LAWRENCE GOULD: Well it would be
10 below their costs, so they would either have to change
11 their cost structure or go out of business.

12 I don't know whether fairness comes into
13 that equation or not. Any rate below their costs, that
14 company would not be able to operate. They'd have to
15 change something.

16 MR. BYRON WILLIAMS: Yeah, they'd
17 either --

18 DR. LAWRENCE GOULD: Withdraw service,
19 change their cost structure, got out of business.

20 MR. BYRON WILLIAMS: Tight -- tighten
21 their belts?

22 DR. LAWRENCE GOULD: You could use that
23 phrase, yes.

24 MR. BYRON WILLIAMS: Okay. I'm going --
25 Mr. Chairman, I'm going to leave this example. And it's

1 -- I don't know if it's -- I'll -- I could use a short
2 break, being four (4) or five (5) minutes, if that would
3 -- I -- I want to spend some more time with Dr. Gould,
4 so...

5 THE CHAIRPERSON: Sure. And I believe,
6 Dr. Gould, you said you were leaving about, was it 11:30?

7 DR. LAWRENCE GOULD: About 11:00,
8 actually.

9 THE CHAIRPERSON: Okay, then we will take
10 a short break now. We will be back in, let us say, ten
11 (10) minutes. And then we will go until Dr. Gould has to
12 leave.

13

14 --- Upon recessing at 10:09 a.m.

15 --- Upon resuming at 10:17 a.m.

16

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

18

19 CONTINUED BY MR. BYRON WILLIAMS:

20 MR. BYRON WILLIAMS: Thank you, Mr.
21 Chairman, and thank you for that break.

22 Dr. Gould, based upon your review of the -
23 - the material filed -- filed in this proceeding, are you
24 aware of any other parties or witnesses in this
25 proceeding suggesting a higher ceiling than you have --

1 you have proposed?

2

3

(BRIEF PAUSE)

4

5

MR. BYRON WILLIAMS: I'm not asking for
6 specifics. I'm just --are you aware at a general level?

7

DR. LAWRENCE GOULD: I saw a -- a sheet
8 that was distributed. I believe it was Rentcash's
9 recommendation. But I didn't have a chance to go through
10 it at all, so -- it looked like it was higher.

11

MR. BYRON WILLIAMS: Well, let's assume
12 it is. And again, I'm not asking you for the specifics.
13 That would be unfair.

14

But do you have any comments on whether a
15 ceiling higher than the range you have proposed might
16 result in a -- in rate -- in costs to consumers that were
17 not just and reasonable?

18

DR. LAWRENCE GOULD: Well, certainly,
19 I've done my best to recommend a range that I thought
20 would be fair to both consumers and the operators of
21 payday loan companies.

22

I've also tried to make it very clear that
23 this is a difficult thing, in terms of regulating an
24 industry where the costs are -- are so variable.

25

But the answer would be, based on my best

1 judgment, yes, that rates in excess of that are not
2 needed.

3 MR. BYRON WILLIAMS: Okay, thank you for
4 that. I'm -- I'm going to move just a -- a bit in terms,
5 very quickly through -- and I guess we'll get to it
6 another day as well -- but in terms of your background.

7 And I -- and I don't want to dwell on
8 this. I just want to make sure -- and you don't need to
9 turn to your CV -- but to the best of your knowledge, is
10 your list of publications on your CV current?

11 DR. LAWRENCE GOULD: Yes.

12 MR. BYRON WILLIAMS: Okay. Can you
13 indicate, Dr. Gould, when you were retained by the CPLA
14 to -- to do your study? Let's start with the year was it
15 2006, 2007?

16 DR. LAWRENCE GOULD: It was 2007.

17 MR. BYRON WILLIAMS: Spring of 2007,
18 summer of 2007?

19 DR. LAWRENCE GOULD: Well, it was
20 certainly in the summer or fall of 2007.

21 MR. BYRON WILLIAMS: Now we're getting
22 somewhere. Now was it August or September?

23 DR. LAWRENCE GOULD: I really -- well, oh
24 no. Certainly it would -- had to be in -- in August,
25 yeah, yeah.

1 MR. BYRON WILLIAMS: Wasn't July?

2 DR. LAWRENCE GOULD: It's possible. It
3 could of been a conversation in July. I really don't, I
4 could -- I could check my --

5 MR. BYRON WILLIAMS: If -- if you would.
6 That would be --

7 DR. LAWRENCE GOULD: -- records. I'd be
8 happy to.

9 MR. BYRON WILLIAMS: Okay. Now you have
10 records. Presumably you're -- you're billing on this
11 file, so you have records of how many hours you've billed
12 on -- on this file.

13 Would that be correct, sir?

14 DR. LAWRENCE GOULD: Yes.

15 MR. ALLAN FORAN: If I could, just as a
16 point of, hopefully, helpfulness. Dr. Gould was
17 contacted by me, likely in the earlier parts of the
18 summer, to gauge the possibility of his becoming involved
19 in this Hearing.

20 I do know a little bit about Dr. Gould.
21 And I am not sure whether his billing records would
22 actually go back that far, because I'm satisfied that he
23 would not have charged, and perhaps I didn't charge
24 either.

25 But we would of had some discussions

1 initially, prior to his formally being restrained, which
2 would of likely taken place some time July-ish, August.

3 MR. BYRON WILLIAMS: And I'm less
4 interested in -- in the exact date when you were
5 retained.

6 What I am interested is -- if you could
7 provide to me, perhaps you could estimate now from the
8 time of retainer to the time that your evidence was filed
9 on or about September 17th, can you give me an estimate
10 of how many hours you devoted to this project, sir?

11 DR. LAWRENCE GOULD: I'd have to review
12 the -- my records. I couldn't do that off the top --

13 MR. BYRON WILLIAMS: That's fair enough.
14 Would you under -- undertake to do that?

15 DR. LAWRENCE GOULD: From -- from what
16 dates to what dates?

17 MR. BYRON WILLIAMS: From the time of
18 retainer to the time of filing. Excuse me, from the time
19 of your retainer to the time of filing your evidence, how
20 many hours were -- were spent on this one?

21 DR. LAWRENCE GOULD: Yes.

22

23 --- UNDERTAKING NO. 38: Dr. Lawrence Gould to give an
24 estimate of how many hours he
25 devoted to this project from

1 the time of his retainer to
2 the time of filing his
3 evidence.

4
5 CONTINUED BY MR. BYRON WILLIAMS:

6 MR. BYRON WILLIAMS: Thank you, I
7 appreciate that.

8 Would it be fair to say that prior to your
9 report in this proceeding, you had not written on the
10 subject of payday lending or cheque cashing?

11 DR. LAWRENCE GOULD: That's correct.

12 MR. BYRON WILLIAMS: And it would be fair
13 to say that prior to your report in this proceeding and
14 your qualification this week, you have not testified as
15 an expert witness on matters relating to the payday
16 lending industry or to alternative financial services?

17 DR. LAWRENCE GOULD: Correct.

18 MR. BYRON WILLIAMS: And would it be fair
19 to say that you have not taught any academic courses that
20 focus on the issues of payday lending or cheque cashing
21 or alternative financial services?

22 DR. LAWRENCE GOULD: That would be
23 correct. I don't think there are any such course that
24 I'm aware of, in business schools anyway.

25 MR. BYRON WILLIAMS: Now here is a

1 tremendous opportunity for you, Dr. Gould. I'll sign up.

2 DR. LAWRENCE GOULD: I don't think
3 there's a wide enough audience.

4 MR. BYRON WILLIAMS: In preparing your --

5 DR. LAWRENCE GOULD: But -- could I just
6 add that I -- I teach in the areas of financial planning
7 and investments.

8 MR. BYRON WILLIAMS: And I was going to
9 come to that. I know on your website at -- on -- on the
10 ASPER (phonetic) website you indicate that one of your
11 teaching interests is personal financial planning.

12 Is that right, sir?

13 DR. LAWRENCE GOULD: Correct.

14 MR. BYRON WILLIAMS: And you've taught
15 personal financial planning courses in the past?

16 DR. LAWRENCE GOULD: Yes.

17 MR. BYRON WILLIAMS: Can you tell me --

18 DR. LAWRENCE GOULD: I designed the
19 program at the University of Manitoba.

20 MR. BYRON WILLIAMS: Can you tell me
21 what, if any, textbooks you've used in those courses?

22 DR. LAWRENCE GOULD: I've used the book
23 "Personal Financial Planning" by Ho and Robinson.

24 MR. BYRON WILLIAMS: And that's Chris
25 Robinson?

1 DR. LAWRENCE GOULD: Yes.

2 MR. BYRON WILLIAMS: Okay. In preparing
3 your report can you indicate to me how many small payday
4 loan operators, as defined by Ernst & Young, you
5 interviewed?

6

7 (BRIEF PAUSE)

8

9 DR. LAWRENCE GOULD: Three (3).

10

11 (BRIEF PAUSE)

12

13 MR. BYRON WILLIAMS: And can you indicate
14 at a rough level how extensive these interviews were?
15 Five (5) hours, three (3) hours?

16 DR. LAWRENCE GOULD: Probably about three
17 (3) hours a piece.

18 MR. BYRON WILLIAMS: Thank you for that.
19 And I -- I believe you had this discussion with Ms.
20 Southall yesterday.

21 But I am -- am I correct in suggesting to
22 you that with regard to Money Mart data that you have
23 available to you, the information that you have are just
24 the publicly available information that are -- I guess
25 footnoted in Table 8.

1 Would that be right, sir?

2 DR. LAWRENCE GOULD: Yes.

3 MR. BYRON WILLIAMS: So you have no
4 specific Manitoba data, with regard to Money Mart, that
5 you're privy too?

6 DR. LAWRENCE GOULD: No.

7 MR. BYRON WILLIAMS: So in -- in essence,
8 the Canadian data that you have serves as a proxy for
9 your -- for any conclusions you draw about Manitoba with
10 regard to Money Mart?

11 DR. LAWRENCE GOULD: With regard to Money
12 Mart, yes.

13 MR. BYRON WILLIAMS: And -- and again, I
14 believe you asked -- you were asked this by Ms. Southall,
15 but out of an abundance of caution, in your -- you used
16 the word "consumer" -- "consumer loan" or -- or
17 "originations."

18 And my question to you is, is that a fancy
19 word for loan volume?

20 DR. LAWRENCE GOULD: Yes.

21 MR. BYRON WILLIAMS: Okay.

22 DR. LAWRENCE GOULD: Well I don't know if
23 the fancy word is. It means loan volumes, yes.

24 MR. BYRON WILLIAMS: Any word that I have
25 so much difficulty pronouncing, I call fancy, Dr. Gould.

1 Is -- and your estimate based on the
2 annualization of the first three quarters (3/4s) of -- of
3 the Money Mart year was about 2.9 million for the 2007
4 year?

5 DR. LAWRENCE GOULD: Yes.

6 MR. BYRON WILLIAMS: Is that right, sir?

7 DR. LAWRENCE GOULD: That -- that --
8 yeah, that wasn't an estimate though. By then the
9 amounts had been released through the press conference.
10 So those are actuals.

11 MR. BYRON WILLIAMS: Okay. And so just
12 so I'm clear, there's a footnote to Table 8 that says
13 "Nine (9) month ended March 31st, 2007, annualized," but
14 in terms of --

15 DR. LAWRENCE GOULD: That's for some of
16 the data but --

17 MR. BYRON WILLIAMS: Okay.

18 DR. LAWRENCE GOULD: -- but whatever was
19 available at the press conference was actuals, and the
20 volumes were actuals.

21 MR. BYRON WILLIAMS: Thank you. I'm
22 going to come right back to you, Dr. Gould, but just a
23 quick question to -- and I'm not trying to misuse your
24 time, it's just the logic of it -- for Mr. Schinkel, who
25 I've sadly neglected this morning.

1 The Deloitte report, as I understand it,
2 Mr. Schinkel, was focused on private companies providing
3 payday loans in Manitoba. Is that right, sir?

4 MR. DEAN SCHINKEL: Correct.

5 MR. BYRON WILLIAMS: It excluded the two
6 (2) publicly traded companies, I'm going to use the
7 shorthand, of Money Mart and Rentcash. Is that right?

8 MR. DEAN SCHINKEL: It excluded public
9 companies.

10 MR. BYRON WILLIAMS: And two (2) of those
11 would include, to your knowledge, in Manitoba, would be
12 Money Mart and Rentcash, sir?

13 MR. DEAN SCHINKEL: Yes.

14 MR. BYRON WILLIAMS: And you can go there
15 if you -- if you would like. Tab 33 of the -- the book
16 kindly provided by Ms. Southall is a -- a list of the
17 payday lending operations in Manitoba.

18 Do you have that, sir?

19 MR. DEAN SCHINKEL: Yes.

20 MR. BYRON WILLIAMS: And again, we could
21 -- I could actually get you to do the calculations now,
22 or you could accept this subject to -- to check.

23 I'm going to suggest to you that there are
24 sixty-six (66) stores in total, in this summary. Would -
25 - would you accept that, subject to check?

1 MR. DEAN SCHINKEL: Subject to check,
2 yes.

3 MR. BYRON WILLIAMS: And I'm going to
4 suggest to you that eighteen (18) of those stores are
5 Money Mart stores.

6 Would you accept that, subject to check?
7 You could even check that one.

8 MR. DEAN SCHINKEL: So per this -- per
9 this sheet, eighteen (18), correct. But I am relying on
10 this sheet that --

11 MR. BYRON WILLIAMS: Yes, that's --

12 MR. DEAN SCHINKEL: Yeah.

13 MR. BYRON WILLIAMS: That's fair enough,
14 and I appreciate that. And I'm going to suggest to you
15 that there's twenty-five (25) stores within the Rentcash
16 family, subject to check?

17

18 (BRIEF PAUSE)

19

20 MR. DEAN SCHINKEL: So including the Cash
21 Store and Instaloans, correct.

22 MR. BYRON WILLIAMS: Yes. You'll accept
23 the -- the figure of twenty-five (25), subject to check?

24 MR. DEAN SCHINKEL: Yes.

25 MR. BYRON WILLIAMS: If you -- and I

1 don't know if you have Dr. Gould's calculator nearby or
2 not.

3 But I wonder if you'd accept that if I
4 look at it as a percentage of the total stores in
5 Manitoba found in that attachment, that Money Mart added
6 to Rentcash equals forty-three (43) of sixty-six (66).

7 Would you accept that, sir?

8 MR. DEAN SCHINKEL: If you could just
9 repeat your -- Money Mart and --

10 MR. BYRON WILLIAMS: I'm going to suggest
11 to you that Money Mart is eighteen (18), that Rentcash is
12 twenty-five (25), and that the total is forty-three (43).
13 Would you accept that?

14 MR. DEAN SCHINKEL: Yes.

15 MR. BYRON WILLIAMS: And forty-three (43)
16 is about 65 percent of sixty-six (66). Would that be
17 right, sir?

18 MR. DEAN SCHINKEL: If I knew how to use
19 Dr. Gould's fancy calculator.

20 DR. LAWRENCE GOULD: What is it that we
21 need?

22 MR. DEAN SCHINKEL: Forty-three (43) over
23 sixty-six (66).

24 THE CHAIRPERSON: Just out of interest,
25 Mr. Williams, our numbers sort of indicate they are

1 sixty-eight (68), not sixty-six (66).

2 MR. BYRON WILLIAMS: Did I miscount? Is
3 that what you're -- oh.

4 THE CHAIRPERSON: One of us did.

5 MR. BYRON WILLIAMS: Okay. The odds are
6 on me, Mr. Chairman.

7

8 CONTINUED BY MR. BYRON WILLIAMS:

9 MR. BYRON WILLIAMS: So just out of the -
10 - out of an abundance of caution, Mr. Schinkel, if you
11 could calculate forty-three (43) divided by sixty-eight
12 (68).

13 MR. DEAN SCHINKEL: Sixty-five (65)
14 percent. Or sixty-five (65) is -- 65 percent.

15 MR. BYRON WILLIAMS: And the problem is,
16 Mr. Schinkel, and this is my fault, not yours, but --

17 MR. DEAN SCHINKEL: That's 63 percent
18 over --

19 MR. BYRON WILLIAMS: Thank you.

20 MR. DEAN SCHINKEL: -- sixty-eight (68),
21 sorry, sir.

22 MR. BYRON WILLIAMS: Okay. I'll learn to
23 double-check my work at some point in time.

24 So in terms of your initial sample,
25 63 percent were excluded from the -- of the payday

1 lending firms in Manitoba, were excluded. Is that right?

2 MR. DEAN SCHINKEL: Well, we focused on
3 100 percent of the private companies, and we did not look
4 at the public companies.

5 MR. BYRON WILLIAMS: And --

6 MR. DEAN SCHINKEL: So that's correct in
7 the total population of payday loan operators.

8 MR. BYRON WILLIAMS: So I'm not
9 criticizing you for that, I'm just trying to get a -- a
10 factual. So it's -- and of course, that's why you say
11 that your report is not representative of public
12 companies?

13 You never sampled them, they weren't
14 included in your survey?

15 MR. DEAN SCHINKEL: I don't know if we
16 make that statement, I think we're referring more to the
17 private companies that we looked at. It may not be
18 representative. We don't comment at all on public
19 companies.

20 MR. BYRON WILLIAMS: Okay. You're not
21 suggesting that it is representative of public companies?

22 MR. DEAN SCHINKEL: I would have no basis
23 to say it is or it isn't.

24

25 (BRIEF PAUSE)

1 MR. BYRON WILLIAMS: Now, in -- Mr.
2 Schinkel, in terms of your work, would I be right in
3 suggesting to you that while you looked at the Ernst &
4 Young study, you weren't privy to the Ernst & -- Ernst &
5 Young data.

6 Would that be right, sir?

7 MR. DEAN SCHINKEL: Correct.

8 MR. BYRON WILLIAMS: So you were in no
9 position to examine the business make-up or -- of the
10 individual firms sampled by Ernst & Young.

11 Is that right?

12 MR. DEAN SCHINKEL: Correct. I only had
13 the Ernst & Young report in front of me.

14 MR. BYRON WILLIAMS: And would I also be
15 correct in suggesting to you that the majority of firms
16 that you did sample that -- who actually responded to
17 your survey in Manitoba -- excuse me, I misspoke.

18 Would I be correct in suggesting to you in
19 terms of the sample who did respond to Deloitte that the
20 majority of stores opened between May 2004 and September
21 2005? And I'm referring to page 8 of your evidence.

22 MR. DEAN SCHINKEL: If you could just
23 repeat those dates?

24 MR. BYRON WILLIAMS: Would I be correct
25 in suggesting to you based on page 8 of your evidence --

1 it's one (1) near the bottom -- that the majority of
2 stores within your sample opened between May 2004 and
3 September of 2005? Would that be right, sir?

4 MR. DEAN SCHINKEL: Correct.

5 MR. BYRON WILLIAMS: So these would be
6 relatively new stores?

7 MR. DEAN SCHINKEL: It depends how you
8 define "new". I think it gives the date and you can see
9 the -- how long they've been open for.

10 MR. BYRON WILLIAMS: If I was open in
11 September 2005 I would have been in existence for two (2)
12 years or less at the time of your study; would that be
13 fair, sir?

14 MR. DEAN SCHINKEL: That's correct.

15 MR. BYRON WILLIAMS: And if I was open in
16 September of 2005 (sic), I would not have even been in
17 business at the time of the Ernst & Young study; is that
18 right, sir?

19 MR. DEAN SCHINKEL: Correct.

20 MR. BYRON WILLIAMS: Dr. Gould, in -- in
21 preparing your analysis did you have access to Ernst &
22 Young data -- individual firm data, excuse me?

23 DR. LAWRENCE GOULD: No, I just had the
24 Ernst & Young report.

25 MR. BYRON WILLIAMS: And did you have

1 access to the individual Deloitte data for the individual
2 firms?

3 DR. LAWRENCE GOULD: I just had the
4 Deloitte report.

5 MR. BYRON WILLIAMS: Okay. So you have
6 no independent knowledge of the makeup of the private
7 companies surveyed in Ernst & Young or Deloitte; would
8 that be fair?

9 DR. LAWRENCE GOULD: That would be fair.

10 MR. BYRON WILLIAMS: And I -- I do
11 apologize for jumping around, Dr. Gould, but that's my
12 frenetic nature perhaps.

13 You may want your calculator here although
14 it's a pretty simple calculation. Let's assume I'm a
15 consumer. I want to borrow a hundred dollars (\$100) for
16 two (2) weeks and the firm in question tells me that my
17 fee -- my charge will be a ten dollar (\$10) flat fee, 5
18 percent of the total amount of the loan, and 59 percent
19 interest.

20 DR. LAWRENCE GOULD: Well, without using
21 my calculator I'd say it's close to sixteen dollars
22 (\$16).

23 MR. BYRON WILLIAMS: That's fair enough.
24 And I just -- I wasn't even worried about the interest
25 but it's well over fifteen bucks (\$15); is that right,

1 sir?

2 DR. LAWRENCE GOULD: Not well over but
3 about eighty (80) --

4 MR. BYRON WILLIAMS: I'll be very careful
5 and I apologize.

6 DR. LAWRENCE GOULD: -- about eighty-nine
7 (89) cents over, yeah.

8 MR. BYRON WILLIAMS: Okay. Thank you.
9 And I just -- without -- you're welcome to use your
10 calculator. I just want to do one (1) other calculation.

11
12 If I'm a consumer and I want to borrow
13 three hundred dollars (\$300) and the firm tells me that
14 the -- the charge on the first two hundred and fifty
15 (250) will be 12 percent and on the second portion being
16 fifty dollars (\$50) will be 6 percent, would I be correct
17 in suggesting to you that that fee would be about thirty-
18 three dollars (\$33)? Let's see if I did my math better
19 than when I was adding up the Payday loan firm.

20 DR. LAWRENCE GOULD: Yes.

21 MR. BYRON WILLIAMS: And again, Mr.
22 Chairman, I'm not going to finish Dr. Gould so I'm just
23 following kind of the -- the logic of my -- of my cross
24 so I'm not trying to misuse his time but I'm jumping
25 around a little bit.

1 Mr. Keyes, I take it you're familiar with
2 the debates surrounding the proposed Winnipeg zoning
3 bylaw Number 200 -- 2006? Does that ring a bell, sir?

4 HONOURABLE STAN KEYES: Yes, it does.
5 Yes, it does.

6 MR. BYRON WILLIAMS: And you made a
7 presentation -- and you made a presentation to the
8 Standing Policy Committee on Property and Development on
9 that subject on October 16th, 2007; would that be right,
10 sir?

11 HONOURABLE STAN KEYES: Yes, I did.

12 MR. BYRON WILLIAMS: And would I be
13 correct in suggesting to you and I'll -- I'll try -- and
14 you can correct me if I'm wrong, but, the subject of the
15 -- this -- of a -- of this draft bylaw, it proposes that
16 cheque cashing facilities be treated as a conditional use
17 in some commercial and industrial zone districts and that
18 a separation of 100 feet between facilities be imposed;
19 is that fair, sir?

20 HONOURABLE STAN KEYES: Was it 100 feet
21 or 1,000 feet?

22 MR. BYRON WILLIAMS: Excuse me. I
23 misspoke, 1,000 feet.

24 HONOURABLE STAN KEYES: That's correct.

25 MR. BYRON WILLIAMS: And I'm actually

1 going to quote to you from -- from your statement and
2 then you can correct me if I've -- if I -- I'm not fairly
3 representing what you said.

4 Would it be fair to say that -- say that
5 the CPLA understands the genesis for this proposal lies
6 in a recommendation brought forward by the East Codonan
7 Transcon Community Committee (phonetic) which was
8 concerned and this is in its words, not the CPLA, about
9 the proliferation of money changers in the Elmwood area.
10 And that the committee recommended that money changer
11 types of businesses be deemed conditional use to allow
12 for public input. And it asks that this issue be given
13 consideration during the comprehensive review of the
14 Winnipeg zoning bylaw.

15 Is that your understanding?

16 HONOURABLE STAN KEYES: That's my
17 understanding, yes.

18 MR. BYRON WILLIAMS: Can you advise me of
19 the status of -- of this -- of these deliberations? Do
20 you know -- do know where they are? Have -- has it been
21 rejected? Do you know what the status is, sir?

22 HONOURABLE STAN KEYES: From the document
23 -- the most recent document I read which was about a
24 month ago now, there was no mention of -- of the issue
25 that the CPLA put forward to that particular committee.

1 So my assumption is it -- the recommendations we put
2 forward were ignored.

3 MR. BYRON WILLIAMS: So currently it's
4 still within the -- within the bylaw?

5 HONOURABLE STAN KEYES: I believe it is.

6 MR. BYRON WILLIAMS: And it's a proposed
7 bylaw?

8 HONOURABLE STAN KEYES: It's a proposed
9 bylaw.

10 MR. BYRON WILLIAMS: And when you spoke
11 in one of your discussions with Ms. Southall yesterday of
12 regulatory risks, that's one of the risks that the CPLA
13 anticipates?

14 HONOURABLE STAN KEYES: I never quite
15 thought of it that way. The regulatory risks I -- I've
16 been referring to, in the most case, was the fifty-five
17 hundred dollar (\$5,500) per store per year licensing fee
18 and the requirement of a bond per store per year.

19 MR. BYRON WILLIAMS: I believe it's an
20 interrogatory response, but we don't need to go there.

21 So just so I'm clear this, as you
22 understand it this -- this proposed bylaw is still before
23 council in its present form. But you -- you haven't --
24 you have no further knowledge of it since October.

25 HONOURABLE STAN KEYES: No, I don't, but

1 I believe you're correct that it is still before council.

2 MR. BYRON WILLIAMS: Now, Mr. Chairman
3 and members of the Board, I'm going to be referring to an
4 Information Request. Really I'm -- I believe the
5 reference is an attachment to PUB/CPLA-1-B3, and that's a
6 lengthy attachment which is presentations to different
7 provincial -- different provincial legislative bodies.

8 So what I'm looking for is the -- the --
9 for the CPLA witnesses to refer to are two (2) documents,
10 one is titled Presentation to the Standing Committee on
11 Social and Economic Development in Manitoba, and the
12 second is Proposed Technical Amendments Bill 25 Consumer
13 Protection Amendment Act. So I'll just give Mr. Keyes a
14 couple of minutes and.

15 HONOURABLE STAN KEYES: Which did you
16 want to address first?

17 MR. BYRON WILLIAMS: If you could have
18 them both at hand, Mr. Keyes, that would be great. And,
19 it's a big attachment so I think the Manitoba ones are
20 towards the middle of it.

21

22 (BRIEF PAUSE)

23

24 HONOURABLE STAN KEYES: Yes, we have it
25 in front of us now.

1 MR. BYRON WILLIAMS: And, Mr. Chairman, I
2 hope I'm not being presumptuous. I -- I hope the -- the
3 Board it's a -- it's a bit hard find in those documents,
4 or I've -- so do you have --

5 THE CHAIRPERSON: We'll follow you, go
6 ahead.

7

8 CONTINUED BY MR. BYRON WILLIAMS:

9 MR. BYRON WILLIAMS: Okay. Now just at a
10 high level and -- and the CPLA's been quite clear about
11 this, but it's fair to say that it's worked closely with
12 the province of Manitoba regarding the proposed
13 amendments to the Consumer Protection Act.

14 Would that be fair?

15 HONOURABLE STAN KEYES: Yes, that would
16 be fair.

17 MR. BYRON WILLIAMS: And you'd agree with
18 the suggestion that, in fact, you were the leading
19 industry player in -- in the deliberations in Manitoba
20 regarding changes to the Consumer Protection Act.

21 Would that be fair?

22 HONOURABLE STAN KEYES: We made ourselves
23 available to answer any and all questions and assist the
24 Public Service in particular with their request for
25 information.

1 (BRIEF PAUSE)

2

3 HONOURABLE STAN KEYES: Just as a caveat
4 however, I might mention that at the time of Bill 25 and
5 the presentation to the Standing Committee on Social and
6 Economic Development in Manitoba, I was not the
7 president, but Michael Thompson was the president of the
8 Canadian Payday Loan Association.

9 MR. BYRON WILLIAMS: You came on board in
10 the -- in the fall, I guess, after this discussion.

11 HONOURABLE STAN KEYES: October 16th last
12 year.

13 MR. BYRON WILLIAMS: But you're -- you're
14 able to speak to this document, and you've got Mr. Bishop
15 there to assist you as well. Correct, sir?

16 HONOURABLE STAN KEYES: I will be relying
17 on Mr. Bishop to help me through this.

18 MR. BYRON WILLIAMS: Well I'm going to
19 ask for the first question that you -- I'd like your
20 opinion, but you certainly can get Mr. Bishop's.

21 Agree or disagree? Section 164(4) of the
22 Consumer Protection Act should be amended as follows:

23 "In making an order under this section,
24 the Board shall have as its objective,
25 maintaining a viable and competitive

1 payday loan industry."

2 Would you agree with that, sir?

3

4 (BRIEF PAUSE)

5

6 HONOURABLE STAN KEYES: Not having the
7 particular reference you make mention of in front of me--

8 MR. BYRON WILLIAMS: I'll come to that.

9 But if -- if you're looking, it's in the technical
10 section regarding 164(4). There's a document described
11 as "Proposed Technical Amendments."

12 HONOURABLE STAN KEYES: Maybe my counsel
13 can help me out in locating that particular.

14

15 (BRIEF PAUSE)

16

17 HONOURABLE STAN KEYES: Yes, I do have it
18 in front of me. And you read it correctly.

19 MR. BYRON WILLIAMS: Okay. Now as -- as
20 I understood this -- and I'm flipping back and forth, but
21 referring you to Mr. Thompson's presentation now, you --
22 you'll want both near at hand.

23 So my understanding is that he made a
24 presentation to the Standing Committee on Social and
25 Economic Development Manitoba on or about June 8th, 2006.

1 Is that your understanding as well?

2 HONOURABLE STAN KEYES: That's what the
3 document is dated, yes.

4 MR. BYRON WILLIAMS: And that's your
5 understanding?

6 HONOURABLE STAN KEYES: Yes, it is.

7 MR. BYRON WILLIAMS: And referring you to
8 page 3 of that document, about the middle of the page.
9 An important message being given by Mr. Thompson was
10 that:

11 "The Act should be amended to include
12 the principle objective of the
13 legislation is to establish a viable
14 and competitive industry."

15 Is that right, sir?

16 HONOURABLE STAN KEYES: Which paragraph
17 are you referring to on page --

18 MR. BYRON WILLIAMS: I'm referring to
19 about the middle. It starts "Notwithstanding..."

20

21 (BRIEF PAUSE)

22

23 HONOURABLE STAN KEYES: Yes, that's
24 correct.

25 MR. BYRON WILLIAMS: Okay. And Mr.

1 Thompson's advice to the standing committee was that this
2 advice was of particular importance, given the mandate of
3 the Public Utility Board as had been traditionally
4 charged with regulating monopolies.

5 Is that right, sir? It's the very next
6 paragraph.

7 HONOURABLE STAN KEYES: Yes, that's
8 correct.

9

10 (BRIEF PAUSE)

11

12 MR. BYRON WILLIAMS: And if you're
13 looking for a reference, you can refer to the bottom of
14 page 2 of the same document, Mr. Keyes.

15 But would I be correct in suggesting to
16 you that the -- as a supplement to -- to his oral
17 presentation, the CPLA tendered proposed technical
18 amendments to the government, a copy of which was
19 provided to the committee members.

20 Is that right, sir?

21 HONOURABLE STAN KEYES: That's correct.

22

23 (BRIEF PAUSE)

24

25 MR. BYRON WILLIAMS: Now in terms of the

1 proposed technical amendments -- and I'm not going to ask
2 you to memorize them or -- or read them in or anything
3 like that, Mr. Keyes.

4 But you'll agree with me as -- as we -- we
5 look through them that -- that the Association proposed a
6 number of amendments to the -- to the legis -- to the
7 legislation, a variety of sections.

8 Would you agree with that, sir?

9 HONOURABLE STAN KEYES: I'll just check
10 with Mr. Bishop. As I say, I wasn't president at the
11 time and not involved with the CPLA at the time. So Mr.
12 Bishop was.

13 MR. BYRON WILLIAMS: Starting at page 2
14 and going on for many pages of the technical amendments,
15 there's proposals to amend the definitions, Section 140,
16 Section 141, Section 141 and 142, a bunch of them.

17 HONOURABLE STAN KEYES: Yes.

18 MR. BYRON WILLIAMS: You'll agree with
19 that?

20 HONOURABLE STAN KEYES: I'll agree with
21 you.

22 MR. BYRON WILLIAMS: And I know my math
23 is -- has come into question, subject -- given my abject
24 failure in counting the number of payday lending firms in
25 Manitoba.

1 amendment to Bill-25."

2 Is that right, sir?

3 HONOURABLE STAN KEYES: That's correct.

4 MR. BYRON WILLIAMS: Okay. Now I've
5 looked through -- through the technical amendments, and
6 you can certainly correct me.

7 Did the CPLA identify any other priority
8 amendments in terms of the -- the text of this document?

9 HONOURABLE STAN KEYES: Without having
10 had the benefit of reading through...

11

12 (BRIEF PAUSE)

13

14 HONOURABLE STAN KEYES: At first glance
15 and subject to verification, I would agree.

16 MR. BYRON WILLIAMS: Was Section 164(4)
17 amended to -- to include this change, sir?

18

19 (BRIEF PAUSE)

20

21 MR. NORMAN BISHOP: My memory is foggy on
22 this, but I -- I don't believe so. I -- I think that was
23 this -- was that the section that talked about what the
24 Board was to have regard to?

25 MR. BYRON WILLIAMS: Yes.

1 MR. NORMAN BISHOP: Yeah, I -- I don't
2 believe it was.

3 MR. BYRON WILLIAMS: Okay, thank you.

4

5 (BRIEF PAUSE)

6

7 MR. BYRON WILLIAMS: Mr. -- Mr. Keyes,
8 it's buried in your initial submission, in terms of the
9 ethics, so I don't -- I don't think you need to turn
10 there, but your counsel will advise you.

11 I've been doing better on my reading than
12 I have on my math this morning. But there's a statement
13 in -- in the document relating to ethics and integrity
14 stating:

15 "Consumers who intend to borrow money
16 from a lender that is not a member in
17 good standing of the CPLA may be
18 putting themselves at risk."

19 Will you accept, subject to check, that
20 I've read that correctly, sir?

21 HONOURABLE STAN KEYES: Yes, I will.

22 MR. BYRON WILLIAMS: And, that's the
23 position of the CPLA?

24 HONOURABLE STAN KEYES: Yes, it was, with
25 stress on the word "may."

1 MR. BYRON WILLIAMS: Now, just go -- Mr.
2 Thompson, and I realize you didn't make this -- this
3 presentation, but when Mr. Thompson was speaking to the
4 standing committee, he indicated at page 2 -- and if --
5 if you want to turn there, sir, you -- you may.

6

7 (BRIEF PAUSE)

8 MR. BYRON WILLIAMS: And this is the
9 presentation rather than the technical amendment. So
10 this is the presentation of Mr. Thompson dated June 8th.

11 HONOURABLE STAN KEYES: Yes.

12 MR. BYRON WILLIAMS: Okay, and page 2.
13 He indicated about halfway down the page:

14 "There are presently sixty-seven (67)
15 retail payday outlets operating in
16 Manitoba, 26 -- 26 percent of which are
17 not CPLA members."

18 Do you see that statement, sir? It's, oh,
19 we're on a -- I guess we're on different page.

20 HONOURABLE STAN KEYES: Oh.

21 MR. BYRON WILLIAMS: Page 2.

22

23 (BRIEF PAUSE)

24

25 HONOURABLE STAN KEYES: That's what it

1 reads, yes.

2 MR. BYRON WILLIAMS: Would -- would I be
3 correct in suggesting to you that in -- in terms of the
4 current population of payday lenders in Manitoba, the
5 CPLA membership is lower -- and in fact, it's less than
6 40 percent -- in terms of payday outlets.

7 Would that be right, sir?

8 HONOURABLE STAN KEYES: Are you speaking
9 to within the province of Manitoba?

10 MR. BYRON WILLIAMS: Yes.

11 HONOURABLE STAN KEYES: Barring any
12 calculation, quick calculation, and maybe for the record,
13 and for the benefit of the -- the Panel and Mr. Chairman,
14 the membership of the CPLA consists of five (5) companies
15 with twenty-four (24) outlets. And there are eleven (11)
16 companies that are nonmembers, with forty-two (42)
17 outlets, totalling sixty-six (66) outlets.

18 So barring any mathematical -- yeah,
19 that's right, Mr. Williams, you were -- you were correct.
20 You were correct in your calculation. There -- there can
21 be some confusion --

22 MR. BYRON WILLIAMS: Yeah.

23 HONOURABLE STAN KEYES: -- sometimes
24 because of one (1) company having two (2) different
25 stores, so that can lead to some confusion at times. But

1 those are the numbers.

2 MR. BYRON WILLIAMS: Yeah. So you'll
3 accept, subject to check -- now I'm -- I'm feeling a
4 little more confident in my math -- that that's about
5 36 percent.

6 THE CHAIRPERSON: Accountants do hold on
7 to their numbers and I am unwilling to budge so far.

8

9 CONTINUED BY MR. BYRON WILLIAMS:

10 MR. BYRON WILLIAMS: Currently it's about
11 36 percent --

12 HONOURABLE STAN KEYES: All right.

13 MR. BYRON WILLIAMS: -- subject to check.

14 HONOURABLE STAN KEYES: Subject to check?

15 MR. BYRON WILLIAMS: About a year ago it
16 was higher, being about 74 -- 74 percent.

17 Would that be right, sir, based upon Mr.
18 Thompson's statement to the standing committee?

19 HONOURABLE STAN KEYES: You mean members

20 --

21 MR. BYRON WILLIAMS: Of the --

22 HONOURABLE STAN KEYES: -- versus

23 nonmembers?

24 MR. BYRON WILLIAMS: Yeah, it's -- yes.

25 HONOURABLE STAN KEYES: That's correct.

1 MR. BYRON WILLIAMS: Okay. Is it your
2 view that -- that consumers in Manitoba today are more at
3 risk of being gouged or preyed upon, given the decline in
4 -- in CPLA affiliate stores, the decline in the last
5 year?

6 HONOURABLE STAN KEYES: I can't say that
7 fairly, because I don't know what all the other stores --
8 nonmember companies -- charge, et cetera. I'd have to do
9 some research on that particular before I could make a --
10 pass a judgment like that.

11 MR. BYRON WILLIAMS: Dr. Gould, you've
12 heard language such as gouging, excessive fees, things
13 like that. In -- in a fully competitive free market,
14 assuming perfect information, can -- can gouging take
15 place?

16 DR. LAWRENCE GOULD: Well, like, there's
17 a construct called perfect capital markets with perfect
18 information and perfect competition. No, but it is a
19 theoretical concept.

20 MR. BYRON WILLIAMS: In the real world,
21 in -- in the world of Manitoba, wherein some streets --
22 the street that I work on, there's two (2) bay -- two (2)
23 payday lender firms on that, you know, on opposite sides
24 of the street.

25 In that world is it possible for consumers

1 to be preyed upon or -- or gouged?

2

3 (BRIEF PAUSE)

4

5 DR. LAWRENCE GOULD: In the particular
6 area that you live in? Are you talking about the
7 specific --

8 MR. BYRON WILLIAMS: Well, like, --

9 DR. LAWRENCE GOULD: -- two (2) company--

10 MR. BYRON WILLIAMS: -- you know, you've
11 -- there's -- there's -- let's use Portage Avenue. And
12 I've got a -- on -- on the -- just to the east of the --
13 to the east of the MTS Centre, there's --

14 DR. LAWRENCE GOULD: Well --

15 MR. BYRON WILLIAMS: -- a Money Mart on
16 one corner and across the -- diagonally there's a --
17 there's another payday lender.

18 Is it possible for, in that world, with
19 payday lenders on -- on the opposite side of the street,
20 that consumers could be gouged or preyed upon?

21

22 (BRIEF PAUSE)

23

24 DR. LAWRENCE GOULD: It's possible. But
25 one would think that with comparisons among the different

1 companies, if they're right across the street, that
2 rational consumers have the ability to compare prices for
3 service.

4 HONOURABLE STAN KEYES: I'm just not
5 quite clear on this question. The question is
6 hypothetical, in that we don't know the name of the
7 stores that we're speaking to, what the price is they
8 charge.

9 Now, whether there indeed is -- is
10 competition between those stores, which would of course
11 drive the price of the product down.

12 So missing quite a few of the variables,
13 I'm -- I'm not quite certain that the answer could be
14 accurate.

15 MR. BYRON WILLIAMS: I'm really happy
16 with the answers I'm getting, Mr. Keyes. So this -- this
17 is helpful to me. And certainly, if you want to put
18 something else on the record, you're -- you're more than
19 welcome to.

20 Mr. -- or excuse me, Dr. Gould, you've
21 heard Mr. Keyes say on behalf of the CPLA that it's their
22 view that -- that certain customers are being gouged.

23 Do you dispute that observation?

24 DR. LAWRENCE GOULD: I don't have any
25 information about gouging one way or the other. You

1 asked me if something is possible, and I said, It's
2 possible. I don't know.

3

4 (BRIEF PAUSE)

5

6 MR. BYRON WILLIAMS: And, Dr. Gould, I
7 know you're going to class, so -- I do have many more
8 questions, but I'll probably finish with -- with this
9 one.

10 Let's assume that a -- that a company --
11 excuse me, let's assume that the Public Utilities Board,
12 in its wisdom, sets a rate at twenty-three dollars (\$23)
13 per hundred (100) for payday lenders.

14 And let's assume that I've -- I'm
15 operating a company with a cost structure at, let's say,
16 eighteen dollars (\$18) per -- per hundred (100) in -- in
17 terms of offering my product, on average.

18 Would you anticipate that if -- if I'm
19 operating that -- that relatively low-cost store, that I
20 would have to undertake any belt tightening under a -- a
21 regulatory regime, where the -- the maximum is twenty-
22 three (23) per hundred (100)?

23 DR. LAWRENCE GOULD: Certainly not to
24 stay in business.

25 MR. BYRON WILLIAMS: Okay and, Mr.

1 Chairman, just where I am, and I -- I do appreciate Dr.
2 Gould's assistance and -- and for being here.

3 Just where I am in terms of my cross, I
4 have -- don't be intimidated by the size of the folders,
5 because there's some -- some supportive documents in
6 there.

7 Most of these two (2) folders are directed
8 towards Dr. Gould. There are a few questions that just
9 the logic would be directed to other panel members. What
10 I'm going -- and it's very difficult to pull those --
11 those questions out.

12 I do have a few questions for the CPLA
13 panel as well as for Mr. Schinkel, which I could proceed
14 to now. I -- I would like to reserve the right,
15 certainly, to finish my cross-examination of Dr. Gould.

16 But just by the logic of my cross, there
17 may be some necessity of -- of having other panel members
18 able to answer some questions.

19 So if I'm -- I've discussed this with My
20 Friend. I don't know if he has a position on that. But
21 my hope is that when Dr. Gould reappears, he could
22 reappear at least with Mr. Schinkel.

23 THE CHAIRPERSON: I will leave Ms.
24 Southall to work it out with you and Mr. Hacault and Mr.
25 Foran. We will have to release Dr. Gould at this point

1 in time, because he has got other places to go to.

2 We appreciate what you have provided so
3 far, sir.

4 DR. LAWRENCE GOULD: Thank you very much,
5 Mr. Chairman, Board members.

6 THE CHAIRPERSON: I will leave with Ms.
7 Southall the one thought of whether or not it is possible
8 to address Dr. Gould's remaining contributions by way of
9 writing or whether we are going to have to do it orally.

10 It sounds like Mr. Williams thinks it is
11 better to have him back, so I will leave it to you to
12 work out the details, Ms. Southall. Thanks again, Dr.
13 Gould.

14 MS. ANITAL SOUTHALL: Yes, Mr. Chairman,
15 thank you.

16 THE CHAIRPERSON: Do you want a short
17 break to sort yourself out before you continue on with
18 the rest of the panel?

19 MR. BYRON WILLIAMS: Five (5) minutes is
20 plenty.

21 THE CHAIRPERSON: Very good, that is
22 fine, five (5) minutes.

23

24 (WITNESS DR. LAWRENCE GOULD STANDS DOWN)

25

1 --- Upon recessing at 11:01 a.m.

2 --- Upon resuming at 11:12 a.m.

3

4 THE CHAIRPERSON: Okay, Mr. Williams.

5

6 CONTINUED BY MR. BYRON WILLIAMS:

7 MR. BYRON WILLIAMS: Just to be clear,
8 Mr. Chairman, the bulk of my cross remaining relates to
9 Dr. Gould with a -- a few interchanges with the other
10 panel members.

11 I've used this term before, to my regret,
12 but I have a few short snappers for -- for the CPLA and -
13 - and then just two (2) or three (3) for Mr. Schinkel as
14 -- as well.

15 Mr. Bishop, in the submission -- and I
16 believe you're the person who speaks to this -- you do
17 speak a little bit about regulation in other Canadian
18 jurisdictions.

19 Is that right, sir?

20 MR. NORMAN BISHOP: That's correct.

21 MR. BYRON WILLIAMS: What's -- and I'll -
22 - perhaps I've missed it, but what I don't see in the
23 CPLA evidence, certainly in the prefiled evidence, is any
24 reference to the experience in -- in the United States.

25 Would I be correct in making the

1 suggestion to you that their -- your -- your submission
2 does not really refer to the regulatory experience in the
3 United States, sir?

4 MR. NORMAN BISHOP: That's correct.

5 MR. BYRON WILLIAMS: The CPLA, of course,
6 is aware that in many American States there are ceilings
7 placed upon rates. Is that right, sir?

8 MR. NORMAN BISHOP: I believe so, yes. I
9 -- I was just speaking to my own personal experience.

10 MR. BYRON WILLIAMS: So the CPLA has
11 undertaken no study of the US experience under
12 regulation. Is that right, sir?

13 MR. NORMAN BISHOP: That's correct.

14 MR. BYRON WILLIAMS: And the CPLA has --
15 in terms of rates actually charged by on the ground
16 bricks and mortar payday lenders in the States, the CPLA
17 has no information that it's -- that it's able to -- to --
18 -- that it's shared already. Is that right?

19 HONOURABLE STAN KEYES: We have no
20 records.

21 MR. BYRON WILLIAMS: With your leave,
22 could I just have one second?

23 THE CHAIRPERSON: Yes.

24

25 (BRIEF PAUSE)

1

2 CONTINUED BY MR. BYRON WILLIAMS:

3 MR. BYRON WILLIAMS: I see Mr. Bishop's
4 hand poised on the button.

5 MR. NORMAN BISHOP: Well -- well, we were
6 just saying we -- we don't have any -- haven't done any
7 specific studies. I think there was a -- a sheet filed,
8 though probably not by us, of the various states.

9 And I don't know how current that is, but
10 to say that we have no information, I think in the office
11 there's probably a sheet somewhere.

12 MR. BYRON WILLIAMS: The question was
13 probably inelegantly poised so, you know, it's more the
14 problem with the question than -- than the answer from my
15 perspective. There was no trap intended.

16 But I guess the point I was trying to make
17 is that there's not been an intensive study by the CPLA
18 of the US regulatory experience. Would that be fair?

19 MR. NORMAN BISHOP: That would be
20 correct.

21 MR. BYRON WILLIAMS: Now you had a very -
22 - the CPLA panel had a very intriguing discussion with
23 Ms. Proven and Mr. Salvo yesterday in terms of a -- a
24 payday lending specific database.

25 Do you recall that discussion?

1 MR. NORMAN BISHOP: Yes.

2 MR. BYRON WILLIAMS: And I want to be
3 clear. I'm not speaking about services like -- and I may
4 be mispronounce it, but Equifax or Equifax or services
5 like that.

6 But what I'm directing your intellectual
7 energies towards is a database such as one (1) offered by
8 the -- the state of -- of Florida. So do you understand,
9 kind of directionally, where I'm going, Mr. Bishop,
10 with...?

11 MR. NORMAN BISHOP: Yes.

12 MR. BYRON WILLIAMS: Okay. And I wonder
13 and I -- I believe you answered this yesterday, but I
14 just want to -- want to get the CPLA's perspective. You
15 represent a number of smaller -- or let me rephrase that.

16 There's a number of smaller payday lending
17 firms that are members of the CPLA. Is that right, sir?

18 HONOURABLE STAN KEYES: Eleven (11)
19 single store outlets.

20 MR. BYRON WILLIAMS: Does the CPLA have
21 an opinion on whether the development of an industry-
22 specific payday lending database might be of assistance
23 to the single store outlets in terms of minimizing their
24 default losses?

25 MR. NORMAN BISHOP: I think it would be

1 fair to say that it hasn't been discussed, so they --
2 they don't really have an opinion, but...

3 HONOURABLE STAN KEYES: Beyond -- beyond
4 a cursory discussion of it, when Mr. Sardo, a previous
5 witness, before the panel mentioned that he had been at a
6 meeting of the CPLA when he was a member to -- to pitch,
7 as it were, a -- his database company.

8 MR. BYRON WILLIAMS: Now I'm not pitching
9 his database. I believe you and -- Mr. Keyes, if I -- if
10 I've miss quoted you I'm just going off my handwritten
11 notes.

12 I believe you referred to a database of
13 that like as a lenders' tool. Is that correct, sir?

14 HONOURABLE STAN KEYES: I did. A
15 lenders' tool not a borrowers' too -- tool.

16 MR. BYRON WILLIAMS: Well, I and -- and I
17 want to move to the -- to the point that your suggestion
18 that it's not a borrowers' tour -- tool.

19 I wonder from the perspective of, let's --
20 let's assume for a minute, which is a grade -- a grave
21 assumption, that I am a -- a borrower, that Byron is a
22 borrower who always pays back his loans on time.

23 To that extent for -- for good -- excuse
24 me, that's a wrong term. For payday lenders who always
25 pay back their loans on -- excuse me.

1 For payday borrowers who always pay back
2 their payday loans on time, would you accept the
3 suggestion that a cons -- industry-wide database might be
4 a valuable tool, because it minimizes defaults, thereby
5 minimizing the overall cost of payday loans?

6 HONOURABLE STAN KEYES: No, I -- I
7 wouldn't bear comment, only because I think there has to
8 be much more research done on the subject of database.
9 We have to understand the implications of database. To
10 agree with your conclusion is to ignore possible other
11 variables.

12 MR. BYRON WILLIAMS: Let me just go at in
13 a -- in a bit of a different way. And, Mr. Schinkel, you
14 may want to keep your finger near the -- the button as
15 well.

16 Would it be fair to say that the cost of
17 uncollected defaulting loans are spread among -- are
18 recovered through the -- the rates of -- of those who
19 actually pay their loans?

20 Would that be a fair suggestion?

21 HONOURABLE STAN KEYES: I can't comment
22 to it because I don't -- I don't want --

23 MR. BYRON WILLIAMS: Mr. Schinkel, you
24 can comment on that.

25 MR. DEAN SCHINKEL: I mean, I can't

1 specifically say how each lender looks at it. But
2 obviously the bad debt cost is a -- is a cost to the
3 company, and the good revenue is the revenue that's
4 collected. The expenses are what's taken off, and the
5 whatever profitability or loss that falls out is a result
6 of the level of bad debts.

7 MR. BYRON WILLIAMS: And, this -- this
8 goes back to the CPLA panel. And again, this may be
9 something beyond your experience or that you do not feel
10 commenting on, and I'll leave it at that.

11 But are you of the view that there are
12 some consumers who are of such poor risk that it's not
13 reasonably possible to offer a -- a payday loan? That
14 they're -- they're such frequent defaulters?

15 Do you have any views on that?

16 HONOURABLE STAN KEYES: I don't have the
17 information in order to respond accurately.

18

19 (BRIEF PAUSE)

20

21 MR. BYRON WILLIAMS: Now there is a --
22 and you don't need to refer here, Mr. Bishop. You're the
23 -- the legal person on the -- it's not an opinion I'm
24 seeking.

25 But there was an Information Request by

1 the Public Utilities Board -- or anyone who's looking to
2 following its PUB/CPLA-B2 --asking whether any CPLA
3 members were currently defendants in any class-action
4 suits in any jurisdictions in Canada or the US.

5 And -- and there was an answer provided.
6 I just want to make a different twist on -- on that
7 question.

8 To the knowledge of the CPLA members here
9 or the representatives here, are you in a position to
10 confirm that Dollar Financial's groups checkmark --
11 excuse me, Check Market -- excuse me -- Dollar Financial
12 Group's Check Mart was involved in legal action on or
13 about August of 2006 aimed at preventing the State of New
14 Mexico from adopting a regulation that would limit fees,
15 require a -- require a cooling off period after three (3)
16 loans, and create a database to track payday lenders and
17 their loans.

18 Are you in a position to comment on that?

19 MR. NORMAN BISHOP: I know nothing of
20 that.

21 MR. BYRON WILLIAMS: Fair enough. Mr.
22 Bishop, to your knowledge is there any legislation
23 currently before the Legislative Assembly in Quebec which
24 would result in the equivalent of the regulatory regime
25 put in place in Manitoba with regard to payday lenders

1 under the Consumer Protection Act?

2 MR. NORMAN BISHOP: Not to my knowledge.

3 MR. BYRON WILLIAMS: Through your review
4 of the -- through the CPLA's review of the debate
5 regarding payday lending issues at the national level,
6 are you familiar with the personality Madam Madeleine
7 Plamondon, Senator Retired, who's a well known Quebec
8 consumer advocate? Are you familiar with her at all?

9 MR. NORMAN BISHOP: I know of her, yes.

10 MR. BYRON WILLIAMS: And are you familiar
11 to any extent at all with her activities with regard to
12 payday lending in the Senate either as a Senator or via
13 presentations?

14 MR. NORMAN BISHOP: I believe it was
15 perhaps a year and a half ago as a Senator, she brought
16 forward -- and I'm -- I'm going from memory now -- a
17 proposed Senate bill. And I think it was to amend the
18 Criminal Code from 60 percent to 30 percent above the
19 Bank of Canada rate on any given day.

20 And that was put forward for consideration
21 by senators and they wanted to pass it in the Senate then
22 -- then put it forward to the House. And it -- I don't
23 know if it was aimed particularly at payday lenders. It
24 was focused, as she explained, it as I recall, towards
25 consumer lenders -- larger amounts for longer periods of

1 time.

2 But that's a vague recollection of what it
3 was about.

4 MR. BYRON WILLIAMS: Okay. And -- and
5 that's -- and I appreciate it. We're not going to walk
6 farther along this path. Although if I suggest to you it
7 was 35 percent rather than 30 percent, you wouldn't be
8 uncomfortable with it?

9 MR. NORMAN BISHOP: No, I would not be
10 uncomfortable.

11

12 (BRIEF PAUSE)

13

14 MR. BYRON WILLIAMS: Just a -- a few for
15 -- for Mr. Schinkel. And again, Board counsel did a very
16 extensive cross-examination of you, so I hope you're not
17 insulted that I'm not spending much time with you today.

18 Would it be fair to say that -- that in
19 examining the -- the data from -- from the sample that
20 you -- you drew the four (4) or five (5) payday lenders
21 for your Deloitte study, that the speti -- specific test
22 that Deloitte would normally do as part of an audit
23 engagement or review engagement were not performed in
24 terms of the data?

25 Would that be fair, sir?

1 MR. DEAN SCHINKEL: That's correct. As
2 we state in our report it was not audited.

3 MR. BYRON WILLIAMS: And in terms of the
4 information that you had to examine, would it -- and --
5 and I think it's page 9 of your evidence. I just want to
6 make sure I understand it.

7

8 (BRIEF PAUSE)

9

10 MR. BYRON WILLIAMS: In -- in terms of
11 the information before you, one (1) of the payday
12 lender's financial states -- statements were audited. Is
13 that right, sir?

14 MR. DEAN SCHINKEL: Correct.

15 MR. BYRON WILLIAMS: And then three (3)
16 of the payday lenders' statements had been reviewed by
17 external accountants. Is that right?

18 MR. DEAN SCHINKEL: Correct.

19 MR. BYRON WILLIAMS: And then one (1)
20 respondent did not have financial statements reviewed by
21 an external accountant?

22 MR. DEAN SCHINKEL: Correct.

23 MR. BYRON WILLIAMS: Mr. Schinkel, we --
24 we chatted briefly about those who default and how those
25 costs are recovered through good revenues. This may be -

1 - be going beyond the scope of your expertise, if so,
2 you'll let me know, and this may be more appropriately
3 put to Dr. Gould.

4 In your view is there a cross-subsidy
5 between those who do not default and those who do
6 default? Do you have any opinion on that?

7 MR. DEAN SCHINKEL: I think--

8 MR. BYRON WILLIAMS: And again, if -- if
9 it goes beyond your --

10 MR. DEAN SCHINKEL: I think that just
11 before I answer or decline or pass it to Dr. Gould, what
12 do you mean when you say "cross-subsidy"?

13 MR. BYRON WILLIAMS: You know, if we have
14 to get to the definition, I'm --

15 MR. DEAN SCHINKEL: Okay.

16 MR. BYRON WILLIAMS: -- probably better
17 off with Dr. Gould. I -- I should have asked that of
18 him, so I apologize --

19 MR. DEAN SCHINKEL: Okay.

20 MR. BYRON WILLIAMS: -- for that.

21 Last question for you, you'll agree that
22 you were dealing with small samples of four (4) or five
23 (5) payday lending firms? Is that fair?

24 MR. DEAN SCHINKEL: Five (5) responses.

25 MR. BYRON WILLIAMS: Do you have any

1 thoughts of the relative merits in dealing with small
2 samples of using mean versus median. Do you have any
3 thoughts on that?

4 MR. DEAN SCHINKEL: So just to be clear,
5 we used -- we compiled all the results together to
6 calculate our amounts shown in our report. That's one
7 way of looking at it. And as I was asked yesterday, you
8 could look at it from a median or a mean, and it's just
9 another, I presume, way of showing or looking at the
10 numbers.

11 But I don't have a view either way of --
12 of -- if one way is better or another. We showed it the
13 way we chose to show it.

14 MR. BYRON WILLIAMS: Okay. And just to -
15 - and I understand you don't have a view. I just want to
16 be a little more precise.

17 In your experience, is one approach versus
18 the other more vulnerable to -- to outliers and to being
19 distorted or skewed by outliers?

20

21 (BRIEF PAUSE)

22

23 MR. DEAN SCHINKEL: In my experience I
24 don't think -- I don't think you could say one way or the
25 other. Depending on the data and the way the -- the data

1 comes in, I think one way might be -- if you had an
2 outlier, depending on which way the outlier -- how many
3 outliers, one way may be more -- and I'll use your word -
4 - skewed than the other, depending on the data.

5

6 (BRIEF PAUSE)

7

8 MR. BYRON WILLIAMS: And I'm sure this is
9 on the -- the record, but -- and probably about twelve
10 (12) times, but just out of an abundance of caution, in
11 your analysis you were not segregating loans into first-
12 time versus repeat loans?

13 MR. DEAN SCHINKEL: Correct.

14 MR. BYRON WILLIAMS: Mr. Chairman, I've
15 done what I can. Today I have a considerable body of
16 questions to go, and I do thank the CPLA panel for their
17 patience with me this morning.

18 THE CHAIRPERSON: Thank you, Mr.
19 Williams.

20 So moving on to Mr. Hacault at this point
21 in time, I am wondering, Mr. Hacault, do you want to
22 begin now or would you rather do it after lunch?

23 MR. ANTOINE HACAULT: Mr. Chairman,
24 members of the Board, it's up to the Board. I'm ready to
25 start now if that's the Board's wishes.

1 THE CHAIRPERSON: Okay. Why don't you
2 start now, and then when we come to noon we will have our
3 break, and then you can finish up afterwards.

4 MR. ANTOINE HACAULT: Thank you, Mr.
5 Chairman.

6

7 (BRIEF PAUSE)

8

9 MR. ANTOINE HACAULT: For the record, I
10 too would have preferred, in -- in some instances, to
11 have Dr. Gould so that I could ask questions back and
12 forth. But I will do my best to proceed with the
13 examination of the people that are here and defer those
14 questions to a later date.

15 But just because I ask them of these
16 members doesn't mean that I won't necessarily be seeking
17 Dr. Gould's views on some of those questions.

18 THE CHAIRPERSON: That is fine.

19 MR. ANTOINE HACAULT: Mr. Williams said
20 that he may be --

21 THE CHAIRPERSON: Mr. Hacault, I think we
22 will take the lunch break now. We are having an awful
23 lot of trouble even getting any sort of heat working back
24 here. So, I think we will do it now, and we will have an
25 early lunch, and we will come back at 12:30.

1 MR. ANTOINE HACAULT Thank you.

2

3 --- Upon recessing at 11:31 a.m.

4 --- Upon resuming at 12:33 p.m.

5

6 THE CHAIRPERSON: Okay, I think we will
7 begin. Mr. Williams can catch up, and I realize that we
8 have a scheduling problem, but we will live with it like
9 we live with other issues. Try and get Dr. Gould back in
10 time to allow us still to aim towards the scheduled
11 closing submission dates.

12 But, Ms. Southall will work to see what we
13 can accomplish on that front. So, Mr. Hacault, do you
14 want to begin?

15

16 CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

17 MR. ANTOINE HACAULT: Thank you, Mr.
18 Chairman and members of the panel. Just by way of
19 introductory remarks to give some context to some of the
20 cross-examination I'm going to be conducting.

21 There are two (2) models being proposed in
22 this Hearing, generally, with respect to how this Board
23 might approach regulating the industry.

24 One (1) is -- I'll characterize it as a
25 utility-based model where you're looking at a rate kind

1 of a specific structure and deciding, in -- in essence,
2 should the store be open so many hours, what kind of
3 rates should -- default rates, and thing like this.

4 The other model that's being proposed is
5 one where if there's competition, do you need to get into
6 all of that detailed analysis, and how will that work in
7 the future? And is it possible to approach it in a
8 different way, but still protect the public interest and
9 not put companies out of business?

10 So I'll be taking you through some
11 information, Mr. Schinkel -- to start with, the E&Y
12 report -- and hopefully provide some information that
13 further gives some substance to that area of the
14 presentation.

15 Firstly, I understand -- if everybody
16 could have the E&Y report before them, I'll be going
17 through the report.

18 At pages 20 and 22, my understanding from
19 the report is that Ernst & Young would have got their
20 information, basically, from financial information
21 existing in 2003.

22 Is that a fair read of that report?

23

24

(BRIEF PAUSE)

25

1 MR. DEAN SCHINKEL: Could you direct me
2 to where it refers to 2003?

3 MR. ANTOINE HACAULT: It may be elsewhere
4 in the report, but I have some notes at page 20. So if
5 you could turn to that first.

6

7 (BRIEF PAUSE)

8

9 MR. ANTOINE HACAULT: The third paragraph
10 down, and I'm quoting from the report:

11 "The aim of the survey was to obtain
12 responses from at least fifteen (15)
13 companies, representing at least one-
14 third (1/3) of the industry's total
15 annual revenues or loan volume in
16 2003."

17 That's one reference, and again --

18 MR. DEAN SCHINKEL: So if -- and my
19 directory to that it -- I believe that that refers to
20 their saying they have an estimate of the industry volume
21 in 2003, and they're taking their data and comparing it.

22 But I don't know specifically by reading
23 that if it says all their data came from 2003.

24 MR. ANTOINE HACAULT: Okay, but would you
25 be able to --

1 MR. DEAN SCHINKEL: I -- I would read it
2 as probably 2003 or 200 -- earlier.

3 MR. ANTOINE HACAULT: Okay. That is
4 essentially my point. Is there anything in the report
5 that would suggest that they were looking at data that
6 was more recent than 2003? I didn't find any reference.

7 MR. DEAN SCHINKEL: I -- I would have to
8 review the report again. I -- I don't know at this
9 point.

10 MR. ANTOINE HACAULT: Okay. If you
11 review it and find any reference to material past 2003,
12 could you let us know?

13 MR. DEAN SCHINKEL: Okay.

14

15 --- UNDERTAKING NO. 39: Mr. Dean Schinkel to inquire
16 as to whether Ernst & Young
17 would have got their
18 information from financial
19 information existing past
20 2003.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: Now I'm putting
24 this in the context that this Board is going issue an
25 order in 2008, five (5) years later than the data that's

1 in this report.

2 THE CHAIRPERSON: If we conclude the
3 Hearing.

4

5 CONTINUED BY MR. ANTOINE HACAULT:

6 MR. ANTOINE HACAULT: So that, Mr.
7 Schinkel, the opinion that provided in that report, if
8 any, would only be valid as of 2003? You wouldn't own
9 that as a chartered business valuator.

10 You're not going to provide an opinion
11 otherwise and as of the date you've got your material --
12 your information. Is that correct?

13 MR. DEAN SCHINKEL: I -- I think what you
14 say is correct. Their -- their report is when it's dated
15 and what's contained in there.

16 And this report has not been updated to my
17 knowledge in any manner to try and say how it would
18 relate to 2007 or 2008.

19 MR. ANTOINE HACAULT: And indeed it's
20 unfortunate that we don't have anybody from Ernst & Young
21 to answer any questions about this report.

22 And I think it'll become pretty obvious
23 that there might be a lot of questions we might of asked
24 to be able to determine the -- whether it also is, in any
25 way at all, representative of the industry in Canada or

1 in Manitoba.

2 Second point is that you had explained, I
3 believe -- and I'm not quoting you generally -- but you
4 were not to attempt to analyze the difference between
5 companies who practised rollovers and companies who
6 carried out their business without a rollover
7 environment.

8 Is that correct?

9 MR. DEAN SCHINKEL: That was part of our
10 mandate, correct, is to know that we were not instructed
11 to look at that.

12 MR. ANTOINE HACAULT: Okay, and if memory
13 serves me right, you had indicated that you had met with
14 Sid Franchuk (phonetic), the Chairman of Money Mart,
15 Canada, and Norm Bishop, the Corporate Secretary of Money
16 Mart, to get your instructions.

17 MR. DEAN SCHINKEL: I think what I was
18 referring to yesterday -- and, Mr. Bishop, correct me if
19 I'm wrong -- I think the first meeting in Deloitte's
20 office when we first met was with -- with those two (2)
21 individuals.

22 And we talked -- they gave an overview of
23 -- of, you know, what was coming up over the next two (2)
24 months and what they would like Deloitte to do.

25 And they left us with a copy of the Ernst

1 & Young report just to familiarize ourselves of what our
2 report may look like, but under the understanding that it
3 would be our methodology that we came up with.

4 MR. ANTOINE HACAULT: Now they may --
5 these gentlemen are also members of the CPLA board I
6 believe. Is that correct?

7 MR. DEAN SCHINKEL: I'm not sure.

8 MR. ANTOINE HACAULT: Okay, you're not
9 sure. When --

10 MR. NORMAN BISHOP: Just to clarify, I am
11 -- I am Secretary of the CPLA, not Secretary of Money
12 Mart. And I'm not a board member. Mr. Franchuk is a
13 board member.

14 MR. ANTOINE HACAULT: Mr. Bishop, I
15 believe you're -- you've been legal counsel to Money Mart
16 for the last -- over ten (10) years. Is that correct?
17 I'm asking a question of Mr. Bishop.

18 MR. NORMAN BISHOP: That's correct.

19 MR. ANTOINE HACAULT: Okay. And I would
20 suspect that it's a substantial portion of your practice.

21 MR. NORMAN BISHOP: Well, it's a portion
22 of my practice, certainly.

23 MR. ANTOINE HACAULT: Now you've heard
24 some comments by Dr. Gould, Mr. Schinkel, with respect to
25 his interpretation or perception of the effect of

1 cancelling rollovers on -- in particular, Rentcash. Is
2 that correct?

3 MR. DEAN SCHINKEL: I do remember a
4 reference, but specifically what was -- was said -- I
5 believe it was something on -- was -- cancelling
6 rollovers, was that a part of the reason for an impact on
7 results, I believe what it was.

8 MR. ANTOINE HACAULT: You didn't look at
9 that, and we don't know the difference and to -- the
10 extent to which the Ernst & Young report isn't valid
11 because the roll -- rollover environment has changed now.

12 The CPLA, we've been explained, adopted a
13 policy since then banning those rollovers. Is that
14 correct?

15 MR. DEAN SCHINKEL: It's correct. I did
16 not look at that specific issue or the impact on how it
17 would impact the E&Y report.

18 MR. ANTOINE HACAULT: Okay. Do you have
19 any opinion as to whether or not the Ernst & Young report
20 has any validity given the change of the environment in
21 which the industry now operates?

22 MR. DEAN SCHINKEL: I -- I think that's a
23 bit of a subjective question on -- on the validity. I
24 think the report stands and it gives a clear description
25 of what it looked at and -- and what was done and

1 provides data.

2 And in the context that it was in 2004
3 released and a separate analysis may have to be performed
4 to say, Have changes in the industry or changes in class,
5 how that would impact it?

6 MR. ANTOINE HACAULT: Okay. Thank you.
7 This question is directed probably more to CPLA.

8 Do either of you gentlemen know
9 approximately how many owners of payday loan companies
10 existed at the time the Ernst & Young report was
11 prepared?

12 HONOURABLE STAN KEYES: I'm not aware of
13 the number. Mr. Bishop...?

14 MR. NORM BISHOP: Not off the top of my
15 head. As I recall, I think there was a -- research done
16 by the CPLA to determine the number of operators out
17 there so that that list could be provided to Ernst &
18 Young and they could -- they could contact them.

19 But I'm not sure what that number was or -
20 - or -- I imagine there's a list somewhere that was --
21 was put together at that point in time.

22 MR. ANTOINE HACAULT: Sir, is there any
23 reason to believe that it is much less than -- than --
24 than it is now, which is in the range of between four
25 hundred (400) and five hundred (500) owners?

1 MR. NORMAN BISHOP: Are you talking about
2 companies or outlets?

3 MR. ANTOINE HACAULT: Companies as
4 opposed to outlets.

5 MR. NORMAN BISHOP: I -- I couldn't
6 recall.

7 MR. ANTOINE HACAULT: Is that information
8 available? Could that be provided?

9 MR. NORMAN BISHOP: I think we could take
10 an undertaking to see if it's -- it's in the record
11 somewhere, I -- it would be an old list, and I'm just
12 going from memory. I wasn't involved in preparation of
13 that list, but I would expect that it -- it would have
14 been around -- in 2004.

15

16 --- UNDERTAKING NO. 40: CPLA to inquire as to
17 approximately how many owners
18 of payday loan companies
19 existed at the time the Ernst
20 & Young report was prepared.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: Okay. Now in the
24 report at page 22, under the heading "C," there's a
25 reference to Ernst & Young receiving a total of twenty-

1 two (22) responses and that of those, three (3) were
2 unusable, leaving Ernst & Young with nineteen (19)
3 respondents for this particular study.

4 Do you see that?

5 MR. DEAN SCHINKEL: Yes.

6 MR. ANTOINE HACAULT: I apologize, I
7 didn't make a reference to the page number, but I recall
8 reading in this material that there were two hundred and
9 eighty-eight (288) questionnaires that were sent out.

10 MR. DEAN SCHINKEL: The paragraph
11 above --

12 MR. ANTOINE HACAULT: Yeah.

13 MR. DEAN SCHINKEL: -- the response,
14 right, refers to the hundred and eighty five (185) and
15 ninety-five (95)?

16 MR. ANTOINE HACAULT: Yeah. So if you've
17 got your handy calculator, would you be able to do a
18 calculation as to what the nineteen (19) answers
19 represents as it relates to the number of questionnaires
20 that were sent out?

21 MR. DEAN SCHINKEL: So I believe there
22 were two hundred and eighty (280) questionnaires, you
23 said, nineteen (19) responses -- 6.8 percent.

24 MR. ANTOINE HACAULT: Do you have any
25 experience, sir, as to whether or not analyzing

1 6.8 percent of the industry might tell us anything about
2 the -- about 93 percent of the industry that is not
3 surveyed?

4 MR. DEAN SCHINKEL: I guess as a point of
5 clarification, I'm not sure how many stores that covers.
6 So 6.7 percent of respondents may represent -- and I
7 don't know, I don't -- I'd have to look through.

8 It may represent a higher number of stores
9 or a larger percentage of total loan volume if there's
10 multiple stores in the responses they received.

11 So I don't know if the 6.7 percent --
12 that's one way of looking at, it but another way may be
13 on the total number of stores or total volume.

14 MR. ANTOINE HACAULT: And thank you for
15 that, and that's an important distinction in this
16 proceeding.

17 If you've got one (1) or two (2) companies
18 that own sixty (60) or 70 percent of the market, are we
19 going to regulate based on those two (2) companies?

20 Or are we going to be looking at
21 individuals and little companies and whether they're --
22 we're going to be putting them out of business?

23 And here we have 93 percent of the
24 companies that were sent surveys that we know nothing
25 about. Is that right, sir?

1 MR. DEAN SCHINKEL: I think it's correct.
2 They did not receive close to 93 percent of the
3 companies' information back.

4 MR. ANTOINE HACAULT: Okay. Now flipping
5 to the next page, 23, Mr. Williams directed your
6 attention to these headings: "Large business," "Medium-
7 Sized Business," and "Small Business." And he was into
8 his food shopping on that.

9 With respect to the small businesses, if
10 we look at it from the perspective of the number of
11 companies, how many did we look at from that perspective?

12 MR. DEAN SCHINKEL: Sir, I'm not clear on
13 your question. Look at out of what? Out of the --

14 MR. ANTOINE HACAULT: Yeah. How many
15 firms were included in the small business? I think the
16 paragraph says eight (8), but...

17 MR. DEAN SCHINKEL: Oh, so you're
18 referring to Ernst & Young?

19 MR. ANTOINE HACAULT: Ernst & Young,
20 page 23 --

21 MR. DEAN SCHINKEL: Right, so --

22 MR. ANTOINE HACAULT: -- under the
23 heading, "Small Business."

24 MR. DEAN SCHINKEL: -- it says eight (8)
25 firms are included in this group.

1 MR. ANTOINE HACAULT: Okay. So that
2 across Canada -- and the table indicates that we looked
3 at British Columbia, Alberta, Saskatchewan, Manitoba.

4 And maybe my geography is wrong, but if we
5 count all the provinces, I think we've got about ten (10)
6 of them and then we've got the territories.

7 So if you've got ten (10) provinces,
8 what's the sample rate average for each province if
9 you've only got eight (8) companies?

10 MR. DEAN SCHINKEL: First of all, I guess
11 I don't know where those eight (8) came from. But even
12 if you assume it's spread out evenly less, than one (1)
13 per province.

14 MR. ANTOINE HACAULT: Okay, so we have a
15 study here that's Canada-wide, not Manitoba specific,
16 that on average has less than one (1) small business
17 being analyzed in each province. Is that correct?

18 MR. DEAN SCHINKEL: I -- I couldn't
19 comment if -- on exactly what the specifics were. Again,
20 if I assumed it was an even distribution, then that
21 comment would be correct.

22 MR. ANTOINE HACAULT: Okay. And at least
23 you've got five (5) in Manitoba, we know about that.

24 MR. DEAN SCHINKEL: That we know of, yes.

25 MR. ANTOINE HACAULT: Unfortunately,

1 Ernst & Young isn't here to answer whether or not they
2 even had one (1) or more in Manitoba or how many they
3 looked at in Manitoba.

4 Is that right? We -- we don't know. We
5 can't ask anybody. We don't have that information.

6 MR. DEAN SCHINKEL: I do not know.

7 MR. ANTOINE HACAULT: Okay.

8

9 (BRIEF PAUSE)

10

11 MR. ANTOINE HACAULT: Now if on average
12 Deloitte had surveyed as many as you, they would of had
13 five (5) for each province. Ten (10) provinces would of
14 meant that they would of had a sample of fifty (50)
15 instead of eighty (80).

16 Is that correct? Is my math right?

17 MR. DEAN SCHINKEL: Sorry, I -- at the
18 beginning of the question you said if Deloitte would have
19 sampled. I'm not...

20 MR. ANTOINE HACAULT: Sorry, if Ernst &
21 Young would of sampled as many as you, Deloitte, you
22 sampled five (5) in Manitoba.

23 If Ernst & Young had sampled five (5)
24 small businesses in each of the ten (10) provinces, their
25 sample would of had to be fifty (50), and it would of had

1 the same average rate as you have had in your report. Is
2 that right?

3 MR. DEAN SCHINKEL: We received five (5)
4 of thirteen (13), I think -- I don't know what I would --
5 so which is 38 percent back. So I think if you took 38
6 percent of the total number of companies -- if you're
7 assuming the same response rate -- across Canada, that
8 would be the number.

9 MR. ANTOINE HACAULT: Okay.

10 MR. DEAN SCHINKEL: So a small province
11 might get less than five (5). A large province you might
12 have more than five (5).

13 MR. ANTOINE HACAULT: Okay.

14 MR. DEAN SCHINKEL: And again it's, I
15 mean, hypothetical, but I agree with --

16 MR. ANTOINE HACAULT: A concept.

17 MR. DEAN SCHINKEL: -- if those
18 assumptions, yes.

19 MR. ANTOINE HACAULT: Yeah, because if
20 you do your analysis they have 6.8 percent of the market,
21 whereas you've got -- and that's of all the market the
22 big and small, because that's nineteen (19) out of two
23 hundred and eighty (280). That's their -- their rate.

24 We don't even know whether or not there
25 were more firms than that, but assuming there were at

1 least that many, their response rate is a lot lower than
2 what yours was. Isn't that correct?

3

4

(BRIEF PAUSE)

5

6 MR. DEAN SCHINKEL: Correct, by looking
7 at firms, if they nineteen (19) out of --

8

MR. ANTOINE HACAULT: Okay.

9

MR. DEAN SCHINKEL: -- two eighty (280).

10

11

(BRIEF PAUSE)

12

13

14

15

16

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18

19

MR. ANTOINE HACAULT: Now I'll confess
that this had gone completely over my head, but when Ms.
Southall was asking you about the graphs and the
comparable -- comparability of them and Mr. Williams was
going through that, initially I had thought we're talking
about companies throughout or stores throughout. But
that's not really what happened.

20

21

In your report you focus on the store and
the store volume. Is that correct?

22

23

24

25

MR. DEAN SCHINKEL: Our report does two
(2) things. Our -- our intent was always to have an
overall total, where you would aggregate the results from
the five (5), and that's what we show in our totals.

1 And then we also show on a -- on a per
2 store basis for the respondents what their results are.
3 And that was done for confidentiality reasons.

4 We really tried to balance showing as much
5 as we -- we could without breaching confidentiality. And
6 I had a concern that if we put -- if we did the graph on
7 a total volume for the respondent that you'd be able to
8 track back, and someone could determine who the specific
9 respondent was.

10 MR. ANTOINE HACAULT: I think I haven't
11 explained myself well enough. And we'll go to a specific
12 graph, and that might help us understand where I'm trying
13 to go with this question.

14 If you turn to page 40 of the Ernst &
15 Young report -- could you do that please?

16

17 (BRIEF PAUSE)

18

19 MR. ANTOINE HACAULT: Could you look at
20 Figure 6 and explain to us what your understanding of
21 that figure is? Perhaps just wait until the Board has
22 located the page, so everybody locate it.

23 So Figure 6, are we able to look at that
24 figure and decide by looking at that graph and a
25 particular point on that graph whether or not that

1 company falls in either the large business, medium
2 business or small business definitions?

3 MR. DEAN SCHINKEL: From looking at this
4 graph, I believe, no, because it's on a per store. So if
5 it was 10 million loan volume, ten (10) stores, it would
6 show up as \$1 million on this graph of loan volume.

7 MR. ANTOINE HACAULT: Okay. Now we've
8 heard that...

9

10 (BRIEF PAUSE)

11

12 MR. ANTOINE HACAULT: In your view the
13 best comparison -- when we were looking at Dr. Gould's
14 tables, there was a small business section which comes to
15 a figure of twenty-two dollars (\$22) and something under
16 this 2003 analysis.

17 And you said that the closest thing was
18 your per store -- not per business, but per store average
19 -- at twenty-six (26) something.

20 MR. DEAN SCHINKEL: No, that's not
21 correct. The twenty-six eighty-seven (26.87) figure in
22 the Deloitte report, it's not on a per store average.
23 That's a total aggregate number.

24 And that's the same comparison in the way
25 Ernest & Young calculated theirs, where they totalled up

1 all the small businesses as they define, calculated a
2 cost per one hundred (100), just like we did.

3 The -- the per store averaging doesn't
4 impact on -- on that calculation.

5 MR. ANTOINE HACAULT: Let me try and
6 understand that more, because I think we need to go into
7 that -- into a little bit more detail.

8 When Ernst & Young calculated numbers and
9 put them in the small business category, where can you
10 show me in this report that they used a store volume?

11 MR. DEAN SCHINKEL: If you give me a
12 moment, I don't believe they did use store volume for
13 that calculation. But give me a moment to review please.

14

15 (BRIEF PAUSE)

16

17 MR. DEAN SCHINKEL: So on page 23 is
18 where Ernst & Young gives the definitions of large,
19 medium and small businesses. And they refer to a small
20 business with those -- with less than 2 million in payday
21 loans.

22 And I take that to mean 2 million in -- in
23 total, so not by -- on a per store basis, but just if the
24 firm has five (5) stores, you just add up the total.

25 And then on page 37 is, I believe -- I'm

1 looking for the unweighted table.

2

3 (BRIEF PAUSE)

4

5 MR. DEAN SCHINKEL: Could you refer to --
6 Dr. Gould, when -- the table that he utilized which --

7 MR. ANTOINE HACAULT: I believe it was
8 Slide 22.

9 MR. DEAN SCHINKEL: I just want to make
10 sure I'm referring to the correct page in the Ernst &
11 Young report.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: There may be the
16 unweighted average at Tab 9 of the binder we distributed.

17 MR. DEAN SCHINKEL: Okay.

18 MS. ANITA SOUTHALL: If that's of
19 assistance.

20 MR. DEAN SCHINKEL: Page 29 of the Ernst
21 & Young report.

22

23 CONTINUED BY MR. ANTOINE HACAULT:

24 MR. ANTOINE HACAULT: Yes, you've got it
25 right. It's at page 29.

1 MR. DEAN SCHINKEL: So here they refer
2 again to small business, which I take back to their
3 earlier definition.

4 So I -- this is my understanding, grouping
5 all companies, if you add up all -- if they have multiple
6 stores, add up the reven -- the loan volume from each
7 store. If it's 2 million or under, they would fall into
8 this category.

9 MR. ANTOINE HACAULT: Yeah. And that
10 really doesn't tell us anything about whether or not the
11 small business stores have a volume of say, 2 million per
12 store, 1 million per store, six hundred thousand dollars
13 (\$600,000) per store.

14 It just tells us something about a
15 business or -- that has one (1) or more stores which has
16 a total business volume of under 2 million. Is that
17 correct??

18 MR. DEAN SCHINKEL: That's correct. And
19 then on a per store basis was the earlier graph that you
20 referred me to. But that could mix small, medium and
21 large. A large business, per the definition, could fall
22 into a loan volume per store of, you know, a smaller
23 amount.

24 MR. ANTOINE HACAULT: And I think you
25 went at pains to explain that you didn't want to tell us

1 and you didn't do an analysis in your report based on the
2 size of the business.

3

4 (BRIEF PAUSE)

5

6 MR. DEAN SCHINKEL: I'm not sure which
7 analysis you'd be referring to. But we just took the
8 five (5) respondents, aggregated them, and then also
9 showed data on a per store basis.

10 MR. ANTOINE HACAULT: And what we don't
11 find in your report, for example, if -- and we don't know
12 -- if there was one (1) of your respondents that had a
13 volume of over 2 million in aggregate, you didn't analyze
14 it such as Ernst & Young did.

15 You didn't do a separate line for that
16 particular store, if there was one, under the category
17 "Medium-Size Business"?

18 MR. DEAN SCHINKEL: That's correct. We
19 did not break into small, medium, and large for the
20 reason of confidentiality.

21 MR. ANTOINE HACAULT: Now, I'd like to go
22 back to that graph with all the points on them, which is
23 at page 38. I'm sorry not -- not that one, 40, rather.

24 And would you agree, based on this graph,
25 that -- or could you identify how many of the stores

1 would either have to go out of business or -- we've used
2 various terms -- rationalize operations if one accepted,
3 firstly, a recommendation of twenty-three (\$23) dollars
4 per hundred?

5 In two thousand three (\$2,003) dollars, I
6 might add.

7

8 (BRIEF PAUSE)

9

10 MR. DEAN SCHINKEL: Continuing with an
11 earlier discussion, I think, with Dr. Gould today that if
12 you -- you said, assume that these costs, and then if you
13 assume -- and I'll use the term again -- no belt
14 tightening can be done, no changes to the cost structure,
15 no changes to volumes, then I would draw a line at
16 twenty-three (\$23) dollars across.

17 And the points above that line, in theory,
18 would go out of business under those assumptions in the
19 long term.

20 MR. ANTOINE HACAULT: Yes. So it's
21 pretty hard to tell, but it might go across even to the
22 store that had a volume of over \$5 million?

23 MR. DEAN SCHINKEL: Correct. That likely
24 would be above.

25 MR. ANTOINE HACAULT: Now, does that

1 surprise you at all? There's some people that have
2 suggested in this Hearing if you do a \$5 million loan
3 volume, that you should be at a really low number. But
4 this graph seems to suggest that assumption is totally
5 incorrect.

6 Do you have -- is -- am I reading this
7 right? On this table there is a point on the extreme
8 right that has passed the 5 million loan volume. Do you
9 see that?

10 MR. DEAN SCHINKEL: Yes.

11 MR. ANTOINE HACAULT: Okay. And we don't
12 know the exact number, but if you draw a line across, it
13 is definitely a cost of over twenty dollars (\$20) per
14 hundred (100).

15 Would you agree with that?

16 MR. DEAN SCHINKEL: Yes.

17 MR. ANTOINE HACAULT: We don't know where
18 it falls, but it may be somewhere around twenty-three
19 dollars (\$23) per hundred for this high-volume store. Is
20 that correct?

21 MR. DEAN SCHINKEL: Correct.

22 MR. ANTOINE HACAULT: So even at twenty-
23 three dollars (\$23) per hundred (100) for this very large
24 store producing over \$5 million of volume, a Board order
25 might put this business out of business.

1 Is that correct?

2 MR. DEAN SCHINKEL: Correct, based on all
3 the assumptions that their costs don't change, you know,
4 it wasn't a poor-run business that can be run better.
5 Under all the assumptions we first said, correct.

6 MR. ANTOINE HACAULT: And if over the
7 last five (5) years its costs have increased, the impact
8 would even be worse on this particular business. Is that
9 correct?

10 MR. DEAN SCHINKEL: Again, hypothetical,
11 but based on all the assumptions, I agree.

12 MR. ANTOINE HACAULT: Sir, in your
13 experience as a chartered business valuator, do the
14 business people that you do work for run a business to
15 lose money or to incur unnecessary costs? Don't they try
16 to do the best they can?

17 They don't intentionally make losses.
18 Isn't that a fair approach?

19 MR. DEAN SCHINKEL: I don't want to say,
20 Never say never, because I have seen some strange
21 situations. But I'll say the vast majority, of course,
22 people try and run a business to the best of their
23 abilities. And there are varying abilities of well
24 people run companies and businesses.

25 MR. ANTOINE HACAULT: Have you visited

1 any stores to notice that some companies might choose to
2 spend more time with a customer than other companies?

3 MR. DEAN SCHINKEL: I wouldn't be able to
4 answer that through store visits. But through
5 discussions with five (5) respondents, certain of them
6 discussed their service quality, and that's very
7 subjective, again.

8 And why they may have different salary
9 levels, that it -- as -- as they would say, try and have
10 better customer service and take that for -- each person
11 will have a different definition. But I would take that
12 as could be amount of time spent with customers.

13 MR. ANTOINE HACAULT: Now in your
14 discussions did you get any sense that some companies try
15 to make an extra effort to spend more time with a client
16 to explain the transaction better than other companies?

17 Did you get any sense of that?

18 MR. DEAN SCHINKEL: I can't recollect
19 something specific like that, no.

20

21 (BRIEF PAUSE)

22

23 MR. ANTOINE HACAULT: Now referring back
24 to the graph on page 40 again. We don't know, with
25 respect to all the points above the twenty dollar (\$20)

1 cost shown on this, whether or not it's a large business,
2 a small business, or a medium business that would have to
3 cease operations, do we?

4 MR. DEAN SCHINKEL: Correct, from this
5 graph and what it shows, you do not -- you can't relay it
6 back to the original Ernst & Young definitions.

7

8 (BRIEF PAUSE)

9

10 MR. ANTOINE HACAULT: And from this graph,
11 is it fair to say, at least if we look at the company
12 that's past the \$5 million volume, we've got a lot of
13 stores with less volume than that which end up operating
14 at a lower cost? Is that correct?

15 MR. DEAN SCHINKEL: Correct. There are
16 data points that are lower than the -- I'll call it the
17 \$5 million store.

18 MR. ANTOINE HACAULT: And can you do a
19 quick count to, perhaps on the record, indicate, at least
20 from your view, it -- I appreciate you don't have the
21 specific numbers on this graph.

22 But about how many would be more efficient
23 with less volume?

24 MR. DEAN SCHINKEL: I would say from a --
25 a rough eyeball look thirteen (13) to fourteen (14). But

1 I would caution that I don't want to state that those are
2 more efficient, because you don't know the factors that
3 are impacting that store and how it will change.

4 But thirteen (13) to fourteen (14) that
5 are showing in this graph below.

6 MR. ANTOINE HACAULT: You're right. I
7 shouldn't have used the word "efficient." Is -- is cost-
8 effective or cost -- how do I properly describe that?

9 Their cost is lower per hundred (100) is
10 that a fair -- the proper terminology I should be using?

11 MR. DEAN SCHINKEL: The cost per hundred
12 (100) measured by Ernst and Young at that time lower,
13 that's what I would state.

14 MR. ANTOINE HACAULT: So out of nineteen
15 (19) respondents, we've got thirteen (13) to fourteen
16 (14) of those which are more efficient at a lower volume.
17 Is that correct?

18 MR. DEAN SCHINKEL: Again, I wouldn't...

19 MR. ANTOINE HACAULT: Sorry, not more
20 efficient have a lower cost per hundred (100) than the
21 higher volume store.

22 MR. DEAN SCHINKEL: At that point in time
23 measured by Ernst and Young.

24 MR. ANTOINE HACAULT: Thank you for
25 correcting me, by the way. I'm not very good at this

1 vocabulary yet.

2

3

(BRIEF PAUSE)

4

5

MR. ANTOINE HACAULT: Now I'll take you
6 back to page 4 of the Ernst & Young report. Could you do
7 that, please?

8

9

(BRIEF PAUSE)

10

11

MR. ANTOINE HACAULT: Mr. Williams took
12 you and some of the CPLA members through the definitions
13 of rollovers, extensions, and rewrites.

14

15

(BRIEF PAUSE)

16

17

MR. ANTOINE HACAULT: And do you know,
18 for purposes of this report, whether or not there was any
19 conclusion as to the adverse impact there would be on a
20 business who chose to cease rollovers in its product mix?

21

MR. DEAN SCHINKEL: My recollection of
22 the report is that they showed cost separately, I
23 believe, for rollovers, but don't get into specifics
24 dealing with the question you asked --

25

MR. ANTOINE HACAULT: Okay.

1 MR. DEAN SCHINKEL: -- on the adverse
2 effects.

3 MR. ANTOINE HACAULT: Is it fair to
4 suggest that Ernst & Young really didn't have any good
5 data to base any conclusion, at that point in time, of
6 the adverse effect on a company to cease rollovers,
7 because they haven't analyzed a company that had
8 rollovers and during the course of a financial period
9 ceased to have rollovers?

10 MR. DEAN SCHINKEL: I can't comment on
11 what data they had, but I'm not clear on whether that was
12 the intent of their report either.

13 MR. ANTOINE HACAULT: Okay.

14

15 (BRIEF PAUSE)

16

17 MR. ANTOINE HACAULT: And I appreciate
18 this may be past your area of expertise and,
19 unfortunately, Dr. Gould isn't here.

20 But it tells us nothing about if you have
21 the rollover product how that can subsidize other parts
22 of your business.

23 MR. DEAN SCHINKEL: Correct, I wouldn't
24 be in a position to speak on that.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Could I take you to
4 page 12 now?

5

6 (BRIEF PAUSE)

7

8 MR. ANTOINE HACAULT: Now this is a graph
9 that Ms. Southall also brought you to.

10 And on the right hand side of Figure 1
11 there is a heading, "Allocation Based on Revenues or
12 Other Method."

13 (BRIEF PAUSE)

14

15 MR. ANTOINE HACAULT: Do you see that?

16 MR. DEAN SCHINKEL: Yes.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: Okay. You as, I
21 understand it chose an allocation based on revenue.

22 MR. DEAN SCHINKEL: For all five (5)
23 responses we used an allocation based on revenue. We
24 didn't choose that based on our discussions with the
25 respondents. The data that they had, they said that was

1 the most reasonable and best way to do it.

2 MR. ANTOINE HACAULT: Okay. Now do you
3 always accept what other people tell you is the best
4 method? Or is there another method which, all things
5 being equal, if you had the data, you would have
6 preferred?

7 MR. DEAN SCHINKEL: Answer to the first
8 question, No, we did not just take what they said as
9 word. In a perfect world, if you could measure precisely
10 what each staff person was doing each hour of the day, in
11 a -- you would, in a perfect world again, have tried to
12 use that data to somehow to somehow try and divide up
13 costs.

14 As we state in our report, it's a
15 reasonable method. And that's what we feel, it's
16 reasonable and was really the only method available.

17 MR. ANTOINE HACAULT: Now, could you
18 explain to me why looking at staff time would be
19 important?

20 First, could you tell me, is that one of
21 the key expenses, if you had to list the top three (3),
22 that figure into the overall costs of the operating
23 costs?

24 MR. DEAN SCHINKEL: I'd have to refer to
25 my data again, but I think salaries definitely would be

1 in the -- in the top three (3).

2 MR. ANTOINE HACAULT: So if that number
3 varies, it's got a pretty significant impact --

4 MR. DEAN SCHINKEL: It can have a
5 significant impact.

6 MR. ANTOINE HACAULT: -- on the total
7 that you have. So why is it better to know the exact
8 number, then, for that particular operating cost? What
9 does it tell us? How does it help increase accuracy?

10 MR. DEAN SCHINKEL: Can you just repeat
11 that question? I want to make sure I'm understanding it.

12 MR. ANTOINE HACAULT: Why -- can you
13 explain to me and to the Board why in a perfect world it
14 would -- be important to have an accurate number on
15 salaries to be able to come to a conclusion on the
16 operating costs?

17 MR. DEAN SCHINKEL: So we were trying to
18 allocate operating costs to payday loans only. So for
19 example, if there was cheque cashing line of business and
20 a payday, we wanted to allocate the salaries between the
21 two (2).

22 And -- and if you had perfect information
23 and could do it by the hour, you could do it precisely.
24 We did not have that, so we allocated based on percentage
25 of revenue between those two (2) lines.

1 MR. ANTOINE HACAULT: Okay. So I don't
2 know if -- I can put it in another way. Is it fair to
3 suggest then -- and I think you actually put the comment
4 in the report. I don't know, you can maybe tell me where
5 you got this comment --

6 MR. DEAN SCHINKEL: Okay.

7 MR. ANTOINE HACAULT: -- that some
8 operators thought that the payday loan portion of the
9 business occupied more staff time in proportion to other
10 services. And that might not necessarily match with the
11 revenues generated by each sector.

12 MR. DEAN SCHINKEL: Okay, correct. That
13 -- that does paraphrase what is in the report. And the
14 responses came that staff person may -- for a dollar
15 earned of payday loan revenue compared to cheque cashing
16 -- I'll just use that as an example -- the staff person
17 may have to spend more time on the payday loan customer
18 than the cheque cashing.

19 And therefore, we -- I think we make the
20 comment that it may be conservative, our estimate.
21 However, the -- the respondents also said that it's
22 reasonable -- maybe not perfect, but reasonable -- to do
23 it on an allocation of revenue.

24 But if you had perfect information it may
25 change the allocation.

1 MR. ANTOINE HACAULT: And the indication,
2 for example, in cheque cashing, do you know whether or
3 not there would be as many defaults or bad debts to
4 follow up on? Do you have any information on that?

5 MR. DEAN SCHINKEL: I don't have specific
6 information, but from my knowledge and -- and
7 discussions, I would assume not as many to follow up on.

8 MR. ANTOINE HACAULT: Okay. And when you
9 say "conservative estimate," that means that if you had
10 more accurate information in your opinion the -- based on
11 the discussions with these respondents, the costs should
12 be higher than twenty-six dollars and eighty-nine cents
13 (\$26.89), I think we're at.

14 MR. DEAN SCHINKEL: Right. And based on
15 the comment in our report, it may -- and I think "may" is
16 the key word -- be a higher number.

17 MR. ANTOINE HACAULT: And we don't that.

18 MR. DEAN SCHINKEL: Don't know.

19 MR. ANTOINE HACAULT: But the respondents
20 didn't suggest to you that it should be lower?

21 MR. DEAN SCHINKEL: Most did -- did not
22 suggest it should be lower. Most stated that it was just
23 a reasonable and best way to do it and then there was a
24 couple of comments stating that it could be higher but
25 they didn't feel it was an inappropriate or unreasonable

1 number that you would get by doing it the method we did.

2 MR. ANTOINE HACAULT: Okay. Thank you.

3 Now when you value businesses, and I may
4 be way off on my terms here, do you look at all on the
5 amount of costs related to, say, a core service and then
6 decide how to look at that as opposed to incidental
7 services?

8 And I'm specifically thinking all these
9 businesses based on your graph. Is it fair to say that
10 the payday product was a core service?

11 MR. DEAN SCHINKEL: That would be
12 correct.

13 MR. ANTOINE HACAULT: Am I using the
14 right terminology? What would you --

15 MR. DEAN SCHINKEL: I'm not sure what the
16 cri -- I think one of their core service lines or core
17 business offerings. I mean it's -- it's the majority of,
18 I think for all of them, of their revenue. So I would
19 call that a core significant business line.

20 MR. ANTOINE HACAULT: Okay. And -- so if,
21 for example, they were charging thirty dollars (\$30) per
22 hundred (100) as businesses and the Board ordered, say,
23 twenty-five dollars (\$25) per hundred (100), what does
24 that do to what -- the manner in which your formula is
25 applied?

1 MR. DEAN SCHINKEL: Just so I'm clear,
2 which formula are you referring to? In a business
3 valuation context?

4 MR. ANTOINE HACAULT: What you're doing
5 is you're allocating expenses on a percentage basis, and
6 maybe I'm over simplifying this --

7 MR. DEAN SCHINKEL: Okay.

8 MR. ANTOINE HACAULT: -- I'll just
9 explain it, then you can explain whether I'm correct.

10 MR. DEAN SCHINKEL: Okay, I -- I --

11 MR. ANTOINE HACAULT: If -- if you have
12 \$1 million worth of revenue and the Board reduces from
13 thirty (30) to twenty-five (\$25), that would be a
14 reduction. I don't know the exact percentage --

15 MR. DEAN SCHINKEL: Okay.

16 MR. ANTOINE HACAULT: -- but it would
17 reduce your revenues, and then your method would say,
18 Well, now all a sudden the operating costs per hundred
19 (100) are lower.

20 MR. DEAN SCHINKEL: No, that's correct.
21 So if you assume the volume stayed exactly the same, the
22 loan volume -- if you were giving out five hundred (500)
23 loans a year -- that it would stay at five hundred (500)
24 loans a year and instead of charging thirty (30) per
25 hundred, you charge twenty-five (25) for a hundred (100).

1 Then based on our methodology the cost allocated would go
2 down.

3 MR. ANTOINE HACAULT: So in three (3)
4 years from now you might be reporting that the costs have
5 gone down based on your method, whereas all things being
6 equal, they've remained the same.

7 It's just the effect of lowering the
8 revenue which would cause you to conclude that the costs
9 have gone down?

10 MR. DEAN SCHINKEL: We may say that, but
11 we also may have respondents coming back and saying
12 that's not a reasonable method of allocation now.

13 MR. ANTOINE HACAULT: And that's because,
14 to date, companies -- I would suggest -- in their own way
15 have been doing the best they can to operate a business
16 and don't spend money where they don't think it's
17 profitable to do so.

18 Is that a fair suggestion?

19 MR. DEAN SCHINKEL: Again, can you
20 repeat? I just want to -- sure I'm clear on it.

21 MR. ANTOINE HACAULT: Well, isn't it fair
22 to suggest that the companies think it's a reasonable
23 allocation because they don't intentionally spend money
24 in unproductive areas?

25 MR. DEAN SCHINKEL: I don't think that's

1 -- those two (2) are related.

2 MR. ANTOINE HACAULT: They're not related?

3 MR. DEAN SCHINKEL: I don't think that
4 they're saying, Your allocation method is correct because
5 we're not spending money where we shouldn't.

6 MR. ANTOINE HACAULT: Okay. Now getting
7 back to the core service. Is there any kind of theory as
8 to -- when you'd be buying a business -- whether you
9 should consider that core business to really be carrying
10 really all -- 100 percent of the fixed costs?

11 Because unless you have that core
12 business, your business cannot operate.

13 MR. DEAN SCHINKEL: I wonder if I can
14 just go into how I might look at valuing a business if
15 there's -- I'll call it "multiple service lines."

16 So, an example, a core business of, you
17 know, 60 percent of the business is made up of one (1)
18 type of revenue, 30 percent from related but different.

19 I would -- I would look at the past
20 history, probably break it into the three (3) areas.
21 Look at the future growth available in the three (3)
22 areas. Look at the gross margin or profitability by
23 three (3) areas and try and understand where -- where
24 that's trending, where that's going to determine the
25 value of the business.

1 I don't -- I wouldn't look at -- is one, I
2 think you used "supporting the fixed costs." I don't
3 want to use the incorrect words of what you said, but as
4 one core business line, I can't remember what you had --
5 your wording exactly.

6 MR. ANTOINE HACAULT: What I'm trying to
7 get at is if a buyer comes and he knows he has a
8 mortgage, say, for example, at a thousand dollars
9 (\$1,000) per month, is he going to be more interested in
10 the core services to see whether or not that and future
11 growth of that core service can pay his fixed costs?

12 Because if you eliminate that and, for
13 example, if the Board puts an amount that's too low to
14 continue to offer that core service, he won't be able to
15 continue his incidental services. His business won't be
16 able to continue to operate.

17 His -- do you understand where I'm coming
18 from?

19 MR. DEAN SCHINKEL: I do understand. I
20 think if I was -- if I was that buyer or operator I'd
21 look at: Can a thousand dollars (\$1,000) be supported by
22 the total business, and where's the total business going?

23 I do understand your point of if you got
24 rid of this what would happen, but I think that's very
25 hypothetical. If I was valuing a business, I wouldn't

1 they had to cut hours." I'm not sure --

2 MR. ANTOINE HACAULT: Hours of service.

3 MR. DEAN SCHINKEL: -- what -- what would
4 be -- so what would be driving if they have to cut hours,
5 just so I'm clear?

6 MR. ANTOINE HACAULT: Okay. Well, there
7 was a suggestion by Mr. Byron Williams that they would
8 have to tighten their belts. You've indicated that staff
9 time is a key component.

10 So to reduce staff time instead of being
11 open ten (10) hours a day, they may have to go to eight
12 (8) hours a day. That might be something that they're
13 forced to consider.

14 Is that one possibility?

15 MR. DEAN SCHINKEL: I think it's one
16 possibility. I think when -- I'll use the term "belt
17 tightening" again, it's -- it's making decisions, and if
18 it's cost-cutting decisions that will help improve the
19 profitability of the business, not making decisions to
20 cut costs that will overall harm it in the end result.

21 MR. ANTOINE HACAULT: But we've heard in
22 the surveys, would you agree, that one of the top things
23 that these consumers are looking for: look, ease of
24 access, and hours of operation. So if they're forced to
25 cut costs and salaries, might that be of concern to

1 owners? Do you have any sense of that?

2 MR. DEAN SCHINKEL: Again, I guess my
3 survey doesn't deal with hours of operation. And again I
4 think I'm just, I relay it back to someone's being --
5 trying to cut hours or cut staff time, they would only
6 want to do it if it would improve profitability.

7 Of course, it would be a concern if -- and
8 I don't -- and it would be, as you said, they don't want
9 to maybe make decisions that would harm the business. So
10 I don't know if someone would want to cut hours if it
11 would in the end harm the business.

12 MR. ANTOINE HACAULT: Have you seen
13 anything in your interviews that suggests that these
14 owners think it's not a competitive industry?

15 MR. DEAN SCHINKEL: Did not have
16 discussions on the competitive landscape with them.

17 MR. ANTOINE HACAULT: Okay. Thank you.

18 Now you had expressed -- and I'm not going
19 to -- it's not an opinion, but a view that for this
20 industry you might have pegged it at between 20 and
21 30 percent, am I right in saying "cap"?

22 MR. DEAN SCHINKEL: So -- and it was a
23 view based on a question asked yesterday, and I was
24 referring to the cost of equity, that it could be 20 to
25 30 percent, for -- for the small private companies that I

1 -- that I talked to.

2 MR. ANTOINE HACAULT: Could you do this
3 for me? Redo the calculation in your report, based not
4 on 14 percent, which is, I understand, the number you
5 used, but rather whatever you believe is appropriate
6 between the 20 and 30 percent.

7 MR. DEAN SCHINKEL: I'll refer to Mr.
8 Foran, but I do believe there was one response where we
9 gave a sensitivity, and it may go as high as 20 or 30
10 percent.

11 MR. ANTOINE HACAULT: Okay.

12 MR. DEAN SCHINKEL: So. But we'll --
13 I'll --

14 MR. ANTOINE HACAULT: Okay.

15 MR. DEAN SCHINKEL: -- further --

16 MR. ANTOINE HACAULT: If it's already
17 been done, thank you.

18 THE CHAIRPERSON: Just so we understand,
19 you are saying by the sensitivity that if you use the
20 higher number it would increase the average costs by 20
21 to 30 percent. Is that what you are saying?

22 MR. DEAN SCHINKEL: No. If you used,
23 instead of a 14 percent whack, a 20 or 30 percent whack,
24 what the cost of capital number per our calculations
25 would go to.

1 THE CHAIRPERSON: Okay.

2 MR. DEAN SCHINKEL: So not a 20 to 30 --

3 THE CHAIRPERSON: Not the overall bottom?

4 MR. DEAN SCHINKEL: No, no. Yeah. So
5 not a 20 to 30 percent increase, just a incremental cost
6 to capital change.

7

8 CONTINUED BY MR. ANTOINE HACAULT:

9 MR. ANTOINE HACAULT: And that's because
10 of the incremental cost really, and you explained that,
11 is -- is not that critical in the overall number but it
12 does increase it. And we'll know by -- I was looking at
13 the table here --

14 MR. DEAN SCHINKEL: Right. So if you --

15 MR. ANTOINE HACAULT: -- a response what
16 that increase is.

17 MR. DEAN SCHINKEL: If you change the --
18 the weighted average cost to capital used, up or down,
19 the cost of capital number that comes up will accordingly
20 go up or down.

21 MR. ANTOINE HACAULT: Could you go to
22 page 22 of the Ernst & Young report, please.
23 Specifically under the heading "D," "Verification of Data
24 Provided." And the second paragraph, and I'm reading the
25 last line:

1 "Ernst & Young worked with the
2 respondents in order to determine the
3 best estimates possible."

4 Do you have any knowledge as to what those
5 estimates were?

6 MR. DEAN SCHINKEL: No.

7 MR. ANTOINE HACAULT: And, unfortunately,
8 Ernst & Young isn't here to answer any questions to
9 clarify that.

10 I'll take you back with respect to my
11 previous request. I asked you a line of questioning
12 related to the core service and 100 percent of the
13 operating costs being allocated to that core business or
14 service.

15 Would it be possible for you to provide us
16 what the cost per hundred (100) would be if the
17 allocation was based on that method?

18 MR. DEAN SCHINKEL: I just want to be
19 clear on your question. So if you assumed 100 percent of
20 the -- 100 percent of the costs of the business were all
21 related to --

22 MR. ANTOINE HACAULT: Not --

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

24 MR. ANTOINE HACAULT: Were required in
25 order to allow the payday loan business to continue?

1 MR. DEAN SCHINKEL: I'll refer to Mr.
2 Foran on that.

3 MR. ANTOINE HACAULT: Sure.

4 MS. ANITA SOUTHALL: Mr. Hacault, just
5 while that's occurring, we have a reference to that
6 sensitivity analysis in the undertakings if you want a
7 reference point.

8 MR. ANTOINE HACAULT: Okay.

9 MS. ANITA SOUTHALL: We have noted
10 PUB/CPLA Response to IRB-26(c). The sensitivity analysis
11 goes up to 25 percent.

12

13 (BRIEF PAUSE)

14

15 THE CHAIRPERSON: Mr. Schinkel. Are you

16 --

17 MR. DEAN SCHINKEL: I'm sorry.

18 THE CHAIRPERSON: -- are you ready?

19 MR. DEAN SCHINKEL: I'm ready.

20

21 CONTINUED BY MR. ANTOINE HACAULT:

22 MR. ANTOINE HACAULT: I -- with the
23 sensitivity analys go -- analysis goes up to 25 percent.
24 Is -- you'd given us a range between 20 and 30 percent.

25 And I'm leaving it up to you as to -- to

1 choose, do you think it's appropriate to go higher than
2 25 percent and give us a number at 30 percent also?

3 MR. DEAN SCHINKEL: That's something we
4 could -- we could perform that calculation, I think at --
5 as an undertaking.

6 MR. ALLAN FORAN: So I can reach for the
7 top, I'm trying to get the button. Witnesses are just
8 answering anyway.

9 THE CHAIRPERSON: You don't have to be
10 quite as fast.

11 MR. ALLAN FORAN: So that undertaking's
12 fine. The -- the previous request by My Learned Friend
13 may be far more difficult. I'm advised we'd have to
14 really think about not only the confidentiality, but it
15 will take at least a full day. It's -- it's in effect a
16 brand new report.

17 THE CHAIRPERSON: Mr. Hacault is
18 signalling that's not necessary.

19

20 --- UNDERTAKING NO. 41: Would it be possible for Mr.
21 Schinkel to provide what the
22 cost per hundred (100) would
23 be if the allocation was
24 based on that method

25

1 MR. ANTOINE HACAULT: No, I'm -- I
2 thought perhaps it might be easier, because I thought it
3 might be as simple as looking at your tables where you
4 had, because you did an average of all costs, that we
5 could just look at that instead of doing the percentage,
6 just take that cost and -- and divide it and come to a
7 simple mathematical calculation without any adjustments.

8 It's not that easy?

9 MR. DEAN SCHINKEL: I'll leave it to Mr.
10 Foran's comments. It's something we have to and -- and
11 at this point I'd have to -- it is not simple is the
12 correct word, and I'd have to look at how much time it
13 would take.

14 MR. ANTOINE HACAULT: Thank you very
15 much.

16

17 (BRIEF PAUSE)

18

19 CONTINUED BY MR. ANTOINE HACAULT:

20 MR. ANTOINE HACAULT: Now this you may be
21 or may not be able to answer based on your discussions
22 with the operators.

23 Do you have any sense as to whether the
24 operators that you spoke to thought they could easily
25 control their default rates? Because we see there's a

1 variety of different levels.

2 Do you think that it's as easy as, for
3 example in Centra Gas there's a -- a known risk in -- in
4 different supplies and things like that.

5 Is it that easy for the operators to
6 adjust their risk models?

7 MR. DEAN SCHINKEL: From my discussions I
8 don't have a basis to answer. As I said yesterday, we
9 couldn't tell one operator that he was at six dollars
10 (\$6) and another was two (2), and, Why were you at six
11 (6)?

12 And again, just that it, you know, it
13 could be from different risk profiles. But how easy it
14 is to change I cannot comment.

15 MR. ANTOINE HACAULT: Okay. Do you have
16 any sense as to whether those operators thought they
17 needed a minimum hours of staff being present to be able
18 to continue to operate their business?

19 MR. DEAN SCHINKEL: Again, wouldn't have
20 a sense from my discussions on that.

21 MR. ANTOINE HACAULT: Now where does
22 fixed assets fall into this? If their revenue is
23 reduced, is there anything they can do with their fixed
24 assets? Do they have to sell their building and move
25 into a smaller one?

1 How do they adapt that line of cost?

2 MR. DEAN SCHINKEL: So I think fixed
3 assets, you may even refer to fixed costs, so all costs
4 that are fixed. And then by definition they're, at least
5 on a short term, fixed and can't change.

6 So if your revenue changes overnight,
7 that's something you can't adjust overnight and is more
8 of a longer term thing to look at.

9 MR. ANTOINE HACAULT: Would that also
10 apply to rent? Might they be caught in the rental
11 contracts that they couldn't get out? Would that be
12 considered fixed?

13 MR. DEAN SCHINKEL: Well, again under the
14 assumption that someone would want to change their or --
15 or need to move or get out, depend -- it would depend
16 entirely on their rental agreement.

17 But they -- based on my knowledge and
18 seeing companies, that you can't just get out of your
19 lease contract.

20

21 (BRIEF PAUSE)

22

23 MR. ANTOINE HACAULT: Now, you may not
24 have seen this, but there was some mystery shopping done
25 by the Coalition. And they noted that some companies

1 spent less time with customers during the loan process
2 than others.

3 Did you have any sense, discussing with
4 the owners, whether they felt that they might be forced
5 to ask their staff to spend less time -- spend -- with
6 the customers?

7 MR. DEAN SCHINKEL: I did not see the
8 mystery shopper information, but I would not have gone
9 into discussions on spending less time with customers.

10 MR. ANTOINE HACAULT: But that would be a
11 way that they could reduce their costs? They could spend
12 less time and not explain to customers as much.

13 It might not be in the best interest of
14 customers, but they could reduce their costs that way?

15 MR. DEAN SCHINKEL: I suppose
16 hypothetically, but I go back to an earlier answer that a
17 prudent operator would want to balance that with what
18 will happen with his overall operations if that's done.

19 MR. ANTOINE HACAULT: Unless they're
20 forced because of a Board order to reduce those?

21 MR. DEAN SCHINKEL: I can't really
22 comment on force and what someone would or wouldn't do if
23 -- depending on a decision.

24 MR. ANTOINE HACAULT: Now, some companies
25 provide counselling. Is that area where they could also

1 reduced their operating cost by cutting the counselling
2 services?

3 MR. DEAN SCHINKEL: Same response. I
4 think hypothetically, someone could reduce any of the
5 variable costs on their --

6 MR. ANTOINE HACAULT: Okay.

7 MR. DEAN SCHINKEL: -- on their income
8 statement and they'd have to balance how that would
9 impact the overall business.

10

11 (BRIEF PAUSE)

12

13 MR. ANTOINE HACAULT: Perhaps I could ask
14 these questions of the CPLA witnesses then.

15 Is an area where companies now spend time
16 explaining documents to consumers, that's a possibility?
17 They -- they would have to reduce that time explaining
18 documents to customers in their stores?

19 HONOURABLE STAN KEYES: The CPLA doesn't
20 discuss with the businesses their business practices.

21 MR. ANTOINE HACAULT: Does the CPLA have
22 any sense as to whether or not there are peak times in
23 businesses that require minimum amount of staff to be on
24 hand?

25 HONOURABLE STAN KEYES: I'll say it

1 again. The CPLA doesn't discuss the business practices
2 or the -- the business of running a payday lending
3 company with the CPLA. It's not in our mandate.

4 MR. ANTOINE HACAULT: Okay. And I
5 guess CPLA wouldn't be able to comment on risk profile
6 management?

7 HONOURABLE STAN KEYES: You guess
8 correctly.

9 MR. ANTOINE HACAULT: Okay. And on
10 reducing costs by going to less convenient locations,
11 thereby reducing rent? You wouldn't be able to comment
12 on that either?

13 HONOURABLE STAN KEYES: No, we wouldn't.

14

15 (BRIEF PAUSE)

16

17 MR. ANTOINE HACAULT: Okay. Mr.
18 Schinkel, could you turn now to your report?

19

20 (BRIEF PAUSE)

21

22 MR. ANTOINE HACAULT: And could you also
23 retrieve your letter of engagement, please?

24

25 (BRIEF PAUSE)

1 MR. ANTOINE HACAULT: I believe that's
2 also in the handy-dandy Board cross-examination

3 MR. DEAN SCHINKEL: Which I have in front
4 of me.

5 MS. ANITA SOUTHALL: Tab 30.

6

7 (BRIEF PAUSE)

8

9 MR. ANTOINE HACAULT: With respect to
10 your engagement letter, you've indicated that one of the
11 services listed on the first page was no longer required,
12 and that was the report summarizing transactional data.
13 Is that right?

14 MR. DEAN SCHINKEL: Correct.

15 MR. ANTOINE HACAULT: Was your role
16 expanded in any way in relation to this letter of
17 engagement?

18

19 (BRIEF PAUSE)

20

21 MR. DEAN SCHINKEL: This letter
22 engagement would deal with the report. I guess, myself
23 being at these Hearings, it wouldn't cover that.

24 MR. ANTOINE HACAULT: Thank you. Now it
25 may be that there'll be a combination of people who can

1 answer this question.

2 In what respects was the Ernst & Young
3 report lacking, which required the preparation of a
4 further report by Deloitte Touche?

5 MR. NORMAN BISHOP: Well, I think the --
6 as you pointed out, the Ernst Young report was done in
7 2004. It was dated. It was also a national survey.

8 So the Association thought for the
9 purposes of producing evidence for the Board, they wanted
10 to get something that was specific to Manitoba and
11 current.

12 MR. ALLAN FORAN: If I could just add to
13 that. One of the things that we've indicated in both the
14 evidence and in the intervention application and in our
15 opening comments is we attempted to address some of the
16 factors that the Board had been asked to consider in the
17 legislation itself, one (1) of which was the cost of
18 operation.

19

20 (BRIEF PAUSE)

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: Now how would we
24 describe the report that you prepared? I think Mr.
25 Williams indicated that it didn't satisfy, like, audit --

1 audit standards. Is that correct?

2 MR. DEAN SCHINKEL: I think as we try and
3 say in our report, it's -- we gathered data from private
4 companies, performed discussions with them, performed
5 analysis on the data, and summarized our results, which
6 we intended to be factual results, not providing an
7 opinion in any way.

8 But we did not perform an audit whereby we
9 went out and audited the books and records of these
10 companies.

11 MR. ANTOINE HACAULT: Now what's the next
12 step of the quality of reporting? Is it a review
13 engagement? Is that going down from the highest
14 standard? And going down, what's the next standard?

15 MR. DEAN SCHINKEL: Correct, to review
16 engagement.

17 MR. ANTOINE HACAULT: And, in your view
18 does this report meet the standards of a review
19 engagement?

20 MR. DEAN SCHINKEL: You -- I don't think
21 you could. This type of report is not supposed to be
22 judged by review engagement, as we're not giving them
23 some type of opinion on financial statements. But if I
24 look at all this and I would have to compare, I don't
25 know if we would have -- it was much similar to a review

1 than an audit.

2 But is every step that would be required
3 in a review done here for financial statement purposes
4 putting an -- an opinion on financial statements?

5 We did a level of work so we could get
6 comfort that the numbers were reasonable.

7 MR. ANTOINE HACAULT: Okay. And at least
8 on an individual basis, one (1) company did have audited
9 statements.

10 So it would be fair for you to place quite
11 a bit of reliance on those audited numbers, wouldn't it?

12 MR. DEAN SCHINKEL: Yes, we still ask
13 questions of that respondent to make sure that we
14 understood the information and they understood what we
15 were requesting.

16 MR. ANTOINE HACAULT: And with respect to
17 individual, again, financial statements, at least another
18 three (3) were based on a review engagement standard. Is
19 that correct?

20 MR. DEAN SCHINKEL: Correct.

21 MR. ANTOINE HACAULT: So again, it would
22 be appropriate for you to put some measure of reliance on
23 that statistical data?

24 MR. DEAN SCHINKEL: Some reliance. It
25 gave us comfort that another accountant had looked at it,

1 but again, we ask -- ask questions.

2 MR. ANTOINE HACAULT: So is it fair to
3 say, at least with respect to each individual store, that
4 you had -- I'm -- I'm going to say, okay, well, what
5 level of standard -- am I fair in suggesting it's a
6 review engagement standard of satisfaction, with respect
7 to these respondents? In a very general way without --

8 MR. DEAN SCHINKEL: In very general --
9 definitely not an audit, in a general way, closest to a
10 review.

11 MR. ANTOINE HACAULT: So if we compare it
12 to Ernst & Young, we have no idea as to what kind of
13 standard and how many companies we had for Manitoba.

14 Is that right?

15 MR. DEAN SCHINKEL: I stated earlier, I
16 don't know how many companies from Manitoba. Based on my
17 read of their report, it sounds like they did a similar
18 analysis that we did. But again, I -- I don't have any
19 way of knowing for sure.

20 MR. ANTOINE HACAULT: Do we know whether
21 they had source information, audited statements or review
22 statements?

23 MR. DEAN SCHINKEL: I can't recollect if
24 their report says that or not.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: Now, you explained
4 that you had met with Mr. Sid Franchuk (phonetic) and Mr.
5 Norm Bishop. Did you at any time meet with other people
6 from the CPLA to discuss or review this report?

7 MR. DEAN SCHINKEL: So as I said, I met,
8 prior to the engagement, with those two (2) individuals.
9 I would have obviously been engaged by Mr. Foran. And I
10 don't believe I met Mr. Keyes until after having
11 discussions until after our report was issued. But
12 correct me if I'm mistaken there.

13 HONOURABLE STAN KEYES: To be honest,
14 we've had so many meetings in the last three (3) months,
15 but as far as I can recall, if -- if I did have a meeting
16 with Mr. Schinkel, it would have been in the company of
17 Mr. Franchuk and Mr. Bishop. It wouldn't have -- there
18 definitely was -- was not a one-on-one meeting.

19 MR. ANTOINE HACAULT: Thank you.

20 Now, could you explain to me the role that
21 the partner Russ Holmes of Deloitte Touche had? At
22 page 3, under the heading "Engagement Team," it explains,
23 and I'm quoting:

24 "This engagement will be under the
25 direction of Russ Holmes, who will

1 maintain overall responsibility for the
2 engagement on behalf of Deloitte."

3 MR. DEAN SCHINKEL: So as background,
4 Russ Holmes is the partner in the Financial Advisory
5 Group in the Winnipeg office. I'm a member, a senior
6 manager in the Financial Advisory Group. There's
7 nineteen (19) or twenty (20) of us, with Russ as the
8 partner.

9 I do not have signing authority to sign an
10 engagement letter for Deloitte. So Russ would sign it,
11 which would mean that overall responsibility, him signing
12 the letter, that -- that he has responsibility. So our
13 letters are signed this way.

14 The intention was, from the beginning,
15 that I would have -- for completing the report and
16 signing the report, that that would be myself. And from
17 a read of the letter, I could see that you may not see
18 that, but that was the -- the intent from the start.

19 MR. ALLAN FORAN: I'd like to just add to
20 that, too, Mr. Hacault. I -- it just -- I made initial
21 contact with Mr. Holmes.

22 And, from the very first time of contact,
23 it was clear that Mr. Holmes would not, in fact, prepare
24 the report, but it would be done by somebody else.

25 But he was the partner that we contacted

1 at first instance.

2

3 CONTINUED BY MR. ANTOINE HACAULT:

4 MR. ANTOINE HACAULT: Thank you very
5 much. Could you go to the general business terms that
6 immediately follow the letter of engagement and, in
7 particular, to Paragraph 2(b)?

8 MR. DEAN SCHINKEL: I do not have those
9 in my package.

10 MR. ANTOINE HACAULT: Your counsel will
11 bring it to you.

12

13 (BRIEF PAUSE)

14

15 THE CHAIRPERSON: We are just going take
16 a five (5) minute break, Mr. Hacault, and then we will
17 get a copy of this at the same time.

18

19 --- Upon Recessing at 1:55 p.m.

20 --- Upon Resuming at 2:05 p.m.

21

22 THE CHAIRPERSON: Any time you are ready,
23 sir.

24

25 CONTINUED BY MR. ANTOINE HACAULT:

1 MR. ANTOINE HACAULT: So before the break
2 I had asked you to please look at the general business
3 terms, which followed the engagement letter and, in
4 particular, Paragraph 2(b).

5 Could you please take time to read that to
6 yourself and then explain whether or not -- I think this
7 is his boilerplate. And now you've explained that you've
8 actually provided a higher degree of service than what's
9 in this boilerplate exclusion, but could you please
10 answer the question?

11

12 (BRIEF PAUSE)

13

14 MR. DEAN SCHINKEL: So I've read it. So
15 this is very boilerplate. This is the standard Deloitte
16 terms and conditions, and I believe what I've described -
17 - what we did is very similar to this. We didn't perform
18 an audit. I'm closer to review level but, as I said, I
19 couldn't hold out that it was a review.

20 And also what this paragraph is getting at
21 is that -- and what I would say -- I had discussions with
22 individuals, asked questions. But if someone was
23 outright lying to me, corroborating to not tell the
24 truth, I wouldn't be able to likely have found that and -
25 - or that could be the case.

1 And that's what this paragraph is also
2 dealing with.

3 MR. ANTOINE HACAULT: But you have
4 explained that you have a certain degree of confidence in
5 the actual numbers from these five (5) companies?

6 MR. DEAN SCHINKEL: Right. That's
7 correct based on my experience and the work performed.

8 MR. ANTOINE HACAULT: I just wanted to
9 clarify that because some people might read that
10 paragraph as indicating that you had no opinion and no
11 information to give to the Public Utilities Board. But
12 that clearly is not the case.

13 MR. DEAN SCHINKEL: Correct. I don't
14 think that's what that paragraph's trying to get at
15 either. It's a paragraph written by lawyers to protect
16 Deloitte, is what it is.

17 MR. ANTOINE HACAULT: Let the record
18 reflects there's a lot of laughter.

19 Could you now go to your report, and I'll
20 take you through the report. I have some questions of --
21 of you with respect to your report.

22

23 (BRIEF PAUSE)

24

25 MR. ANTOINE HACAULT: Firstly, under

1 "Executive Summary" you talk about the inquiries which
2 were made, thirteen (13) surveys to private companies.

3 Are you able to answer, sir, how many, if
4 any, are CPLA members versus nonmembers. Or would that
5 be a problem from confidentiality again?

6 MR. DEAN SCHINKEL: I don't have that
7 data, but that's not a confidentiality issue. So if Mr.
8 Keyes may actually -- no, that's -- you're asking out of
9 the thirteen (13)?

10 MR. ANTOINE HACAULT: No, out of the
11 respondents.

12 MR. DEAN SCHINKEL: Oh, out of the five
13 (5) we got back? I won't give the specifics, but I can
14 say it was both members and nonmembers.

15 MR. ANTOINE HACAULT: And just to
16 clarify, you weren't engaged to critique the Ernst &
17 Young report.

18 Is that correct?

19 MR. DEAN SCHINKEL: No. I was provided
20 with it prior to the engagement. I had a -- a very fast
21 read of it, and when we were engaged, we said we are not
22 stating or guaranteeing we're going to follow their
23 methodology. We will review the report, and if we agree
24 with it, we may follow it and, if not, we'll do what we
25 feel is correct.

1 MR. ANTOINE HACAULT: Now, I believe
2 you've described on the record what adjustments were made
3 in each cost category. That was under questioning by Ms.
4 Southall. But you weren't able to provide us the
5 worksheets.

6 Did I understand that correctly?

7 MR. DEAN SCHINKEL: Correct.

8 MR. ANTOINE HACAULT: So we can't test
9 those adjustments, can we?

10 MR. DEAN SCHINKEL: Correct.

11

12 (BRIEF PAUSE)

13

14 MR. ANTOINE HACAULT: Now there's been a
15 lot of cross-examination, and they've been pretty tough
16 on you on -- on the issue of is this representative of
17 the other private payday loan companies.

18 If that were the focus of this Board, like
19 it does for public utilities, to get into a detailed
20 analysis of every financial statement and record, as it
21 has to do for a proper rate hearing, what level of detail
22 would we require from each of the members to allow this
23 Board to have sound information to make a decision on?

24 MR. DEAN SCHINKEL: So was that question
25 more directed to what makes it representative or what

1 information you would want?

2 MR. ANTOINE HACAULT: Well, what
3 information, as chartered accountant, would you expect if
4 you were sitting there, as Roger Cathcart is, advising
5 the Board? You say, Well listen --

6 MR. DEAN SCHINKEL: Okay.

7 MR. ANTOINE HACAULT: -- if you're going
8 to take the utility...

9 MR. DEAN SCHINKEL: If I was -- if I was
10 Mr. -- if I was Mr. Cathcart, I would -- I would have
11 loved it if this report had thirteen (13) of thirteen
12 (13) and there was perfect information, but there is only
13 five (5). So you can look at it and say it may not be
14 representative, but I think I would be pleased, in some
15 way that, there was some factual information to look at.

16 MR. ANTOINE HACAULT: And prefer -- it
17 would be preferable, as we would in utilities, to have
18 audited statements for everybody, wouldn't it?

19 MR. DEAN SCHINKEL: Audited information
20 would -- would potentially give a higher level of
21 assurance, so, yes.

22 MR. ANTOINE HACAULT: And to make sure
23 that you had adequate allocation of the true costs of
24 payday loans, you'd have to have detailed records kept
25 of --

1 MR. DEAN SCHINKEL: You'd have to perform
2 -- not -- an audit wouldn't even give you that -- you'd
3 have to perform a separate analysis on those detailed
4 records.

5 MR. ANTOINE HACAULT: And, if we took a
6 utilities model, we'd have to go through the whole
7 exercise of getting that from the thirteen (13)
8 companies, each three (3) years, and then make a decision
9 as to what model of operation we're going to accept as
10 reasonable, wouldn't we?

11 MR. DEAN SCHINKEL: I --

12 MR. ANTOINE HACAULT: Otherwise how could
13 we do our job properly?

14 MR. DEAN SCHINKEL: -- I don't think I
15 can really respond to that because I don't know. I'm not
16 the Board, and I'm not the one stating what information
17 should be put forward.

18 MR. ANTOINE HACAULT: I think Dr. Gould,
19 with his regulatory experience, might be able to provide
20 his view of how rate hearings for utilities operate and
21 the level of detail of information and analysis that they
22 get into on rates and rate models and service to
23 different client groups and classes of groups.

24 You wouldn't know anything about that?

25 MR. DEAN SCHINKEL: Not as much as

1 Professor Gould, no.

2 MR. ANTOINE HACAULT: You haven't been
3 involved in any rate hearings, sir?

4 MR. DEAN SCHINKEL: No.

5 MR. ANTOINE HACAULT: Now, when you did
6 your analysis, did you gather information with respect to
7 the hours of operation of each store?

8 MR. DEAN SCHINKEL: We didn't
9 specifically ask for that information. In discussions it
10 would have come up, but not with all participants that we
11 would of recorded it.

12 MR. ANTOINE HACAULT: Did you
13 specifically make some adjustments with respect to hours
14 of operation? Say, for example, if a store thought the
15 best business model for it was being open sixty (60)
16 hours a week, and then we have that three hundred
17 thousand dollar (\$300,000) volume store which may be just
18 part-time. They think they can operate at a lower cost,
19 maybe at less hours.

20 Did you get that kind of information and
21 put that in your analysis?

22 MR. DEAN SCHINKEL: Well, there wouldn't
23 be an -- we were looking at what their actual costs are,
24 so if their actual costs were part-time versus sixty (60)
25 hours a week, we used what the -- the actual was. So we

1 wouldn't be making an adjustment for that.

2 MR. ANTOINE HACAULT: Okay. Now, for a
3 business valuation, how many years of financial
4 information would you -- all things being equal for it --
5 there's different standards on that to require how many
6 years?

7 MR. DEAN SCHINKEL: The charter business
8 by reader standards don't -- don't speak to or require
9 how many years you would look to, and it can vary. And
10 I'll just give a couple of examples.

11 Often if we're doing a -- a business we'll
12 ask for three (3) to five (5) years historical
13 information -- the one I'll be doing when I get back to
14 the office, whenever that is, they've only been operating
15 for just over a year. So that's the history that we'll
16 have to deal with.

17 MR. ANTOINE HACAULT: And when you do a
18 projection for somebody, if they want to know whether
19 that business is going to operate in a viable way going
20 forward, you'd need pretty good information on what's
21 happening in the industry on a go-forward basis.

22 I think you explained part of that earlier
23 in my cross-examination?

24 MR. DEAN SCHINKEL: I'll just -- I think
25 what you're referring to is when I said, The decision of

1 the -- of this Hearing may have an impact.

2 MR. ANTOINE HACAULT: Just generally, in
3 -- in business valuation, is part of it an appreciation
4 of what you can do in the future and what's going to
5 happen in the future?

6 MR. DEAN SCHINKEL: So we -- we don't
7 always make a projection for the future. We don't always
8 do a detailed projection, but we always -- value is very
9 much predicated on -- on what will be happening in the
10 future. It's forward-looking, not always backward-
11 looking.

12 MR. ANTOINE HACAULT: So, if people are
13 going to decide what's -- whether they're going to get
14 into or out of this industry or -- they'd have to know
15 something about what's going to happen in the future?

16 MR. DEAN SCHINKEL: They would be making
17 an assessment of what they think's going to happen,
18 correct.

19 MR. ANTOINE HACAULT: Now, in this report
20 you do refer to rollovers. Did you make any inquiries to
21 know whether any of the respondents do rollovers?

22 MR. DEAN SCHINKEL: Yes, we would have
23 asked that with all participants.

24 MR. ANTOINE HACAULT: And what was the
25 result of your response?

1 MR. DEAN SCHINKEL: Can I refer to
2 counsel? I just have a question on confidentiality and I
3 have to think about it for a second.

4 MR. ANTOINE HACAULT: If it causes a
5 problem.

6 MR. ALLAN FORAN: I think it will cause a
7 problem, because I believe we've declined to provide
8 information with respect to specifics of members and
9 nonmembers.

10 And just putting the dots together, CPLA
11 has a code of conduct that prohibits rollovers and an
12 office that investigates and pursues, so I think this
13 will be a difficult question to answer.

14 That is, if there is a firm that's
15 responded that has rollovers, we're going to come pretty
16 close to identifying who that may be in terms of
17 respondent.

18 THE CHAIRPERSON: We do not know the
19 names of any of the respondents.

20 MR. ALLAN FORAN: But we know who doesn't
21 do rollovers.

22 HONOURABLE STAN KEYES: For the sake of
23 example, Mr. Chairman, if you have four (4) apples and
24 one (1) banana out of the five (5) companies that
25 responded and you determined one (1) did rollovers, it

1 would be pretty quick to see which respondent was which
2 company.

3 MR. DEAN SCHINKEL: I -- I do want to be
4 helpful here. Could I speak with you, Mr. Foran, for one
5 moment if that's okay?

6

7 (BRIEF PAUSE)

8

9 MR. ANTOINE HACAULT: Do you have a
10 response now? Are you able to provide the information?

11 MR. ALLAN FORAN: It's like a logic
12 problem. There is an answer that might be able to be
13 given, but I can't figure it out right now.

14 THE CHAIRPERSON: So you can take an
15 undertaking then to figure it out?

16 MR. ALLAN FORAN: I -- I've been
17 desperately trying to avoid giving legal opinions, but I
18 might be able to help you here. I'll give -- I'll give
19 that undertaking.

20

21 --- UNDERTAKING NO. 42: Mr. Dean Schinkel to
22 determine whether or not to
23 supply information as to
24 which respondents do
25 rollovers.

1 CONTINUED BY MR. ANTOINE HACAULT:

2 MR. ANTOINE HACAULT: Thank you very
3 much.

4 Could you turn to page 3 of your report?

5 MR. DEAN SCHINKEL: Okay.

6 MR. ANTOINE HACAULT: With respect to the
7 operating costs, are you able to inform the Board, in
8 order of magnitude, which are the three (3) important --
9 or most important variables in the list that you've
10 provided under Section 3.2?

11 MR. DEAN SCHINKEL: I believe one (1) of
12 the responses to our earlier questions would have dealt
13 with that, would have given a rating by weighting -- a
14 ranking by weighting -- of overall costs.

15 MR. ANTOINE HACAULT: And I believe
16 salaries was one (1) of those?

17 MR. DEAN SCHINKEL: Yes. But I -- I
18 can't -- I don't want to state the other three (3). I
19 may get it incorrect.

20 MR. ANTOINE HACAULT: Okay. So will you
21 just look at that response, because you did do a
22 weighting on percentages and that was a response that
23 was --

24 MR. DEAN SCHINKEL: Correct.

25 MR. ANTOINE HACAULT: -- provided.

1 MR. DEAN SCHINKEL: Correct.

2 MR. ANTOINE HACAULT: Now some of those
3 are fixed and some of those are variable, is that right?
4 Salaries, would they be considered fixed or variable?

5 MR. DEAN SCHINKEL: Certain of them may
6 be variable, and I think some level of them would be
7 fixed. There would have to be someone in the store. But
8 the volume of salaries or the amount of salaries may go
9 up as there's more activity.

10 I think some of the costs actually may be
11 sort of step costs, whereby they're fixed -- fixed to a
12 certain level of volume and then would increase once you
13 get over a certain level.

14 But there'd be all -- both fixed variable
15 costs and step costs.

16 MR. ANTOINE HACAULT: Thank you.

17 MS. ANITA SOUTHALL: Mr. Hacault, is it
18 helpful to you to have the detail on the operating cost
19 information by line item? We did find it...

20 MR. ANTOINE HACAULT: I think that was
21 one of the tables I was going to bring him through, but
22 if you have the reference right now at -- it's in the
23 interrogatories, I believe.

24 MS. ANITA SOUTHALL: Yes. And we've
25 located it at the response to PUB/CPLA-II-19. And I'll

1 just hand out copies. We had made copies previously.

2 MR. ANTOINE HACAULT: That's at page 28,
3 for the record.

4

5 (BRIEF PAUSE)

6

7 CONTINUED BY MR. ANTOINE HACAULT:

8 MR. ANTOINE HACAULT: Mr. Schinkel, now
9 that you have the table in front of you, could you
10 identify the most important components of operating
11 costs?

12 MR. DEAN SCHINKEL: So the -- the largest
13 three (3) identified on this sheet would be salaries and
14 benefits; provision for loan losses or bad debt would be
15 the second, and we treat -- pulled that out and treated
16 it separately in our report, 26.6 percent, 11.2 percent
17 for rent; and we also have a category as "Other," which
18 groups up a number of smaller -- of smaller items that we
19 put together.

20 MR. ANTOINE HACAULT: Okay. So going
21 through this list, for whatever reason, going down, these
22 companies thought it was important to have security.

23 Is that right?

24 MR. DEAN SCHINKEL: Well, they have the
25 security expense, so that was one of their costs, yes.

1 MR. ANTOINE HACAULT: Okay. And,
2 presumably, you can't cut too much into that.

3 MR. DEAN SCHINKEL: I wouldn't be able to
4 comment.

5 MR. ANTOINE HACAULT: Would you be able
6 to comment on any of these categories as to where you
7 could be forced to cut something?

8 MR. DEAN SCHINKEL: Again, I'll go back to
9 another comment that, in theory, any -- you know, you may
10 be able to cut any variable costs or make an attempt to
11 or on fixed costs over the long run, but that would again
12 have to be balanced with what's best for the business.

13 MR. ANTOINE HACAULT: So that we have two
14 (2) opposing models, one (1) where the businesses in a
15 competing environment, or competitive environment, decide
16 what's best for the business and to track customers, and
17 another model where -- a utility model where the Board
18 will make that decision.

19 Is that correct?

20 MR. DEAN SCHINKEL: I didn't look at
21 different models and -- and look into what you're
22 discussing, so --

23 MR. ANTOINE HACAULT: Okay.

24 MR. DEAN SCHINKEL: -- I won't comment on
25 that.

1 MR. ANTOINE HACAULT: Turning to page 4
2 of your report, I see you put rent. But I think in some
3 of your testimony, when you're talking about operating
4 costs, there were actually some owners of the premises,
5 too.

6 Or -- or were they all rented out?

7 MR. DEAN SCHINKEL: The -- the two (2)
8 items you could have is either somebody renting a
9 premises and having a rental operating expense, or they
10 may own the building themselves, which it would be
11 captioned under, in our model, "Depreciation and
12 Supplementary Capital."

13 And all -- all responses would have some
14 type of fixed assets within their premises -- desks,
15 computers, things like that -- whether they own the
16 business or -- own the building or rent it.

17 MR. ANTOINE HACAULT: Did you have both
18 in the responses that you received?

19 MR. DEAN SCHINKEL: I think I am safe
20 from confidentiality -- yes, we would.

21 MR. ANTOINE HACAULT: Okay. Now, am I
22 right, sir, that if you're going to do a proper
23 allocation with respect to an asset that's owned, that
24 you should do a fair market value assessment of that
25 asset, that just taking information off a financial

1 doesn't necessarily tell you the true value of that
2 asset?

3 MR. DEAN SCHINKEL: No, that's correct.
4 Historical costs may not represent fair market value.

5 MR. ANTOINE HACAULT: Did you do or get
6 evaluation of the assets to get a true cost? And I'm
7 asking that in the context of a real estate market that's
8 increased. If somebody purchased this building and is
9 depreciating it, and he bought it five (5) or ten (10)
10 years ago, it wouldn't necessarily be accurate to use
11 that low cost.

12 Is that correct?

13 MR. DEAN SCHINKEL: I'll answer the first
14 question, that we did not get fair market value
15 assessments or appraisals done.

16 MR. ANTOINE HACAULT: And for the second
17 question, if, as a result of the increasing market, may
18 it -- might it be possible that, in fact then, the cost
19 allocated to that asset is too low if you just looked at
20 the financials and depreciation based on acquisition
21 costs?

22 MR. DEAN SCHINKEL: Correct.

23 MR. ANTOINE HACAULT: So, in a perfect
24 world, if we were going to get into detailed analysis
25 and get the true costs, we should really be looking at

1 the fair market value of those assets today to know the
2 true costs, shouldn't we?

3 MR. DEAN SCHINKEL: In a perfect world,
4 but I think from a practical side, you'd want to remember
5 the -- the significance that getting those fair market
6 value assessments may have on the conclusions in our
7 report and the level that the fixed assets actually
8 impact on the twenty-six dollars and eighty-seven cents
9 (\$26.87).

10 So I -- I do agree that if you got fair
11 market value assessments, there could be a change in the
12 number. But fixed assets are a small component and the
13 way they're factored and calculated under the overall
14 number.

15 MR. ANTOINE HACAULT: Am I wrong, though,
16 in understanding that was one of the top three (3) that
17 you listed? When you listed under rent, wouldn't that be
18 one of the items?

19 MR. DEAN SCHINKEL: But -- but rent would
20 be at fair market value because that someone -- is what
21 someone is paying an arms-length party.

22 MR. ANTOINE HACAULT: Okay, let's just
23 test that. How can you be sure that the market value of
24 somebody entering the market in 2008 -- if we're going to
25 be imposing this model on people.

1 Somebody wants to enter the market in
2 2008. How can you be sure that a lease entered into five
3 (5) years ago is going to be at the same value as a lease
4 entered into in January of 2008?

5 MR. DEAN SCHINKEL: I can't be sure of
6 that.

7 MR. ANTOINE HACAULT: And if the rental
8 values have increased, and we've got a Board order in
9 2008, your analysis might be too low if the rental rates
10 have gone up in the last five (5) years.

11 Isn't that correct?

12 MR. DEAN SCHINKEL: Under the assumption
13 that someone had signed a lease rate and that someone
14 trying to obtain similar space today would have to pay a
15 higher per- square-foot rental rate, then correct. The
16 number would be higher if you made an adjustment for
17 that.

18 MR. ANTOINE HACAULT: So that if the
19 Board is basing its decision on numbers that are not
20 current, people trying to enter the market wouldn't
21 necessarily be able to do it at the same costs as the
22 people who entered the market a couple of years ago.

23 Is that right?

24 MR. DEAN SCHINKEL: Correct, but I think
25 you would have to also look at what the magnitude of that

1 could be. But it's a correct statement, what you're
2 saying, under those assumptions.

3 MR. ANTOINE HACAULT: And we don't have
4 any information to assist the Board in determining how
5 much higher your adjustment should be to factor that in?

6 MR. DEAN SCHINKEL: As I said, no fair
7 market value assessments were done.

8 MR. ANTOINE HACAULT: And, sir, would --
9 apart from the real estate -- that also will be true with
10 respect to purchases of personalty, like desks and
11 equipment? The purchase might have occurred a year or
12 two (2) ago and you're looking at the values then. That
13 tells us nothing about the cost of entry in, say, January
14 of 2008, does it?

15 MR. DEAN SCHINKEL: If you're assuming
16 that costs have changed, correct. It could be a
17 different amount. And the same as you're saying it could
18 have gone up, it could have gone down as well.

19 MR. ANTOINE HACAULT: But you don't have
20 any information on that?

21 MR. DEAN SCHINKEL: Correct. We did not
22 look at that.

23

24

(BRIEF PAUSE)

25

1 MR. ANTOINE HACAULT: Now, to be able to
2 understand this industry, did -- do you get and receive
3 actual agreements made between the company and the
4 client?

5 MR. DEAN SCHINKEL: No.

6 MR. ANTOINE HACAULT: And do you know,
7 for example, then, when they calculated their fee on the
8 principal amount of the loan, what the document says as
9 to what is included in the principal amount of the loan?

10

11 (BRIEF PAUSE)

12

13 MR. DEAN SCHINKEL: We did not tie it
14 back to what the loan document would have said, no.

15 MR. ANTOINE HACAULT: Okay. Did you
16 attempt to look at the definitions in the Consumer
17 Protection Act as to what is supposed to be in, or can be
18 in, that constituent -- or constituent total of the loan?

19 MR. DEAN SCHINKEL: No, I did not.

20 MR. ANTOINE HACAULT: So that if your
21 standard is different than that in the Act, your numbers
22 may not work?

23 MR. DEAN SCHINKEL: I don't know what
24 that definition is, so, if it's something different than
25 the way it was done in our report, then I suppose it

1 would be a different -- could be some type of different
2 calculation. But I have no idea if it is different or
3 what it would be.

4

5 (BRIEF PAUSE)

6

7 MR. ANTOINE HACAULT: Now, when you did
8 your allocation to business lines -- and this is in
9 PUB/CPLA-II-17. Could you retrieve that? I'll repeat it
10 again, PUB/CPLA-II-17.

11

12 (BRIEF PAUSE)

13

14 MR. ANTOINE HACAULT: My question to you
15 will be with respect to cheque cashing.

16 MR. DEAN SCHINKEL: Okay.

17 MR. ANTOINE HACAULT: The reason -- I'm
18 sorry.

19 MS. ANITA SOUTHALL: Thank you. Sorry to
20 interrupt. I'm not sure if anyone else had the tab
21 reference, but it's at Tab 31 in the reference binder,
22 second page.

23

24 (BRIEF PAUSE)

25

1 CONTINUED BY MR. ANTOINE HACAULT:

2 MR. ANTOINE HACAULT: The reason I had
3 asked you about the agreements is that we've seen and
4 included in the evidence a number of agreements where
5 part of the charges for a payday loan is cheque cashing;
6 that's how they recover their fee.

7 With respect to each of these respondents,
8 did you pull out an agreement to see whether or not that
9 was a part of the fee that they were able to collect?

10 MR. DEAN SCHINKEL: No, we didn't pull
11 out an agreement.

12 MR. ANTOINE HACAULT: So that if we use
13 an example which has been referred to -- the Money Mart
14 example -- there is a charge of thirteen dollars and
15 ninety-nine cents (\$13.99), based on the documents,
16 applied firstly to the money in the pocket, applied
17 secondly to the fee, applied thirdly to -- that's the
18 thirteen ninety-nine (13.99) -- applied then to the two
19 forty-nine (2.49) fee, and applied also to the interest
20 fee to get the revenue.

21 How do we know, when you took out from
22 your operating expenses, cheque cashing, that that wasn't
23 really a revenue related to payday loans?

24 MR. DEAN SCHINKEL: The reason you know
25 is -- I didn't look at an agreement, but we had that

1 conversation with each of the respondents and we asked
2 them -- we wanted -- whatever revenue, whatever type it
3 was. If it was related to someone coming in and taking a
4 payday loan, that is what we called "payday loan
5 revenue," and that is what would be in that line.

6 So if there was a cheque cashing example
7 and it was triggered because of a payday loan, it would
8 be in the payday lending line item. But I did not look
9 at an agreement. It was based on conversations.

10 MR. ANTOINE HACAULT: How sure can you be
11 of that answer without looking at the agreement? We have
12 an answer from Money Mart to an Information Request that
13 says the APR -- and that's the revenue generated from the
14 loan -- is 46.44 percent.

15 They don't consider the cheque cashing
16 fee, based on their answer, to be part of the fees that
17 generate the revenues for the payday loan. We can only
18 see that from the agreement.

19 How can you be sure, without looking at
20 the agreement, that you didn't get a similar response to
21 what's been provided by Money Mart?

22 MR. DEAN SCHINKEL: We tried to be very
23 clear with the respondents. We had this very discussion
24 on different types of revenue related to payday lending
25 and wanted to ensure that that was included.

1 So when we had the discussion nobody
2 seemed to have any confusion. They seemed to understand
3 what we were asking for. And we -- payday lending was
4 every transaction related to payday lending. That's what
5 we asked for.

6 MR. ANTOINE HACAULT: So what you're
7 telling me is that at least you had the understanding and
8 the perception of the people you were asking the
9 questions, they understood that this was to be the case?

10 And we have at least one (1) other example
11 in this proceeding where Money Mart is clearly
12 understanding the same question and answering it in a
13 different way than you're suggesting.

14 MR. DEAN SCHINKEL: I don't have that
15 question before me, but I believe it probably wouldn't
16 have been the same question, because I was -- it wasn't a
17 written question on, What is your revenue?

18 It was an explanation of what we would --
19 how we would like you to look at payday lending and what
20 we would like you to include.

21 So I think there's a difference there.

22 MR. ANTOINE HACAULT: Do you have any
23 notes, sir, on questions that you asked? And, do the
24 cust -- did any of them charge a cheque cashing fee in
25 the repayment process?

1 MR. DEAN SCHINKEL: I -- I would have to
2 go back to my notes to be sure on that answer, but there
3 were -- was this type of discussion on what to include
4 and what not to include. I would want to double-check on
5 cheque cashing and where things were recorded.

6 MR. ANTOINE HACAULT: Okay. Could you --

7 MR. DEAN SCHINKEL: We -- as we mentioned
8 in our report, there was an NSF fee, where someone was
9 recording that separately, that we had to move up because
10 it wasn't in their payday revenue that was first provided
11 to us.

12 MR. ANTOINE HACAULT: Okay. Could you
13 check that to see what notes that you have on that
14 particular subject matter to see whether all the cheque
15 cashing recorded in this table at PUB/CPLA-II-17, whether
16 it was related to cheques provided by customers totally
17 unrelated to payday loans or whether or not, as part of
18 any of the process, these people were accepting cheques
19 instead of just cash and charging a fee to cash that
20 cheque?

21 MR. DEAN SCHINKEL: We'll undertake that.

22

23 --- UNDERTAKING NO. 43: Mr. Dean Schinkel to check
24 notes to see whether all the
25 cheque cashing recorded in

1 the table at PUB/CPLA-II-17
2 was related to cheques
3 provided by customers totally
4 unrelated to payday loans or
5 whether or not, as part of
6 any of the process, these
7 people were accepting cheques
8 instead of just cash and
9 charging a fee to cash that
10 cheque.

11

12 CONTINUED BY MR. ANTOINE HACAULT:

13 MR. ANTOINE HACAULT: Perhaps -- oh, no,
14 this is going to be confidential. I was going to say,
15 Can you get the agreements with the names blanked out?

16 But I was going to be met with
17 confidentiality again, problems in information. Am I
18 correct in assuming that? I shouldn't be presumptuous.

19 MR. DEAN SCHINKEL: You are correct.

20 MR. ANTOINE HACAULT: Could you do this
21 then: When you're verifying the validity of your answer,
22 could you check to see whether or not, included in any of
23 the loan agreements, there is reference to a cheque
24 cashing fee or dishonour fee with respect to these issues
25 -- provided your Counsel says that it doesn't deal with

1 confidentiality issues.

2 I don't think that'll tell us anything
3 about the companies if we know that there's a cheque
4 cashing fee?

5 MR. ALLAN FORAN: I think we'll take that
6 under advisement. Let me speak to Mr. Schinkel just
7 after the break.

8

9 --- UNDERTAKING NO. 44: Mr. Dean Schinkel to check to
10 see whether or not included
11 in any of the loan
12 agreements, there is
13 reference to a cheque cashing
14 fee or dishonour fee. (Taken
15 under advisement)

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: Did you get any
19 information, in doing this analysis, as to the default
20 rates in the other revenue-generating services?

21 MR. DEAN SCHINKEL: Sorry, on the default
22 rates of other generating services?

23 MR. ANTOINE HACAULT: For example, cheque
24 cashing? My understanding is you might be provided with
25 a cheque, they don't wait for it to clear. You may have

1 some default rate with respect to that service.

2 MR. DEAN SCHINKEL: You know, I think we
3 would likely have some data on that. I would have to go
4 back to the records and think about exactly what we have.

5 MR. ANTOINE HACAULT: And you think that
6 you made some adjustments for that in your analysis, sir?

7 MR. DEAN SCHINKEL: I -- I think I'd take
8 that as an undertaking. I just want to -- I just want to
9 double-check on how that was treated.

10 MR. ANTOINE HACAULT: Sure.

11

12 --- UNDERTAKING NO. 45: Mr. Dean Schinkel to check
13 whether any information was
14 obtained while doing this
15 analysis as to the default
16 rates in the other revenue
17 generating services.

18

19 CONTINUED BY MR. ANTOINE HACAULT:

20 MR. ANTOINE HACAULT: Did you have any
21 data or sense, from speaking to these people, how much
22 time is spent in trying to collect on defaulting pay --
23 payday loans?

24 MR. DEAN SCHINKEL: Did not get into
25 specifics, other than a discussion, and that obviously

1 was one part of the job duty of certain individuals.

2

3

(BRIEF PAUSE)

4

5

MR. DEAN SCHINKEL: Can I just clarify
6 the earlier answer on the bad debts? We would not have
7 made a specific adjustment for that.

8

If there was any uncollectible allowance,
9 it was pulled out of our operating costs and we just
10 dealt with the uncollectibles from the payday loans
11 separately. So we didn't make a specific adjustment. It
12 was dealt with on block and then dealt with payday loan
13 specific.

14

So any data I would have would just be how
15 it was recorded in their financial statements and if they
16 segregated the two (2) types of bad debts.

17

MR. ANTOINE HACAULT: Thank you. Now
18 when you were talking to people did you get any sense as
19 to whether they could reduce staff, taking into
20 consideration peak demand periods, which I understand
21 occurs at -- around -- at or -- well paydays or certain
22 cheque days?

23

MR. DEAN SCHINKEL: Based on my
24 discussions, I wouldn't be able to comment on that.

25

MR. ANTOINE HACAULT: But you do

1 understand the concept. It's a little bit like a utility
2 concept. You have to be able to meet certain peaks.
3 Like Manitoba Hydro, we aren't going to get our office
4 heated here unless we can meet certain peaks.

5 So a business, even though it might be not
6 very busy for several days, has to have at least one (1)
7 staff perhaps to meet certain peaks. Is that a concept
8 that you'd agree with?

9 MR. DEAN SCHINKEL: Very much so, yes.

10 MR. ANTOINE HACAULT: Now on page 6 of
11 your report I think you explained -- this is "Cost of
12 Supplementary Capital" -- that in all cases you used the
13 second of the two (2) options that are there.

14 That is one twenty-sixth (1/26) of the
15 total loans issued in the year, as far as the amount of
16 cash on hand, that -- that needed to be available for
17 lending. Is that correct?

18 MR. DEAN SCHINKEL: I believe I said I --
19 I believe that's what it was. For specifics I'd want to
20 go back and check our records.

21 MR. ANTOINE HACAULT: If you need to
22 change your answer, can you let us know then?

23 MR. DEAN SCHINKEL: As an undertaking?

24

25 --- UNDERTAKING NO. 46: Mr. Dean Schinkel to check

1 his records to verify that
2 one twenty-sixth (1/26) of
3 the total loans issued in the
4 year, as far as the amount of
5 cash on hand, needed to be
6 available for lending.
7

8 CONTINUED BY MR. ANTOINE HACAULT:

9 MR. ANTOINE HACAULT: Now this I'm not
10 too sure how I understand you dealt with. We don't know
11 whether some of these companies have rollovers, and
12 there's some people take the view that if it's in a
13 rollover, you're never really in default, because each
14 time the loan comes due you pay another twenty dollars
15 (\$20).

16 You're not in default, you renewed that
17 loan. It's another twenty dollars (\$20), it's another
18 twenty dollars (\$20), and it continues.

19 How did you deal with that concept of
20 default in this report? If there are people that have a
21 lot of rollovers, and you don't count that as a default
22 you might be underestimating the defaults for that
23 particular company, might you not?

24 MR. ALLAN FORAN: Did -- I beat you to
25 that. Does this come back at all to one of the questions

1 that -- that you've considered earlier as to whether any
2 of the respondents did rollovers?

3 MR. DEAN SCHINKEL: I believe I can
4 answer it though, without disclosing if there were
5 rollovers or not. If it was not paid back after the
6 initial term, that was in default based on the
7 definition. So I won't -- I won't say if there was
8 rollovers or not.

9 If there was a fourteen (14) day loan that
10 was rolled over, it wasn't paid and for a fee it was
11 rolled over, that would be in default in our definition
12 and -- and the way our numbers are calculated.

13 MR. ANTOINE HACAULT: Okay. Thank you
14 very much for that answer.

15

16 (BRIEF PAUSE)

17

18 MR. ANTOINE HACAULT: Would you turn to
19 page 7 of your report, please?

20 You have a table there, and I think you
21 went through some of it with Ms. Southall. Am I right to
22 indicate that this example assumes 10 percent of the
23 loans are not collected?

24 MR. DEAN SCHINKEL: Correct. One (1) of
25 ten (10) is not collected.

1 MR. ANTOINE HACAULT: And that results in
2 a shortfall of more than 10 percent. If one (1) in ten
3 (10) is 10 percent your shortfall, with this mathematical
4 calculation actually brings you to 12.5 percent
5 shortfall.

6 Is that right?

7 MR. DEAN SCHINKEL: What it works out to
8 is 10 percent of the principal amount. So 10 percent of
9 a thousand (100) -- 100, and 10 percent of the -- of what
10 we're calling the fees and interest, which are set to
11 match what we'll call operating costs of two fifty (250).
12 So that's another twenty-five (\$25) to get a hundred and
13 twenty-five dollar (\$125) shortfall.

14 MR. ANTOINE HACAULT: How does that
15 relate to the table that you have at page 9? There's a
16 line there that says:

17 "Defaulted loans as a percentage of
18 total loans."

19 MR. DEAN SCHINKEL: I don't believe those
20 tables are related because the table on 7 is just trying
21 to prove an illustration of why operating costs and
22 supplementary capital costs also have to look at when
23 calculating bad debts, and I believe page 9 is looking
24 at, sort of, the actual level of defaults that occur.

25 MR. ANTOINE HACAULT: Just following up

1 on my previous question with respect to the issue of
2 rollovers, I'm just trying to think this through.

3 How were you able to determine the exact
4 number of loans in a particular year that were in default
5 at a particular time and weren't rolled over?

6 You know, I'm looking at -- I'm just
7 trying to think from a financial statement how would --
8 how would you have been able to do that?

9 MR. DEAN SCHINKEL: So for -- from a
10 financial statement perspective, assumed December 31st
11 there would be a certain amount in default loans not
12 repaid. Then you would have to go subsequent to year-
13 end, which we had to look at, to say -- and the data that
14 would be from the respondents -- to say, Have any of that
15 been collected?

16 And, if so, then it does not get called as
17 a default or it says -- it would be under our line
18 "Default Loans Ultimately Collected."

19 MR. ANTOINE HACAULT: So did you ask each
20 of the respondents to go through their list of loans and
21 determine which of those loans passed an initial fourteen
22 (14) day limit? Is that -- do they have to go through
23 that and provide --

24 MR. DEAN SCHINKEL: Each of them would
25 have their own, I would say, method or system for doing

1 it. Some of them their systems will do it, you know.
2 It's if they have different tracking systems in their way
3 of -- of doing things.

4 But essentially, I mean, they're not going
5 line by line as they have their computer software and
6 such to do this. But that's -- is what they are doing.
7 They're saying, This is what we loaned out, and out of
8 this basis of loan amount, here's what wasn't collected.

9 And there was one (1) respondent who could
10 not accurately do that, and he was excluded from the bad
11 debt class.

12 MR. ANTOINE HACAULT: I'm not too sure
13 that I understand exactly how they were able to do that.
14 If they're not considering a loan to be in default as of
15 December 31, their records wouldn't show it as a default
16 if it's being rolled over.

17 MR. DEAN SCHINKEL: Well, I think you
18 have to try and remember this is a pretty important part
19 of their business -- how much gets collected and how much
20 doesn't get collected -- so they're able to track various
21 data on those points so they know which loans haven't
22 been collected and they need to follow up on.

23 And maybe different ways of defining
24 what's in default and what is not.

25 MR. ANTOINE HACAULT: So did they

1 actually provide you with a printout, for example, that
2 would show a hundred (100) loans, and out of those
3 hundred (100) there were eighty (80) of them that were in
4 a rollover position and that you should consider to be in
5 default?

6 MR. DEAN SCHINKEL: Again, I want to stay
7 away from answering the rollover question. But I didn't
8 get a specific printout of every single loan that would
9 be -- have been given out during a year, no.

10 MR. ANTOINE HACAULT: So you can't answer
11 that for certainty. It's just that you think people
12 would have done that process in answering your question?
13 And that they would have understood this language?

14 MR. DEAN SCHINKEL: Again, I'm more, I
15 guess -- not -- not trying to not answer the question or
16 be defensive, I -- I more than think, but I want to be
17 careful how I answer because of the rollover issue.

18 MR. ANTOINE HACAULT: But you'll agree
19 that you didn't perform an audit, so there's no way of
20 providing that answer with certainty. What you're saying
21 is that, I have the impression that so-and-so understood
22 me and that they interpreted it the same way as I did.

23 That's what you're telling us?

24 MR. DEAN SCHINKEL: First, I guess, even
25 if I had performed an audit, you can never say with

1 certainty. Number 2, based on the work and discussions
2 and -- and what we saw as data coming back, as we say in
3 our report, we felt the information was reasonable.

4 And we were comfortable with it and,
5 therefore, put it on our -- in our report. And the one
6 (1) that we weren't comfortable with, we did not include.

7 MR. ANTOINE HACAULT: Thank you. Could
8 you turn to page 11 of your report, please?

9

10 (BRIEF PAUSE)

11

12 MR. ANTOINE HACAULT: Now, I believe
13 you've undertaken already to provide the specific numbers
14 to each of these points of the tables on pages 11 to 12.
15 Do you have those now?

16 MR. DEAN SCHINKEL: I do not.

17 MR. ANTOINE HACAULT: Okay. I guess
18 we'll wait for those questions until we've received those
19 responses then.

20 So we can't tell from this table, at this
21 time, whether each of them have -- based on your
22 analysis, which you say is conservative -- costs in
23 excess of twenty-three dollars (\$23) per hundred (100)?

24 Or can we? Can you tell from this table
25 whether they're over twenty-three (23) --

1 MR. DEAN SCHINKEL: You're looking at
2 page 11?

3 MR. ANTOINE HACAULT: Page 11.

4 MR. DEAN SCHINKEL: I will say the -- the
5 first one on the left, I won't comment on that. It could
6 be close to that twenty-three (23).

7 The next three (3), as you go left to
8 right, would be over twenty-three dollars (\$23).

9 MR. ANTOINE HACAULT: Okay. So CPLA --
10 and they can answer this -- is advocating a rate which is
11 below the cost of at least four (4) of these respondents?

12 HONOURABLE STAN KEYES: Given that the
13 CPLA's Proposal to the PUB is twenty (20) to twenty-three
14 (23) plus regulatory expenses, and given the figures
15 outlined in Deloitte Touche, yes, you're correct, if
16 indeed that's what the numbers show upon verification.

17

18 (BRIEF PAUSE)

19

20 MR. ANTOINE HACAULT: Now, I'd ask you to
21 keep both page 11 and 12 kind of handy, because we'll
22 flip between them.

23 On page 11, we see at the bottom numbers
24 which I understand to be the volume of loans per store.
25 Is that correct?

1 It starts from seven hundred thousand
2 (700,000) and it goes to 1.2 million?

3 MR. DEAN SCHINKEL: Correct.

4 MR. ANTOINE HACAULT: If we flip to the
5 next page, the table actually starts at a lower number.
6 It starts at three hundred thousand (300,000).

7 I don't want to burst your bubble, but I
8 would suspect that this little mom and pop operation
9 didn't have review statements and didn't have audited
10 statements, because you said that's the one you had to
11 knock out.

12 MR. DEAN SCHINKEL: I wouldn't make
13 assumptions.

14 MR. ANTOINE HACAULT: Educated guess.

15 MR. DEAN SCHINKEL: I would not make
16 assumptions.

17 MR. ANTOINE HACAULT: You indicated that
18 the one without the review statement was the one that you
19 didn't have bad debt information about.

20 MR. DEAN SCHINKEL: I'm sorry, I don't
21 remember. I may have said that. I don't recall saying
22 that.

23 MR. ANTOINE HACAULT: In any event it's
24 not the end of the world.

25 But if we look at the table on page 12 at

1 the top, and I don't want to burst Dr. Robinson's bubble
2 again, but the stores with the lowest cost per hundred
3 (100) happen to be the ones with the least amount of
4 volume. Is that correct?

5 MR. DEAN SCHINKEL: Correct.

6 MR. ANTOINE HACAULT: And this is, I
7 guess, kind of odd. The first store in the points, if we
8 can put that as Store A throughout the graphs so we can
9 kind of follow this, that's the one immediately before
10 the eight hundred thousand dollar (\$800,000) store
11 volume. I'll refer to that one as A.

12 MR. DEAN SCHINKEL: I'm sorry, which one
13 is A? The three (3)?

14 MR. ANTOINE HACAULT: The -- the one
15 immediately before the eight hundred thousand (800,000).

16 MR. DEAN SCHINKEL: Oh.

17 MR. ANTOINE HACAULT: We don't have the--

18 MR. DEAN SCHINKEL: Okay, that's that's
19 A, okay.

20 MR. ANTOINE HACAULT: -- exact location.
21 We'll put that one as A. The next one following, which
22 it appears to be about at eight hundred (800), we'll put
23 as B. So that we know --

24 MR. DEAN SCHINKEL: Yes.

25 MR. ANTOINE HACAULT: -- when we're going

1 through the graphs which store we're referring to.

2 If we look at the bottom graph, which dot
3 should we put as A? The same thing? Is it the first one
4 that should be put as A?

5 MR. DEAN SCHINKEL: Yes.

6 MR. ANTOINE HACAULT: Okay. So that
7 Example A -- because I don't know if it's more than one
8 (1) store has an operating cost per hundred (100)--
9 slightly over fifteen dollars (\$15) per hundred (100).
10 Is that correct?

11 MR. DEAN SCHINKEL: Correct.

12 MR. ANTOINE HACAULT: Okay. But Store A
13 has bad debt costs, seems to be at over six fifty (6.50)
14 per hundred (100)?

15 MR. DEAN SCHINKEL: Correct.

16 MR. ANTOINE HACAULT: And then we add
17 those two (2) figures and we go back to the table on page
18 11?

19 MR. DEAN SCHINKEL: Correct.

20 MR. ANTOINE HACAULT: And it appears to
21 still be the lowest cost operating store. Is that
22 correct?

23

24 (BRIEF PAUSE)

25

1 MR. DEAN SCHINKEL: Correct.

2 MR. ANTOINE HACAULT: Now would it be
3 fair to suggest that if this store is got a default rate
4 which is higher than anybody else that -- that customer
5 profile was a riskier customer profile than the other
6 stores?

7 MR. DEAN SCHINKEL: That could be one
8 factor, but there could be other factors I presume.
9 Could be, and I -- and I don't know the answer, but it
10 could be poor follow-up procedures, poor procedures up
11 front, items such as that.

12 But you're correct and that could be one
13 reason.

14 MR. ANTOINE HACAULT: Initially you have
15 to have a default and then there's a question of how --

16 MR. DEAN SCHINKEL: Right, but there are
17 large --

18 MR. ANTOINE HACAULT: -- because these
19 people are paying back the default.

20 MR. DEAN SCHINKEL: Right, but there are
21 large amounts of defaults that also are collected after
22 the fact, so that's another important factor.

23 MR. ANTOINE HACAULT: Okay. Now turning
24 back to the table at page 11, I had asked you the
25 question with respect to twenty-three dollars (\$23).

1 At the rate of twenty dollars (\$20) we
2 know that none of these stores can continue to operate in
3 the present manner?

4 MR. DEAN SCHINKEL: Based on my other
5 response, if nothing changes in the long run, then that's
6 correct.

7 MR. ANTOINE HACAULT: And doesn't it seem
8 to you kind of odd that the number chosen is a number
9 that starts at a range which puts each concrete example
10 that you have out there not being able to continue to
11 operate business in a competitive world the way it has to
12 date?

13 MR. DEAN SCHINKEL: I'm really not in a
14 position to answer. I -- and Deloitte was asked to put
15 this report together. Dr. Gould gave his evidence in his
16 report.

17 I was not asked to comment or look at what
18 an appropriate range would be, so I -- I don't have an
19 opinion on that.

20

21 (BRIEF PAUSE)

22

23 MR. ANTOINE HACAULT: Did you -- when you
24 were asked questions, there was the issue of insurance
25 that was brought up here.

1 Did any of these operators have revenues
2 generated from insurance on loans?

3 MR. ALLAN FORAN: Just -- we already have
4 some evidence and -- I believe with respect to insurance
5 and whether it's been offered or not offered by CPLA
6 members. So again, I just caution the witness to -- to
7 think about how that might impact on disclosure.

8

9 (BRIEF PAUSE)

10

11 MR. DEAN SCHINKEL: We could take that as
12 an undertaking just to try and see what the total
13 population that may offer insurance, and if -- if there
14 isn't then we could disclose that.

15 MR. ANTOINE HACAULT: Thank you.

16

17 --- UNDERTAKING NO. 47: Mr. Dean Schinkel to find out
18 if any operators have
19 revenues generated from
20 insurance on loans.

21

22 (BRIEF PAUSE)

23

24 CONTINUED BY MR. ANTOINE HACAULT:

25 MR. ANTOINE HACAULT: These are questions

1 which may be able to be answered by CPLA witnesses.

2 I'm trying to get a sense as to whether
3 the Association or either of you two (2) gentlemen being
4 involved in the industry can help me with what I'll call
5 "product differentiation."

6

7 (BRIEF PAUSE)

8

9 HONOURABLE STAN KEYES: I would remind
10 counsel of my earlier answers that you -- you stated that
11 both gentlemen were in the industry.

12 Technically I'm not in the industry. I'm
13 president of the Association, but I don't deal with the
14 business plans or operations of any particular company,
15 and I don't have a company or have an industry in any
16 company.

17 MR. ANTOINE HACAULT: Are you saying,
18 sir, to this Board that you have -- although you're the
19 president of this Loan Association that you have no idea
20 what services and what types of services are offered in
21 the industry?

22 HONOURABLE STAN KEYES: As a cursory
23 understanding of, you know, in conversations with my
24 membership, some members have told me what they offer;
25 many haven't. I'm not sure if I can be helpful as an

1 aggregate for you.

2 MR. ANTOINE HACAULT: I'm not looking for
3 an aggregate answer, sir. I was just kind of -- maybe
4 you misunderstood my question.

5 It seemed to me kind of odd that somebody
6 in the industry wouldn't know the different options that
7 are available. It may not be generally offered by
8 everybody.

9 Bt what I'm looking for is, are you aware
10 that this type of product might exist in your industry?
11 And we can answer yes or no.

12 HONOURABLE STAN KEYES: There are some
13 products that I am aware of. For example, as I stated
14 earlier today or yesterday -- I can't remember -- none of
15 the CPLA members in the Province of Manitoba, for
16 example, offer insurance. And two (2) of the members --

17 MR. ALLAN FORAN: I think maybe -- if I
18 could, Mr. Keyes. Maybe you could ask the question and
19 he'll answer it if he's got specific knowledge.

20 HONOURABLE STAN KEYES: Sure.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: Thank you. Sir,
24 would you be aware if in the payday loan industry stores
25 have different hours of operation?

1 Or to your understanding do they all have
2 the same hours of operation?

3 HONOURABLE STAN KEYES: To my
4 understanding, they have different hours of operation.

5 MR. ANTOINE HACAULT: Okay. With respect
6 to default experience, do stores all have the same
7 default experience?

8 HONOURABLE STAN KEYES: I wouldn't have
9 that knowledge.

10 MR. ANTOINE HACAULT: The answer
11 surprises me. But so you believe, even with the
12 information that's been provided by Deloitte Touche and
13 Ernst & Young, that everybody has the same default
14 experience?

15 MR. NORMAN BISHOP: Maybe just to clarify
16 the role of the Association, the -- the members that came
17 together and created it and the members that are
18 currently members of the Association, they all have a
19 different suite of products.

20 So, for example, some may offer tax
21 preparation or Western Union or insurance or debit cards,
22 and different combinations.

23 But the Association is -- has never really
24 been involved in looking at, for example, tax discounting
25 and what -- what a particular member might do in that

1 regard or their business practices or anything related to
2 it, because it -- the Association really doesn't have any
3 knowledge or information.

4 With respect to financial information
5 related to any particular member -- whether it's their
6 rates or their revenues or their loss ratios or anything
7 like that -- the Association never gets involved, as
8 would any industry association have any knowledge about
9 private -- financial information of a company.

10 MR. ANTOINE HACAULT: Thank you for your
11 -- your answer. So as I understand your answer, you're
12 saying, Let's not look at the Ernst & Young report and
13 Deloitte Touche. Let's just look at what we do when we
14 meet around the table, and we don't discuss default rates
15 when we meet around the table.

16 Is that what you're trying to communicate?

17 MR. NORMAN BISHOP: I think that the
18 Deloitte Touche study was commissioned for the purposes
19 of this Hearing so the Board could have some actual
20 information.

21 And in fact, as Mr. Schinkel pointed out,
22 we put up -- put together a -- a process where the
23 Association doesn't even know who participated in the
24 study.

25 The names were given -- like the Ernst &

1 Young, names of operators were given to Deloitte Touche
2 and they went out and contacted them.

3 So to my knowledge -- and certainly Mr.
4 Keyes may have different information -- but unless it's
5 informal discussion between members, I don't think that's
6 -- default rates or revenues or anything are matters
7 discussed by the -- the Association.

8 MR. ALLAN FORAN: Just as a -- on a legal
9 point, Mr. Hacault, as counsel for CPLA, I can advise
10 that CPLA certainly has presented a package of evidence
11 that includes a significant amount of information on the
12 things that we thought were relevant.

13 We are relying on the information package
14 that's been provided. We are referring to Ernst & Young,
15 we are referring to Deloitte Touche. We've gone to great
16 expense to do this, so no, we're not disregarding that.

17 I -- I surmise -- and this is where
18 lawyers end up getting into trouble, because this is
19 where -- where you and I could have a -- an exchange.

20 But I surmise your question really is, Why
21 is CPLA choosing a rate of between twenty (20) and
22 twenty-three (23), if you have your cross-examination of
23 Deloitte Touche.

24 And if these gentleman from CPLA wish to
25 answer that question they -- they will.

1

2 CONTINUED BY MR. ANTOINE HACAULT:

3 MR. ANTOINE HACAULT: My ques -- line of
4 questioning was just to try and get information for this
5 Board on the different types of things and different ways
6 people might be operating. And if these two (2)
7 witnesses can't help the Board, I wanted to know, well,
8 in your experience -- then I'll ask a couple question,
9 and we'll see whether or not you can provide information
10 to the Board as to how different operators might operate
11 differently. It doesn't mean everybody operates the same
12 way.

13 But might it be possible, for example,
14 that some operators spend less time with customers
15 explaining documents as compared to others. Might that
16 be possible?

17 HONOURABLE STAN KEYES: I would really
18 like to answer your questions, counsel, but I can't --
19 can't say for any surety, because I've never discussed it
20 with my membership.

21 That's not -- that's not my role as
22 president of the Association. I -- I don't discuss
23 whether or not their staff spend time in the office and
24 how long do they spend in the office, et cetera.

25 I rely, as Mr. Bishop has pointed out, on

1 the expert evidence of our witnesses, and hopefully their
2 answers can satisfy the questions you have so that the
3 PUB is better informed.

4 MR. ANTOINE HACAULT: And you wouldn't
5 have any knowledge, Mr. Bishop, as to whether or not some
6 companies might spend less time or more time with
7 customers as a service, explaining documents?

8 MR. NORMAN BISHOP: No. As you know, I'm
9 counsel for -- for Money Mart and -- but I -- I don't act
10 for other companies.

11 But quite frankly, I have no idea about
12 what Money Mart does on an operational basis with their
13 customers either. And so I -- I'm afraid I couldn't be
14 of assistance.

15 MR. ANTOINE HACAULT: Do either of you
16 two (2) gentlemen have any information to provide this
17 Board as to whether some companies do offer credit
18 counselling services and some don't?

19 HONOURABLE STAN KEYES: The members of
20 the Canadian Payday Loan Association most certainly, as
21 part of the Code of Best Business Practices, ensure that
22 the credit counselling brochures are on the counter.

23 And -- and it's requested of them that if
24 a client, customer, borrower of a payday loan should go
25 into default twice in one year, then it's suggested that

1 they seek credit counselling.

2 And should they seek credit counselling,
3 the loan on which they owe money on, there -- there is
4 some forgiveness on -- on the repayment -- part of our
5 Code of Best Business Practices.

6 Direct counselling from a store, no.

7 MR. ANTOINE HACAULT: And that service
8 might not be a service that's provided by everybody in
9 the industry, is that correct?

10 HONOURABLE STAN KEYES: It must be
11 provided by members of the CPLA. I am not certain what
12 other members outside of our membership do.

13 MR. ANTOINE HACAULT: Okay. Now, do you
14 know whether some companies have the practice of making
15 calls to customers before the due date to try and ensure
16 that their default rates and their default charges to
17 customers are lower?

18 HONOURABLE STAN KEYES: No, I do not.

19 MR. ANTOINE HACAULT: Mr. Bishop, do you
20 have any knowledge?

21 MR. NORMAN BISHOP: No.

22 MR. ANTOINE HACAULT: Do you have any
23 knowledge as to whether Money Mart has as a policy,
24 requiring staff to take time out to make calls to try and
25 avoid default charges?

1 MR. NORMAN BISHOP: Again, I don't want
2 to speak for Money Mart. Personally, I have no knowledge
3 in that regard.

4 MR. ANTOINE HACAULT: Do you have any
5 knowledge or information you could provide to this Board
6 with respect to the different practices that somebody
7 might undertake in deciding to give a loan, so as to
8 minimize risk profiles? We've heard some discussion
9 about data banks.

10 Can you provide us any useful information
11 as to how people have differentiated procedures to deal
12 with default rates?

13 HONOURABLE STAN KEYES: The collection of
14 this type of data or information is not within the
15 mandate of the CPLA.

16 MR. ANTOINE HACAULT: But maybe I didn't
17 make my question clear. I was trying to understand. Can
18 you help this Board in any way by providing information
19 as to whether or not some people might spend more time
20 looking at a file? And because they spend more time
21 they're better able to determine risk, and if they have
22 less time to spend they might be less able to determine
23 risk?

24 Do you have any information to provide to
25 this Board as to how the industry varies and operates?

1 MR. NORMAN BISHOP: If you're talking
2 about credit granting policies and procedures of
3 different companies, no. I assume every company has
4 their criteria they go through, but I don't have any
5 direct knowledge of what that is with any particular
6 company.

7 MR. ANTOINE HACAULT: And, so we can't
8 provide the Board with any information as to whether some
9 companies might need more time and take more time to do
10 that.

11 HONOURABLE STAN KEYES: Well, indirectly
12 we can. The CPLA has offered the panel to visit one (1)
13 or two (2) or more of our stores -- CPLA member stores --
14 to get better first-hand information on how consumers are
15 served.

16
17 (BRIEF PAUSE)

18
19 MR. ANTOINE HACAULT: I don't think
20 you'll need to refer to the actual answer, but it's --
21 I'm looking at RC-CPLA-3 and the response was with
22 respect to the issue of rollovers. And I'll read the
23 response.

24 "The CPLA anticipates that elimination
25 of rollovers and inflation increase

1 costs of operation."

2 Is that statement still true? Or do you
3 wish to change it?

4 MR. NORMAN BISHOP: I'm not sure what
5 context that statement was made in.

6

7 (BRIEF PAUSE)

8

9 MR. NORMAN BISHOP: Well, while we're
10 taking a moment and we're on the subject of rollovers,
11 I'd like to correct a -- an answer I gave this morning so
12 that Mr. Williams doesn't have to correct me.

13 I believe we were asked, When did the Code
14 of Best Business Practices come into effect? And we
15 stated 2006, January 2006.

16 And when looking at the Ernst & Young
17 report it was dated October 2004, and it said the Board
18 had just adopted a rollover policy.

19 And as I recall, that would have been in
20 September of '04, and it would of become effective
21 January 1 of '05. So I'll just take that opportunity to
22 correct that.

23 MR. BYRON WILLIAMS: Thank you.

24 MR. ANTOINE HACAULT: By the way, I
25 thought this was going to be a soft ball. I just wanted

1 to know whether you still agreed with that position. I
2 was going to move on to another question. There's no
3 follow-up question on this.

4 THE CHAIRPERSON: We're just going take
5 five (5), Mr. Hacault.

6

7 --- Upon recessing at 3:22 p.m.

8 --- Upon resuming at 3:32 p.m.

9

10 THE CHAIRPERSON: Okay, welcome back
11 everyone, as we close towards the closing bell of today's
12 sessions. Mr. Hacault...?

13 MR. ANTOINE HACAULT: Yes, Mr. Chairman,
14 I think in fact that I should be more or less finished
15 maybe even a bit before. It depends on whether or not
16 the CPLA Members continue to be as weary of my questions
17 or not. I didn't think the -- this last one was going to
18 be controversial.

19 HONOURABLE STAN KEYES: The answer is
20 yes.

21 MR. ANTOINE HACAULT: Next in the
22 interrogatories, Rentcash had asked questions with
23 respect to the CPLA board of directors.

24 And one of the responses was that a
25 minority of board members are directly related to Money

1 Mart -- Phil Collins (phonetic), Sid Franchuck
2 (phonetic), and Bruce Cummings (phonetic).

3 What are the positions of Sid Franchuck
4 and Bruce Cummings in Money Mart?

5 HONOURABLE STAN KEYES: The position of
6 Sid Franchuck, who is Chairman of the CPLA Board, is
7 Chairman of Money Mart. And the position of Bruce
8 Cummings is -- I'm not quite sure what Bruce's title is
9 at Money Mart, but I can endeavour to find that out for
10 you.

11

12 --- UNDERTAKING NO. 48: CPLA to find out the title of
13 Bruce Cummings at Money Mart.

14

15 CONTINUED BY MR. ANTOINE HACAULT:

16 MR. ANTOINE HACAULT: Thank you. And it
17 was also responded that Dave Robinson is indirectly
18 related to Money Mart. Could you expand on that?

19 MR. NORMAN BISHOP: He's a franchisee.

20 MR. ANTOINE HACAULT: Carrying a Money
21 Mart banner or another banner carried on by your
22 corporation?

23 MR. NORMAN BISHOP: He's a -- a Money
24 Mart franchisee, so a Money Mart banner.

25 MR. ANTOINE HACAULT: Okay, does the

1 Corporation operate under any business names other than
2 Money Mart?

3 MR. NORMAN BISHOP: Once again, I'm just
4 speaking to my knowledge as opposed to Money Mart, but I
5 believe the only business name is Money Mart that I'm
6 aware of.

7 MR. ANTOINE HACAULT: Thank you.

8 MR. NORMAN BISHOP: Actually, if I could
9 correct that. In Quebec they have a number of outlets.
10 Because of the laws there, they don't offer loans. But
11 because of the language laws, their name is InstaCheque
12 (phonetic). It's not Money Mart.

13 MR. ANTOINE HACAULT: Thank you. And
14 then finishing the answer, you were the Corporate
15 Secretary of the CPLA, Mr. Bishop. Is that correct?

16 MR. NORMAN BISHOP: That's correct.

17 MR. ANTOINE HACAULT: And am I right then
18 in saying that three (3) of the five (5) voting members
19 of the of the CPLA Board of Directors are either directly
20 or indirectly related to Money Mart?

21 HONOURABLE STAN KEYES: That's correct,
22 and there is one vacancy on the Board that the Board is
23 working with the CPLA is attempting to fill.

24 MR. ANTOINE HACAULT: Is that related to
25 the next-biggest payday loan company, which was a member

1 of the CPLA and decided to withdraw?

2 HONOURABLE STAN KEYES: That's correct.

3 MR. ANTOINE HACAULT: Okay. So at this
4 point out of the four (4) people who can make a decision,
5 there's one (1) vacancy, there's four (4) current sitting
6 people, and three (3) of the four (4) are Money Mart
7 people?

8 HONOURABLE STAN KEYES: Sid Franchuk,
9 Bruce Cummings, Tim Latimer, Dave Robertson, and Amir --
10 I can never pronounce his last name, Memutzede
11 (phonetic). So there are five (5) members, with one (1)
12 vacancy.

13 Three (3) of the five (5) members you have
14 classified, two (2) are not associated with Money Mart,
15 and we have one (1) vacancy on the Board.

16 MR. ANTOINE HACAULT: Thank you.

17 Now I've provided to your counsel an
18 actual example of a Money Mart agreement, and that was
19 completed so that it's not just a blank agreement. And
20 I'll provide another copy to yourself, Mr. Bishop.

21 And I don't know whether you are going to
22 be able to help the Board at all, and you perhaps can
23 consult with your counsel.

24 And before we get to that, if they say
25 they can't do anything, then I don't know that there's

1 any use in providing the information to the Board.

2 MR. NORMAN BISHOP: Well I -- I'm here on
3 behalf of the CPLA. I'm not here to give evidence for
4 Money Mart. So I'm not sure what questions you have with
5 respect to this particular member, but we'll see where
6 you're going with this.

7 MR. ANTOINE HACAULT: I can tell you, I
8 just want to put numbers to what you had described. So
9 that in this example there's -- I'll just go through it
10 quickly so the witness can understand and Mr. Foran can
11 perhaps then make a decision as to whether or not he
12 wants to allow the witness to answer any questions.

13 I would just take the witness through the
14 example and try to gain some understanding as to how the
15 agreement, when you see the numbers, actually works, how
16 the calculations work.

17 And that would be the purpose of this line
18 of questioning, so we can understand with real numbers
19 how the example works.

20 MR. ALLAN FORAN: Just -- just for
21 clarity, I -- the documents I've been provided have -- it
22 looks like a real person with a real name and real Social
23 Insurance Number, real -- I -- I just -- I just want to
24 make sure. Do I -- do I have the right document?

25 MR. ANTOINE HACAULT: And the intention

1 would be that for the public record, any personal
2 information would be blanked out.

3 MR. ALLAN FORAN: I don't know what to
4 say. If you -- if you are going to -- it's your cross, I
5 guess. You just -- you're going to go ahead and do what
6 you're going to do.

7 I -- I believe there is an undertaking
8 that an inquiry is going to be made of Money Mart to see
9 if whether it's prepared to fill in a disclosure form. I
10 believe that that was one of the undertakings.

11 If this is a duplication of that, I'll add
12 it to the previous undertaking, and I -- I think that
13 came from -- from Ms. Southall.

14 MS. ANITA SOUTHALL: Yes, I asked for a
15 completed disclosure statement for a three hundred dollar
16 (\$300) loan for a two (2) week period.

17 MR. ANTOINE HACAULT: If I might then,
18 what I suggest is -- I just didn't want the Board to be
19 in a situation where there was an undertaking to make an
20 inquiry and then all of a sudden we didn't get it, and we
21 couldn't go through the example. I'm prepared to
22 postpone this example until we actually get a response
23 from my -- from Mr. Foran.

24 If we do, then going through this example
25 won't be necessary. We'll go through the other one

1 instead of this one.

2 MR. ALLAN FORAN: I leave it to you, Mr.
3 Hacault, I don't know what to say. I haven't made the
4 inquiry of Money Mart, and I don't know when that will
5 happen, so I just leave it up to you.

6 THE CHAIRPERSON: I think what Mr.
7 Hacault was saying, he was joining his request with the
8 one that came from Ms. Southall. And if Money Mart or
9 through CPLA they were prepared to do it, then you could
10 leave out his and simply bring forward as the undertaking
11 the one that Ms. Southall requested.

12 MR. ALLAN FORAN: I -- I understand that.
13 So if he chooses to do something further right now, I
14 leave that to him.

15

16 CONTINUED BY MR. ANTOINE HACAULT:

17 MR. ANTOINE HACAULT: I'll await the
18 response from Money Mart, and if the response is not
19 forthcoming, then we'll go through this example.

20 THE CHAIRPERSON: Generally, we keep a
21 list of all the various undertakings, Mr. Hacault.

22 MR. ALLAN FORAN: Just noting this is a
23 real person, real data, and real -- do you intend to call
24 this witness, Mr. Hacault? I just -- I'm -- I'm curious.

25 MR. ANTOINE HACAULT: As I indicated, for

1 the time being I'll retrieve the documents. I'll see
2 what the results of the undertaking is and then we'll go
3 through the example, if necessary.

4

5

(BRIEF PAUSE)

6

7 MR. ANTOINE HACAULT: I do have some
8 follow-up questions to make sure that the undertaking is
9 complete, though, so that when we get the answer -- what
10 I would like as far as an answer is a little bit more
11 detailed than what's been requested so far. And I'll
12 just go through a scenario to try and explain the type of
13 detail I'm looking for.

14 If a person comes in and asks for a loan,
15 for example, on October 12, and that person's payday is
16 on October 15, I would like to know, firstly, how the
17 interest is shown on the payday loan disclosure
18 agreement.

19 Is it two (2) days, which would be October
20 13th and 14th, or is it three (3) days, which includes
21 the payday? So twelve (12), thirteen (13), fourteen
22 (14)?

23 And is there in the documents a different
24 calculation? In other words, is there one (1) document
25 that shows for two (2) days and a receipt or other

1 document which show three (3) days of interest?

2 My understanding is that the payday loan
3 disclosure agreement would be based on two (2) days, in
4 my example, and the cheque that's written -- because it's
5 cashable on the payday -- includes three (3) days of
6 interest.

7 So I'd like that to be explained in the
8 documents if that's correct or incorrect.

9 Secondly, if it takes a cheque receipt or
10 other type of document, to show how the cheque cashing
11 fee is applied. My understanding is that the cheque
12 cashing fee is applied to a combination of numbers.

13 The first being what I'll call "money in
14 the pocket," what the person walks out at -- with cash.

15 The second being thirteen ninety-nine
16 (13.99), which is -- was at least the cheque cashing fee.
17 So that you multiply thirteen, ninety-nine (13.99) not
18 only on the three hundred dollars (\$300), in my example,
19 but also on the thirteen, ninety-nine (13.99). So you're
20 kind of compounding your cheque fee.

21 And that a third item would be thirteen
22 ninety-nine (13.99) on a two forty-nine (2.49) fee, which
23 is shown in the loan documents.

24 And then lastly, that the charge would
25 also apply to the interest because, as I understood Mr.

1 Bishop's explanation, the cheque cashing fee of thirteen
2 ninety-nine (13.99) applies on the total cheque that's
3 given.

4 So could you, in that undertaking, provide
5 documents that either indicates that would be correct or
6 incorrect?

7 MR. ALLAN FORAN: So we'll make the
8 inquiry of Money Mart as whether it's prepared to provide
9 information on the record.

10

11 --- UNDERTAKING NO. 49: CPLA to enquire of Money Mart
12 if they would provide payday
13 loan disclosure agreements
14 respecting cheque cashing
15 fees.

16

17 CONTINUED BY MR. ANTOINE HACAULT:

18 MR. ANTOINE HACAULT: The next thing in
19 the process, if the client has not come in with the cash
20 on the day before the due date, which might be expected.
21 I would be interested in knowing the percentage of people
22 -- and you may have already undertaken this -- of -- of
23 people that actually choose to come in with the cash.

24 The other aspect of it is I'd like a
25 description of how the process actually works. I'm

1 trying to think if we have the cheques, when do they
2 actually get picked up in a store and sent off to the
3 bank to be cashed? And what time of day are -- are they
4 to be cashed?

5 So I'm not too sure that we have an
6 undertaking on that, but I'd like to understand when and
7 how the stores pick up all the cheques, because the cash
8 has not come in, and get them to a bank and when they
9 expect the bank to cash those cheques.

10

11 --- UNDERTAKING NO. 50: CPLA to enquire of Money Mart
12 and advise when cheques
13 actually get picked up in a
14 store and sent off to the
15 bank to be cashed and what
16 time of day they are cashed.

17

18 MR. ANTOINE HACAULT: The last part of
19 this, is there any process applied on a systematic basis
20 to pull out cheques which would be dishonoured upon
21 presentation to the bank?

22 So that if a bundle of cheques -- I don't
23 know how it works -- is sent to the bank, what kind of
24 process is there to pull back cheques for the set of
25 customers that are in a default position and would

1 therefore incur an NSF fee or a dishonour fee as
2 described in your contracts?

3 I think it would be of great assistance
4 when the inquiry is made of Money Mart to explain the
5 relevance of this and if perhaps you could just explain
6 that to me and then I could pass it along to Money Mart
7 that would be very useful, particularly insofar as it
8 relates to the Rentcash evidence.

9

10 --- UNDERTAKING NO. 51: CPLA to enquire of Money Mart
11 and determine whether any
12 process applied on a
13 systematic basis to pull out
14 cheques which would be
15 dishonoured upon presentation
16 to the bank.

17

18 MR. ANTOINE HACAULT: This will be for
19 the Board to decide but it may be useful for the Board
20 and -- and we've provided a proposal in deciding what
21 numbers are included in what parts of your order.

22 Is the cheque cashing fee under this model
23 under Part A, which is kind of the original loan; Part B,
24 which might be the extension renewal or replacement; or
25 Part C, a default?

1 And the reason for the last part is if
2 there is a process where cheques are automatically put
3 into the bank account and there is a default rate
4 experience -- we've seen in these proceedings generating
5 from -- depends certain percentages, it could be 15 to 20
6 percent.

7 There would be an automatic generation of
8 NSF fees on payday equal to the amount of defaults unless
9 there's some kind of system to automatically pull them
10 out.

11 If 20 percent of the people can't pay out
12 that payday loan on the payday, 20 percent of the people
13 and there's -- unless there's a systematic way to pull
14 those cheques out -- there would be forty dollar (\$40)
15 charges automatically generated on paydays because of the
16 system adopted.

17 So that would be the relevance of the
18 Board then deciding whether this automatic default fee,
19 because of the way the system is set up, properly falls
20 into the first period, which might be described as the
21 "payday loan period," or is it really a truly -- a
22 default fee in the sense that it goes under C?

23 MR. ALLAN FORAN: And just again so I'm
24 clear. So the purpose of this is to get the opinion of
25 the Board as to whether the Money Mart program conforms

1 to the legislation?

2 MR. ANTOINE HACAULT: It's not to get the
3 opinion of the Board. I think the Board wants to make an
4 order that's clear, that can be applied by people. It's
5 in the interest of the consumers, whether they know how
6 much they're going to get charged.

7 If there's a systemic way that bumps up a
8 thirteen ninety-nine (13.99) cost because of the way the
9 cheques go in and you can't retrieve them, customers
10 would want to know whether or not they're subjected to
11 that automatic default charge. They should know that.
12 Maybe they might want to know that ahead of time.

13 MR. NORMAN BISHOP: May -- maybe I could
14 just clear up. There -- there might be some
15 misunderstanding about how the program works.

16 The -- the loan is due the day before
17 payday; however, when the customer leaves the cheque,
18 they're leaving a cheque for payday, not the day before
19 payday.

20 And, so assuming a customer does not come
21 in and repay in cash then a Money Mart customer would be
22 no different than a Rentcash customer or Installoan's
23 customer or a Cash Money customer. Any one of those
24 companies would hold either a postdated cheque or a pre-
25 authorized debit dated for the payday.

1 And just like the Cash Store would send
2 their cheques or their pre-authorized debits to the bank
3 on payday, I would assume Money Mart would do the same
4 thing.

5 Therefore, there would be no -- nothing
6 unusual about the process because they're -- they're
7 taking a payment by way of a cheque just like any other
8 company on the payday.

9 So, for example, Rentcash, I assume, does
10 not get a cheque dated for the day after payday. They
11 get a cheque dated for payday or a pre-authorized debit
12 dated for payday, and they put it in on the -- the
13 customer's payday. And it would be no different for
14 Money Mart.

15 MR. ANTOINE HACAULT: The Board might get
16 additional information from Rentcash on its policy to
17 call people ahead of time to avoid -- and it will, it's
18 part of its written evidence -- to avoid those NSF fees
19 being incurred on payday.

20 And, therefore, the Board may in its --
21 and I'm just trying to be -- explain why I'm looking for
22 the information -- may want to decide whether or not if
23 you have a systematic structure to not be able to
24 retrieve pay cheques as opposed to a different structure
25 where you call clients ahead of time to see whether or

1 not they're going to be able to pay.

2 If they aren't, then you'd pull them out
3 so that there isn't a systematic charge on payday for
4 NSF. So that's the reason I'm asking the question.

5 And although Rentcash, I think you'll hear
6 the evidence, does collect the cheques, they'll explain
7 their policy of trying to avoid an NSF fee on the actual
8 payday, so it might be relevant for the Board to consider
9 that.

10 THE CHAIRPERSON: Mr. Foran, with the
11 transcript you will be able to see what Mr. Hacault is
12 suggesting. You could review it and if your clients want
13 to provide something on the record, then they have that
14 ability to do so.

15 MR. ALLAN FORAN: Thank you.

16 MR. ANTOINE HACAULT: Just by further way
17 of detail that I would like to have is -- and Dr. Gould
18 at Table 8 of his report was asked questions with respect
19 to various lines in his report and he wasn't able to
20 answer whether or not and how much of these fees were
21 included in what lines. So I just want to make sure that
22 this particular example, the way I've structured it, is
23 also dealt with in that answer.

24 If there are default fees and they can
25 segregate them between the times that they're actually

1 incurred, NSF fees on payday versus non-payday default
2 fees, I would like to have that information if available.

3 MR. NORMAN BISHOP: And what do you mean
4 by a "non-payday default fee"?

5 MR. ANTOINE HACAULT: If the cheques
6 generate an NSF charge after the payday as opposed to on
7 the payday itself.

8 MR. ALLAN FORAN: I think the best I can
9 do is make the inquiry of CPLA to make the inquiry of
10 Money Mart to determine whether it's prepared to put it
11 on the record.

12

13 --- UNDERTAKING NO. 52: CPLA make the inquiry of
14 Money Mart to determine
15 whether it's prepared to put
16 it on the record if the
17 cheques generate an NSF
18 charge after the payday as
19 opposed to on the payday
20 itself.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: This is taking a
24 bit long, but I think it's information that'll be useful,
25 or hopefully it'll be information useful for the Board in

1 deciding the wording of its...

2 I -- I would have one (1) -- well, I know
3 you have to leave at four o'clock, Mr. Chairman, so I'll
4 perhaps finish with this question and it'll allow the
5 CPLA members to research their records before we come to
6 the next Hearing. And this is addressed to both members.

7 Would you have received any communication
8 that would have said something to this effect. It's one
9 thing to tell the members verbally that twenty-three (23)
10 to twenty-six (26) is a target, but it's another to put
11 it in writing for the PUB.

12 Are you prepared to state in writing that
13 you will advocate to the PUB that the rates need to be
14 between twenty-three (23) and twenty-six dollars (\$26)?

15 Could you review your records to see if
16 one (1) of your members might have sent you something
17 like that and advise me? Or can you answer that right
18 away?

19 HONOURABLE STAN KEYES: I will review my
20 records.

21 MR. ANTOINE HACAULT: Thank you very
22 much.

23

24 --- UNDERTAKING NO. 53: CPLA to review records to see
25 if a member sent information

1 that rates need to be between
2 twenty-three (23) and
3 twenty-six dollar (\$26).
4

5 THE CHAIRPERSON: Thank you. Thank you,
6 sir. Before we shut down for the day. Mr. Schinkel,
7 just a couple of questions, if you do not mind?

8 In report, the dollars per hundred (100)
9 arrived at is based on part on the volumes of loans,
10 that's correct, is it not?

11 MR. DEAN SCHINKEL: Correct.

12 THE CHAIRPERSON: It is the volume of the
13 loans applied to the rates and fees charged that develop
14 the revenue to offset the cost to produce in the end
15 profit. Is that correct?

16 MR. DEAN SCHINKEL: Correct.

17 THE CHAIRPERSON: So in concept, not
18 talking about what you actually did, but --

19 MR. DEAN SCHINKEL: Yeah.

20 THE CHAIRPERSON: -- in concept, have any
21 of the five (5) companies that responded provided for
22 loan rollovers, i.e., new loans to replace old loans?
23 Those volumes would be included in the overall volume,
24 would that not be correct?

25 MR. DEAN SCHINKEL: Um.

1 THE CHAIRPERSON: If a rollover loan is a
2 new loan --

3 MR. DEAN SCHINKEL: If you -- if you look
4 at the survey and it says --

5 THE CHAIRPERSON: In concept.

6 MR. DEAN SCHINKEL: -- the survey asked
7 for principal, not excluding rollovers, in what we asked
8 for.

9 THE CHAIRPERSON: But on another topic,
10 you indicated equity could seek or demand a rate of
11 twenty (20) to 30 percent in an atmosphere of risk and
12 uncertainty? That is correct.

13 Is that not what you said?

14 MR. DEAN SCHINKEL: Correct.

15 THE CHAIRPERSON: Assuming that some of
16 this risk and uncertainty was eliminated through the
17 result of regulation, would that affect the rate of
18 return with respect to that equity?

19 MR. DEAN SCHINKEL: Yes, I think when I
20 responding yesterday to twenty (20) to thirty (30), I was
21 trying to reflect back on private company evaluations.
22 And I actually made the comment, it could even be high --
23 even be higher with some of the uncertainty right now.

24 So it -- it would come back down if some
25 of the uncertainty was, but it could be still be around a

1 -- a 20-25 percent range. But again, each company being
2 different.

3 THE CHAIRPERSON: So even with that
4 uncertainty, you are not going to -- I am not even
5 proposing they would apply to an industry such as this,
6 but you are not suggesting rates of capital, such as the
7 mix that is found with large monopoly utilities?

8 MR. DEAN SCHINKEL: No, and that's the
9 real difference. These are smaller, private companies in
10 Manitoba, which have a very different capital structure
11 and weighted average cost of capital compared to public
12 companies or utilities.

13 THE CHAIRPERSON: Thank you, sir. Mr.
14 Foran, if you do not mind, I am just looking ahead to the
15 schedule and how conflicted it is sort of becoming and
16 the problems with Dr. Gould's return. I am wondering
17 whether if you could ask him to review the transcripts of
18 today's cross-examination.

19 And if he sees anything in that transcript
20 that he thinks that he could contribute to, if he could
21 provide it. I am not suggesting that he does not need to
22 return, but it might just shorten his return visit if he
23 has had that opportunity to, you know, review the
24 transcript first and provide any comments that may come
25 to his mind from looking at it.

1 And then when he comes back, obviously,
2 there would be an opportunity for followup questions and
3 perhaps new questions. And Ms. Southall is going to
4 consult. Ms. Southall...?

5 MS. ANITA SOUTHALL: Yes. I -- I'm just
6 -- if I could just ask Mr. Williams and Mr. Hacault what
7 -- what the remainder of their cross-examination requires
8 in terms of panel attendance? Are you -- are you able to
9 alert us to that?

10 MR. BYRON WILLIAMS: I -- I tried to do
11 that this morning. The focus will be primarily on Dr.
12 Gould, but there will be a bit of overlap with Mr.
13 Schinkel. And if -- if memory serves me right, maybe one
14 (1) or two (2) for the CPLA, but I could probably --
15 certainly Mr. Schinkel and -- and Mr. Gould are the --
16 the primary ones.

17 I would undertake if -- if there's any
18 reason I need the CPLA Panel. In particular, I can -- I
19 can get back to you. I'm just going off memory, though,
20 those are the two (2).

21 MS. ANITA SOUTHALL: Mr. Hacault, could
22 you let us know where you are at with your cross-
23 examination?

24 MR. ANTOINE HACAULT: Yes, I could. I
25 have some follow-up questions with respect to CPLA and

1 Dr. Gould, and I don't think, barring what other
2 witnesses say, that I have any other questions of Mr.
3 Schinkel.

4 THE CHAIRPERSON: That is helpful?

5 MS. ANITA SOUTHALL: Thank you, yes.
6 We'll -- we'll obviously endeavour to find additional
7 time to complete the balance of those cross-examinations.

8 Mr. Hacault, was your intention to start
9 with the panel members, these panel members, next
10 Wednesday morning before Dr. Clinton?

11 MR. ANTOINE HACAULT: Yes, that would my
12 intention; it wouldn't be very long, I don't think. It
13 depends a little bit on the information that's provided
14 by that time. Hopefully we can get every effort made to
15 have the undertakings provided, you know, with respect to
16 actual points on the graph and things this.

17 And the Money Mart, if they consider
18 whether or not they can provide us a response ahead of
19 the Hearing, then we can actually make this work quicker.

20 THE CHAIRPERSON: Okay, sounds good.

21 MS. ANITA SOUTHALL: Mr. Foran, is that
22 workable then?

23 MR. ALLAN FORAN: What we will do is
24 we'll check the undertakings, we'll work on this as
25 quickly as possible, and get back to you, Ms. Southall,

1 on that. And then we'll just make sure our panel is
2 available Wednesday morning for cross-examination and Mr.
3 Hacault can complete.

4 And then my understanding is we move
5 along.

6 MS. ANITA SOUTHALL: Thank you very much.
7 Thank you, Mr. Chairman.

8 THE CHAIRPERSON: Very good. Okay,
9 thanks to everyone, and we will adjourn and we will see
10 you back on November the 28th.

11

12 --- Upon adjourning at 4:05 p.m.

13

14

15

16 Certified Correct,

17

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21 _____
Wendy Warnock, Ms.

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